

RETAIL LEASE

Note: Suitable for shops and other retail premises subject to the *Retail Leases Act 1994* (NSW) where the term of Lease (including the period of any option) does not exceed three years.

This Lease is made in duplicate on / /

at in the State of New South Wales.

PARTIES

Between	Morpeth Property Trust	Landlord
	(Name, address and ABN) P.O. Box 60 ISLINGTON NSW 2296	
whose agent is	Joan Latter Pty Ltd T/As River	Agent
	(Name, business address and ABN) 7 Church Street MAITLAND NSW 2320 ABN 76 091 972 879	
and	Joan Latter Pty Ltd T/As River	Tenant
	(Name, business address and ABN) 7 Church Street MAITLAND NSW 2320 ABN 76 091 972 879	
		Guarantor
	(Name, business address and ABN)	

GST REGISTRATION

The Landlord is registered for GST. Yes No

The Tenant is registered for GST. Yes No

PREMISES

The Landlord leases the premises known as (the Premises) including all fixtures, fittings and equipment listed in the lessors disclosure statement provided by the Landlord to the Tenant.

PERMITTED USE

The Premises shall be used only as

RENT

Except as otherwise provided the rent shall be (incl GST)

per commencing on / /

and payable in advance by the Tenant on the day of every

to the Landlord/Agent at the above address or at any other reasonable place as the Landlord/Agent notifies in writing.

SECURITY BOND / DEPOSIT (tick applicable box)

as referred to in Clause 37a OR 37b

TERM

The term of the lease shall be commencing on / / and ending on / /

OPTION

Subject to Clause 30 of this lease the Landlord/Agent offers a renewal of this lease for a further term of years.

HOLDING OVER

Unless either party gives the other written notice of termination in accordance with Clause 32a, the lease shall continue as a periodic lease from month to month at the same rent or at a rent to which both parties agree.

OUTGOINGS (tick applicable box)

The Tenant's percentage of outgoings to be paid in accordance with Clause 17a is %

OR
 The Tenant's percentage of any increases in outgoings to be paid in accordance with Clause 17b is %

INSURANCE

The amount of cover for public liability referred to in Clause 15e is

CONDITIONS

The parties agree to the conditions set out above and on the following pages and also to those conditions implied by Sections 84 and 85 of the Conveyancing Act 1919 which are not expressly negated or modified by this lease.

NOTE It is advisable for the Tenant to insure the Tenant's own property

THE LANDLORD AGREES

Possession

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquakes, storm and tempest, water damage, impact, aircraft, riots / civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable

with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES

Rent

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

13.
 - a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
 - b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

Insurance

15.
 - a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
 - b To do nothing which would make any insurance policy void.

- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoings noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT

Unforeseen event

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - e Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - f An email will be deemed to have been served if:
 - i where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - ii where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week:
- i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:
- a the grant of any sub-lease, licence or concession;
 - b the Tenant parting with possession; or
 - c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $SA = B \times C/D$ where
- A = the revised rent;
 - B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period;
 - C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
 - D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
 b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
 c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
 d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
 e "Month" means calendar month.
 f "Term" means the term of this lease.
 g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
 h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
 i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
 j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
 b The Tenant:
 i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
 c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
 d The Tenant:
 i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 iii must not create a Security Interest in any Leased Personal Property.
 e The Tenant acknowledges and agrees that:
 i It has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: Carole Lorimer [Signature]
Name of Witness Signature of Landlord

[Signature]
Signature of Witness

SIGNED BY THE TENANT

in the presence of: _____
Name of Witness _____
Signature of Tenant

Signature of Witness

SIGNED BY THE GUARANTOR

in the presence of: _____
Name of Witness _____
Signature of Guarantor

Signature of Witness

THE COMMON SEAL of

was hereunto affixed by
the authority of the the
Board of Directors and
in the presence of:

THE COMMON SEAL of

was hereunto affixed by
the authority of the the
Board of Directors and
in the presence of:

 Secretary

 Secretary

ANNEXURE

If applicable, include additional Terms and Conditions below

- * The rent is inclusive of usage of the adjacent paved courtyard
- * Signage is permitted in front garden bed & front of the building
- * Shared amenities are included in the lease
- * One (1) month free Fit out period included in lease from 01/11/2021 to 30/11/2021
- * Outgoings payable by Tenant to landlord are agreed and set at \$536.71 per year .

ANNEXURE