

## **Business lease: land, either vacant or with plant or buildings**

**Date of lease:** [\[date\]](#)

**The Landlord:** [\[name\]](#)

**The Tenant:** [\[name\]](#)

**Lease of:** [\[property address\]](#)

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Schedule 1: Rights expressly reserved

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**The Landlord is:** [name]  
**of** [address]  
**ABN:** [Number]  
**The Tenant is:** [name]  
**of** [address]  
**ABN:** [Number]  
**The guarantor is:** [name]  
**of** [address]  
**Start date of lease:** [date]  
**End date of lease:** [date]

## 1. Definitions

In this lease the following words shall have the meanings shown unless it is clear from :

“Conduit” means any medium through which a service is

“Hazardous” has the meaning mentioned in the Annex III

“Insurance Rent” means the premium, net of any commission, paid by the Landlord to

“Land” means the land situate at [address] and the plant attached to it and the buildings, if any,

“Landlord” includes the person or persons from time to time entitled to possession of the

“Lease Period” means the total of the Term plus any extension or renewal, during which

“Plan” means the plan[s] attached to this lease and signed by the parties, which identify [ / ].

“Plant” means the whole of the installation on and attached to the Land, including machine parts which could be removed and including any buildings now on the land

“Rent” means \$ [48,000] per year, payable without any deduction, in advance, by [twelve equal monthly instalments of \$4, 000,] on the first day of each / [ / ] [ / ].

“Rent Review Date”: means every [third] anniversary of the start date of the lease. A reference to the Rent

OR

“Rent Review Date” means [date].

“Security Deposit” means the sum paid by the Tenant to the Landlord as a deposit against any breach

“Sign” means any sign, poster or advertisement or other visual message in any medium, painted onto or attached to any part of the ,

“Term” means a term of [number] years [ / ]

“Use Allowed” means: use as / or / any other use to which the

## 2. Interpretation

In this lease the following matters apply unless

- 2.1. Whenever more than one person or company is the Tenant or the Guarantor, their obligations can be enforced against
- 2.2. Any reference to a place or location on the Land is a reference to
- 2.3. Any agreement by any party not to do or omit to do something is deemed to include an obligation not to allow or permit
- 2.4. [\[except where stated otherwise,\]](#) any obligation of any person arising from this
- 2.5. References to a party include references to a person to whom those rights and obligations are transferred or pass as a result of a
- 2.6. The headings to the paragraphs and schedules (if any) of
- 2.7. The schedules (if any) to this lease are part of the lease
- 2.8. All money sums mentioned in this lease are calculated net of GST, which will be charged when
- 2.9. A reference to a right of the Landlord to have access to the Land is to be construed as extending to any head landlord or mortgagee
- 2.10. A reference to “the last year of the Term” or to the “end of the Term” is a reference to
- 2.11. A reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that

2.12. It is certified that there is no agreement for lease

### 3. Entire agreement

3.1. This lease contains the entire agreement between the parties and supersedes all

3.2. Each party acknowledges that, in entering into this lease, he does not rely on any representation, warranty, information or document or other term not forming part [

].

3.3. Conditions, warranties or other terms implied by statute or common law are excluded from this

### 4. Tenant's warranties for authority

The signatory to this lease, for himself and for ,  
:

4.1. [he / the Tenant] has all necessary  
;

4.2. he has no reason to doubt [his ability / the ability of the Tenant] to pay all sums

4.3. no person, nor governmental authority, has any right or claim which could prevent the Tenant at any ,

### 5. Landlord's warranties

The Landlord warrants that:

5.1. there is no  
;

- 5.2. the Land is supplied , ,  
;
- 5.3. there is no order by  
;
- 5.4. he is aware of no  
.

## 6. The lease

- 6.1. By this lease the Landlord lets and the Tenant  
.
- 6.2. The Land is let subject to , , ,  
.
- 6.3. The rights specified 1  
.
- 6.4. All payments which may be due by the  
.
- 6.5. [The Landlord is under no obligation to insure the Land  
,  
].
- 6.6. Except so far as provided in this lease, the  
,  
.

## 7. Responsibility for others

- 7.1. The Tenant accepts that he is liable to the Landlord for compliance with  
,  
.

7.2. A promise by the Tenant not to

7.3. If the Tenant asks the Landlord for consent to some action or activity by

## 8. Rent and other payments

8.1. The Tenant shall pay to the Landlord:

8.1.1 the Rent;

8.1.2 the Insurance Rent;

8.1.3 a fair proportion (decided by a surveyor nominated by the Landlord) of

8.2. For each of the above payments, an appropriate

8.3. The Tenant shall also pay

8.3.1 any works to the

8.3.2 dealing with any application by

8.3.3 preparing and serving a schedule

8.4. Payments to the Landlord shall be made by [\[direct debit / Internet /](#)



8.5. [Despite the above provisions, the  
[ ] [ ]  
/ ]].

## 9. Further Payments

The Tenant agrees ,  
:

9.1. all periodic rates and other taxes, relating to the Land, including  
(  
) ,  
;

9.2. all charges for services  
;

9.3. the cost of the grant, renewal or continuation of  
,  
.

## 10. Interest

All the payments to the Landlord referred to in this lease are payable on demand and if any payment is more than [seven] ,  
,  
[ 8 % ].

## 11. Condition and repair

In relation to :

11.1. use the Land only for the Use Allowed;

11.2. maintain the state and condition of the Land  
,  
;

11.3. [conduct its business in  
].

11.4. clean, maintain and keep free from  
, , , , .

## 12. Tenant's positive obligations

The Tenant agrees and undertakes that he will:

12.1. give the Landlord a copy of

;

12.2. provide a written notice to the  
/

12.3. immediately notify the Landlord of any encroachment on the Land

12.4. assist the Landlord as far as reasonably possible, and  
,

12.5. comply with the terms of every law regulating  
, , .

12.6. comply with all laws  
.

## 13. Restrictions on Tenant

The Tenant :

13.1. sleep over night on the  
;

13.2. apply for planning permission relating  
;

- 13.3. make any ;
- 13.4. store or leave goods or detritus on ;
- 13.5. fix to the Land any pole , .
- 13.6. pour into any pipe or drain any trade waste or , ;
- 13.7. bring onto the Land ;
- 13.8. remove or change , ;
- 13.9. remove from the ;
- 13.10. cause any nuisance ;
- 13.11. bring, keep or allow any animals to be ;
- 13.12. play or use on the Land any musical instrument, audio or ;
- 13.13. cease carrying on business in the Land or leave the Land continuously unoccupied for more than 1 month [ ]
- 13.14. change or install any locks and other ;
- 13.15. use the Land for any activity which is dangerous, offensive, noxious, ,

## 14. Goods and vehicles

The Tenant agrees that he will not:

14.1. park any vehicle except

;

OR

14.2. park more than [number] cars

,

,

;

14.3. load or unload

/

;

14.4. park any commercial

;

14.5. cause congestion of any adjoining

;

14.6. permit any vehicle belonging to him or any visitor to him,

,

,

.

## 15. Asbestos and environmental obligations

The provisions in this

.

15.1. Despite any other provisions in this Lease, the Tenant shall bear no responsibility (whether directly or via the obligation to pay any other sums under this Lease) or liability

,

,

(

)

15.2. Despite the foregoing provisions of this paragraph and all

15.2.1 if asbestos is discovered as a result of investigation by the  
Tenant or building work commissioned by the

15.2.2 if asbestos is discovered in circumstances unconnected to  
work or investigation

15.2.3 in any circumstance when the Landlord has an obligation in  
respect

15.2.4 the Landlord shall in no circumstances be responsible for  
damage caused to

## 16. Signs and advertisements

16.1. Before the Tenant may place any Sign on or near to the Land, he must

16.2. The Landlord is under no obligation

16.3. The Landlord may approve any Sign subject

16.4. The Tenant accepts full liability for and indemnifies the Landlord

## 17. Default notice by Landlord

17.1. If the Tenant is in default of any provision of this

17.2. If the Tenant fails to remedy the default within seven

## 18. Assignment of the lease

18.1. Except as specified in this lease, the

18.2. The Tenant may not assign

18.3. The Tenant may assign or transfer his interest

18.4. The Landlord may not

18.5. It is a good reason (among other good reasons)

18.5.1 the proposed transferee is less likely to be able

18.5.2 the Tenant owes money to the Landlord;

18.5.3 there is no satisfactory guarantor of the  
( )

18.6. In giving consent,  
:

18.6.1 the assignee shall not  
.

18.6.2 the assignment shall impose an

18.6.3 the assignee shall enter into direct

18.7. Within four weeks after the Land is assigned ( ),

## 19. Tenant indemnifies Landlord

The Tenant agrees to  
:

19.1. any act, omission or negligence ,

;

19.2. any breach by  
;

19.3. any act, omission or negligence of the Tenant which

## 20. The Security Deposit

The parties acknowledge that

OR

20.1. The Landlord confirms that he has \$[ ]

20.2. The Landlord may use the Security Deposit

20.3. If the :

20.3.1 he will tell

20.3.2 the rights or

20.3.3 the sum used is repayable to the Landlord

[ 4 ]

## 21. Insurance

21.1. "Insured Risks" means the risks of loss or damage by any naturally occurring event, fire, explosion, riot, terrorism, civil commotion, malicious damage, ( ),

21.2. The Landlord will keep the Land insured with reputable insurers

21.3. If damage is caused to the Land by an Insured Risk, the Landlord will

(  
).

21.4. Once a year, if the Tenant asks,



21.5. Provided that the Tenant is not responsible for any damage for which the Landlord is compensated under the insurance policy, then if

21.6. If, within one year from the date of the damage, either party is of the

21.7.

21.8. If either party

21.8.1 the lease ends on expiry of the notice;

21.8.2 the insurance money belongs to the Landlord;

21.8.3 the Landlord's obligation to make good damage ceases;

21.8.4 all other provisions shall apply as

## 22. Access for Landlord

The Tenant is to give the Landlord,

22.1. to inspect the condition

22.2. to do works

22.3. to comply with any statutory obligation;

22.4. at any time during the last six months of the

22.5. to show the Land  
;

22.6. to value the Land;

22.7. to inspect, clean or repair neighbouring  
, , , .

Conditions for access for the Landlord are:

22.8. the Landlord must  
;

22.9. each visit must  
;

22.10. the Landlord must promptly make good  
.

## 23. Guarantor

The Guarantor agrees:

23.1. that his obligations are made to the landlord for  
;

23.2. that his obligations will continue through the Term;

23.3. that if the Tenant assigns his interest without having  
,  
;

23.4. that any variation to the terms of  
;

23.5. to indemnify the Landlord against all losses incurred as a result of any  
failure by the Tenant to comply with  
, .  
,  
, ;

23.6. to make payment under this indemnity to the Landlord

[ 28 ] ;

23.7. to use his best endeavours to

.

23.8. to accept a new lease from the Landlord if this lease ends prematurely.

,

.

23.9. The new lease will be:

23.9.1 for the period from ;

23.9.2 at the Rent then payable under this lease;

23.9.3 on the terms of this lease as they apply on the termination ,

.

23.10. The Guarantor will pay

.

23.11. Even if the Landlord does not require the Guarantor to enter into a new lease,

.

## **24. Provision for premature termination**

24.1. Despite all other provisions of this lease, the Tenant may terminate this [ ]

,

.

24.2. If the Tenant so terminates this lease,

24.3. Payments made to the Landlord

## 25. Forfeiture

25.1. The Landlord may

:

25.1.1

[ 28 ]

25.1.2

25.1.3

(  
)

25.1.4

25.1.5

25.1.6

[ 21 ]

25.2.

## 26. Rent review

26.1.

26.2.

( ),

.

26.3.

[ 20 %]

.

OR

26.4.

,

.

OR

26.5.

,

.

26.6.

,

,

,

:

26.6.1

,

26.6.2 the Land is vacant;

26.6.3 the Land can immediately be used;

26.6.4

;

26.6.5

,

.

26.7.

‘  
‘  
‘

26.8.

‘

26.9.

‘

‘

26.10.

‘

[ 8 ]%

‘

## 27. Failure to agree reviewed rent

27.1.

[       ]

‘

‘

27.2.

(       )

‘

27.3.

‘

27.4.

‘

27.5.

‘

‘

‘

27.6.

.

## 28. At the end of the lease

28.1. When this lease ends, the Tenant must:

28.1.1

;

28.1.2

;

28.1.3 ( )

;

28.2.

[ 14 ]

.

,

.

28.3.

,

.

## 29. Stamp duty

.

## 30. Other matters

30.1.

,

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30.2.

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,

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30.3.

,

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,

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30.4.

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30.5.

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30.6.

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30.7. [

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30.8.

-

.

It shall be deemed to have been delivered:

:

;



72 ;  
 24 ;  
 -  
 - : 24  
 -  
 .  
 30.9.  
 ,  
 .  
 30.10.  
 ,  
 [      ].  
 [      ] .

Signed as a deed by or for the Landlord [\[write name\]](#) (who certifies that he has proper authority to sign)

Signature: .....

Witness:      signature:

Name:

Address:

Signed as a deed by or for the Tenant [\[write name\]](#) (who certifies that he has proper authority to sign)

Signature: .....

Witness: signature:

Name:

Address:

Signed as a deed by the Guarantor [\[write name\]](#)

Signature: .....

Witness: signature:

Name:

Address:

## Schedule 1: Rights expressly reserved

1.

2.

3.

4.

5.

6.

## Schedule 2: (Draft) Security Deposit agreement

This agreement is dated [date] and made between:

The Landlord: [name]  
of [address]

The Tenant: [name]  
of [address]

### Background:

A.

B.

It is now agreed as follows:

### 1. Definitions

“Call Down”

“Client Account”

“Default”

“Deposit”

“Lease”

“Referee”

“Sum Claimed”

## **2. Interpretation**

2.1.

2.2.

## **3. The Referee**

3.1.

3.2.

3.2.1

3.2.2

3.2.3

,

.

3.2.4 [

,

].

3.2.5

.

3.3.

,

,

,

.

3.4.

,

.

3.5.

,

.

## 4. The Deposit

4.1.

\$ [ ].

4.2.

[

/

]

.

4.3.

.

4.4.

,

.

## 5. Calling down the Deposit

:

5.1.

,

:

5.1.1

;

5.1.2

,

,

;

5.1.3

,

;

5.1.4

,

.

5.2.

.

5.3.

[ 14 ]

.

,

.

5.4.

[ 14 ]

,

,

.

.

5.5.

,

.

5.6.

.

5.7.

.

## 6. Topping up the Deposit

Signed by / on behalf of the named parties by their representatives who personally accept liability for the proper authorisation by their respective employer or principal to enter into this agreement

For, and on behalf of Landlord

[print name](#)

For, and on behalf of Tenant

[print name](#)



## Explanatory notes:

**Business lease: land, either vacant or with plant or buildings**

## General matters

### 1. What to take up on completion

When you meet to complete, you should expect :

- The counterpart lease: that is to say the copy signed by the tenant. (He )
- Any capital money paid to you as a premium ;
- The rent, apportioned to the next .

### 2. Registration

The lease term can be as long as you want. In most states, if the lease period exceeds three years, it should be registered with the Land Title Office. If you want to register the lease,

:

[www.lpi.nsw.gov.au](http://www.lpi.nsw.gov.au)

[www.nt.gov.au/justice/bdm/land\\_title\\_office/](http://www.nt.gov.au/justice/bdm/land_title_office/)

[www.nrw.qld.gov.au/property/index.html](http://www.nrw.qld.gov.au/property/index.html)

[www.landservices.sa.gov.au/](http://www.landservices.sa.gov.au/)

[www.dpiw.tas.gov.au/inter.nsf/ThemeNodes/JGAY-53CUVH?open](http://www.dpiw.tas.gov.au/inter.nsf/ThemeNodes/JGAY-53CUVH?open)

[www.dse.vic.gov.au/property-titles-and-maps/land-titles-home](http://www.dse.vic.gov.au/property-titles-and-maps/land-titles-home)

[www.landgate.wa.gov.au/corporate.nsf/web/Conveyancing+Channel](http://www.landgate.wa.gov.au/corporate.nsf/web/Conveyancing+Channel)

## Paragraph specific notes:

Notes referable to specific numbered paragraphs

### Party details

If landlord or tenant is a company, include ABN. Do

.

## 1. Definitions

We believe it is bad drafting practice to randomly capitalise words which are not defined terms. For example, in this document, the word “lease” is not a defined term. However, in the

**Conduit:** is an ancient word for a pipe. In law it has a wider meaning, to include pipes, wires and anything which

**Insurance rent:** landlords have special powers to obtain rent which are not available for the collection of other debts. It is therefore always advantageous to specify that monies due to a landlord should be treated as rent, as they are in this lease. Insurance rent is a commonly used term.

**Land:** substitute some alternative word if you wish. We cannot over emphasise the importance of a full specification of the subject matter of the lease. If it is complicated you could put it in a schedule. The best way is a description which refers to

A good plan may also throw up unresolved side issues such as where the bins go and whether the landlord can park a

A further tip is to take photographs, particularly close-up to any feature, so that the condition is clear. If the Land is in excellent condition, the landlord will benefit most from photographs. If the Land is in poor condition, then it is the tenant who

**Plant:** we have used this term to cover whatever small buildings, or equipment might be on the land. It could refer to a coal cleaning or mineral extraction plant or to a small mobile toilet

**Rent:** is generally calculated in \$s per square foot or \$s per square metre, but the calculation rarely appears in the lease. The landlord will often specify a particular round sum when a property is advertised.

**Security deposit:** whether you decide to take a security deposit or not is for your choice. Once decided, you have the option of using the formal

agreement or simply placing the deposit

**Use allowed:** When a rent review comes up, the landlord will claim rent based on the open market value for the Use Allowed. The question of user is of course more important in longer leases where the use is much more likely to change over time. It is a mistake for the landlord to fix the use paragraph narrowly - perhaps with the thought that if the landlord needs to change the use

The point he misses is that at a rent review the new rent will be calculated by reference to the rack rent (then current rent) payable in the open market. Clearly, that market rent will be highest when the property can be used for many uses and lowest, when the use is restricted to a single, low value use. A landlord should therefore think

## **2. Interpretation**

Leave these items in place unless there is a good reason to edit or remove. Each of them

## **3. Entire agreement**

This paragraph prevents a party from later saying he was relying on some other document or web site or what was said. If other documents are to be relied on, let them be listed here, so that both parties know the basis of the deal.

## **4. Tenant's warranties for authority**

This paragraph prevents a Tenant from saying later that he was not aware of some circumstance detrimental to the landlord or which may cause a breach of the lease. It is more important when

The term also binds the signatory. It would be a very careless director who signed this when he knew

## **5. Landlord's warranties**

It is common for a Landlord to give no warranty other than for "quiet enjoyment", which we have placed elsewhere so as to make it easy for you to delete this paragraph entirely if you choose

## **6. The lease**

This paragraph covers a reservation of general rights. In addition, we have provided for a schedule of rights. The reason is: first, you may wish to use a schedule for the avoidance of doubt and second,

It is usual for only the cost of insurance to be treated as rent (and usually referred to as “”).

This paragraph also contains the usual landlords warranty for “”.

## **7. Responsibility for others**

These points are usually lost among a long list of other matters. We have separated it so as to be more prominent “”.

## **8. Rent and other payments**

This paragraph contains detailed commercial terms.

Important: This paragraph provides for a rent free period. However, it is better practice to deal with any money concession to the tenant in a side letter and to leave

## **9. Further payments**

We have no comment.

## **10. Interest**

This provision crystallises the landlord's entitlement when otherwise

## **11. Condition and repair**

The first ten items here are usual. However, this lease is drawn with a view to a situation where buildings are of little or no value. It follows that you may decide to delete

There is a reference to condition as at today. This is done through a "schedule of dilapidations". The parties jointly appoint a surveyor to provide a list of all the deficiencies in

## **12. Tenant's positive obligations**

Encroachments happen constantly and unexpectedly. Once a neighbour has committed to the construction of a large adjacent building, the only practical remedy is damages.

## **13. Restrictions on tenant**

Here is a long

It is important to prevent anyone sleeping habitually on the

## **14. Goods and vehicles**

"Land" is a wide term. We cannot guess whether or

Land around a building is often forgotten in lease provisions. Consider what is the land use and state of it. It is important to the landlord to maintain the amenity of

## **15. Asbestos and environmental obligations**

If there are no old buildings on the land,

Here we cover an area which rarely arises but which could be extraordinarily expensive if it did. It may be difficult

It is usual (and fair) for the Landlord to pay for any hazardous substance treatment or removal

However, asbestos is found in most old buildings, in some form or another. If the tenant wants to change your building in any way,

?

There are general rules regulating the removal of asbestos in most states. Generally, if more than 10 square meters of asbestos material is present, a licensed abatement contractor must perform the asbestos removal. National laws demand that non-residential buildings have an asbestos register and management plan in place and that the

\$ 60 , 000 6

## 16. Signs and advertisements

Traditionally drawn leases fail to cover the many possibilities for visual impact. We take the view that a Landlord is entitled to know about, and approve what his tenant wishes to show.

If a sign affects the use or enjoyment of adjacent or neighbouring premises of the Landlord,

“ ”.

Because the requirements of every tenant will be different, we recommend that the landlord prepares a specification for a new tenant as to what is

For a multi-let estate, the landlord will no doubt

#### **17. Default notice by Landlord**

This paragraph provides a practical solution to the dilemma facing a landlord when the tenant is in breach but fails to take action. It may be

#### **18. Assignment of the Lease**

When a tenant no longer requires property, he will have to transfer it to some other person in order to avoid the continuing obligation to pay the rent.

#### **19. Tenant indemnifies landlord**

Few draftsmen include an indemnity in a lease because the tenant's covenants are precise and a simple recourse is to sue on a breach. However,

#### **20. The Security Deposit**

If you decide on a security deposit, we give

#### **21. Insurance**

Most users of this document will not wish to be responsible for insuring the land. However,

## **22. Access for landlord**

Essential, but the tenant

## **23. Guarantor**

Whether a guarantor is required is entirely a commercial decision. We suggest that in the case of a grant to a limited company, you should always obtain personal

The guarantee provisions in this lease are stronger than most tenants would like. In particular, the guarantor remains in place after an

In order to remove the obligation of the guarantor for

The last sub paragraph refers to the position

## **24. Provision for premature termination**

Otherwise known as a “break clause”, that is a provision for the tenant to give notice, at some particular point in time, to terminate the lease



## **25. Forfeiture**

These provisions are usual.

## **26. Rent review**

The usual period for a short

We provide for three clear alternatives:

the rent is

the rent

the

The purpose of a rent review is to bring the rent into line with rents

Many older leases provide for "upwards only" review. When rents are falling, this prejudices a tenant. However,

## **27. Failure to agree reviewed rent**

A simple procedure for resolving disputes. We have made this provision because it is likely to be acceptable to all parties,

The provision for the person appointed to act as expert and not as arbitrator is

## **28. At the end of the lease**

These provisions simply tie up loose ends.

If the tenant has fitted out the Land

## **29. Stamp Duty**

In some states you

<http://www.business.gov.au/BusinessTopics/Taxation/Taxesexplained/Pages/Stampduty.aspx>

## **30. Other matters**

Apart from the

A provision for mediation has been included in place of the more usual

## **Schedule 1: Rights expressly reserved**

Reserved rights are rights which the landlord is keeping back from the grant of the lease. It is usually unnecessary to specify them

· , ( , ), .

## **Schedule 2: (Draft) Security Deposit agreement**

We have provided , .

It is not appropriate to involve the Referee as a

· , .

There is no reason in law why the landlord should not

· , . ( ).

A security deposit agreement is often . .

## **End of notes**