

Underlease agreement for commercial property

Date of sub-lease: [date]

The Sublessor: [sublessor]

The Subtenant: [subtenant]

Sublease of: [property address]

The Sublessor is: [name]

of [address]

The Subtenant is: [name]

of [address]

The New Guarantor is: [name]

of [address]

Start date of sublease: [date]

End date of sublease: [date]

Background

- A. By a lease dated [date] (the “Head Lease”), the Head Landlord let the premises described in the Head Lease (“ ”).
- B. The Head Landlord has now agreed to permit [part of] those premises to be sublet to the , .

1. Definitions

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

“Building” means the whole of the building of which the Premises form part and which is shown .

“Head Lease” means a lease dated [date] and made between [landlord name] (the “Landlord”) and the , “ ”.

“Insurance Rent” means the premium payable by the Sublessor to the Head Landlord under the Head Lease and henceforth payable .

“Premises” means the [suite of offices / land / retail premises /

workshop / rooms] at [full address and post code]
the boundaries

“Rent”	means the rent payable under this sublease, namely \$ []
“Rent Review Date”	means every [third] anniversary of the start date of the Head Lease. A reference to the Rent
“Security Deposit”	means the sum paid by the Subtenant to the Sublessor as a deposit against any breach
“Services”	means the services supplied by the Head Landlord to maintain the Premises
“Service Charge”	means the sum payable by the Sublessor to the Head Landlord under the Head Lease and henceforth payable
“Sublessor”	includes the person or persons from time to time entitled to possession of the
“Term”	means the term of this sublease, namely a term commencing [today/] [].
“Use Allowed”	means the use or uses permitted

2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. whenever more than one person or company is the subtenant or the new guarantor, their obligations can be enforced

- 2.2. any reference to a place or location at the Premises is a reference to that place as
- 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. in this agreement references to a party include references to a person to whom those rights and obligations are transferred or pass as a result of
- 2.6. the headings to the paragraphs and schedules (if any) of
- 2.7. all money sums mentioned in this agreement are calculated net of GST, which will be charged when
- 2.8. a reference to a right of the Sublessor to have access to the Premises is to be construed as extending to the Head Landlord or mortgagee
- 2.9. a reference to “the last year of the Term” or to the “end of the Term” is a reference to
- 2.10. a reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that
- 2.11. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or
- 2.12. Nothing in this sublease or in any consent granted by the Sublessor under this sublease implies

3. Entire agreement

- 3.1. This sublease contains the entire agreement between the parties and supersedes all .
- 3.2. Each party acknowledges that, in entering into this sublease, 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. The sublease

- 4.1. This sublease is subordinate to the Head Lease.
- 4.2. By this sublease the Sublessor lets and the Subtenant takes the Premises for [the remainder of] the Term at the Rent and subject to .
- 4.3. This sublease is subject to every right and reservation of the Head .
- 4.4. The Subtenant takes the Premises in their present condition and subject to any outstanding obligations of .
- 4.5. The Premises are let subject to , , , .
- 4.6. The rights specified 1 .
- 4.7. All payments which may be due by the .
- 4.8. Except so far as provided in this sublease, the , .

5. Rent and other payments

5.1. The Subtenant shall pay to the Sublessor:

5.1.1 the Rent, in advance, without any deduction whether
[/]
[/]
].

5.1.2 the Insurance Rent;

5.1.3 the Service Charge;

5.1.4 a fair proportion of the
,

5.1.5 any other payment due
.

5.2. For each of the above payments, an appropriate
.

5.3. The Subtenant shall also pay:

5.3.1 the cost of any
;

5.3.2 the costs and expenses ()
:

5.3.2.1 dealing with any application by
,

;

5.3.2.2 preparing and serving a
.

5.3.2.3 any dealing with
.

5.4. Payments to the Sublessor shall be made by [direct debit](#) /
/]
,

5.5. [Despite the above provisions, the Subtenant
[]
/]]

6. Subtenant's obligations

The Subtenant agrees that he will

6.1. pay the Rent;

6.2. pay all the outgoings
;

6.3. make all other payments ,
;

6.4. comply with every term, requirement and
;

6.5. comply with all of the terms of this sublease, even where they may be
different
,
;

6.6. deal appropriately with the Head Landlord and his agents so

6.7. use the Premises only for the Use Allowed.

*The following paragraphs in blue font may be used in this sublease
ONLY if the Sublessor requires them and they*

7. Condition and repair

In relation to :

7.1. maintain the state

;

7.2. employ only

;

7.3. decorate the inside [and the outside] of the Premises in every third year of the lease period and in the last three months

().

,

. [

,

];

7.4. [at least once in

,

,

;]

7.5. [keep any plate or safety glass in the Premises insured for

;

,

;]

7.6. prevent damage to the Premises

,

;

;

7.7. maintain and keep clean the

;

;

7.8. keep clean and in good repair those parts of the Premises used in common with others,

,

,

,

,

,

,

,

,

;

;

7.9. clean, maintain and keep free from blockages

,

,

,

,

,

,

.

8. Subtenant's positive obligations

The Subtenant agrees and undertakes that he will:

8.1. give the Sublessor a copy of

.

8.2. provide a written notice to the

/

8.3. immediately notify the Sublessor of any encroachment on the Premises

8.4. take steps by agreement with the Sublessor and at the Sublessor's expense, to prevent the

8.5. keep the

8.6. comply with the terms of every law regulating

8.7. comply with all laws

9. Restrictions on Subtenant

The Subtenant

9.1. sleep overnight on the

9.2. apply for planning permission relating to the

9.3. make any connection to or in any conduit;

9.4. store or leave goods or detritus on a parking

9.5. fix to the Premises any pole

9.6. pour into any pipe or drain any trade waste or

9.7. bring onto the Premises

9.8. remove or change

9.9. remove from the

9.10. obstruct any window on the Premises;

9.11. cause any nuisance

9.12. bring, keep or allow any animals to be

9.13. play or use in the Premises any musical instrument, audio or

9.14. cease carrying on business in the Premises or leave the Premises
continuously unoccupied for more than one

9.15. do anything which might

9.16. change any burglar

9.17. change or install any locks and other

9.18. use the Premises for any activity which is dangerous, offensive,
noxious,

10. Interest

If any payment is more than [seven] days overdue, the Sublessor is entitled to interest on _____,

[8 % _____]. _____.

11. Further Payments

The Subtenant agrees _____,
_____:

11.1. all periodic rates and other taxes, relating to the Premises, including _____ (
_____),
_____;

11.2. all charges for services _____;
_____;

11.3. the cost of the grant, renewal or continuation of _____,
_____.

12. Default notice by Sublessor

12.1. If the Subtenant is in default of any provision of this _____,
_____.

12.2. If the Subtenant fails to remedy the default within seven _____,
_____.

13. Assignment of the sublease

13.1. The Subtenant may not sublet _____,
_____.

13.2. The Subtenant may not assign

13.3. The Subtenant may assign or transfer his interest in the

13.4. The Sublessor may not

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

:

13.5.1 the proposed transferee is less likely to be able
/

;

13.5.2 the Subtenant owes money to the Sublessor;

13.5.3 there is no satisfactory guarantor of the assignee.

13.6. In giving consent,

:

13.6.1 the assignee shall not

13.6.2 the assignment shall impose an absolute

13.6.3 the assignee shall enter into direct covenants with the
Sublessor in the terms of

,

,

13.6.4 the assignee shall comply with

14. Subtenant indemnifies Sublessor

The Subtenant agrees to indemnify the Sublessor against all losses arising directly or indirectly out of any

15. The Security Deposit

15.1. The Sublessor confirms that he has \$ []

15.2. The Sublessor may use the Security Deposit

15.3. If the :

15.3.1 he will tell

;

15.3.2 the rights or

15.3.3 the sum used is repayable to the Sublessor

[4]

16. Insurance

16.1. The Sublessor will keep the Premises

16.2. All the provisions in

17. Access for Sublessor

The Subtenant is to give the Sublessor and

17.1. to inspect the condition

17.2. to do works

17.3. to comply with any statutory obligation;

17.4. allow the Head Landlord during the

17.5.

17.6.

17.7. to value the Premises;

17.8.

17.9.

17.10.

17.11.

18. New Guarantor(s)

The New Guarantor agrees:

18.1.

.

18.2.

[], (“ ”).

OR

18.3. [

.]

18.4.

,

.

,

;

,

18.5.

;

,

18.6.

[28]

;

18.7.

.

18.8.

.

,

.

18.9. The new sublease will be:

18.9.1

;

18.9.2 at the Rent then payable under this sublease;

18.9.3

,

.

18.10.

.

18.11.

,

.

19. Provision for premature termination

19.1.

[

]

,

,

.

19.2.

,

,

.

19.3.

.

20. Forfeiture

20.1.

:

20.1.1

30

;

20.1.2

;

20.1.3

(
)

,
,

;

20.1.4

,

, (

)

;

20.1.5

;

20.1.6

[21]

.

20.2.

.

21. Rent review

21.1.

.

21.2.

,

.

OR

21.3.

(

),

,

21.4. [20 %]

OR

21.5. ,

OR

21.6. ,

21.7.

,

, , :

21.7.1

,

21.7.2 the Premises are vacant;

21.7.3 the Premises can immediately be used;

21.7.4

;

21.7.5

,

.

21.7.6

21.8.

21.9.

21.10.

21.11.

[8]%

22. At the end of the sublease

When this sublease ends:

22.1. the Subtenant must:

22.1.1

22.1.2

22.1.3 ()

22.2.

[14]

22.3.

23. Stamp duty

24. Other matters

24.1.

24.2.

24.3.

24.4.

24.5.

24.6.

24.7.

24.8. [

.]

24.9.

It shall be deemed to have been delivered:

;

72

;

: 24

. [

].

24.10.

24.11.

[].

Signed as a deed by or for the Head Landlord [\[write name\]](#) (who certifies that he has proper authority to sign) who, by signing, gives his consent to all the terms of this sublease.

:

Witness: signature:

Name:

Address:

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

:

Witness: signature:

Name:

Address:

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

:

Witness: signature:

Name:

Address:

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

:

Witness: signature:

Name:

Address:

Schedule 1 - rights expressly reserved

1. The right to
2. The right to

Explanatory notes

Underlease agreement for commercial property

General matters

1. Basic terms of a sublease

As you edit this document, be careful not to remove or reduce the obligations of your subtenant to comply with the head lease. We have provided specifically that he shall comply, of course, so

2. Signing

This deed should be signed in quadruplicate so that each party has a copy

Legal draftsmen have always provided for signature at the end of the document. However, it is always easy to change a page fraudulently. Today, best practice for an important document is to sign were shown and for

3. Sublease must be registered?

A sublease carved out of a registered head lease should itself be registered. If you want to register the lease, please see a lawyer for

www.lpi.nsw.gov.au

www.nt.gov.au/justice/bdm/land_title_office/

www.nrw.qld.gov.au/property/index.html

www.landservices.sa.gov.au/

www.dpiw.tas.gov.au/inter.nsf/ThemeNodes/JGAY-53CUVH?open

www.dse.vic.gov.au/property-titles-and-maps/land-titles-home

www.landgate.wa.gov.au/corporate.nsf/web/Conveyancing+Channel

Paragraph specific notes:

Notes referable to specific numbered paragraphs

1. Definitions

Make sure you insert the amount of the rent. This is the only
!

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

Premises: substitute some alternative word if you wish. We cannot over emphasise the importance of a full specification of the subject matter of the sublease, particularly if it is not the whole of the land and premises let by the head lease. If it is complicated you could put it in a schedule. The best way is

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 premises are in excellent condition, the landlord will benefit most from photographs. If the premises are in poor condition, then it is the subtenant who

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

Rent review: an option. In or out. You choose. Historically, reviews were agreed at five yearly intervals. For this short sublease we suggest three or four years would be more

If the rent review on the head lease is copied then of course the rent will be the same in the sub lease. However, most landlords do not permit sub letting. The very fact of your being able to sublet indicates unusual circumstances, That means

Security deposit: whether you decide to take a security deposit or not is for your choice. Once decided, you can simply

Term: You cannot extend the sublease beyond the expiry of the head lease. If the head lease expires “early” for some

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,

4. The sublease

This paragraph is the essence of the agreement. It

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

5. Rent and other payments

This paragraph contains detailed commercial terms.

Important: the last sub-paragraph provides for a rent free period. However, it is better practice to deal with any money concession to the subtenant in

6. Subtenant's obligations

This paragraph ties done the new subtenant to comply with the terms of head lease to which the sublessor himself is subject. It also provides an opportunity for the sublessor to add

7. Condition and repair

The sublessor has no interest in the premises. His interest is entirely to avoid

This and the two following paragraphs should not be needed if the head lease is perfect and matches the requirements of both the head landlord and the sublessor. Why? Because this sublease is "carved out" of

However, the draftsman of the head lease may not have thought of everything and the present sublessor (as tenant under the head lease)

There may be other reasons to add some of these provisions: a guarantor may require changes. The area

The first few items here are usual. Sub paragraph 1 refers to condition as at today. This is done through a "schedule of dilapidations". The parties jointly appoint a surveyor to provide a list of

Generally, you should make sure this paragraph ties in with

Decoration: the specification for redecoration and the frequency are a matter for negotiation. Many landlords are not too concerned about the quality of the interior decoration, provided it is done really thoroughly in the last year, so that they do not have the expense of undertaking the work before -

At sub paragraphs 8 and 9, we have provided for the subtenant to clean and repair the outside of

Note that the subtenant must insure any plate glass. This usually refers to shop front glass. However, any modern

8. Subtenant'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.

9. Restrictions on subtenant

Here is a long

It is important to prevent anyone sleeping habitually on the

10. Interest

This provision crystallises the landlord's entitlement when otherwise

11. Further payments

We have no comment.

12. Default notice by Sublessor

It is essential to leave this paragraph as is or edit it to copy the words of the

13. Assignment of the sublease

This sublease makes the usual provisions for an assignment, subject to the sublessor

14. Subtenant indemnifies Sublessor

A subtenant may insist on deletion. ,

15. The Security Deposit

Use this paragraph

16. Insurance

This paragraph is very .

17. Access for Sublessor

Essential, but the subtenant

18. New Guarantor

The guarantee provisions in this sublease are stronger than most tenants would like.

19. Provision for premature termination

Otherwise known as a “break clause”, that is a provision for the subtenant to give notice, at some particular ,

20. Forfeiture

These provisions are usual.

21. Rent review

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

Most rent review provisions allow for "upwards only" review. Occasionally this

We have provided

22. At the end of the sublease

These provisions simply tie up loose ends.

If the subtenant has fitted out the premises for his particular /

23. Stamp Duty

In some states you

<http://www.business.gov.au/business-topics/tax-finance-insurance/taxation/Pages/stamp-duty.aspx>

24. 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

End of notes