Property lease

Review checklist

Use this template to review a property lease that is material and within the scope of work (in other words, the property lease meets the agreed materiality threshold). Use this template for a property lease that is an agreement where the company or a group company agrees to lease a premises from a third party (the third party owns the property).

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Guidance notes** | **Answer** |
| **General provisions** | | | |
|  | **Short form name** | *Use a concise, descriptive "short form name" for this document. The short form name should clearly identify the document type (e.g., Service Agreement, Purchase Agreement, License Agreement, etc.)* |  |
|  | **Data room number** | *What is the data room number of this document? If there is no data room number, then insert "Not applicable".* |  |
|  | **Parties** | *For each party (an “entity”), identify:*   * *full legal name* * *entity type (organisation or person)* * *registered address* * *company/organisation number (if applicable)* * *whether the entity is acting alone or as a trustee* * *if the entity is acting as a trustee, identify the trust name and number (if applicable)* |  |
|  | **Document date** | *Identify the agreement date or date the agreement was entered into. If no date is provided in the agreement, insert 'Undated'. Look for dates in various locations within the document, including the header, footer, and signature blocks. Enter dates in a consistent format (e.g. DD/MM/YYYY or MM/DD/YYYY).* |  |
|  | **Amendment(s)** | *Has this document been amended?*  *If the agreement has been amended, modified, or changed, provide details of the amendment.*  *For each amendment:*   1. *Quote the specific language that introduces the amendment (e.g., "The parties hereby agree to amend the Agreement as follows:")* 2. *Describe the nature and purpose of the amendment* 3. *Specify which sections, clauses, or provisions of the original agreement are modified, added, or deleted* 4. *Provide the exact text of the amended language, as well as the text of the original language being modified (if available)* 5. *Note the effective date of the amendment* 6. *Mention any conditions or contingencies related to the amendment (e.g., requiring board approval)* |  |
| **Commercial details** | | | |
|  | **For each related party, answer the following:** | *Who are the parties that are related?* |  |
| *What is their relationship? E.g.:*   1. *An entity that controls a company is a related party of the company* 2. *The parties are both controlled by the same holding company* 3. *Director of Company is related to the Company* 4. *Spouse and children of the Company Director are related to Company* 5. *Directors of an entity that controls the company are related parties of a company.* 6. *Spouse and children of a Director of an entity that controls the company are related to Company.* |  |
| *Is the agreement on commercial, arm’s length terms?* |  |
|  | **Leased premises** | *Insert the address* |  |
|  | **Land title details** |  |  |
|  | **Rent** | ***Base amount (excluding tax)****:*  *Commencing rent (amount) as quoted in the lease (excluding tax)* |  |
|  | **Permitted use** | *Select between residential, commercial and retail.*  *Is the zoning of the land such that the premises are permitted to be used for the permitted use?* |  |
|  | **Outgoings** | ***Category****:*  *Which of the following categories of outgoings apply?*  ***Description:***  *Provide any necessary information on the outgoings* |  |
| **Term** | | | |
|  | **Start date of agreement** |  |  |
|  | **Start date of agreement** |  |  |
|  | **Initial term of the agreement** |  |  |
|  | **For each option to extend the term, answer the following:** | 1. *Start date of option* |  |
| 1. *End date of option* |  |
| 1. *Party that can exercise option to extend contract* |  |
| 1. *Required notice to exercise the option* |  |
| **Transfer restrictions** | | | |
|  | **Change of control** | 1. *Identify the specific Company or Group Company (by name) to which the restriction or prohibition applies*   *If a different change of control provision applies to each party, then record this by adding another change of control "collection".* |  |
| 1. *Definition of change of control* |  |
| 1. *Select the option that best describes the change of control restriction or prohibition. E.g.:*    * + *Counterparty is notified*      + *Certain standard conditions must be met*      + *Consent of the counterparty is obtained and the counterparty must consent if certain standard conditions are met*      + *Consent of the counterparty is obtained and the counterparty can withhold consent in certain limited circumstances*      + *Consent of the counterparty is obtained*      + *Consent of the counterparty is obtained in the counterparty's discretion*      + *Consent of the counterparty is obtained which cannot be unreasonably withheld or delayed*      + *Consent of the counterparty is obtained which cannot be unreasonably withheld if certain conditions are met*      + *Amendments to the agreement are required*      + *Comply with requirements set by law / statute*      + *Right to terminate the agreement*      + *Triggers a payment obligation*      + *Strictly prohibited (cannot occur)* |  |
| 1. *Circumstances where it is reasonable for a party to withhold consent to a proposed change of control (if applicable)* |  |
| 1. *Exceptions to the change of control restriction* |  |
| 1. *Rights of the counterparty in the Event of Change of Control* |  |
| 1. *Based on the change of control restriction or prohibition in the contract, analyze whether the restriction would likely be triggered by the proposed transaction (if known).* |  |
|  | **Assignment** | 1. *Identify the specific Company or Group Company (by name) to which the restriction or prohibition applies* |  |
| 1. *Select the option that best describes the assignment restriction or prohibition. E.g.:*    * + *Assignee executes a deed of covenant with counterparty*      + *Pre-emption right*      + *Terms of any other related agreements (to the extent that those terms relate to the assignment) have been complied with*      + *Consent of the counterparty is required*      + *Consent of the counterparty is required which cannot be unreasonably withheld or delayed*      + *Consent of the counterparty is required which cannot be unreasonably withheld or delayed if certain conditions are met*      + *Consent of the counterparty is required and the counterparty can withhold consent in certain limited circumstances*      + *Consent of the counterparty is required and the counterparty must consent if certain standard conditions are met*      + *Counterparty must be notified of assignment*      + *Certain standard conditions are met (no consent required)* |  |
| 1. *Exceptions to the assignment restriction or prohibition* |  |
| 1. *Based on the assignment restriction or prohibition in the contract, analyze whether the restriction would likely be triggered by the proposed transaction (if known).*   *Consider factors such as:*  *(i) The parties involved in the proposed transaction*  *(ii) The nature and structure of the proposed transaction (e.g., merger, acquisition, asset sale)*  *(iii) Any exceptions or carve-outs to the assignment restriction*  *(iv) Any consents or notices required to permit assignment in the context of the proposed transaction* |  |
|  | **Granting a security interest, encumbrance or dealing** | 1. *Identify the Company or Group Company that the restriction or prohibition on granting a security interest, encumbrance or dealing applies to* 2. *Option that best describes the restriction or prohibition on granting a security interest, encumbrance or dealing. E.g.:*    * + *Counterparty consent*      + *Counterparty consent which cannot be unreasonably withheld or delayed*      + *Counterparty consent which cannot be unreasonably withheld or delayed IF certain conditions are met*      + *Counterparty consent which can be withheld in certain limited circumstances*      + *Notice required*      + *Certain standard conditions are met (no consent required)*      + *Encumbrancee executes a deed of covenant with counterparty* 3. *Describe any exceptions to the restriction or prohibition on granting a security interest, encumbrance or dealing* 4. *Is the restriction or prohibition on granting a security interest, encumbrance or dealing triggered by the proposed transaction?* |  |
| **Security** | | | |
|  | **Security** | 1. *Identify Company or Group Company required to provide the security* |  |
| 1. *What type of security is required? E.g.:*    * + *Bank guarantee*      + *Performance bond*      + *Corporate guarantee*      + *Security deposit*      + *Letter of credit*      + *Cross charge*      + *Performance guarantee*      + *Collateral*      + *Indemnification* |  |
| 1. *What is the purpose of the security?* |  |
| **Incentives** | | | |
|  | **For each incentive, answer the following:** | 1. *Type of incentive applicable under Lease* 2. *Are there any consequences on the incentive (e.g. repayment obligations) if the lease is terminated early (e.g. for a change of control)? If so, describe the consequences on the incentive if the lease is terminated early. Which party does the incentive repayment obligation apply to?* |  |
| **Rent review method** | | | |
|  | **For each rent review method, answer the following:** | 1. *Identify the rent review method. E.g.:*    * + *Fixed percentage (%) review*      + *Market rent review*      + *Index review*      + *Fixed amount ($) increase*      + *Percentage (%) of tenant's gross sales* 2. *Rent review recurrence pattern. E.g.:*    * + *Daily*      + *Weekly*      + *Monthly*      + *Quarterly*      + *Half Yearly*      + *Annually*      + *At the start of each term*      + *Once* 3. *Describe how the rent review process works* |  |
| **Make good obligations** | | | |
|  | **Make good obligations** | 1. *What category of make good obligations applies? E.g.:*    * + *Remove Tenant's property without make good*      + *Standard make good*      + *Return premises to condition shown in property condition report*      + *Return premises to the base building condition*      + *Return premises in "as is" condition*      + *Environmental clean up or remediation* 2. *Provide any necessary information on the make good obligations category* |  |
| **Miscellaneous** | | | |
|  | **Related documents** | *Describe any documents related to this document that have been disclosed (including amendments)* |  |
|  | **Missing related documents** | *Describe any documents related to this document that haven’t been disclosed* |  |
|  | **Missing and/or ineligible pages** | *Specify any missing and/or ineligible pages of the document* |  |
|  | **Document execution** | *Identify a party(s) that haven’t executed the document fully and correctly* |  |
|  | **Governing law** | *What is the governing law of the document?* |  |
|  | **Other onerous or unusual provisions** | *Identify any provisions in this document that could be considered unusually onerous, burdensome or unfavorable to one party, or that deviate significantly from standard practices.*  *For each such provision:*   1. *State what party(s) the provision applies to;* 2. *Briefly summarise the key aspects that make it onerous or unusual;* 3. *Quote the relevant excerpt from the document.* |  |