

**LEASE INSTRUCTION SHEET
NEW LEASE/LEASE RENEWAL &
LEASE VARIATION**

A. ADVISOR/PERSON ORDERING LEASE DOCUMENTS:

Enquiries, documents, invoices will be directed to this person, unless otherwise stated

Person Ordering:

Firm Name:

Street Address:

Suburb/Postcode

Telephone: Fax:

Email: Signature:

Correspondence to be sent: Direct to client: Via advisor/accountant:
(copy will be sent to accountant/advisor)

B. DOCUMENTS REQUIRED FROM MJHC LEGAL:

New Lease (complete all parts in this instruction sheet)

Renewal of Lease (complete parts)

you must attach copy of existing Lease, Lease Variation and any Landlord Disclosure Statement

Variation of existing Lease (complete parts)

you must attach copy of existing Lease, Lease Variation and any Landlord Disclosure Statement

Are the Landlord and Tenant related parties? Yes No

If Yes, see Information Notes on evidence about the manner in which rental has been determined.

C. LANDLORD DETAILS:

Is the Landlord a company or individual/s? company individual

Is the Landlord a Trustee of a Trust? Yes No

If Yes, name of Trust

Is the Landlord registered for GST? Yes No

D. COMPANY LANDLORD:

Company Name:

Street Address:

Suburb/Postcode

ACN: Date of Incorporation:
DD/MM/YYYY

E. LANDLORD - INDIVIDUALS INVOLVED:

1. Full Name: DOB:
Street Address:
Suburb/Postcode:
This person is a: sole owner: joint owner: sole director: director:

4. Does the Retail Leases Act apply?

Yes

No

If Yes, complete details in Part L. Retail Leases Act Requirements.

Note that the Retail Leases Act applies to leases of premises at which goods are sold to the public or at which services are provided to the public or to which the public is invited for the supply of services. See Legislation Applying to Leasing Arrangements in Part Q. Important Information.

J. LEASE INFORMATION:

1. Initial lease term: Years Months

2. Does the Tenant have a right to renew the Lease? Yes No

Number of renewal options: Further terms each of Years: Months:

Note: If the further terms are not for identical equal lengths, provide details in Part K. Additional Information

3. Payment of rent commences on:
DD/MM/YYYY

Note: This date will be the same date the Lease commences unless the Tenant has been granted a rent free period

4. What is the permitted use?

EG. Panel Beater and related services, or Chemist or Warehouse & Administrative Offices or Administrative Offices expressly excluding related goods and services etc.

5. What is the initial rental? per annum

The rental is payable in advance

OR

The rental is payable in arrears

Instalments: the rental is payable

monthly

quarterly

annually

6. Will the rental be reviewed on a regular basis?

Yes

No

If Yes, on the following dates

DD/MM/YYYY

DD/MM/YYYY

DD/MM/YYYY

and will be based on

CPI (All Melbourne Groups)

Fixed percentage of

Market Value

Other – please specify

AND

On renewal of the Lease based on:

Market Value

Other – please specify

Note: Usually all rent reviews on Lease renewal are to market

7. Does the Tenant pay outgoings?

No – the Lease will be a gross rent Lease (i.e. no outgoings payable except utilities)

Yes – the Tenant shall pay a proportion (based on the proportion that the net lettable floor area of the Premises bears to the total net lettable floor area of the Building of which the Premises forms a part) of operating expenses levied against or payable in respect of the Building or the land on which the Building is situated (the "land") including but not limited to:

statutory outgoings including:

- local council rates

- water and sewerage rates

- State land tax on a single holding basis if lawfully recoverable

select those outgoings that apply

Note: land tax is not recoverable from a tenant if the premises are Retail Premises as defined under the Retail Leases Act

premiums for insurance relating to the Land and/or the Building including public risk, plate glass and fire and damage insurance.

all reasonable costs incurred in the Landlord's management of the Building and/or Land.

all costs of running and maintaining services provided by the Landlord or tenants of the Building including but not limited to lifts and airconditioning and all plant and equipment associated thereto.

costs of general repairs and maintenance to the Building, security of the Building and common garden areas of the Building and the Land etc.

General Outgoings (if any) – specify:

[Redacted box]

Other arrangements re. outgoings:

[Redacted box]

11. What are the cleaning arrangements?

The Tenant is solely responsible for cleaning the Premises at its cost.

The Landlord will arrange for the Premises to be cleaned and the Tenant shall pay a contribution to such costs as outgoings calculated at [Redacted] per square metre per annum.

Cleaning costs are including in the rental.

12. Light and Power:

Yes – the Premises are separately metered for the consumption of light and power and all such charges will be payable by the Tenant including all power consumed to run any airconditioning plant exclusively servicing the Premises

No

13. Tenancy Works:

Yes – All alterations or modifications to the Premises by the Tenant will be at the Tenant's expense and shall be subject to the Landlord's prior written approval.

No

14. Does the Tenant have to re-paint the interior of the premises on expiry of the Lease?

Yes No

15. Does the Tenant have to re-cover/re-surface floor surfaces on expiry of the Lease?

Yes No

16. Payment of Lease costs

For Lease preparation, negotiation and execution costs, the Tenant pays:

the whole

one half (50%)

fixed amount of [Redacted]

parties bear their own costs

Note: If the Retail Leases Act applies, each party to bear its own costs

17. Are any guarantees required?

Yes – Security Deposit required

No – Security Deposit not required

If Yes, amount required? [Redacted]

OR Amount equal to [Redacted] months rent (plus any GST)

AND/OR

Yes – Personal guarantee required

No – Personal guarantee not required

If Yes, details of guarantor(s), if different from Tenant individuals in Part H.

Name

[Redacted box]

Address:

[Redacted box]

Name

[Redacted box]

Address:

[Redacted box]

Name

[Redacted box]

Address:

[Redacted box]

K. ADDITIONAL INFORMATION:

Provide any additional information required to be provided for in the new lease documentation including any additional or special conditions that are to apply (if any). Provide details of any variation or modification to the existing lease, if any, if a renewal of lease or a variation of lease is required **AND/OR** attach details of special conditions and/or agreed amendments to the lease terms.

[Large redacted box for additional information]

L. RETAIL LEASES ACT REQUIREMENTS:

You need only complete this part if Retail Leases Act applies.

1. Has the Tenant occupied the Premises immediately prior to the Lease commencement date? Yes No

If Yes, The Tenant has continuously occupied the Premises since: [] DD/MM/YYYY

Note: This is relevant to whether the minimum 5 year term under the Retail Leases Act applies

2. Estimate of operating expenses:

These details are required for the Disclosure Statement (where required) – this statement must be served on the Tenant before the lease is entered into or renewed where the lease is a retail lease to which the Retail Leases Act applies.

A Disclosure Statement must be prepared if the premises are Retail Premises and the Tenant is not related/associated with the Landlord

For the Disclosure Statement, the Tenant's proportion of outgoings for the first year of the lease estimated as follows:

Table with 2 columns: Expense Type (council rates, insurance costs, specify other (if any), water and sewerage rates, cleaning costs) and Amount []

M. CARPARKING AND STORAGE AREA:

You need only complete this part if requested in an earlier Part

1. If car parks are provided, does Tenant have exclusive use? Yes No

If Yes, Are car parks on separate title to the premises? Yes No
A plan of the car parks is attached Yes No

2. If storage area is provided, does Tenant have exclusive use? Yes No

If Yes, Is the storage area on separate title to the premises? Yes No
A plan of the storage area is attached Yes No

3. Is an additional fee payable for car park and/or storage? Yes No

If Yes, provide details

[]

4. Will any separate fee(s) for car parks and/or storage areas be reviewed on a regular basis? Yes No

If Yes, Will they be reviewed on the same basis as rental? Yes No

If No, provide details

[]

N. DOCUMENT DELIVERY:

Prepared documents are to be sent by: email: mail: express post: Additional Fee of \$10.50 applies

O. PAYMENT DETAILS:

Credit Card: Visa: Mastercard: Bankcard:
Card Number: [] Exp Date: [] MM/YY
Name on Card: [] Signature: []
Direct Deposit: MJHC Legal Office Account
Commonwealth Bank - Stud Park Shopping Centre
BSB 063 626 Account No. 1045 4809
Cheque:

P. COMPLETED INSTRUCTIONS:

Please forward completed instructions to MJHC Legal:

email: mjhc@mjhclegal.com

fax: 03 9543 5133

mail: PO Box 412, Mount Waverley VIC 3149

Print and review your instructions before submitting and retain printed copy for your file. Adobe Reader will not allow you to save the data in this form.

The Email button will forward your completed Instruction Form to MJHC Legal. The Reset button will clear all data in the form.

In submitting the completed Instruction Form, the person described in Part A authorises MJHC Legal to prepare the Lease documentation and agrees to pay the Fee payable for Lease preparation. You understand that typing/spelling errors or incorrect information given is your responsibility.

Q. IMPORTANT INFORMATION:

Form of Lease Document

MJHC Legal will prepare a Lease document using the Law Institute form of Commercial Lease. This form of Lease is only available to registered legal practitioners who are members of the Law Institute of Victoria. As a standard form of lease document, it is not possible for the terms of the Lease to cover all of the terms and conditions which might be unique to a particular leasing arrangement. For this reason, it may be necessary to include additional provisions to meet a Landlord and/or Tenant's specific requirements. The Lease used by MJHC Legal will include a number of additional provisions designed to protect the interests of a Landlord which are not covered in the terms of the standard form of Lease.

Related Party Transactions

The preparation of a Lease document between related parties should be relatively straight forward. Presumably, there will be no disagreement on the terms of the Lease which is to be prepared. It is still necessary for the Lease to be on commercial terms. Some of the formal requirements of unrelated party transactions can be minimised or avoided.

It is essential that there is evidence about the manner in which the initial rental has been determined. All other aspects of the Lease should also be on commercial terms. The rent payable in a related party transaction should be within the market range of rental payable for the premises. The payment of too little or too much rent can have significant legal and financial implications for the Landlord. For example, where the Landlord is a superannuation fund, the payment of excessively high rental can be treated as 'special income' for taxation purposes by the ATO.

You must be able to provide some form of evidence about the manner in which you have determined the rental to be paid by the related party tenant. When a completed instruction sheet is received by MJHC Legal it will be presumed that you have evidence of the appropriateness of the rental to be paid. For example, the ATO will accept a written estimate or appraisal of market rental from an estate agent experienced in property leasing.

Legislation Applying to Leasing Arrangements

Depending on the type of Lease you require, your Lease can be governed by the Landlord & Tenant Act, Property Law Act and/or Retail Leases Act. The most significant piece of legislation effecting leasing arrangements is the Retail Leases Act 2003. The Retail Leases Act is a form of 'consumer legislation' designed to assist both Landlord and Tenant to know what they are getting into before entering into a Lease. It is critical to know whether the Retail Leases Act applies to your leasing arrangement due to the significant legal and financial implications that apply.

The Retail Leases Act 2003 does not apply to all business or premises. It applies to 'retail premises' but excludes some premises and business. The Act will not apply to:-

- Tenants that are in the business of wholesaling, manufacturing or storage
- Retail Tenants whose occupancy costs exceed \$1,000,000.00 per annum
- Tenants that are listed corporations or subsidiaries of listed corporations
- Leases for a term of less than one year, unless consecutively renewed
- Premises or businesses excluded by ministerial determination.

An information brochure outlining the laws covering retail Tenants and Landlord in Victoria under the Retail Leases Act 2003 has been prepared by the office of the Victoria Small Business Commissioner (SBC). You should make yourself familiar with the contents of this information brochure which summarises the key points covering retail leasing arrangements. A copy of the information brochure can be supplied by MJHC Legal to you upon request. A copy of the information brochure is required to be given to a prospective Tenant before entering into a leasing arrangement.

For the purposes of this instruction sheet you should note that the key points of the Retail Leases Act for your leasing arrangement are:-

- Certain formalities which must be observed before and after entering into a Lease
- The provision of prescribed information to a Tenant before a Lease is entered into
- Tenant's entitlement to a minimum 5 year term (unless waived by the SBC upon application)
- Each party must bear their own costs associated with Lease negotiation and preparation
- Land tax is not recoverable from a Tenant
- Dispute resolution provisions of the Retail Leases Act apply.

Legal Costs

When your specific requirements are known, you will receive more detailed costs information about the professional fees and other expenses that you will incur associated with the leasing work to be prepared by MJHC Legal. The fee structure for determining the amount that you pay for the legal work performed by MJHC Legal is generally calculated by reference to the Practitioners Remuneration Order which is a scale of costs for non-contentious work issued by the Supreme Court of Victoria.

The legal fees that you will incur are determined by the nature and extent of the work performed by MJHC Legal. There will be a fee associated with any one or more combinations of the following work

- Pre-leasing advice and negotiation work
- Preparation of Lease
- Preparation of Lease in final form
- Obtaining Mortgagee consent to Lease
- Post Lease assistance such as review of Security Deposit/Bank Guarantee arrangements and requirements
- Preparation of Disclosure Statement, if applicable
- Negotiation on final terms of Lease after review by Tenant's lawyers/advisors
- Notification to SBC on entering of retail Lease, if applicable
- Application to SBC to waive minimum 5 year term, if applicable

The minimum fee for Lease preparation is \$375.00 for a Lease between a related party Tenant and Landlord and assuming that no Retail Lease formalities are required. The fee applicable to an unrelated party transaction would typically be in the range of \$990.00 - \$1,800.00. You will reduce the legal fees that you will incur by fully completing this instruction sheet.

DISCLAIMER:

MJHC Legal prepares documentation based on your written instructions. The law concerning leasing changes and it may be advisable to request specific advice.

Liability limited by a scheme approved under Professional Standards Legislation