

# SUBLEASING CONSENT APPLICATION AND CHECKLIST

TO NYCIDA LESSEE: To sublease your facility, you must obtain NYCIDA's *prior written consent* for the sublease in question. For each requested sublease-consent, complete this **Subleasing Consent Application and Checklist** and provide all of the requested documentation.

Document	Enclosed	Not Applicable
1. Check for \$2,500. This application fee will cover multiple consent-requests but only if such requests are submitted concurrently	<input type="checkbox"/>	<input type="checkbox"/>
2. Signed letter from Lessee to Agency which must contain the following: <ul style="list-style-type: none"> <li>▪ Request for sublease-consent</li> <li>▪ Name and address of proposed sublessee with description of the business/operations to be performed in the subleased premises</li> <li>▪ Contact information for proposed sublessee</li> <li>▪ City and state from which proposed sublessee is relocating</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
3. Completed <b>Certificate as to Sublease</b> (see enclosed)	<input type="checkbox"/>	<input type="checkbox"/>
4. Copy of proposed sublease agreement which must be a term of 5 years or less	<input type="checkbox"/>	<input type="checkbox"/>
5. Signed copy of IDA <b>Rider to Sublease Agreement</b> (see enclosed)	<input type="checkbox"/>	<input type="checkbox"/>
6. Proposed subtenant(s) are listed as "ACTIVE" on the website for the New York State Department of State / Division of Corporations: <a href="http://www.dos.state.ny.us/corps/bus_entity_search.html">http://www.dos.state.ny.us/corps/bus_entity_search.html</a> <ul style="list-style-type: none"> <li>▪ Please provide a printout from the website</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
7. Signed written letter(s) from Lessee's insurance broker stating that the proposed sublease will neither impair nor diminish the liability insurance that the Lessee has obtained and is required to obtain under the Lease Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
8. <b>Schedule to Certificate as to Sublease</b> executed by Lessee (see enclosed)	<input type="checkbox"/>	<input type="checkbox"/>
9. <b>Vendor Check</b> completed for <u>each</u> subtenant (see enclosed)	<input type="checkbox"/>	<input type="checkbox"/>
10. ACORD certificate evidencing sublessee's liability insurance coverage and naming the NYCIDA as an additional insured (including Worker's Compensation insurance)	<input type="checkbox"/>	<input type="checkbox"/>
11. Bond trustee's written consent for the proposed sublease on behalf of the bondholders. (If there is only one bondholder and no bond trustee, the consent of such bondholder will be sufficient.)	<input type="checkbox"/>	<input type="checkbox"/>
12. An opinion from a nationally-recognized bond counsel opining that the proposed subleasing will not adversely affect the tax-exempt status of such bonds ( <u>please see back page for additional information and continue to Question # 14</u> )	<input type="checkbox"/>	<input type="checkbox"/>
13. Please be advised that IDA outside Counsel will be required to review the submitted opinion from a nationally-recognized bond counsel, submitted on behalf of the Lessee, to determine if there are any concerns that needs to be addressed. The Lessee will be required to pay fees for this review. Please check the box to confirm your understanding that additional fees from IDA outside counsel are applicable.	<input type="checkbox"/>	
14. Please enclose this <b>Subleasing Consent Application and Checklist</b> as a cover sheet for each subtenant	<input type="checkbox"/>	<input type="checkbox"/>

# SUBLEASING CONSENT APPLICATION AND CHECKLIST

## **Important points for lessees requesting sublease-consents:**

- NYCIDA will not review any request for sublease-consent if the Lessee is in default under its agreements with NYCIDA.
- As part of its review of any request for sublease-consent, NYCIDA will perform an internal background investigation check on any proposed sublessee(s), which must be passed prior to NYCIDA granting sublease-consent.
- If NYCIDA consents to the requested sublease, the Lessee's PILOT bill will increase since the PILOT attributable to the subleased premises will be pro-rated to equal full-taxes.
- Any costs incurred in fulfilling the requirements stated on this ***Subleasing Consent Application and Checklist*** will be entirely the responsibility of the Lessee to pay. For example, if the Lessee is the beneficiary of tax-exempt bonds issued by NYCIDA, the cost of obtaining an opinion of nationally-recognized bond counsel will be at the Lessee's expense.

## **Additional requirements arising from bond financings:**

- **Consent of Bond Trustee.** The Lessee must additionally obtain the consent of the bond trustee for proposed subleasings. Where the bondholder is acting as its own fiscal agent and there is no bond trustee, the Lessee must obtain consent directly from the bondholder. The Agency's consent will be expressly conditioned upon obtaining the bond trustee's consent, and it will be the responsibility of the Lessee to obtain such consent.
- **Tax-Exempt Financings.** When the bond financing is tax-exempt (i.e., the bonds are private activity bonds), both the subletting and the subtenant must satisfy specific requirements in order to preserve the tax-exempt status of the bonds. These requirements, moreover, will vary according to the type of private activity bond (small issue, 501(c)(3), etc.). In connection with the satisfaction of these requirements, the Agency will require the Lessee to obtain an opinion of nationally recognized bond counsel, an opinion that the proposed subleasing will not disqualify the tax-exempt status of the bonds. The Lessee will be required to pay the fees and disbursements of such bond counsel. **If a Lessee's bonds are tax-exempt, the Lessee should inform the Agency of this fact when it makes request for subleasing consent.**

## **Remit applications to the following address:**

New York City Industrial Development Agency  
Attn: Compliance  
110 William Street, 3<sup>rd</sup> Floor  
New York, NY 10038

## **Questions or Concerns? Please contact PM at Phone Number**

Compliance Hotline  
Tel: 212.312.3963  
Email: [compliance@nycedc.com](mailto:compliance@nycedc.com)  
Website: [www.nycedc.com/compliancereporting](http://www.nycedc.com/compliancereporting)



**RIDER to SUBLEASE AGREEMENT dated \_\_\_\_\_, 20\_\_**

<b>SUBLESSOR:</b>	
<b>SUBLESSEE:</b>	
<b>SUBLEASE PREMISES:</b>	
<b>PREMISES:</b>	
<b>NYCIDA:</b>	New York City Industrial Development Agency
<b>LEASE AGREEMENT:</b>	Lease Agreement between NYCIDA and Sublessor, dated as of _____, 20__, wherein NYCIDA leases the Premises to Sublessor.

- 1. Acknowledgment and Release.** Sublessee acknowledges that NYCIDA holds a leasehold estate in the entire Premises; and Sublessee releases NYCIDA from any past, present or future claims that Sublessee has or may have against NYCIDA.
- 2. Representation.** Sublessee represents that as a result of entering into the Sublease Agreement and occupying the Sublease Premises, it will not have relocated any of its plants or facilities from outside of New York City (but within the State of New York) to the Sublease Premises; nor will Sublessee have abandoned any of its plants or facilities outside of New York City (but within the State of New York).
- 3. Subordination.** Sublessee acknowledges and agrees that the Sublease Agreement is subject and subordinate to the Lease Agreement and that any conflict between the terms of the Lease Agreement and the terms of the Sublease Agreement shall be resolved in favor of the former.
- 4. Indemnity.** Sublessee agrees to defend, indemnify and hold harmless NYCIDA, its officers, directors, employees and agents from and against any and all losses, claims, suits, damages, costs, expenses and liabilities arising from or attributable to any act or omission of Sublessee, its employees or agents in the use or occupancy of the Sublease Premises.
- 5. Insurance.** Sublessee agrees to obtain and maintain throughout the term of the Sublease Agreement the following Insurance requirements:
  - a.** Commercial General Liability insurance (“CGL”) on a per occurrence basis in the following amounts: minimum \$1,000,000 per occurrence and minimum \$2,000,000 in the aggregate per location. The Sublessee additionally agrees that:
    - i.** The CGL policy shall contain coverage for contractual liability, premises operations, and products and completed operations; and
    - ii.** The CGL policy shall be written on Form CG-0001; and
    - iii.** The CGL policy shall name NYCIDA as an additional insured; and



**8. Incorporation in Sublease Agreement; Third-Party Beneficiary.** Sublessee agrees and acknowledges that this RIDER is a part of and incorporated in the Sublease Agreement; and that NYCIDA is a third-party beneficiary of the foregoing provisions of this RIDER.

\_\_\_\_\_  
SUBLESSOR

\_\_\_\_\_  
SUBLESSEE

By: \_\_\_\_\_  
(Sign Here)

By: \_\_\_\_\_  
(Sign Here)

Name: \_\_\_\_\_  
(Print Name)

Name: \_\_\_\_\_  
(Print Here)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

THE UNDERSIGNED, the \_\_\_\_\_ of \_\_\_\_\_ the  
[Title of Project Representative] [Name of Project Company]

Lessee under that certain Lease Agreement from the New York City Industrial Development Agency (the "Agency"), dated as of \_\_\_\_\_ (respectively, "Lessee" and the "Lease Agreement"), hereby certifies in connection with a  
[Date of Lease Agreement]

proposed sublease from Lessee to \_\_\_\_\_ (the "Sublease Agreement"), that (all terms used  
[Name of Sublessee company]

herein but not defined herein, to have the meanings ascribed to them in the "Lease Agreement"):

1. The proposed Sublease Agreement and demise thereunder notwithstanding, (i) Lessee will remain liable to the Agency for the full performance of all of the terms, covenants and conditions continued in the Lease Agreement; and (ii) the Lessee's ability to obtain and maintain the insurance required under Section 4.5 of the Lease Agreement and the insurance so obtained, shall neither be impaired nor diminished as a consequence of the subleasing under the proposed sublease.
2. The proposed Sublease Agreement and demise thereunder will not violate any provision of the Lease Agreement, including but not limited to those provisions of the Lease Agreement setting forth the permitted use of the Facility and the requirements for subleasing within the Facility.
3. The use of the subleased premises under the proposed Sublease Agreement will not disqualify Lessee's use of the premises as a "project" within the meaning of the General Municipal Law of the State of New York, and nothing to be performed or required to be performed under the Sublease Agreement will require the amendment of the Facility's certificate of occupancy.
4. The copy of the proposed Sublease Agreement hereto for provided to the Agency is in substantially final form.

The undersigned acknowledges that the Agency is materially relying upon the truth and accuracy of this Certificate, and the other information and documentation concurrently provided by Lessee herewith, for the purpose of considering Lessee's request for the Agency's consent to the proposed Sublease Agreement. The undersigned covenants, in the event the Agency so gives its consent, to cause Lessee to expeditiously provide to the Agency a copy of the executed and delivered Sublease Agreement.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Note: Authorized representative of company is signing here as an individual]

## Subtenant Consent Application – IDA Vendor Check

The following form is to be completed for businesses desiring to do business with the New York City Industrial Development Agency

Please fill out this form carefully and completely for the proposed vendor

Business Name:

Business a/k/a or dba:

EIN:

Business Address:

Business Telephone:

Type of Entity:

For internal use only:

Project Manager:

Extension:

Back-Up Contact:

Extension: