

# SUBLEASING CONSENT APPLICATION AND CHECKLIST

Control #:  
Company Name

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="https://www.dos.ny.gov/corps/bus_entity_search.html">https://www.dos.ny.gov/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. Please enclose this <b>Subleasing Consent Application and Checklist</b> as a cover sheet for each subtenant	<input type="checkbox"/>	<input type="checkbox"/>

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## **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:**

By Mail:

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

By Email:

compliance@edc.nyc

## **Questions or Concerns? Please contact your Project Manager at:**

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

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SCHEDULE to CERTIFICATE AS TO SUBLEASE

Total Square Footage of Facility: \_\_\_\_\_

1. % of Facility permitted total square square footage  
for subletting: footage: permitted for subletting:

\_\_\_\_\_% x \_\_\_\_\_ = \_\_\_\_\_

2. current subleases square footage

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total = (\_\_\_\_\_)

3. square footage for proposed subletting: = (\_\_\_\_\_)

4. balance remaining of square footage available for subletting: = \_\_\_\_\_

Does the proposed sublease(s), if approved, violate the allowable total permitted subtenant occupancy as stated in the Lease Agreement with NYCIDA? \_\_\_\_\_

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**RIDER TO TENANT LEASE AGREEMENT DATED \_\_\_\_\_, 20\_\_**

LANDLORD:	[insert landlord name]
TENANT:	[insert tenant name]
FLOOR(S)/ UNIT(S):	[insert]
TENANT'S EIN #:	[insert]
PREMISES:	[Address and a description of the Tenant Lease premises]
AGENCY:	New York City Industrial Development Agency
COMPANY LEASE:	Company Lease Agreement, dated as of _____, 20__, between [insert landlord name] and the Agency
AGENCY LEASE:	Agency Lease Agreement, dated as of _____ between the Agency and [insert landlord name]
LEASE AGREEMENT	Lease Agreement, dated _____, 20__, between [insert landlord name], as Landlord, and _____, as Tenant

1. Acknowledgment and Release. Tenant acknowledges that pursuant to the Company Lease, the Agency holds a leasehold estate in the entire Premises, and Tenant releases the Agency from any past, present or future claims that Tenant has or may have against the Agency.

2. Representation Regarding Relocation. Tenant represents that as a result of entering into the Lease Agreement and this Rider, and upon completion of the construction occupying the Premises, it has and will not have relocated or abandoned any plant or facility from outside of New York City (but within the State of New York).

3. Representation regarding Conduct. None of the Tenant, the Principals of the Tenant, or any Person that is an Affiliate of the Tenant:

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- a. is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency, NYCEDC or the City, unless such default or breach has been waived in writing by the Agency, NYCEDC or the City, as the case may be;
- b. has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;
- c. has been convicted of a felony in the past ten (10) years;
- d. has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or
- e. has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in a court or other appropriate forum.

Capitalized terms used in this section have the meanings set forth below:

**Affiliate** means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with such given Person.

**City** shall mean The City of New York.

**Control** or **Controls**, including the related terms “controlled by” and “under common control with”, shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

**Entity** shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

**Governing Body** shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

**NYCEDC** shall mean New York City Economic Development Corporation, and any successor thereof.

**Person** shall mean an individual or any Entity.

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**Principals** shall mean, with respect to any Entity, the most senior three officers of such Entity, any Person with a ten percent (10%) or greater ownership interest in such Entity, and any Person as shall have the power to Control such Entity, and “principal” shall mean any of such Persons.

4. **Subordination.** Tenant acknowledges and agrees that the Lease, as modified by this Rider, is subject and subordinate to the Agency Lease, and that any conflict between the terms of the Agency Lease and the terms of the Lease, as modified by this Rider, shall be resolved in favor of the Agency Lease.

5. **Indemnity.** Tenant agrees to defend, indemnify and hold harmless the Agency, 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 Tenant, its employees or agents in the use or occupancy of the Premises.

6. **Insurance.** Notwithstanding anything to the contrary contained in the Lease, as modified by this Rider, Tenant agrees to obtain and maintain 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. Tenant additionally agrees that:

(a) the CGL policy shall contain coverage for contractual liability, premises operations, and products and completed operations; and

(b) the CGL policy shall be written on Form CG-0001; and

(c) the CGL policy shall name the Agency as an additional insured; and

(d) Tenant shall provide to Landlord at least thirty (30) days before expiration of the CGL policy (and to the Agency upon the Agency’s request), an ACORD certificate evidencing that Tenant has obtained CGL coverage as required herein; and that such ACORD certificate shall indicate the Agency as an additional insured as follows:

“New York City Industrial Development Agency is an additional insured on a primary and non-contributory basis for Commercial General Liability which is written on Form CG-0001 without modification to the contractual liability or waiver-of-subrogation provisions therein, and covering the following premises: *[insert premises location]*.”

7. **Employment Information.** Tenant acknowledges that pursuant to the Agency Lease, Landlord is obligated to provide to the Agency employment information pertinent to all occupants of the building in which the Premises are located. Accordingly, Tenant agrees to provide to Landlord and, if requested by the Agency, to the Agency, information regarding Tenant’s employment at the Premises, including, but not limited to, the then-current New York State Department of Labor’s Form NYS-45, and the Agency’s employment and benefits report form for Tenants (or any successor form as may be required by the Agency as a result of a change in law or as required by New York State agencies).

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8. Living Wage. Tenant agrees to comply with all of the terms, covenants and provisions of the Living Wage requirements set forth in Appendix A hereto.

9. HireNYC. Tenant agrees to comply with all of the terms, covenants and provisions of the HIRE NYC requirements set forth in Appendix B hereto.

10. *[Include if applicable under Section 8.25 of the Agency Lease: Labor Peace. Tenant agrees to comply with all of the terms, covenants and provisions of the Labor Peace Agreement attached hereto in Appendix C].*

11. Non-discrimination. Tenant shall not discriminate nor permit any of its Affiliates (as defined in Section 3 above) to discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. Tenant shall ensure that employees and applicants for employment with Tenant are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

12. Incorporation in Sublease Agreement; Third-Party Beneficiary. Tenant agrees and acknowledges that this Rider is a part of and is incorporated into the Lease; and that the Agency is a third-party beneficiary of the foregoing provisions of this Rider. Except where modified by this Rider, the terms and conditions of the Lease, as modified by this Rider, remain unmodified and in full force and effect.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Rider as of the day and year first above written.

*[Insert Landlord name]*  
(Landlord)

By: \_\_\_\_\_  
Name:  
Title:

*[Insert Tenant name]*  
(Tenant)

By: \_\_\_\_\_  
Name:  
Title:

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## Appendix A to Tenant Lease Rider

*[Landlord to insert form of LW Agreement attached to the Agency Lease as Exhibit L]*

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## Appendix B to Tenant Lease Rider

*[Landlord to insert HIRENYC program requirements attached to the Agency Lease as Exhibit K]*

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## Appendix C to Tenant Lease Rider

*[Landlord to insert executed Labor Peace Agreement if required in accordance with Section 8.25 of the Agency Lease in the form attached to the Agency Lease as Exhibit*

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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

Control #: [Click here to enter text.](#)

Project Name: [Click here to enter text.](#)

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: [Click here to enter text.](#)

Business a/k/a or dba: [Click here to enter text.](#)

EIN: [Click here to enter text.](#)

Business Address: [Click here to enter text.](#)

Business Telephone: [Click here to enter text.](#)

Type of Entity: [Click here to enter text.](#)

For internal use only:

Project Manager: [Click here to enter text.](#)

Extension: [Click here to enter text.](#)

Back-Up Contact: [Click here to enter text.](#)

Extension: [Click here to enter text.](#)