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Agreement to Sub-Lease Commercial

Form 515

for use in the Province of Ontario

GENERAL USE: The Agreement to Sub-Lease is the document that is used to state a Sub-Tenant's desire to sub-lease the property from the Sub-Landlord who is the main Tenant and to negotiate the terms of the Sub-Lease.

AGREEMENT DATE: This first line of the Agreement is the date that the document is created. This date can be used to identify this Agreement going forward.

This Agreement to Sub-Lease (Agreement) dated this..... day of..... 20.....

PARTY IDENTIFICATION: The next portion of the Form identifies the full names of the parties.

SUB-TENANT:
(Full legal names of all Sub-Tenants)

SUB-LANDLORD:
(Full legal name of Sub-Landlord)

SUB-TENANT OFFER: This Form is often referred to as an "offer". The offer to sub-lease the premises also allows the Sub-Tenant an opportunity to set out in detail all of the terms and conditions they would like to be part of their Offer when sub-leasing the premises.

The Sub-Tenant hereby offers to sub-lease from the Sub-Landlord the premises as described herein on the terms and subject to the conditions as set out in this Agreement.

DEFINITIONS: There are set out definitions for the document.

For the purposes of this Agreement to Sub-Lease "Sub-Tenant" includes sub-lessee and "Sub-Landlord" includes sub-lessor.

1. PREMISES: The Premises that are to be sub-leased are described below, including their area and location within the building.

1. PREMISES: The "Premises" consisting of approximately more or less on the floor of the
"Building" known municipally as in the
of....., Province of Ontario, as shown outlined on the plan attached as Schedule ".....".

2. USE: The specific use that the Sub-Tenant wishes to undertake at the Premises is described below.

2. USE: The Premises shall be used only for.....

3. TERM OF SUB-LEASE: The next section provides length of term of the Sub-Lease. Further, if there are to be any rights of renewal those are also set out in this section.

3. TERM OF SUB-LEASE:

(a) The Sub-Lease shall be for a term of..... (.....) months commencing on the..... day of
....., 20....., and terminating on the..... day of....., 20.....

(b) Provided the Sub-Tenant is not at any time in default of any covenants within the Sub-Lease, the Sub-Tenant shall be entitled to renew this Sub-Lease for additional term(s) of..... months (each) on written notice to the Sub-Landlord given not less than months prior to the expiry of the current term at a rental rate to be negotiated. In the event the Sub-Landlord and Sub-Tenant can not agree on the fixed minimum rent at least two months prior to expiry of the current Sub-Lease, the fixed minimum rent for the renewal period shall be determined by arbitration in accordance with the Arbitration Act or any successor or replacement act.

4. RENT: The amount of rent to be paid is inserted in the next area of the Form. This information may change from year to year. The dates that the payment of rent is to commence and end is also set out in this area of the Form.

4. RENTAL: Fixed minimum rent: The fixed minimum rent payable by the Sub-Tenant for each complete twelve-month period during the Sub-Lease term shall be:

From..... to	\$.....	being \$.....	based upon \$.....
From..... to	(inclusive) (per annum)	(per month)	(per sq) (foot/metre)
From..... to	(inclusive) (per annum)	(per month)	(per sq) (foot/metre)
From..... to	(inclusive) (per annum)	(per month)	(per sq) (foot/metre)
From..... to	(inclusive) (per annum)	(per month)	(per sq) (foot/metre)
From..... to	(inclusive) (per annum)	(per month)	(per sq) (foot/metre)

INITIALS OF SUB-TENANT(S): 

INITIALS OF SUB-LANDLORD(S): 

HST & OTHER TAXES: Since this is a commercial lease, it provides that, Harmonized Sales Tax (HST) and other taxes are in addition to the rent. This section also describes on which day/date the rent will be payable.

plus HST, and other tax (other than income tax) imposed on the Sub-Landlord or the Sub-Tenant with respect to rent payable by the Sub-Tenant, payable on: **(Check one box only)**

- the.....day of each month commencing.....
- the.....day of the first month immediately following completion of the Sub-Landlord’s Work.

RENT ADJUSTMENTS: Rent would be adjusted if it is determined that the measurements are different from those set out in paragraph 1. The fixed minimum rent shall be adjusted if the actual measurements of the Sub-Leased Premises differ from the approximate area. The actual measurement shall be agreed upon and failing agreement, calculated by an Ontario Land Surveyor/Architect using the current Building Owners And Managers Association standard form of measurement and shall be binding on both parties.

5. **DEPOSIT AND PREPAID RENT:** A deposit is to be delivered which shall secure two months’ rent. If the offer is not accepted, then the deposit is to be returned without interest.

5. DEPOSIT AND PREPAID RENT:

The Sub-Tenant delivers.....
(Herewith/Upon acceptance/as otherwise described in this Agreement)

by negotiable cheque payable to..... “Deposit Holder”
in the amount of.....

Canadian dollars (\$.....) to be deposited and held in trust as security for the faithful performance by the Sub-Tenant of all terms, covenants and conditions of the Agreement and after the earlier of occupancy by the Sub-Tenant or execution of the Sub-Lease to be applied by the Sub-Landlord against the.....and.....month’s rent and HST. If the Agreement is not accepted, the deposit is to be returned to the Sub-Tenant without interest or deduction. For the purposes of this Agreement, “Upon Acceptance” shall mean that the Sub-Tenant is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder’s non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

6. **SERVICES:** This provision defines whether the Sub-Tenant or the Sub-Landlord are to pay for utility and other services to the Premises.

6. SERVICES: (Check one box only)

- The Sub-Tenant shall pay the cost of hydro, gas, water, heating, air-conditioning and for all other services and utilities as may be provided to the premises. The Sub-Tenant shall arrange with the local authority for connection of gas, electricity and water in the name of the Sub-Tenant.
- The Sub-Landlord shall pay the cost of hydro, gas, water, heating, air-conditioning and for all other services and utilities as may be provided to the premises.

7. **ADDITIONAL RENT AND CHARGES:** The next section describes additional rent or other charges to be paid by the Sub-Tenant.

7. ADDITIONAL RENT AND CHARGES:

Check this box if Additional Rent as described below to be paid by Sub-Tenant

The Sub-Tenant shall additionally pay a proportionate share of all costs and expenses incurred by the Head Landlord in maintaining, operating, cleaning, insuring and repairing the property and, without limiting the generality of the foregoing, such costs and expenses shall include the costs of:

- (i) snow, garbage, and trash removal;
- (ii) landscaping and planters;
- (iii) heating, ventilating and air-conditioning, and providing hot and cold water and other utilities and services to, and operating the common areas of the property, and maintaining and repairing the machinery and equipment for such utilities and services;
- (iv) the realty taxes, assessments, rates, charges and duties levied or assessed against the property (save any tax on the personal income of the Head Landlord);
- (v) insuring the property and such other insurance as the Head Landlord will effect against public liability, property damage, loss of rental income and other casualties and risks.
- (vi)

8. **SCHEDULES:** Agreements may have schedules to identify extended provisions beyond the terms in the pre-set (preprinted) form. Any schedule would be identified in the section below.

8. SCHEDULES: The Schedules attached hereto shall form an integral part of this Agreement to Sub-Lease and consist of: Schedule(s).....

INITIALS OF SUB-TENANT(S): 

INITIALS OF SUB-LANDLORD(S): 

9. **HEAD LEASE:** *The Form refers to the fact this Agreement is a Sub-Lease and the Head Lease (being the lease between the Sub-Landlord as Tenant and the Landlord for the Building, who is referred to as the Head Landlord in this document) will prevail, unless there is a contradiction between the Head Lease and Sub-Lease in which case the Sub-Lease provisions supersede. The Sub-Landlord and Sub-Tenant both agree to comply with the terms of the Head Lease and the Sub-Lease.*

9. **HEAD LEASE:** The Sub-Tenant's interest in the Premises is by virtue of a lease (the "Head Lease") between: and
Dated:....., a copy of which is attached hereto as Schedule(s).....
The Sub-Lease described herein is to be subject to and in accordance with the terms of the Head Lease, except for any terms and conditions of the Sub-Lease that are in direct contradiction to any term of the Head Lease, in which case the terms and conditions within the Sub-Lease Agreement between Sub-Landlord and Sub-Tenant will apply. Subject to this provision, both the Sub-Landlord and the Sub-Tenant agree to fully comply with the terms and conditions of the Head Lease and the Sub-Lease.

10. **APPROVAL OF HEAD LEASE BY SUB-TENANT:** *The Agreement is subject to the Sub-Tenant having an opportunity to review the Head Lease to determine that it is satisfactory to the Sub-Tenant.*

10. **APPROVAL OF HEAD LEASE BY SUB-TENANT:** The Sub-Tenant shall have until no later than on the day (a.m./p.m.) of, 20....., to approve the Head Lease. If the Head Lease is not satisfactory to the Sub-Tenant, at the sole and absolute discretion of the Sub-Tenant, the Sub-Tenant may terminate this Agreement by notice in writing delivered to the Sub-Landlord prior to the expiry of the time period stated above and the deposit shall be returned to the Sub-Tenant in full without deduction.

11. **APPROVAL OF SUB-TENANT BY HEAD LANDLORD:** *In most sub-leases the Head Landlord has to approve the Sub-Tenant, this next section provides that this Agreement is subject to this approval.*

11. **APPROVAL OF SUB-TENANT BY HEAD LANDLORD:** This Offer to Sub-Lease is conditional upon the approval of the Sub-Tenant by the Head Landlord. Unless the Sub-Landlord gives notice in writing delivered to the Sub-Tenant or to the Sub-Tenant's address as hereinafter indicated not later than on the day of, 20....., that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Sub-Tenant in full without deduction.

12. **IRREVOCABILITY:** *The party submitting the Agreement offer to the other party agrees to allow the other party until a deadline to consider and accept the Offer. The submitting party is not permitted to withdraw their Offer prior to that time. After the Offer is prepared and signed by the Sub-Tenant, it is presented to the Sub-Landlord for acceptance. The Sub-Landlord, in turn, may want to make changes to the Offer for the Sub-Tenant to consider. This process can continue back and forth several times in an effort to reach an agreement, in this event, the next section would be revised to identify which party is making the Offer irrevocable at each point.*

12. **IRREVOCABILITY:** This offer shall be irrevocable by until on the day of, 20....., after which time if not accepted, this offer shall be null and void and all monies paid thereon shall be returned to the Sub-Tenant without interest or deduction.

13. **NOTICES:** *Under the Agreement there will be requirements to deliver notices to the other side. This provision highlights various methods that would be available to deliver these notices.*

13. **NOTICES:** The Sub-Landlord hereby appoints the Listing Brokerage as agent for the Sub-Landlord for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Sub-Tenant's Brokerage) has entered into a representation agreement with the Sub-Tenant, the Sub-Tenant hereby appoints the Sub-Tenant's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Sub-Landlord and the Sub-Tenant (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Sub-Tenant or the Sub-Landlord for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.: (For delivery of Documents to Sub-Landlord) FAX No.: (For delivery of Documents to Sub-Tenant)
Email Address: (For delivery of Documents to Sub-Landlord) Email Address: (For delivery of Documents to Sub-Tenant)

14. **SUB-LANDLORD'S AND SUB-TENANT'S WORK:** *The next area states, if the parties agree to do any work to the Premises, there may be Schedules attached describing the work to be done by either or both the Sub-Landlord and/or the Sub-Tenant.*

14. **SUB-LANDLORD'S AND SUB-TENANT'S WORK:** The Sub-Landlord agrees to complete the work described as the "Sub-Landlord's Work" in Schedule "....." attached hereto. The Sub-Tenant agrees to complete any additional work necessary to prepare the Premises for the Sub-Tenant's use, described as "Sub-Tenant's Work" in Schedule "....." attached hereto. The Sub-Tenant shall not proceed with any work within or affecting the Premises without the Sub-Landlord's and Head Landlord's prior written approval.

INITIALS OF SUB-TENANT(S): 

INITIALS OF SUB-LANDLORD(S): 

15. **SIGNAGE:** *The next section clarifies, if the Sub-Tenant wishes to have a sign it would be at the expense of the Sub-Tenant and only with the approval of the Head Landlord and Sub-Landlord and must also be in compliance with municipal by-laws and government regulations.*
15. **SIGNAGE:** The Sub-Tenant may, at its own expense, erect signage in a good and workmanlike manner, subject to municipal by-laws and government regulations and subject to the Sub-Landlord's and Head Landlord's written approval as to the design, colour, and content of any such signs, and to be located as follows:
16. **INSURANCE:** *The Sub-Tenant agrees to obtain insurance for the property and the Sub-Tenant's operations that would be usual and any other insurance that the Head Landlord and Sub-Landlord may reasonably require.*
16. **INSURANCE:** The Sub-Tenant agrees to insure the property and operations of the Sub-Tenant, including insurance for fire and such additional perils as are normally insured against, liability insurance and any other insurance as may be reasonably required by the Sub-Landlord and Head Landlord.
17. **EXECUTION OF SUB-LEASE:** *The parties agree that the form of lease will be drawn by the Sub-Landlord and is to be signed by both the Sub-Landlord and Sub-Tenant before any work is done to the Premises or before there is any occupancy of the Premises by the Sub-Tenant.*
17. **EXECUTION OF SUB-LEASE:** The Sub-Lease shall be prepared by the Sub-Landlord at the Sub-Landlord's expense, in accordance with the terms and conditions of this Agreement. The Sub-Lease will be signed and executed by both parties hereto prior to the commencement of work on the premises by either party and prior to occupancy by the Sub-Tenant.
18. **OCCUPANCY OR RENT TO ABATE:** *If the Sub-Landlord has not completed the Sub-Landlord's work then rent is not to be paid by the Sub-Tenant and that is to be full settlement of any claims the Sub-Tenant may have.*
18. **OCCUPANCY OR RENT TO ABATE:** In the event the premises are not completed by the Sub-Landlord for occupancy by the Sub-Tenant on the date set out herein for commencement of the Term of the Sub-Lease, the rent under this Agreement shall abate to the extent of such delay, and the Sub-Tenant hereby agrees to accept such abatement of rent in full settlement of all claims which the Sub-Tenant might otherwise make because the Premises were not ready for occupancy by the said date.
19. **ASSIGNMENT:** *The Sub-Tenant is not allowed to assign the Agreement to Sub-Lease. However, the Sub-Tenant may assign or transfer its interest in the Sub-Lease with the consent of the Sub-Landlord which consent may not be unreasonably withheld.*
19. **ASSIGNMENT:** This Agreement to Sub-Lease shall not be assignable or otherwise transferable by the Sub-Tenant. The Sub-Tenant may not sublet or assign or transfer its interest in the Sub-Lease contemplated herein without securing the written consent from the Sub-Landlord, which consent shall not be unreasonably withheld, provided however, if the consent is granted, the Sub-Tenant shall remain liable for all obligations under the Sub-Lease. Any assignment or transfer of the Sub-Lease by the Sub-Tenant is to be subject to and in accordance with the terms and conditions of the Head Lease.
- If the Sub-Tenant is a corporation, the transfer of the majority of the issued shares in the capital stock, or any transfer, issuance or division of shares of the corporation sufficient to transfer control of the corporation shall be deemed for all purposes to be an assignment within the meaning of this Agreement and any Sub-Lease. This provision shall not apply to a corporation whose shares are listed and traded on any recognized public stock exchange in Canada or the United States.
20. **PARKING:** *Unless otherwise detailed in this paragraph, parking is in common with other tenants and Sub-Tenants and not reserved.*
20. **PARKING:** Unless otherwise stipulated, parking, if applicable, shall be in common and unreserved.
21. **AGREEMENT IN WRITING:** *If there is a conflict or discrepancy between any of the pre-set (preprinted) clauses and anything that has been added to the Agreement, then added parts supersede the pre-set clauses. Further, there no other agreements between the Sub-Landlord and Sub-Tenant other than those contained in this Agreement.*
21. **AGREEMENT IN WRITING:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Agreement between Sub-Landlord and Sub-Tenant. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
22. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** *This clause states that no information the Sub-Landlord and Sub-Tenant have been given by the real estate sales people shall be considered to be Legal, Accounting or Environmental Advice. If these factors impact the transaction or valuation, the Sub-Landlord and Sub-Tenant should seek independent professional expert advice.*
22. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the broker is not legal, accounting, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
23. **ELECTRONIC SIGNATURES:** *This provision ensures compliance with the Electronic Commerce Act in that it is necessary that the parties to an agreement consent to the use of electronic signatures.*
23. **ELECTRONIC SIGNATURES:** The parties hereto consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act*, 2000, S.O. 2000, c17 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.
24. **BINDING AGREEMENT:** *Once accepted this Agreement is considered a binding agreement by the parties to enter into a Sub-Lease.*
24. **BINDING AGREEMENT:** This Agreement and the acceptance thereof shall constitute a binding agreement by the parties to enter into the Sub-Lease of the Premises and to abide by the terms and conditions herein contained.

INITIALS OF SUB-TENANT(S): 

INITIALS OF SUB-LANDLORD(S): 

25. **SUCCESSORS AND ASSIGNS:** In the event one of the parties dies before closing their heirs and executors are bound by the Agreement.

25. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

PARTY SIGNATURES: The Sub-Tenant and Sub-Landlord sign under seal. The seal beside their signature verifies the existence of consideration within this Agreement, binding the offering party(ies) to the irrevocable offer and irrevocable time period set out earlier in this Agreement.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

.....
(Witness) (Sub-Tenant/Authorized Signing Officer) (Seal) (Date)
.....
(Witness) (Sub-Tenant/Authorized Signing Officer) (Seal) (Date)
.....
(Witness) (Guarantor) (Seal) (Date)

We/I the Sub-Landlord hereby accept the above offer, and agree that the commission together with applicable Harmonized Sales Tax (and any other tax as may hereafter be applicable) may be deducted from the deposit and further agree to pay any remaining balance of commission forthwith.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

.....
(Witness) (Sub-Landlord/Authorized Signing Officer) (Seal) (Date)
.....
(Witness) (Sub-Landlord/Authorized Signing Officer) (Seal) (Date)

CONFIRMATION OF ACCEPTANCE: When all the parties have accepted the Agreement, the last party who signed or initialed, signs and dates in this next section to confirm when Acceptance happened. Acceptance is legally effective only when it has been communicated to the other party.

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at this day of....., 20.....
(a.m./p.m.)

.....
(Signature of Sub-Landlord or Sub-Tenant)

INFORMATION ON BROKERAGE(S)

Listing Brokerage (Tel.No.)
.....
(Salesperson/Broker/Broker of Record Name)
Co-op/Sub-Tenant Brokerage (Tel.No.)
.....
(Salesperson/Broker/Broker of Record Name)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement to Sub-Lease and I authorize the Brokerage to forward a copy to my lawyer. I acknowledge receipt of my signed copy of this accepted Agreement to Sub-Lease and I authorize the Brokerage to forward a copy to my lawyer.

..... (Date) (Date)
..... (Date) (Date)
Address for Service.....
..... (Tel. No.) (Tel. No.)
Sub-Landlord's Lawyer..... Sub-Tenant's Lawyer.....
Address.....
Email.....
..... (Tel. No.) (Fax. No.) (Tel. No.) (Fax. No.)

FOR OFFICE USE ONLY **COMMISSION TRUST AGREEMENT**
To: Co-operating Brokerage shown on the foregoing Agreement to Sub-Lease:
In consideration for the Co-operating Brokerage procuring the foregoing Agreement to Sub-Lease, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.
DATED as of the date and time of the acceptance of the foregoing Agreement to Sub-Lease. Acknowledged by:
.....
(Authorized to bind the Listing Brokerage) (Authorized to bind the Co-operating Brokerage)

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