

ASSIGNATION

Guidance Notes



Introduction

This Assignment can be used for a simple assignment of a lease and also provides for variations to the lease to be made (see Clause 5) where the Landlords have agreed a change of use for example.

The Landlords' consent to the assignment can be evidenced in the Assignment (see Clause 8) or if the Landlords do not wish to be a party to the Assignment their consent can be evidenced separately by letter of consent. If there are to be variations of the lease the Landlords will need to be a party to the Assignment.

The Assignment proceeds on the basis that the Assignors will be released from all liability to the Landlords with effect from the Date of Entry. The Assignees take on liability for all tenants' obligations under the Lease both before and after the Date of Entry but will have a personal right against the Assignors for any liability arising as a result of a breach of obligation prior to the Date of Entry.

1 Preamble

If the Landlords are not to be a party to the Assignment delete the wording in square brackets "[with consent of the Landlords]" where it appears after the designation of the parties and amend the definition of Parties appropriately.

If there are no guarantors delete the definition of Guarantors, paragraph (C) in the preamble and any other consequential references.

2 Clause 1 Definitions

Delete those definitions that do not apply to your transaction eg Guarantors, Price, Schedule and Sub-Leases.

Although the PSG do not consider it necessary, you can if you wish refer to all the letting documentation, in which case the definition "Lease" should be amended accordingly and the letting documentation listed in the schedule.

3 Clauses 3 & 4 Assignees' Obligations and Indemnity by Assignors

The Assignees take on full liability for the performance of all of the tenants' obligations under the Lease in Clause 3 but are indemnified by the Assignors for any monetary payments or obligations arising prior to or at the Date of Entry. The Assignors are discharged from all liability to the Landlords from the Date of Entry.

Version 1
September 2004



4 **Clause 5 Variations**

If the Parties have agreed that there should be any variations to the Lease (for example change of use) full details will need to be set out in the Schedule.

5 **Clause 6 Costs**

Amend by the deletion of wording in square brackets as appropriate depending on who is to pay the Landlords' costs and whether the Assignment will be recorded GRS/registered in the Land Register.

Where the Assignors are paying the Price, no SDLT will be payable and Clause 6.2 should be deleted. However, if the Assignees are paying the Price, SDLT will be payable by them and Clause 6.2 should remain.

6 **Clause 8 Landlords' Consent**

Delete if the Landlords are not a party to the Assignment.

7 **Warrant for registration**

If the Assignment is to be recorded in the General Register of Sasines before 28 November 2004 insert a warrant for registration (warrants for registration will be abolished after that date). Do not forget that an assignment of a lease having an original term in excess of twenty years will trigger a first registration in the Land Register.

8 **Declaration of Trust Clause**

In the case of assignments to be recorded GRS or registered in the Land Register insert a declaration of trust clause if this is provided for in the missives.