LEASING TIP SHEET

What can be found in your lease and the corresponding property may heavily impact your business's bottom line. Please carefully consider the following before entering an agreement. **Take your time and research before you sign.**

GLOSSARY OF TERMS

LETTER OF INTENT: A commercial lease letter of intent is a document that creates the foundation of a lease deed between a landlord and tenant.

NNN: A triple net lease (triple-net or NNN) is a lease agreement on a property where the tenant promises to pay all expenses, including real estate taxes, building insurance, and maintenance.

TENANT IMPROVEMENT: (TI) describe the changes made to a property by the landlord as part of a lease agreement.

BUILD OUT: renovating a space to fit a business's needs and individual style

LEASE TERMINATION: Some leases may terminate due to a specific set of circumstances; others may provide alternative options in lieu of termination, such as subletting or assigning the remaining period of your lease.

BREACH OF CONTRACT: Common breaches include non-payment or late payment of rent or other charges, failure to maintain or repair the premises, unauthorized subletting or assignment of the lease, alteration or improvement of the premises without consent, failure to comply with local laws, regulations, or codes, and interference with the tenant's quiet enjoyment or possession of the premises.

LANDLORD DEFAULT: allows the landlord to force a tenant to comply with all lease obligations. The default clause commonly provides the procedure for obtaining an eviction or the threat of an eviction for a commercial tenant's violation of the lease.

LEASE RENEWAL: With a commercial lease renewal, tenants get the opportunity to renew their lease agreement within a set time frame which is usually within a year prior to lease expiration.

RIGHT OF 1ST REFUSAL: standard clause for use in a commercial lease where the landlord grants the tenant a right of first refusal (ROFR) to purchase the real property where the leased premises are located.

SECURITY DEPOSIT: In commercial leases, a security deposit is typically equal to one (1) month of rent — can be higher depending on the landlord and is paid upfront when a tenant signs the lease.

#1
Evaluate your business needs.

Do a little homework before negotiating a lease. List your company's current and expected future space needs, and determine your budget and preferred location.

- You may pay more per square foot for a shorter lease, but at least you can walk away more easily if you need to

#2
Understand your lease options.

The costs covered in the lease can vary greatly, based on the type of lease.

- In a **gross rent lease**, you pay a single amount to the landlord that covers base rent and all incidentals. Those typically include utilities, property tax, insurance, maintenance, repairs, and common area expenses, such as snow removal, janitorial services, landscaping, grass cutting, and property management. Another option is a **modified gross lease**, in which you and the landlord share some combination of incidental costs.
- It's also possible to sign various kinds of **net leases**, under which you pay some incidentals directly. This usually results in a lower rent. The main differences between net leases are as follows.
    - In a **net lease**, you usually pay for the base rent plus one of the following: property taxes (most common), insurance, or utilities. Your landlord pays for all other expenses.
    - In a **double-net lease**, you pay base rent plus property taxes and insurance.
    - In a **triple net lease**, you usually pay base rent, plus property taxes, building insurance, and utilities, as well as other operating and maintenance costs.
- **Note:** While the above definitions are standard, landlords sometimes add maintenance or common area expenses to your costs as part of a single or double net lease, so always double check what you must pay for.

#3
Always involve a lawyer.

It's critical to involve a commercial lawyer in your lease negotiations. It's best to get a good commercial lawyer who understands leases.

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See Johnson County's Inclusive Economic Development Plan here:

#4
Check market rents.

Get an idea of market rents in the area and street you're considering and compare them with the landlord's asking rent. Talk to a commercial Realtor® to get up-to-date market lease rates. This information can help you negotiate a lower rent if the asking figure is high.

#5
Understand your costs.

Carefully review the incidentals you are being asked to pay for to make sure the total cost fits your budget. Any future increases in base rent and incidentals should also be clearly specified. Don't be shy about asking for changes.

#6
Research the property.

Gather information about the property that might come in handy for your lease negotiations.

- Look at the building's tenant mix and neighbors to make sure they're compatible with your business.
- Find out what the building's traffic is like.
- Look into the landlord's reputation to see whether there are any red flags. You can ask Realtors® or existing tenants

#7
Seek tenant inducements.

Ask the landlord for inducements to rent the space. The landlord may be especially eager to entice you to rent—for example, if the space has been vacant for a while. It's common for landlords to offer two or three months rent-free. Some may even pay for part of your renovations or finance them over the lease duration.

#8
Review termination conditions.

Check the circumstances under which either party may terminate the lease. For example, can you be kicked out simply for missing a rent payment? What happens if the building is sold? Also, look at whether you can sublease the space.

#9
Look at renewal conditions.

The duration of your commercial property lease can range from month-to-month to several years. Be sure to understand when and how the lease will be renewed. Also ensure that you have the option to renew the lease at the end of the term, if that is important to you. You may be able to negotiate other options, such as the right of first refusal to lease an adjoining unit for expansion.

#10
Check for a competitor clause.

Is there a competitor clause for your lease? This requires the landlord to give right of refusal to existing business models/product providers in the same property

Check for addendums that may be seen as predatory to you, the tenant, such as:

- Committing financial responsibility for major building improvements on the tenant, such as expensive equipment failures, external building repairs, roofing, or structural issues that are typically the financial role of the property owner.
- Allowing the landlord to involuntarily relocate tenants from one suite or building into another for their own objectives without mutual support, usually to attract or retain other tenants.
- No, or poor, subordination, non-disturbance, and atonement (SNDA) terms. Without it, a landlord may sell the property to a new owner that may then have the right to strike a lease agreement, evict the tenant, or negotiate a new agreement despite the terms of the old agreement.
- Permission for the property owner to exercise an early termination clause whereby the landlord may terminate a lease with only written notice by the landlord based upon redevelopment plans, the sale of the property, which nullifies the lease with no payment or relocation costs.

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