



DEFINITIONS TO ASSIST WITH A COMMERCIAL LEASE



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Definitions to Assist with a Commercial Lease

What's Included in a Commercial Lease Document?

As you enter into a new commercial lease, there are certain terms you may need to understand. Here are the common sections of commercial leases, and a brief explanation of these sections. There is no standard for lease documents, each one may be different, with varying order of the items explained below.

PARTY & PROPERTY (RECITALS)

Parties

The official names of the tenant and landlord.

Lessor or Landlord

The lessor is the person who is granting the lease and who has the legal obligations related to the lease contract; the landlord. Sometimes this is an owner, but it may also be a property management company or commercial leasing company.

Lessee or Tenant

The lessee is the person leasing the space; the tenant.

Premises

Describes the space you are renting. Verify that you understand how the space is assigned and what specifically you are paying rent on.

Options

Describes the options you may have to rent additional space in the building if it becomes available, or options to buy the property.

Tenant Improvements

This is an allowance provided by Landlord to be used by Tenant to construct the space to meet Tenant's space requirements.

Turn-key

An office or building that is ready to occupy. In most cases, this is a commitment by the Landlord to bear the cost of any build-out.

Rent Abatement

Decrease in rent due to interrupted or inhibited actions of the Landlord.

MONEY PROVISIONS

Term

Explains when the lease begins and ends. It may have initial term and renewal term if applicable. This section may also describe how the lease may be re-negotiated.

Rent

Explains how the rent is calculated, including common area maintenance (CAM) and other costs associated with the lease. It may also contain any escalations in rent.

Gross Square Foot

The total square footage of the building or office being leased.

Net Leasable Area (Rentable Square Feet)

The area which rental payments are based. Generally excludes common areas and those designated for heating or cooling of the building.

Base Year

The Landlord agrees to pay an expense amount based on a base year (typically the first year) and the Tenant pays the increase in expense for subsequent years.

Load Factor

Load Factor is a method of calculating total monthly rent costs to a tenant that combines usable square feet and a percentage of square feet of common areas.
Usable square feet + percentage of common area square feet = rentable square feet.

Utilities

If utility costs are included in the lease, it explains how they are distributed among the tenants. In some cases, each tenant may pay separately for each utility. If the tenant is paying the utilities, this section may explain the requirement to pay them and what happens if they are not paid on a timely basis. This protects the landlord if the tenant fails to pay.

HVAC

An abbreviation for 'heating, ventilating, and air conditioning.' May be listed under Utilities.

Parking

Describes the parking available for the leased space. Some lease documents differentiate between where employees may park and general customer parking.

Taxes and insurance

Discusses who pays property taxes and insurance on the property. This section usually includes a requirement that the Tenant provide proof of insurance on property and equipment in the leased space and liability insurance, to protect the Landlord.

Deposit

Describes the security deposit the Tenant is required to provide, and the circumstances under which it may be forfeited or returned.

Sometimes, items not included in the lease can be the biggest concern. Speak with a Coldwell Banker Commercial professional about your Lease Agreement to assure the lease is in your company's best interest.



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Common Area Maintenance (CAM)

This term describes costs for areas in a building which are not directly leased but which are a common responsibility, such as hallways, restrooms, stairways, and walkways. Most Landlords add CAM costs to square footage costs to calculate lease payments.

USE AND RESTRICTIONS

Use/Restrictions

Lists the restrictions on the use of the premises, including: signs, hours of use, and limits on occupancy and sub-lessees.

Maintenance

Describes who is responsible for making and paying for maintenance and repairs. Most leases require Tenants to pay for repairs due to "wear and tear" (common usage), with the Landlord being responsible for extraordinary repairs due to major damage or failure of equipment.

Right of First Refusal

This is an agreement by Landlord to provide Tenant the first right to lease space that becomes available in their building.

ALLOCATIONS AND RISK

Indemnify of Lessor

The Lessor is protected against the Lessee from any claims, actions, damages, liability and expense in connection with loss of life, personal injury, and/or damage to property arising at the Leased Premises.

RELATIONS WITH 3RD PARTIES

Destruction/Condemnation

These clauses describe what happens if the leased space is destroyed or condemned.

Subordination, Non-Disturbance, and Attornment

Describes rights of the Tenant if the Landlord's lender forecloses on the property. This section protects the Tenant against being ejected by a new Landlord or the bank.

Assignment/Subletting

Some leases have a separate section describing the conditions under which you can sub-let (divide) the space.

Estoppel

Explains what happens if there is a change in the Landlord's situation, to verify that the Tenant is living up to his/her duties as a Tenant.

THE REMEDIES

Defaults and Remedies

Describes what happens if one party defaults (breaks the agreement), and the remedies available to the other party.

Hold Over

Explains what happens if the Tenant does not leave at the end of the lease.

Attorney Fees

Agreement about who pays attorney fees in the event of a lawsuit between Landlord and Tenant.

Dispute Resolution

Some leases provide for alternate forms of dispute resolution, like mediation and arbitration. Have an attorney review the terms of the lease, to explain any specific terms that you don't understand, and to look for issues that might be a problem for you or are not what you thought you agreed to.

TYPES OF LEASES

Fully Serviced Lease

A lease in which the rental payment includes other services, such as utilities, maintenance, and lawn/snow removal services.

Gross Lease

A lease in which the Landlord agrees to pay for all common expenses (CAM), including utilities, repairs, insurance and (occasionally) property taxes. The cost of a gross lease is higher than for other types of leases because all of these items are included in the amount of the lease.

Net Lease

A lease which the Tenant pays the square footage costs, CAM costs, and all other ownership expenses, including utilities, repairs, insurance and property taxes.

Double Net Lease

A lease in which taxes and insurance expenses are included in the lease payment. The Landlord pays maintenance costs.

Triple Net Lease

A lease which includes all taxes, insurance, and maintenance costs are in the monthly payment.

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