

top 10 tips for agreeing lease terms



Finding the right property to trade from is a one of the most important decisions that any business will make. Having found the right property it is important to ensure that the lease that you sign up to provides the flexibility and certainty that you require in order to make operating from those premises a success. Here we provide our top 10 tips for agreeing lease terms.

1 Term

Think carefully how long you want the lease to run for. Generally, the longer you are willing to commit to a lease the lower the rent and the more favourable the terms will be. Significant capital expenditure in a (bespoke) factory or warehouse usually warrants a longer term to maximise the return on that investment. However, are the premises to be used to service a particular supply contract? If so, will you still need the premises once the contract comes to an end? To provide flexibility, consider requesting a break right in the lease to allow you to terminate the lease early if the premises become surplus to requirements.

2 Flexibility to share the premises with others

Think carefully about who will need to use the premises. Is it just you? Will you need to share the premises with any third parties such as group companies, organisations in a supply chain, research and development partners or with customers that you are providing services to? If space becomes surplus to requirements, do you want the ability to sublet parts of the property? If you think you will need this flexibility it will need to be permitted in the lease.

3 Alterations

When you move into the property what alterations will you want to make to ensure it's suitable for your purposes? Will significant manufacturing plant and machinery need to be installed? Agree as early as possible with the landlord whether it is happy in principle for the changes to be made. Also try to agree with the landlord what you will need to do with the alterations at the end of the lease. If the landlord is happy for alterations to stay in the premises at the end of the lease this will help to reduce the cost of dilapidations.

4 Repair obligations

Before you sign a lease make sure that you are happy with the state that the premises are in. If you are taking a lease of, for example, a showroom, factory or warehouse which requires time and money to be spent on bringing it up to a suitable standard, the lease could oblige you to remedy the disrepair at your cost. Advice from a building surveyor should be taken to highlight any areas of concern. In respect of older premises you should also seek to limit your obligations to keeping the premises in the state they were in at the start of the lease. This can be done by agreeing a photographic record of the property and including it in the lease.

5 Beware of hidden charges

As well as paying rent, leases will often include provisions for the payment of other charges during the duration of the lease. For example, a lease of a unit on an industrial estate will often contain a service charge under which the company will be required to pay for a contribution towards the cost of maintaining shared estate roads. Similarly, it is normal for a landlord to insure the property and pass on the cost to a tenant. Try to find out what additional charges will apply and how they are calculated at an early stage to ensure that these costs are factored into your budget.

6 Rent deposits

Landlords may often require that a rental deposit is provided at the start of a lease which is held for the duration of the lease as protection against the tenant defaulting. Challenge the requirement for this – particularly if you are a well-established organisation involved in the sector, known to be of a sound financial standing. Is there scope for an early return of the deposit if you keep to the terms of the lease for a certain period? Will the landlord accept a guarantee from a parent company instead of a rent deposit?

7 Rent reviews

Longer leases will often contain provision for the rent to be increased after a certain number of years have elapsed. Ensure you understand the basis on which the rent will be reviewed. Will the landlord agree to cap any increases to avoid costly surprises in the future?

8 Beware of break rights

Break clauses are the clauses in leases which lead to the most disputes between landlords and tenants. Canny landlords will seek to make any right for the tenant to bring the lease to an end early, subject to conditions that need to be fulfilled, for example, pre-conditions that all covenants in the lease must have been complied with, a requirement that all sums due under the lease (including service charges, interest on late payments, insurance rent) are paid up to the date of the break, or a requirement that the tenant fully vacates the property and removes all of its equipment and furniture. Try to limit/remove any pre-conditions to any break.

9 Security of tenure

Business tenants in England and Wales have a statutory right to remain in occupation of their premises on the expiry of the lease and request a new lease from the landlord. This is to prevent tenants having to pay money in fitting out premises which is then lost on the expiry of the lease – something which is particularly the case for automotive, logistics and supply chain companies who often need substantial and expensive plant and machinery and, depending on their business, high performing research and development facilities. It is possible to agree to exclude these statutory provisions from a lease meaning that a tenant does not have the automatic right to remain in occupation on expiry of the lease. Find out at an early stage whether the landlord requires this to avoid investment costs being lost.

10 Get an agent

If you are new to negotiating leases employing an agent with experience of the automotive sector to negotiate the initial terms of a lease will assist. An agent will have better knowledge of the market and what landlords are willing to accept or offer to you as incentives for entering into the lease. The agent will help you to negotiate a set of heads of terms for the lease which will help to ensure that all necessary points are addressed at an early stage.

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