



# MAINE SMALL BUSINESS DEVELOPMENT CENTERS



*What you need to know before entering into  
a commercial lease agreement*

Funded in part through a cooperative agreement with the U.S. Small Business Administration:



Meet The Advisor

# Chris Cole



UNIVERSITY OF  
SOUTHERN MAINE



Certified Business Advisor since 2020

Territory: Cumberland & York Counties

Contact Information:  [christine.cole@maine.edu](mailto:christine.cole@maine.edu)

 207-780-4952



# Who is the Maine SBDC

Providing NO-COST, confidential business  
advising to Maine businesses and  
entrepreneurs for over 45 year!

Our advisors cover locations throughout the state of Maine, virtually and in-person!



https://www.mainesbdc.org/

TRANSLATE LOGIN CONTACT BLOG SEARCH

**AMERICA'S  
SBDC  
MAINE**

**Maine Small Business  
Development Centers**

*Building Maine's Future, One Business at a Time.*

**REQUEST ADVISING**

ADVISING LEARNING RESOURCES CLIENT STORIES LOCATIONS ABOUT COVID



**We are here to help your small business.**

# DISCLAIMER

The SBDC does not provide tax, legal or accounting advice. This material has been prepared for informational purposes only, and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before engaging in any transaction.



Wait Don't Sign That !

Webinar

# Overview

- The Parties
- Letter of Intent
- Negotiable Items
- Leasing terminology
- Common commercial leases
- Lease example
- When to get an Attorney



# Participants

- Lessor/ Landlord: A lessor can be either an individual or a legal entity that owns or controls property, building or facility.
- Lessee/ Tenant: A lessee or tenant pays rent for the right to occupy or use the property. They may be a person, company, or legal entity.
- Broker: Commercial real estate brokers help clients through the complex process of buying, selling, or leasing a commercial property, from searching for space to regulations and negotiations. Typically services are paid by commission
- Attorney: Real estate lawyer is someone who is licensed to practice real estate law, meaning they have the knowledge and experience to advise parties involved in a real estate transaction



# Letter of Intent

- A letter of intent (LOI ) is a document drawn up by either the owner of the property or the potential renter. It is presented before the lease agreement, which means that a letter of intent is not legally binding

Sender Name  
Company Name  
Company Address  
Contact Details

Date

Recipient Name  
Tenant Administrator  
Company Name  
Company Address  
Contact Number

Re: Lease Proposal Letter of Intent

Dear Sir or Madam:

[Company] would like to present this letter of intent to signify our interest in leasing a commercial space inside [Name of the building].

We are a corporation that is in the business of \_\_\_\_\_, established since 20\_\_\_. Our products are [List of products].

The commercial space that we plan would require at least \_\_\_ square meters and a power outlet for our machinery and equipment.

We already have \_\_\_ branches which are located in various commercial areas in the State of \_\_\_\_\_, but this is our first venture in putting up a branch in the area.

I have attached in this letter the photos of our existing branches as well as the lease proposal. I believe that our business complements with your company's business concepts since both our companies cater to the same target market.

Thus, I would very much appreciate it if you could contact me through this number [Contact Number] during office hours from Mondays to Fridays so that we can set up a meeting to further discuss this matter.

Thank you very much.

© Copyright Template.net

## Negotiated Items

### Lessee

- Price per square foot
- Fit out provided
- Move in time
- Use of common areas
- Parking
- Commencement of rent
- Term/ option to renew

### Lessor

- Tenant responsibility
- Timely payment
- Usage
- Personally liable
- Permanent Fixtures
- Annual increases
- Reasons for eviction

# Introduction

- **Term Sheet** outlines the terms and conditions of the lease agreement in bullet points. It's used to guide the drafting of the formal lease agreement and is commonly used during negotiations
- **Base rent** is the set amount the lessee pays to the lessor each month. It typically corresponds to square footage.
- **Price per square foot** calculation =  
total square footage x price per square foot / 12
  - \$25 per square foot.  $3,000 \times \$25.00 = \$75,000$  per year / 12 = \$6250 per month

- **CAM** – Common area maintenance charges refer to an *incidental expense* usually found on lease agreements. They refer to the cost of maintaining common areas shared between tenants
- **TMI** “taxes, maintenance, and insurance”. It’s commonly found on agreements where the lessee is responsible for paying some or all of the incidental expenses
- **Trade fixtures** refer to any items the lessee chooses to install, which can be taken with them when they vacate the property
- **TIPS** Tenant inducement payments are incentives added to a lease agreement to encourage lessees to rent the property.
- **Leasehold improvements**- A tenant improvement allowance is given by the lessor to help pay for improvements or renovations.

- **Subleasing** or sublet clauses are used in commercial lease agreements when the tenant leases unused space to another tenant. The subtenant lease agreement is independent of the original lease agreement.
- **Exclusivity** clause is particularly important for commercial lease agreements. This clause gives the lessee the right to be the only provider of a particular product or service.
- **Security Deposit** - commercial real estate law empowers parties to negotiate any and all contract rules. As a result, there is no regulatory limit on the security deposit the landlord might request

# Clauses

- RENT ESCALATION
- USE
- INSURANCE
- RENEWAL
- PROFIT SHARING
- DAMAGE
- SEVERABILITY



# Types rental property

- **Turnkey** – A property that is ready to open without any additional work
- **Vanilla Box** - or whitebox condition a property that is almost move-in ready. Usually, buildout costs have been taken care of by the landlord, and amenities exist.
- **Cold Dark Shell** is a space without amenities. It means that the area is down to the studs, and you will still need to complete HVAC, plumbing, etc
- **Second-generation** leases are commercial leases where a similar tenant previously used the space. They dramatically reduce buildout costs
- **New Build** – From the ground up the lessee is part of the planning process



# What is included in a Commercial Lease Agreement ?

It outlines the rights and responsibilities of a "LESSEE" and "LESSOR." It includes the following terms and conditions:

- Both of your names and information
- The address and basic information about the property
- The type of commercial building you're leasing
- The square footage of the space
- The length of the lease and the terms of renewing the lease
- The cost of rent and when you must pay it
- The cost of the security deposit.
- An outline of how you may use the leased space
- An outline of what changes or renovations you may make. It may also explain whether the business owner or property owner is responsible for these changes
- Fixtures or appliances the lease provides
- How disagreements will be settled

# Most common commercial leases

## NNN

- Triple Net
- Pay the monthly base rent plus ALL incidental expenses
- taxes and insurance, utilities,
- operating and maintenance
- The lessor is only responsible for structural repairs to the property.

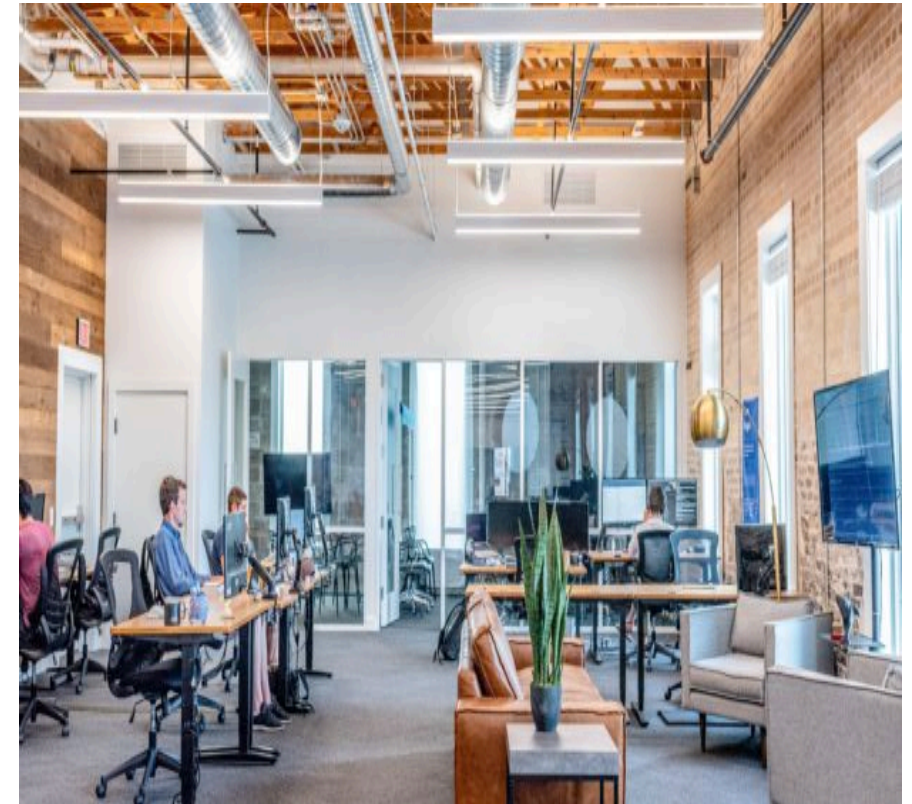
## MG

- Modified gross lease the lessor shares the cost of defined incidental expenses.
- The lessee pays base rent monthly and agrees to some of the operating expenses for the property

## FSG

- Full-service gross lease
- Lessee pays a flat monthly rate to the lessor. This payment covers both base rent and incidental expenses,
- Lessor takes care of any additional costs

# Co Working Spaces









## COMMERCIAL LEASE (NNN/NET LEASE)

## 1. PARTIES

\_\_\_\_\_, with a mailing address of \_\_\_\_\_, ("LANDLORD"), hereby leases to \_\_\_\_\_, with a mailing address of \_\_\_\_\_, ("TENANT"), and TENANT hereby leases from LANDLORD the following demised premises:

## 2. LEASED PREMISES

("Leased Premises")

### A. DEMISED PREMISES

The Leased Premises are deemed to contain 2868 +/- square feet. The Leased Premises are located at 2868. The Leased Premises shall include the right to use, in common with others entitled thereto, the hallways, stairways, and elevators, necessary for access to said Leased Premises, and lavatories nearest thereto. The Leased Premises are accepted in "as is" condition except as specifically set forth to the contrary in this Lease. TENANT acknowledges that: (a) LANDLORD has made no representations, and TENANT is not relying on any representations, about the Leased Premises, their suitability for any particular use and/or the physical condition thereof; and (b) that TENANT has conducted its own due diligence inquiries with respect to the Leased Premises and is satisfied with the results thereof.

### B. PARKING

1. Unassigned Parking. During the term of this Lease and for the payment of additional monthly rent to LANDLORD in the amount of \_\_\_\_\_ Dollars (\$ N/A ) per parking space, which additional rent shall be due each month along with payment of base rent, TENANT also shall have the right, in common with LANDLORD and others, to use up to \_\_\_\_\_ ( N/A ) [NONE IF LEFT BLANK] undesignated parking spaces in the parking lot located at N/A. Except as otherwise specified in this Lease, LANDLORD makes no representation, warranty, or guarantee to TENANT that all or any number of said parking spaces will be reserved or available at any given time.

### 3. TERM

The term of this Lease shall be for Ten ( 10 ) years, unless sooner terminated as herein provided, commencing on June 1, 2023 (the "Commencement Date") and ending on June 1, 2033. LANDLORD shall deliver possession of the Leased Premises to TENANT on or before June 1, 2023. All of TENANT's obligations under this Lease shall commence upon delivery of possession of the Leased Premises, except for those obligations that expressly commence on the Commencement Date.

### 4. RENT

Commencing on the Commencement Date, TENANT shall pay to LANDLORD the following base rent:

<u>Lease Year:</u>	<u>Annual Base Rent (NNN):</u>	<u>Monthly Rent (NNN):</u>
Year 1	\$ <u>62,964.00</u> /year	\$ <u>5,247.00</u> /month
Year 2	\$ <u>62,964.00</u> /year	\$ <u>5,247.00</u> /month
Year 3	\$ <u>62,974.00</u> /year	\$ <u>5,247.00</u> /month
Year 4	\$ <u>68,832.00</u> /year	\$ <u>5,736.00</u> /month
Year 5	\$ <u>74,568.00</u> /year	\$ <u>6,214.00</u> /month
Year 6	\$ <u>80,304.00</u> /year	\$ <u>6,692.00</u> /month
Year 7	\$ <u>86,040.00</u> /year	\$ <u>7,170.00</u> /month
Year 8	\$ <u>86,040.00</u> /year	\$ <u>7,170.00</u> /month
Year 9	\$ <u>86,040.00</u> /year	\$ <u>7,170.00</u> /month
Year 10	\$ <u>86,040.00</u> /year	\$ <u>7,170.00</u> /month

Tenant's Initials  Landlord's Initials  \_\_\_\_\_



payable in advance in equal monthly installments on the first day of each month during the term of this Lease, without deduction or setoff. Said base rent shall be prorated for portions of a calendar month at the beginning or end of said Lease term.

All payments of base rent and other amounts due to LANDLORD pursuant to this Lease are to be made to LANDLORD or to such agent and at such place as LANDLORD shall from time to time in writing designate, the following being now so designated: \_\_\_\_\_. If TENANT does not pay base rent, supplemental and additional rents, or other fees and charges when due pursuant to the term of this Lease, then LANDLORD, in its sole discretion, may charge, in addition to any other remedies it may have, a late charge for each month or part thereof that TENANT fails to pay the amount due after the due date. The late charge shall be equal to four percent (4%) of the amount due LANDLORD each month in addition to the rent then due.

#### 5. RENEWAL OPTION

So long as TENANT is not in default of this Lease at the time of exercise of TENANT's renewal option, TENANT shall have the option to renew this Lease for Two ( 2 ) term(s) of Twenty ( 20 ) year(s). In order to exercise TENANT's option, TENANT shall notify LANDLORD in writing of its intention to exercise its option no later than Sixty ( 60 ) days prior to the end of the then-current Lease term, said renewal to be upon the same terms and conditions set forth in this Lease except for base rent, which shall be as follows:

FIRST RENEWAL TERM:

Lease Year:      Annual Base Rent (NNN):      Monthly Rent (NNN):

In the event that TENANT fails to perform its obligations under this Article, the option shall be deemed not to have been exercised.

#### 6. SECURITY DEPOSIT

Upon execution of this Lease, TENANT shall pay to LANDLORD the amount of Five Thousand, Two Hundred Dollars (\$ 5,247.00 ) ("Security Deposit"), which shall be held as a security for TENANT's performance as herein provided. LANDLORD, at its option and at any time, may use the Security Deposit in whole or in part to cure any default of TENANT hereunder. LANDLORD shall promptly notify TENANT of any such use of the Security Deposit. TENANT shall immediately replenish the Security Deposit to its full amount any time that all or any portion thereof is applied or used by LANDLORD to cure any default of TENANT hereunder. Any unused portion of the Security Deposit shall be refunded to TENANT without interest at the end of this Lease provided that TENANT has satisfactorily complied with the terms and conditions of this Lease.



12. ALTERATIONS-  
ADDITIONS

TENANT shall not make any alterations or additions to the Leased Premises, the building or the Property, or permit the making of any holes in any part of said building (except nail holes for hanging art), or paint or place any signs, drapes, curtains, shades, awnings, aerals or flagpoles or the like, or permit anyone except TENANT to use any part of the Leased Premises for desk space for mailing privileges without on each occasion obtaining prior written consent of LANDLORD. TENANT may install signs of the following dimensions in the following locations, which signs shall be installed at TENANT's sole expense, in compliance with all applicable laws and ordinances, and in compliance with LANDLORD's sign standards attached hereto: **Build out as agreed to.**

\_\_\_\_\_[NONE IF LEFT BLANK]. TENANT shall not suffer or permit any lien of any nature or description to be placed against the building, the Leased

13. ASSIGNMENT-  
SUBLEASING

TENANT shall not by operation of law or otherwise, assign, mortgage or encumber this Lease, or sublet or permit the Leased Premises or any part thereof to be used by others, without LANDLORD's prior express written consent in each instance [which consent shall not be unreasonably withheld] (*cross out if not applicable*). In any case where LANDLORD shall consent to such assignment or subletting, TENANT named herein shall remain fully liable for the obligations of TENANT hereunder, including, without limitation, the obligation to pay rent and other amounts provided under this Lease. For purposes of this Lease, the sale of controlling interest in the stock of a corporate TENANT, sale of the controlling membership interest in an LLC or similar entity, or the change of a general partner of a partnership TENANT shall constitute an assignment of this Lease.

14. SUBORDINA-  
TION AND  
QUIET  
ENJOYMENT

This Lease automatically shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, that are now or at any time hereafter a lien or liens on the Property, and TENANT shall, within ten (10) days after they are requested, promptly execute and deliver such written instruments as shall be necessary to show the subordination of this Lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage. Provided TENANT performs all of its obligations and complies with all terms and conditions set forth in this Lease, TENANT shall be entitled to the quiet enjoyment of the Leased Premises; provided, that TENANT covenants that it holds the Premises subject to all easements, covenants and other matters of record, and agrees to abide by same to the extent the same affect the Leased Premises. TENANT agrees to sign within ten (10) days after they are requested, such estoppel certificates as are requested by LANDLORD or LANDLORD's lender.

15. LANDLORD'S  
ACCESS

LANDLORD or agents of LANDLORD may, at all reasonable times during the term of this Lease, enter the Leased Premises; (i) to examine the Leased Premises and, if LANDLORD shall so elect, to make any repairs or additions LANDLORD may deem necessary and, at TENANT's expense, to remove any alterations, additions, signs, drapes, curtains, shades, awnings, aerals or flagpoles, or the like, not consented to by LANDLORD in writing; (ii) to show the Leased Premises to prospective purchasers and mortgagees; and (iii) to show the Leased Premises to prospective tenants during the Six ( 6 ) months preceding the



A. TENANT'S  
INDEMNIFICA-  
TION

TENANT will defend and indemnify LANDLORD and its owners, employees, agents and management company for, and save them harmless from, any and all injury, loss, claim, damage, liability and expense (including reasonable attorneys' fees) in connection with loss of life, personal injury, or damage to property or business, arising from, related to, or in connection with the occupancy or use by TENANT of the Leased Premises or any part of the Property, or occasioned wholly or in part by any act or omission of TENANT, its contractors, subcontractors, subtenants, licensees invitees, customers or concessionaires, or its or their respective owners, agents, servants or employees while on or about the Leased Premises or the Property; provided, that the foregoing indemnification obligation shall not apply to any injury, loss, claim, damage, liability, and expense caused solely by the negligence or willful conduct of LANDLORD. TENANT shall pay all expenses, including reasonable attorneys' fees, incurred by LANDLORD in successfully enforcing any obligation, covenant, or agreement of this Lease or resulting from TENANT's breach of any provisions of this Lease (including without limitation any attorneys' fees incurred to monitor or intervene in any bankruptcy proceeding involving TENANT), or TENANT's breach of the provisions of any document, settlement or other agreement related to this Lease. TENANT agrees not to assert immunity under workers' compensation laws as a defense to the enforcement by LANDLORD of the foregoing indemnity. The provisions of this Article shall survive the termination or earlier expiration of the term of this Lease. Except as set forth in subparagraph B of this Article, and without limitation of any other provision herein, neither LANDLORD, its owners, employees, agents or management company shall be liable for, and TENANT hereby releases such persons from all claims for, any loss of life or injuries to any person, or damages to property or business, sustained by TENANT or any person claiming through TENANT due to the building, the Property or any part thereof (including the Leased Premises), or any appurtenances thereof, being in need of repair or due to the happening of any accident in or about the Leased Premises or the Property, or due to any act or negligence by TENANT or of any owner, agent, employee, customer, invitee or visitor of TENANT. Without limitation, this provision shall apply to injuries and damage caused by nature, rain, snow, ice, wind, frost, water, steam, gas or odors in any form or by the bursting or leaking of windows, doors, walls, ceilings, floors, pipes, gutters, or other fixtures; and to damage caused to fixtures, furniture, equipment and the like situated at the Leased Premises, whether owned by TENANT or others.

B. LANDLORD'S  
INDEMNIFICA-  
TION

LANDLORD will defend and indemnify TENANT and its owners, employees, and agents for, and save them harmless from, any and all injury, loss, claim, damage, liability, and expense (including reasonable attorneys' fees) in connection with loss of life, personal injury, or damage to property or business caused solely by the gross negligence or willful misconduct of LANDLORD.



30. BROKERAGE

TENANT warrants and represents to LANDLORD that it has not dealt with any broker, finder or similar person concerning the leasing of the Leased Premises other than \_\_\_\_\_ ("TENANT's BROKER"). In the event of any brokerage claims against LANDLORD by TENANT's BROKER, or any other person making such a claim through TENANT, TENANT agrees to defend the same and indemnify LANDLORD against any such claim. LANDLORD warrants and represents to TENANT that it has not dealt with any broker, finder

or similar person concerning the leasing of the Leased Premises other than \_\_\_\_\_

\_\_\_\_\_ ("LANDLORD's BROKER"). LANDLORD agrees to pay LANDLORD's BROKER any commission due upon execution of this Lease, and in the event of any brokerage claims against TENANT by LANDLORD's BROKER or any other person making such a claim through LANDLORD, LANDLORD agrees to defend the same and indemnify TENANT against any such

31. OTHER  
PROVISIONS

claim. \_\_\_\_\_ agrees to pay \_\_\_\_\_ a commission upon execution of this Lease. The person entitled to a commission under the foregoing sentence is an intended third-party beneficiary or the foregoing sentence and may enforce the commission payment obligation.

It is also understood and agreed that: \_\_\_\_\_

~~Item B: Tax portion is 2/5 of building costs to total \$4600 per year and insurance portion is \$1400 per year.~~  
~~Landlord to contribute \$8,000 to build out of space, to be paid to contractor prior to occupancy.~~

Tenant is responsible for heat and electricity of leased space.

DISCLAIMER: THIS IS A LEGAL DOCUMENT. IF NOT FULLY UNDERSTOOD, CONSULT AN ATTORNEY  
(Signature Page Follows)

32. GUARANTY

For value received, and in consideration for, and as an inducement to LANDLORD to enter into the foregoing Lease with \_\_\_\_\_, TENANT, \_\_\_\_\_ (hereinafter referred to as "GUARANTOR") does hereby unconditionally guaranty to LANDLORD the complete and due performance of each and every agreement, covenant, term and condition of the Lease to be performed by TENANT, including without limitation the payment of all sums of money stated in the Lease to be payable by TENANT. The validity of this guaranty and the obligations of the GUARANTOR hereunder shall not be terminated, affected, or impaired by reason of the granting by LANDLORD of any indulgences to TENANT. This guaranty shall remain and continue in full force and effect as to any renewal, modification, assignment, subletting or extension of the Lease, whether or not GUARANTOR shall have received any notice of or consented to such renewal, modification, assignment, subletting or extension. GUARANTOR hereby waives notice of acceptance of this guaranty by LANDLORD, notice of default by TENANT under the Lease, and all suretyship and guarantorship defenses generally. The liability of GUARANTOR under this guaranty shall be primary, and in any right of action which shall accrue to LANDLORD under the Lease, LANDLORD may proceed against GUARANTOR and TENANT, jointly and severally, and may proceed against GUARANTOR without having commenced any action against or having obtained any judgment against TENANT. All of the terms and provisions of this guaranty shall inure to the benefit of the successors and assigns of LANDLORD and shall be binding upon the successors and assigns of GUARANTOR.



# When to Hire a Real Estate Attorney



- From the start
- Especially if you've never signed a commercial lease
- When there are questions about the contract
- considering a long-term or expensive lease
- When dealing with a sophisticated landlord
- When a dispute arises

# “If you fail to plan, you are planning to fail” Benjamin Franklin

- Budget
- Business Plan
- Financial projections
- Capital reserves
- Proof of Concept
- Meet with an advisor





**WORKING TOGETHER TO HELP  
SMALL BUSINESSES SUCCEED**





# Q & A



# Connect With Us



[Facebook](#)

[@mainesbdc](#)



[Twitter](#)

[@MaineSBDC](#)



[Instagram](#)

[@sbdcmaine](#)



[LinkedIn](#)

[@sbdcmaine](#)



[YouTube](#)

[@MaineSBDC](#)

[Request Advising On Our Website](#)

