

**KIRTON | M<sup>c</sup>CONKIE** Nuts and Bolts of Commercial Leasing  
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A Lease Forms a Relationship



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Interested Third Parties



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Types of Leases - Product

- Ground Lease
- Build-to-suit
- Reverse build-to-suit
- Single Tenant
- Multi-tenant

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Basic Lease Terms / Key Issues

- Parties (Landlord and Tenant)
- Property/Shopping Center
- Premises
- Use
- Term
- Rent
- Operating Costs
- Improvement Allowance
- Allocation of Maintenance/Repair Obligations
- Allocation of Risk
- Assignment / Subletting
- Environmental / Sustainability

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Parties

- Landlord
- Tenant
- Landlord's Lender
- Tenant's Lender
- Franchisor

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Premises / Building

- Rent
- Tenant's Share of Operating Costs
- Parking
- Improvement Allowance
- Division of Responsibility / Risk

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Uses

- Permitted Use
- Prohibited Uses
- Restricted Uses
- Exclusive Uses

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Term

- Preliminary Term (Build-out Period)
- Primary / Initial / Original Term
- Extension Options
  - Timing
  - Notice of Exercise
  - Rent
  - Length

9

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### Rent / Operating Costs

- Gross Rent
- Net Rent
- NNN Rent
- Operating / CAM Costs
- Base Year
- Expense Stop
- Expense Caps
- Fixed Operating Cost
- Exclusions

10

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### Improvement of Premises

- Turnkey
- Raw Shell
- Vanilla / Gray Shell
- AS - IS
- Improvement Allowance
- Work Letter
- Design and Construction of Improvements
- Ownership of Improvements

11

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### Responsibility for Premises

- Definition of Premises
- Maintenance
- Repair
- Capital Repairs
- Alterations
- Utilities Systems

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Allocation of Risk

- Premises Liability
- Release
- Indemnification
- Insurance
  - Liability
  - Property
  - Business Income
- Waiver of Subrogation

13

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Assignment / Subletting

- Landlord Consent
- What is a transfer?
- Change of Use
- Use prohibitions, restrictions, exclusives
- Recapture
- Profit Sharing
- Transfers to Affiliates

14

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Environmental / Sustainability

- Liability / Obligations
- Certifications (e.g., LEED)
- Requirements (legal mandates)
- Incentives (Tax Credits, etc.)
- Taxes / penalties
- Carbon Units

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### Categories of Leases

- Office Lease
- Retail Lease
- Industrial Lease
- Mixed Use Development

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### Office Leases



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### Office Lease Issues

- Density of Use
- Operating Costs
- Access and Parking
- After Hour Usage
- Services

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Parking vs. Occupancy

Parking Rights  Occupancy Level

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Parking and Mass Transit



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Retail Leases



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Big Box Retail



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This image shows a large, single-story retail building with a prominent entrance and a vast parking lot. The building has a mix of brick and light-colored siding. The parking lot is filled with various cars, including a white sedan in the foreground. The sky is overcast.

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Mid Box Retail



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This image shows a smaller retail building with a sign that says "BEST BUY". The building is a mix of brick and light-colored siding. The parking lot is smaller than the one in the previous image and contains several cars. The sky is overcast.

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In-line Retail



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This image shows a retail building with a sign that says "Walmart". The building is a mix of brick and light-colored siding. The parking lot is smaller than the one in the previous image and contains several cars. The sky is overcast.

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### Retail Lease Issues

- Use
  - Permitted Use
  - Prohibited Uses
  - Restricted Uses
  - Exclusive Uses
- Location
- Signage
- Visibility
- Access and Parking

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### Retail Balancing Interests

- Landlord
- Landlord's Lender
- Tenant
- Tenant's Lender
- Tenant's Franchisor

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### Industrial Leases



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### Industrial Lease Issues

- Access
- Truck access, turn radius, and parking
- Loading Docks
- Ceiling Height
- Utilities
- Infrastructure

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### Mixed Use



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### Mixed Use Issues

- Zoning
- Building and Fire Code
- Incompatible Uses
- Nuisances (noise, odor, lights)
- Parking
- Security

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Questions and Answers

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