This checklist provides guidance on the principal terms to be found in commercial lease agreements. As negotiations progress these need to be considered on a case-by-case basis. Modifications to the list can be made as needed.

|  |  |
| --- | --- |
| **Identity and description of the parties** | A clear and legally accurate description of the landlord(s). If multiple landlords such as named individuals one should be empowered by e.g. a Power of Attorney to act on behalf of the others. |
| **Cost to secure space and take it off market** | May have to pay a deposit to secure the space, ensure this is kept to a minimum. |
| **Bank guarantee** | Not recommended (see security deposit below). |
| **Description of the premises** | A clear and accurate definition of the premises including measured square footage/metreage, floor plans (to be attached to lease), and any car parking allocation. All rights of access and exit, rights to any common areas (e.g. main reception, lifts, staircases and toilets) and to any associated services to also be specified. |
| **Lease term/length** | Minimum and maximum duration. |
| **Term commencement** | A clear statement of the lease term and of the lease commencement and expiry dates. |
| **Rent and rental payments** | Amount and frequency of rent to be clearly stated, including cost per square foot/metre, and whether or not this sum is inclusive of local taxes, VAT and any service charges. |
| **Security deposits** | Security deposits should only be accepted where landlord demands them and they represent normal market practice.  They should be refundable in full on expiry or early termination of the lease unless held against damage. |
| **Service charges** | Clear statement of services provided by landlord and amount(s) payable for these. Tenant should have right to audit these charges. In multi-tenanted buildings, tenant charges should be proportionate to area occupied.  Formula for service charge increases should be clear and reasonable. |

|  |  |
| --- | --- |
| **Rates and other taxes** | Clear statement that the tenant is only liable for occupation-based taxes (if any) and not any based on ownership of premises. |
| **Utilities** | Clear statement of what these are (water, gas, electricity - including air-conditioning, sewerage, telecoms etc.) and how utility charges are calculated. Clarity on method and frequency of payment e.g. direct to third party service provider or via landlord. If latter, ensure there is no mark-up. |
| **Rent free period** | Attain maximum possible. |
| **Other financial incentives** | Attain maximum possible. These may include a capital allowance for, or contribution to, fit out. |
| **Rent reviews/increases** | Clear statement of the frequency of rent reviews and projected increases during lease term. Ask how rent is to be revised (e.g. ‘to market’ rent, by a fixed increase or by reference to RPI or equivalent index). Ensure that there is provision for arbitration in the event of any dispute. |
| **Break clause** | A clear right for the tenant to break at certain times in the lease or on notice if it ceases or reduces operations in the relevant location. This right should be exercised at no financial penalty. The landlord should not have a right to break so long as the tenant complies with all material lease obligations. |
| **Renewal options** | Clear right to renew lease for same or varying periods as existing term. Notice required to exercise right should be clear. Active notice requirement preferable to automatic renewal in order to avoid risk of renewal by default. |
| **Expansion options** | Option or right of first refusal for additional defined areas depending on the potential need for expansion and option to do so in property. |
| **Dilapidations/ reinstatement** | Schedule of condition attached to lease recording the condition in which the premises were leased. Fair wear & tear only in first term, nothing at all at renewal. |
| **Repairs and maintenance** | Obligation on landlord to maintain common parts, exterior and structure and any building plant and machinery. Landlord should also be responsible for inherent defects. Limit tenant’s obligations to interior of leased premises. |

|  |  |
| --- | --- |
| **Damage to premises** | A clause entitling the tenant to an abatement of rent and any service charges if the premises are damaged or destroyed, and during repair.  An additional clause giving the tenant the right to terminate the lease if the premises remain unfit for its use for any lengthy period and to then recover any advance payments already made. |
| **Insurance** | Landlord to insure premises and show certificate of insurance. |
| **User and rights** | Clear user clause permitting the tenant to carry out relevant activities.  Specify any additional rights the tenant requires e.g. installation of satellite dish or other telecoms equipment, access to remote storage areas etc. Include changes required, e.g. installation of air conditioning, improving locks on access doors, etc., and state what condition the building should be left in.  Also is changing external view (e.g. height of surrounding walls) permitted? |
| **Sub leasing/assignment** | Right to assign or share space with any subsidiary or associated entities, without landlord’s consent. Clear right to sub-lease part or all of the premises to third parties (with consent from landlord which is not to be unreasonably withheld or delayed). No unreasonable restriction on rent which may be charged for sub-let space. |
| **Access and security** | Clear rights of access on a 24 hour/7 days per week basis. Accompanying right to keep premises secure on same basis may also be necessary. |
| **Condition of delivery** | Clear statement as to how the landlord is to hand over premises; e.g. in open plan condition or as fully fitted space. |
| **Initial fitting-out** | Clear provisions regarding any initial fit-out of premises. These should cover who is undertaking fit-out works (tenant, landlord or third party), who is paying, who has rights of supervision and control and what the timescale is.  Appropriate plans and details should be attached to lease. Landlord should give clear consent to works at time lease is signed. |
| **Ongoing alterations** | During term of the lease clear right for the tenant to carry out non-structural alterations without consent and any structural alterations subject to consent which is not to be unreasonably withheld or delayed. |
| **Signage** | Clear signage rights. |