

MODEL LEASE CLAUSE

Limit Tenant's Right to Quiet Enjoyment

The following Model Lease Clause was drafted with the help of Illinois commercial real estate attorney Kenneth Klassman. You can adapt it for use in a lease when you need to scale back a tenant's right to quiet enjoyment and put in negative covenants—such as the neighbor covenant—to prohibit the tenant from generating certain noise disturbances in the course of its use of the particular space.

For example, noise provisions that are effective for a

restaurant tenant that wants to have outdoor seating and play music may be very different from those for a gym. Don't merely outline the tenant's specific allowed use of its space in the letter of intent; draft the lease terms *specifically* for that tenant's use of the premises, says Klassman.

Show the following noise rights provisions to your attorney before adapting them for your own lease with a potentially noisy new tenant.

NOISE RIGHTS

- 1. QUIET ENJOYMENT.** Provided this Lease is in full force and effect and no Event of Default then exists, Tenant may peaceably and quietly enjoy the Premises without hindrance by Landlord or any person lawfully claiming through or under Landlord, subject to the terms and conditions of this Lease and to all Superior Leases and Mortgages.
- 2. WAIVER OF RIGHT TO QUIET ENJOYMENT FOR LANDLORD'S ENTRY.** If Landlord exercises its right to enter Tenant's premises for any purpose described in Section [*insert #*] of this Lease, Tenant hereby waives any claim for damages for any injury or inconvenience or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the premises, and any other lost occasion thereby.
- 3. NOISE COMPLAINTS.** If security concerns or other issues or complaints arise with respect to any of the Crowd Control Covenants, the Noise Reduction Covenants, and/or the Non-Nuisance Covenants, Landlord may, upon prior notice to Tenant, assign security personnel to the Center's lobby and adjacent areas to facilitate and ensure Tenant's compliance therewith, and Tenant shall reimburse Landlord for the actual costs of such personnel until such concern or issue is abated.

If Landlord, in its sole discretion, determines that Tenant is creating a noise disturbance that violates the provisions of paragraph 4 below, or if Landlord receives a complaint(s) from another tenant(s) regarding Tenant's noise level, Landlord will send notice of the violation to Tenant, and Tenant will have [*insert time period*] to cure the violation without having to provide further notice and cure rights to Tenant.

If Tenant continues to violate the provisions herein after receiving [*insert #*] such notices for the same noise disturbance from Landlord, Tenant will be in breach of the Lease and Landlord may seek appropriate remedies for such breach, as outlined in Section [*insert #*] of this Lease.
- 4. NEIGHBOR COVENANT.** Tenant further covenants and agrees that it will, at its sole cost and expense:
 - (a) Operate the Premises in a manner consistent with its location in a Comparable Center including the exercise of methods of crowd control, security, and the prevention of prospective customers congregating in and about the Premises as may be reasonably required by Landlord. Tenant shall take all necessary steps to prevent prospective customers from entering, using, congregating in, forming a line, or causing a disturbance in the lobby area of the Center or in and around the sidewalk area outside of the Center (the covenants contained herein being hereinafter collectively referred to as the "Crowd Control Covenants");
 - (b) Use, play, or operate or permit to be used, played, or operated any loudspeaker or sound-making or sound-reproducing device in the Premises and the Outdoor Seating Area in such manner and under such conditions so that it does not reasonably interfere with any other Tenant's right to peaceably and quietly enjoy its premises, and Tenant shall observe, comply with, and adopt such reasonable means and precautions as Landlord from time to time may reasonably request in connection with any of the foregoing covenants (the covenants contained herein being hereinafter collectively referred to as the "Noise Reduction Covenants");
 - (c) Not do anything or permit anything to be done upon the Premises or the Outdoor Seating Area in any way that creates a nuisance, or which, in Landlord's reasonable judgment, unreasonably disturbs any other tenant in the Center or the occupants of the neighboring property or injures the reputation of the Center (the covenants contained herein being hereinafter collectively referred to as the "Non-Nuisance Covenants");
 - (d) Comply with local laws, restrictions, or ordinances regarding noise disturbances, including [*insert citations to local noise ordinances*].