

MODEL LEASE CLAUSE

Set Out Right to Increase Security Deposit

The following clause was drafted by Toronto attorney Harvey M. Haber, San Francisco attorney Richard C. Mallory, and New Jersey attorney Marc L. Ripp. Add it to your leases to get the right to increase the security deposit if certain events occur.

Paragraph a gives you the right to increase the security

deposit if any one of eight events occurs. Paragraph b discusses how much you can increase the security deposit and when the increase must be paid. Paragraph c gives you the right to terminate the lease if the tenant fails to pay the increase.

Show this clause to your attorney before using it.

LANDLORD'S RIGHT TO INCREASE SECURITY DEPOSIT

- a. Right to Increase Security Deposit.** Without limiting Landlord's other rights and remedies provided for in this Lease or at law or equity, Landlord shall have the right to increase the Security Deposit upon the occurrence of any of the following events:
- (i) Clause [*insert # of use clause*] of this Lease is at any time amended to accommodate a material change, as determined by Landlord in its sole and absolute discretion, in the permitted uses initially specified therein;
 - (ii) Tenant requests Landlord's approval of an assignment or sublet to an entity whose creditworthiness, economic strength, or financial status, in Landlord's sole and absolute discretion, is weaker than the creditworthiness, economic strength, or financial status of Tenant at the time of such request;
 - (iii) Landlord determines, in its sole and absolute discretion, that the creditworthiness, economic strength, or financial status of Tenant falls below a level then acceptable to Landlord;
 - (iv) Landlord determines, in its sole and absolute discretion, that the creditworthiness, economic strength, or financial status of Guarantor or Indemnitor falls below a level then acceptable to Landlord; or a bankruptcy proceeding is filed by or against Guarantor or Indemnitor; or Guarantor or Indemnitor breaches the Guaranty or Indemnity; or, if Guarantor or Indemnitor is an individual, Guarantor or Indemnitor dies;
 - (v) Tenant is in default under this Lease more than [*insert #, e.g., 2*] times within any twelve (12) -month period, irrespective of whether or not such default is cured;
 - (vi) Tenant exercises its option to renew this Lease or its option to extend the Term in accordance with Clause [*insert # of renewal/extension option*] hereof;
 - (vii) Tenant exercises its option to expand the Premises in accordance with Clause [*insert # of expansion option*] hereof; or
 - (viii) Tenant, or its contractors or agents, performs alterations at the Premises.
- b. Amount of Increase.** If any of the events listed in Paragraph a hereof occur, then Landlord may increase the Security Deposit by an amount that Landlord determines, in its sole and absolute discretion, is necessary to protect its interests. Such increase shall be paid by Tenant, immediately upon demand by Landlord.
- c. Landlord May Terminate Lease if Tenant Fails to Comply.** If Tenant fails to comply with the provisions of Paragraph b hereof, such failure shall be a material default of this Lease and Landlord may, without liability, terminate this Lease on written notice to Tenant, in which event, the Term and the tenancy hereby created shall terminate on the [*insert #, e.g., 10th*] day after such notice is given (the "Termination Date") and Tenant shall within such [*insert #, e.g., 10*] -day period vacate the Premises and surrender them to Landlord in the state required under this Lease, with Landlord having the right to reenter and repossess the Premises discharged of this Lease and to expel all occupants and to remove all property therefrom. All Rent shall be due and payable by Tenant without reduction or abatement until the Termination Date.