

# Landlord-Friendly LOI and Lease Proposal Suggested Language

## Right of First Refusal & Right of First Offer

Landlord-friendly: So long as Tenant is not in default under the Lease, Tenant will have a one-time right of first refusal with respect to space contiguous to the Premises. Upon Landlord notifying Tenant of the terms on which Landlord is prepared to lease such contiguous space to a prospective tenant, Tenant will have [\_\_\_] days thereafter to notify Landlord that it exercises the ROFR (on the terms contained in the notice) or waive its right to exercise the ROFR.

Tenant-friendly: Tenant will have a continuing right of first refusal with respect to any space in the building. If Landlord has a prospective tenant for such space, Landlord shall provide Tenant with a copy of the letter of intent executed by said prospective tenant, and Tenant will have [\_\_\_] days thereafter to notify Landlord that Tenant exercises the ROFR (on the terms contained in the notice) or waive its right to exercise the ROFR.

Or, a landlord may wish to present a Right of First Offer in lieu of an ROFR, since it is a more landlord-friendly provision:

So long as Tenant is not in default under the Lease, Tenant may notify Landlord of its desire to lease additional contiguous space, and Landlord will within [\_\_\_] days thereafter respond to Tenant regarding the availability of such space and the terms upon which Landlord would be willing to lease said space (base rent, length of term, etc.). Thereafter, Tenant may elect to add such space to the Premises by giving Landlord [\_\_\_] days' notice, and Tenant will be deemed to lease such space on the terms contained in Landlord's response.

## Termination Option

Landlord-friendly: So long as Tenant is not in default under the Lease, Tenant may terminate the lease term effective as of the last day of the [\_\_\_] month of the term upon not less than [\_\_\_] months' prior written notice, which notice must include payment of a termination fee equal to [the unamortized portion of the leasing commissions and TI, amortized over the initial term at 10%] and [\_\_\_] months' base rent then in effect. Default by Tenant at any time during the term will void the termination option.

Tenant friendly: At any time during the term, Tenant may terminate the lease by paying to Landlord a termination fee equal to [\$\_\_\_\_\_].

## Extension Option

Landlord-friendly: So long as Tenant is not in default under the Lease, Tenant may extend the term by [\_\_\_] period(s) of [\_\_\_] years upon not less than [\_\_\_] months' prior written notice, at which time the option to extend will be deemed irrevocable. The extension terms will be on the same terms and conditions as the lease, except that base rent will be equal to fair market rent as of Tenant's exercise of the extension option.

Tenant-friendly: Tenant may extend the term by [\_\_\_] period(s) of [\_\_\_] years each. The extension terms will be on the same terms and conditions as the lease, except that base rent will be calculated at the same dollar amount per square foot in effect at the expiration of the immediately preceding term, and [the base year will be reset to [\_\_\_]].

### Purchase Option

So long as Tenant is not in default under the Lease, Tenant will have the option to purchase the [Property] on the following terms and conditions: \_\_\_\_\_<sup>1</sup>

### Holdover

Landlord-friendly: If Tenant holds over, then Tenant will be obligated to pay 200% of the monthly and additional rent then in effect, plus Tenant will be responsible for Landlord's damages incurred due to Tenant's holding over, including but not limited to consequential damages Landlord may incur as a result of Landlord's failure or inability to deliver the Premises to another tenant.

Tenant-friendly: In the event Tenant does not vacate at the expiration of the term, the tenancy will be deemed a month to month tenancy with all other terms of the lease in effect.

### Right to Relocate

Landlord-friendly: Landlord may require Tenant to relocate from the Premises to a reasonably comparable space within the Project (a "Relocation Space") at any time during the Term upon 60 days' written notice. Landlord will reimburse Tenant for its reasonable relocation costs actually incurred, up to \$[\_\_\_\_\_].

Tenant-friendly: Landlord may require Tenant to relocate from the Premises to a [comparable] space within the Project (a "Relocation Space") at any time during the Term upon not less than [\_\_\_] months' prior written notice, which Relocation Space must be acceptable to Tenant in Tenant's sole discretion. If such Relocation Space is not acceptable, then Tenant may terminate the lease. Landlord shall pay Tenant's [moving costs] and provide [comparable] leasehold improvements.

### Guaranty

Landlord-friendly: [\_\_\_\_\_] ("Guarantor") shall guaranty Tenant's obligations under the Lease.

Tenant-friendly: [\_\_\_\_\_] ("Guarantor") shall guaranty Tenant's obligations under the Lease up to [\$\_\_\_\_\_]; provided, however, that for each month that Tenant complies with its obligations and is not in default, Guarantor's guaranty obligation will decrease by [\$\_\_\_\_\_].

or

[\_\_\_\_\_] ("Guarantor") shall guaranty Tenant's obligations under the Lease; provided, however, that so long as Tenant is not in default under the Lease at the end of the [\_\_\_\_\_] year of the term, Guarantor will be relieved of its guaranty obligations.

### Initial Work

Landlord-friendly: Tenant shall initially improve the Premises pursuant to plans [mutually agreeable to Landlord and Tenant] or [attached hereto] at Tenant's sole cost and expense. Upon completion of the work, Landlord's inspection and satisfaction of same, and Tenant's submitting documentation reasonably required by Landlord, including but not limited to, lien waivers from all contractors, copies of receipted invoices, and final plans, Landlord will contribute up to [\$\_\_\_\_\_] for Tenant's hard construction costs incurred in constructing the work.

<sup>1</sup> NOTE: Pursley Friese Torgrimson, LLP recommends that parties be as specific as possible with purchase options, ideally attaching the purchase and sale agreement as an exhibit to the lease. This approach is in both landlord's and tenant's best interest.