

## *Leasing Terms and Definitions*

### **A**

#### ***Abandonment***

Knowing relinquishment of one's right or claim to property without passing rights to another and with no intention to reclaim possession.

#### ***Abstract of Title***

A condensed history of the title to a property, consisting of the summary of the original grant and all subsequent encumbrances relating to the particular parcel of real estate.

#### ***Acceleration Clause***

The clause in a mortgage or trust deed that stipulates that the entire debt is due immediately if the borrower defaults under the terms of the contract.

#### ***Agency***

A fiduciary relationship in which one party represents another by the latter's authority.

#### ***Agreement***

A meeting of minds; a consensus between two or more parties which affect their legal rights and duties.

#### ***Amortization***

The systematic repayment of a loan by periodic installments of principal and interest over the entire term of the loan agreement.

#### ***Appreciation***

The increase in the value of property for reasons other than improvements.

#### ***As-Is***

A phrase denoting a thing is being sold or leased just as it is seen, with no promise from the seller or lessor that it is in perfect condition.

#### ***Assignment:***

The transfer of the right, title and interest in the property of one person, known as the Assignor, to another, known as the Assignee.

#### ***Assumption***

The financing of a real estate purchase by taking over or assuming full responsibility for the existing mortgage.

#### ***Attornment***

The recognition of a third party as an acceptable successor to a contract, especially the agreement in which a tenant agrees to pay rent to a new owner of a property.

### **B**

#### ***Balloon Note***

Requires the payment of a specified portion or the entire principal balance owed at a designated time.



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### ***Basis***

The basis of a property is used as a baseline in determining appreciation (gain) or depreciation (loss) of value over time, and is used for taxing purposes.

### ***Bundle of Rights***

Describes the owner's limits of control over property.

## **C**

### ***Capital***

Money or goods used to acquire other money or goods.

### ***Capital Expenditure, Capital Improvement***

Money spent to improve a property.

### ***Capital Gain***

The taxable profit derived from the sale of a capital asset. Postponement can be achieved through an IRS section 1031 exchange or by a sale on an installment basis.

### ***Capitalization***

A method of estimating a property's value by considering net annual income as a percentage of a required rate of return on an investment.

### ***Cash Flow***

The net spendable income from an investment, determined by deducting all operating and interest expenses from the gross income.

### ***Cash-On-Cash Return***

Derived by dividing Net Income before depreciation by the owner's cash investment.

### ***Central Business District (CBD)***

An agglomeration of businesses and services in the center of a city - "Downtown".

### ***Clear Title***

Title free from any obstruction, encumbrance, burden, or limitation.

### ***Collateral***

Property, real or personal, pledged as security to back up a promise to repay a debt.

### ***Common Area, Loss, Load***

In landlord-tenant law, the portion of premises used in common by all tenants; e.g. stairways, elevators, lobbies, entrance areas which the landlord controls and for which the landlord is liable. This factor is represented by the percentage of the property attributed to these common areas.

### ***Condemnation***

The process of taking private property for public use under the power of Eminent Domain. The owner's consent is not necessary, but just compensation must be paid.



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## D

### ***Deed***

A written instrument which transfers real property or the right to real property.

### ***Default***

Non-performance of a duty; failure to meet an obligation when due.

### ***Depreciation***

Loss of value due to all causes, but usually considered to include physical deterioration, functional obsolescence and economic obsolescence.

### ***Discounted Cash Flows***

This is the present value of a series of receipts over time.

## E

### ***Equity***

The interest or value that an owner has in real estate over and above any mortgage against it.

### ***Escrow***

A process by which a third-party agent receives, holds and/or disperses certain funds or documents on the performance of certain conditions; also the third-party agent who conducts the escrow.

### ***Estoppel***

A bar which prevents a person from denying or asserting anything that contradicts what he has, in contemplation of law, established to be true.

### ***Exchange***

To trade like properties, thus avoiding tax liability.

## F

### ***Fiduciary***

A relationship that implies a position of trust or confidence wherein one person is usually entrusted to hold or manage property or money for another; a person who represents another in a position of trust or confidence; an agent.

## G

### ***Gross Income***

This is the total income from a property before any expenses are deducted.

### ***Gross Lease***

A lease of property under the terms of which the landlord pays all property charges regularly incurred through ownership, including repairs, taxes, insurance and operating expenses.



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## H

### ***Holdover***

The period after the expiration date of a lease when the tenant maintains occupancy, but has no formal extension or agreement to extend their lease.

## I

### ***Improvement***

Improvement on land-any structure, usually privately owned, erected on a site to enhance the value of a property; for example, buildings, fences and driveways.

## J

### ***Joint Tenancy***

Ownership of real estate by two or more parties who have been named in one conveyance as joint tenants. On the death of a joint tenant, his or her interest passes to the surviving joint tenant or tenants by the rights of survivorship.

### ***Joint Venture***

The joining of two or more people in a specific business enterprise.

## L

### ***Land Bank***

Land purchased and held for future development.

### ***Lease***

A written or oral contract between a landlord (lessor) and a tenant (lessee) transferring the right to exclusive possession and use of the landlord's real property to the lessee for a specified period of time and for a stated consideration (rent). Leases for more than one year must be in writing to be enforceable.

### ***Leasehold Interest***

The tenant's legal interest in a property.

### ***Leverage***

The use of borrowed money to finance the bulk of an investment.

### ***Lien***

A legal claim that one party has against the property of another as security for a debt.

### ***Limited Partnership***

This is a legal entity that includes a general partner, who actively manages the investment, and limited partners, whose personal liability is only their investments and income taxes at each individual partner's level of taxation.



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## **M**

### ***Market Value***

The highest price for which a property would sell, assuming a reasonable time for the sale and a knowledgeable buyer and seller acting without duress.

### ***Mechanic's Lien***

A claim against buildings and legal property, created by statute, to secure payment to those who provide labor and materials in constructing or repairing a building.

## **N**

### ***Net Lease***

A lease requiring the tenant to pay rent as well as all the costs of maintaining the building, including taxes, insurance, repairs and other expenses of ownership.

### ***Net Income***

Gross income less exemptions and deductions permitted by law.

### ***Non-Disturbance Agreement***

A document that can protect a tenant from eviction should the property owner default on their mortgage.

### ***Non-Recourse***

Lack of personal liability, often used in reference to commercial loans.

### ***Note***

A signed instrument acknowledging a debt and promising repayment.

## **O**

### ***Operating Expenses:***

These are the periodic and necessary expenses essential to the continuous operation and maintenance of an income property.

### ***Option:***

An agreement to keep open an offer to sell or purchase property for a set period.

## **P**

### ***Partnership***

An association of two or more individuals who carry on a continuing business for profit as co-owners.

### ***Percentage Lease***

A contract under which a tenant pays a fixed percent of the gross income against a stipulated minimum rental.

### ***Personal Property, Personalty***

Moveable property that does not fit the definition of real estate.



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### ***Prepayment Clause***

A clause in a mortgage or trust deed that provides for a penalty to be levied against a borrower who repays a loan before a specified date.

### ***Property***

The exclusive right one has to possess, use, enjoy and dispose of anything he owns.

## **R**

### ***Railroad Spur***

A branch line constructed to an industrial project for dockside loading and unloading,

### ***Real Estate***

A portion of the earth's surface, extending downward to the center of the earth and upward into space, including all things permanently attached thereto by nature or man, and all legal rights therein.

### ***Real Estate Investment Trust (REIT)***

An unincorporated trust set up to invest in real estate that must have at least 100 investors, with management, control, and title to the property in the hands of trustees.

### ***Rental Abatement***

A decrease or termination of rent for a specified period of time.

### ***Rental Concessions***

Perquisites offered to entice new tenants, such as free rent for a few months or build-out in the form of partitions or paint.

### ***Reserves***

A portion of business earnings or bank assets set aside to cover possible losses.

### ***Restrictive Covenant***

A private agreement (usually contained in a deed) that restricts the use and occupancy of real property.

### ***Return on Investment (ROI)***

An annual percentage derived from dividing cash invested into net after-tax income.

### ***Right of First Offer***

The right of a person or entity to have the first opportunity to either purchase or lease a specific parcel of real property.

### ***Right of First Refusal***

The right of a person or entity to match and convert an opportunity of another party to either purchase or lease a specific parcel of real property.



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## S

### ***Sale-Leaseback***

This is a financing structure in which an investor purchases real estate owned and used by an entity and then leases the property back to the entity; this may include a buy-back option.

### ***Security; Security Deposit***

Something given or pledged to make secure the fulfillment of an obligation, usually the repayment of a debt, also known as "earnest money".

### ***Speculator***

One who analyzes a real property market and acquires properties with the expectation that prices will greatly increase, at which time he or she can sell at a large profit.

### ***Sublease, Sublet***

When a primary tenant rents a property to another tenant. Usually requires continued liability of the primary tenant.

### ***Surrender***

The cancellation of a lease by mutual consent between the tenant and landlord.

### ***Syndication***

A descriptive term for a group of two or more people united for the purpose of making and operating an investment. A syndicate may operate as a corporation, general partnership or limited partnership.

## T

### ***Tax Shelter***

A phrase often used to describe some of the tax advantages of real estate investment, such as deductions for depreciation, interest, taxes and so forth.

### ***Tax Waivers***

This is a community's technique of offering a reduction in tax liabilities to entice new industry.

### ***Taxable Income***

The net income, after allowable deductions and adjustments, on which the tax rate is applied.

### ***Tenancy at Sufferance***

An individual who continues to possess real estate after the right to possess has terminated.

### ***Tenancy at Will***

A license to occupy or use lands and buildings at the will of the landlord.

### ***Tenancy by the Entireties***

The joint ownership, recognized in most states, of property acquired by husband and wife during marriage. On the death of one spouse, the survivor automatically becomes the owner of the property.



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### ***Tenancy in Common***

A form of co-ownership under which each owner holds an undivided interest in real property as if he or she were sole owner. Each individual owner has the right to partition. Unlike a joint tenancy, there is no right of survivorship.

### ***Term Loan***

A loan to be paid in full at a specified time; not an amortizing loan.

### ***Title Insurance***

A policy insuring the owner or mortgagee against loss by reason of defects in the title to a parcel of real estate other than those encumbrances, defects and other matters that are specifically excluded by the policy.

## **U**

### ***Uniform Commercial Code (U.C.C.)***

A compilation of laws dealing with most aspects of commercial transactions such as sales, bank deposits and collections, letters of credit and investment securities.

### ***Usable space***

The area actually used upon which the rental rate is applied, e.g. 6,000 square feet @ \$20.00 per square foot per year equals a rental of \$10,000 per month.

## **V**

### ***Vacancy Rate***

The percentage of the total space that is unoccupied, e.g. five percent (5%) vacancy.