

**MODEL LEASE
CLAUSE**

Get Right to Retain or Remove Tenant Installations at End of Lease

When allowing tenants to install equipment, structures, or other items to tailor the space to their own needs, you need to think about what will happen to those installations when the lease ends and the space must be re-let. Maybe the installations will make the space more marketable, or maybe you'll have to remove them and restore the space to its previous configuration. You just don't know what the next tenant will want. That's why it's essential to maximize your flexibility. Here's a clause created and used successfully by a New York City attorney that can help you achieve that objective. Talk to your attorney about adapting it to your own situation and needs.

EXTENDED INSTALLATION REMOVAL OPTION

- a. Tenant Installation Right:** Tenant, at its sole cost and expense, may install [description of installation] (the "Installation"), in a location to be approved by Landlord, provided that:
- (1) Landlord grants prior written approval of Tenant's plans and specifications as prepared by an independent licensed architect at Tenant's sole cost and expense and in accordance with the terms, covenants, conditions, and provisions of this Lease;
 - (2) Tenant complies with all federal, state, and local governmental and quasi-governmental requirements including, without limitation, receipt of all necessary permits and licenses; and
 - (3) Tenant complies with the terms, covenants, conditions, and provisions of this Lease.
- b. Landlord's Election Right:** Within ___ days after the expiration or earlier termination date of the Lease Term, Landlord may elect ("Election Right"), by written notice given to Tenant, to either:
- (1) Retain the Installation as part of the Premises; or
 - (2) Remove the Installation and restore the Premises and any other installations appurtenant thereto to their condition existing prior to the installation of the Installation (the "Restoration Work"). Such Restoration Work shall be performed by Landlord at Tenant's sole cost and expense.
- c. Election Right to Survive Lease Term:** Landlord's Election Right shall survive the expiration or earlier termination date of the Lease Term.
- d. Tenant to Transfer Clean Title:** In the event Landlord elects to retain the Installation, Tenant covenants that it will be the sole owner of and will have good right to surrender such Installation. Tenant further covenants that the Installation and all appurtenances thereto will be free of any liens and encumbrances.
- e. Landlord to Retain Security Deposit Until Election:** Notwithstanding Section ___ [insert number of the lease section addressing the security deposit] to the contrary, Landlord may retain Tenant's Security Deposit after the expiration or earlier termination of the Lease Term until the earlier of the following:
- (1) Landlord elects to retain the Installation pursuant to Section b(1) above; or
 - (2) If Landlord elects to restore the Premises pursuant to Section b(2), such Restoration Work is completed and Tenant has fully reimbursed Landlord for all costs related to the Restoration.
- In the event that Landlord does not timely exercise the Election Right pursuant to Section b above, then Landlord shall retain such installation as part of the Premises and the Security Deposit shall be returned to Tenant in accordance with Section ___ [insert number of the lease section addressing the security deposit].
- f. Landlord Right to Apply Security Deposit:** In the event that Tenant fails or refuses to pay all costs of the Restoration Work within ___ days of Tenant's receipt of Landlord's notice and all invoices, then Landlord may apply all or any portion of the Security Deposit toward the payment of such unpaid costs related to the Restoration Work. In the event that the Security Deposit exceeds the unpaid costs, such excess shall be returned to Tenant in accordance with Section ___ [insert number of the lease section addressing the security deposit].
- g. No Limit on Landlord Right to Sue Tenant:** The retention or application of the Security Deposit by Landlord pursuant to this Section are not intended as shall not constitute a limitation on or waiver of Landlord's right to seek further remedy under law or equity.