

# Retail Green Leasing



## What is Green Leasing?

Green leases address both landlords' and tenants' sustainability goals. This language can improve the environmental sustainability of retail properties and reduce operating costs.

Retailers can enable sustainability improvements in leased stores by:

1. Reviewing a typical store lease used by your company where sustainable operations are limited
2. Identifying the business opportunities for sustainable operations
3. Cataloging those areas and estimating their current impacts, including on other departments
4. Outlining the modifications to the lease or accompanying documents that can capture those business opportunities by referencing resources such as:
  - a. This document, [RILA-IMT Green Lease Primer](#), [Green Lease Library](#), [ICSC Shopping Center Study Green Lease](#), [BOMA Commercial Lease Guide](#), etc.
5. Meeting with the real estate department and brokers (invite other internal department allies) to present opportunities for increasing sustainability and efficiency
6. Discussing next steps for incorporating these improvements into existing or new store operations

Please note, each company should individually assess its priorities, and the costs and benefits of any term before modifying a contract.

## About this Document

This document includes:

**Page 2 – Green Leasing First Steps** outlining key considerations for those who are just getting started or who have yet been unable to influence the lease itself.

**Pages 3–5 – Sample Green Lease Language** that retailers or landlords might incorporate into their leases to facilitate sustainability and operational efficiency improvements.

This document is intended for use as a reference resource to help companies determine what lease changes can unlock sustainability and cost savings opportunities. The language is only intended to be examples; each company should consult with its business and legal teams to determine its own priorities.

For each clause category, language to address the topic is provided from both the tenant and landlord perspectives; the use of such language will depend on the party that is drafting the initial lease. In many cases, the language from both perspectives can be included to clearly identify the mutual benefit to both parties.

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## Green Leasing First Steps

What if you haven't been successful influencing existing leases or aren't sure where to start? These six strategies incorporate green leasing principles without altering the lease itself and show how it can benefit the company:

### 1. Measure What You Can

Utility data is a powerful tool to make the case for sustainable operations, but many spaces lack the ability to accurately measure consumption. When a tenant space is not already separately metered, a submeter for utilities can often be installed, even if billing is done on a pro-rata basis. The price of submetering has dropped drastically in recent years, and most spaces can be submetered for electric consumption for under \$1,000. This data can be used to verify the accuracy of utility charges and build the business case for other projects.

### 2. Benchmark Energy Use

Understanding how your spaces consume utilities relative to one another is a vital part of sustainable operations. EPA ENERGY STAR's free Portfolio Manager is one tool that allows users to track energy performance using monthly utility data. Many vendors also offer benchmarking services if they already track bill data, or you can get started with an Excel spreadsheet. Tracking utilities for a property reveals opportunities for energy and cost savings. Opportunities can even be gleaned from incomplete datasets. Compare utility costs at spaces billed on a pro-rata basis to the actual consumption from otherwise comparable submetered spaces to identify outliers.

### 3. Align Tenant and Landlord Goals

Green leases and sustainable operations can be more than just an effort to slash operating costs. Major landlords and their retail tenants often have sustainability, energy, or CSR goals that align in scope and timetable, creating opportunities for collaborative efforts. Management or leasing employees may not be aware of their own company's goals just as store employees may not know a retailer's. Identifying synergies between landlord and tenant goals can increase momentum to move sustainability projects forward.

### 4. Target Rules & Regulations for Minor Changes

Building rules and regulations are often updated on an annual (or similar) basis. Building operations are covered in rules and regulations, which provide an opportunity to include terms that promote sustainable operations within an existing lease or accompanying documents.

### 5. Share Contact Information

Lease terms are often used to determine if certain costs can be shared or passed from landlord to tenant, and vice-versa. Exchanging a point of contact for a sustainability or energy manager within a lease and accompanying documents ensures both parties will be speaking to the right person when discussing potential on-site retrofits or renovations.

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## 6. Think Outside the Lease



While the lease is one definitive way of incorporating sustainable operations into a space, other key accompanying documents may be easier to influence. After identifying your green leasing priorities, examine documents such as the: letter of intent, premises questionnaire, work letter, or build out specifications for ways to integrate sustainability into the leasing process.

### Sample Lease Language

#### Leased Premises Standards: Efficient Buildouts

**Tenant perspective:** Any and all Tenant Improvement Work and/or Alterations will be performed in accordance with Landlord sustainability practices that the Tenant has accepted as part of the lease agreement, including any agreed upon third-party rating system concerning the environmental compliance of the Building or the Premises, as the same may change from time to time.

**Landlord perspective:** Landlord's approval of Tenant's proposed Space Plan, Working Drawings, or Change Order shall not be unreasonably withheld, conditioned or Delayed; provided, however, that Landlord shall not be deemed to have unreasonably withheld its approval of any Space Plan, Working Drawings or Change Order that: Does not reflect a ten percent (10%) efficiency improvement in tenant buildout lighting efficiency over minimum code.

Tenant further agrees to engage a qualified third party LEED or Green Globe Accredited Professional or similarly qualified professional during the design phase through implementation of any Tenant Improvement Work and/or Alterations to review all plans, material procurement, demolition, construction and waste management procedures to ensure they are in full conformance to Landlord's sustainability practices, as aforementioned.

#### Capital Improvement Costs: Cost Recovery

**Tenant perspective:** The cost of any capital improvement to the Building that reduces Building Operating Costs, the costs of such improvements to be amortized over the minimum period acceptable for federal income tax purposes, and only the yearly amortized portion thereof shall be treated as a Building Operating Costs. In no event shall this charge for yearly amortization be more than the actual reduction in the Building Operating Costs.

**Landlord perspective:** Landlord may include in Operating Expenses the Capital Improvements intended to improve energy efficiency. In the case of any Capital Improvement that the Independent Engineer certifies in writing will, subject to reasonable assumptions and qualifications, reduce the Building's consumption of electricity, oil, natural gas, steam, water or other utilities, and notwithstanding anything to the contrary:

The costs of such Capital Improvement shall be deemed reduced by the amount of any government or other incentives for energy efficiency improvements actually received by Landlord to defray the costs of such Capital Improvement, and shall further be reduced by any energy efficiency tax credits or similar energy-efficiency-based tax incentives actually accruing to Landlord as a result of such Capital Improvement.

#### Utility Metering & Operating Expenses: Submetering

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**Tenant perspective:** Landlord will install an electric submeter to service the lease premises to measure the consumption of electricity in the lease premises, and Landlord will charge Tenant and Tenant will pay as an additional charge hereunder such amounts as are invoiced by Landlord for Tenant's electricity usage as measured by such submeter, without markup by Landlord, and Landlord will make appropriate adjustments to the electricity charges included in Operating Expenses so that Tenant's proportionate share of operating expense increase will not include such amounts with are separately invoiced and paid by Tenant.

**Landlord perspective:** Landlord is hereby authorized to request and obtain, on behalf of Tenant, Tenant's electric consumption data from the applicable utility provider. Notwithstanding anything herein to the contrary, Tenant agrees to pay for the installation of a separate electric meter to measure electrical usage and to pay Landlord for electricity consumption registered in such submeter.

## Utility Data Sharing:

The Landlord and the Tenant will share the Environmental Performance Data they hold relating to the Premises and/or the Building. This Environmental Performance Data will be shared on a regular basis [but not less frequently than monthly/quarterly/annually] with each other, with the Managing Agent and with any third party who the Landlord and the Tenant agree needs to receive such data. Save where they are under a statutory obligation of disclosure, the Landlord and the Tenant will keep confidential the Environmental Performance Data shared under this clause, and will only use such data for the purposes of:

- a) Monitoring and improving the Environmental Performance of the Premises and/or the Building and/or
- b) Measuring the Environmental Performance of the Premises and/or the Building against any agreed targets.

The Landlord will procure that the Managing Agent is placed under a similar obligation to keep any shared data confidential and to use it only for the purposes listed above. Where the Landlord or Tenant discloses any shared data to a third party, they will procure that that third party is placed under a similar obligation to keep any shared data confidential and to use it only for the purposes listed above.

## Landlord & Tenant Maintenance: Ongoing Alterations

**Tenant perspective:** The Tenant agrees to conduct its operations in the Building and within the Premises in accordance with the following provisions: The Tenant shall ensure that all work done within the Premises by the Tenant or its representatives shall be undertaken in accordance herewith and with the Landlord's sustainability goals. The Landlord agrees to make reasonable effort to conduct building operations in accordance herewith and with the Tenant's sustainability goals.

**Landlord perspective:** Before making any alterations to the Premises or to the plant, equipment or services within and serving the Premises which alterations (may/will) adversely affect the environmental performance of and/or any energy performance rating of the Premises and/or the Building the Tenant shall:

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(i) provide sufficient information to the Landlord in writing and wait a reasonable period before commencing the works so as to enable the Landlord to assess the potential adverse effects of the proposed alterations

(ii) consider (and, where reasonable, implement) any (reasonable) suggestions which the Landlord makes to (avoid/minimize) any such potential adverse effects of the proposed alterations.

## Landlord & Tenant Maintenance: Sustainability Best Effort

**Tenant perspective:** Landlord shall use best efforts to help meet building-wide energy use reduction goals and minimize unnecessary use of electricity, water, heating, and air conditioning. The operation of common spaces and core building systems will be conducted in reasonable according with the sustainability goals mentioned herewith and with Landlord and Tenant sustainability goals.

**Landlord perspective:** Tenant shall use best efforts to help meet building-wide energy use reduction goals and minimize unnecessary use of electricity, water, heating, and air conditioning, including recommended use of window shades and curtains to keep out summer heat and keep in winter warmth.

## Trash & Recycling Management:

**Tenant perspective:** Landlord shall set up a building-wide infrastructure for materials recycling and supply a “Single Stream” bin to Tenant for paper, metals, and plastics, including polybags and hangers. Landlord shall also provide electronics disposal bins for computers, etc. Tenant shall use best efforts to recycle by separating waste stream into Single Stream (paper, plastic, metals), and dispose of all electronic items (cell phones, computers, etc.) in designated bins.

**Landlord perspective:** The Tenant shall place all refuse and recyclables in the receptacles provided by the Tenant in the Premises or in the receptacles (if any) provided by the Landlord for the Building, and shall otherwise keep the Lands and the Building and the sidewalks and driveways outside the Building free of all refuse

## Rooftop Access and Control: Solar Panels

**Tenant perspective:** Tenant may install solar panels on the building and Tenant is entitled to all benefits to be derived from such installation including any incentives and credits and any revenues resulting from power generation.

**Landlord perspective:** Tenant shall be entitled to place electrical generating equipment on the Building’s roof pursuant to the terms and conditions set by the Landlord. All of the terms of this Lease shall be applicable to Tenant’s Generating Equipment as if the Generating Equipment were part of the Premises, but Tenant acknowledges that the Generating Equipment is not part of the Premises.

The Generating Equipment and rooftop shall not be used for any other purpose without Landlord’s written consent. Tenant shall bear all of the cost and expense of designing, purchasing, installing, operating, maintaining, repairing, removing and replacing the Generating Equipment, and for

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repairing and restoring any damage to the Building or to Landlord's or any other person's or entity's property arising therefrom. The Generating Equipment shall be installed and maintained by Tenant in a manner reasonably acceptable to Landlord. Nothing herein grants Tenant any right to access the roof of the Building unless accompanied by an employee of the Building Manager or other representative of Landlord, except that access shall be permitted in emergencies. Tenant's rights to place Generating Equipment on the rooftop are non-exclusive.

