



## **LEASE RISK MANAGEMENT IS CRITICAL**

***THE AMBIGUITIES, CONTRADICTIONS AND DISPARITIES IN THE RISK OF LOSS PROVISIONS OF COMMERCIAL LEASE AGREEMENTS CAN BE A DISASTER FOR LANDLORDS, TENANTS, ATTORNEYS, RISK MANAGERS, INSURANCE AGENTS AND INSURANCE CARRIERS***

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### **INTRODUCTION**

Lease agreements pose major exposures for both landlords and tenants.

As risk managers, attorneys and insurance advisors, we look carefully at lease agreements to analyze the exposures to risk of loss, the indemnification provisions and the insurance requirements provisions.

We find that many landlords and tenants rely upon their insurance brokers to manage these risks through the purchase of appropriate insurance. Seldom do we find that such brokers engage in a careful analysis of lease agreements.

The purpose of this report is to discuss some of the examples of unfavorable lease provisions from a casualty standpoint and to make recommendations.

**LEASE ADDENDUM ON RISK OF LOSS  
AND WAIVER OF SUBROGATION**

The purpose of this addendum is to set forth the respective obligations of the Landlord and Tenant if an event or series of events causes damage to the leased premises affecting the property interests of the Landlord or Tenant.

The provisions of this addendum shall prevail over any other provision to the contrary in this lease agreement as respects damage to the building or personal property interests of the respective parties and any resulting loss of income or rents that either party may sustain.

If the leased premises is damaged or property is stolen with the exception of the intentional acts of either party to the lease, the parties agree that:

1. Landlord and Tenant, respectively, release each other from any and all liability or responsibility and waive any right of recovery, whether direct or by way of subrogation or otherwise, against each other, their agents, officers, members, owners or employees for any loss of or damage to their respective property, which occurs in or about the building or premises whether or not covered by any insurance, regardless of the cause or origin and even if such loss or damage shall have been caused by the fault or negligence of the other party or anyone for whom such party may be responsible. This release and waiver remains effective despite either party's failure to obtain insurance. If either party fails to obtain insurance, it bears the full risk of its own loss.
2. During the period of time that the Tenant is unable to conduct its customary activities without impairment or disruption, the rent shall abate, regardless of the negligence, except for intentional acts, of the Tenant, its agents, officers, members, owners or employees.
3. If the loss or damage cannot be restored, replaced or repaired within 90 days from the date of loss or damage and if as a result of this, the Tenant cannot continue its normal operations at the premises, the Tenant shall have the option to terminate the lease by providing written notice to the Landlord.

This addendum modifies the lease between the parties dated \_\_\_\_\_ as respects the premises at \_\_\_\_\_ and shall be effective \_\_\_\_\_.

Agreed to by the Landlord and Tenant:

\_\_\_\_\_  
Landlord

\_\_\_\_\_  
Tenant

## BAD LEASE LANGUAGE #1

### 15. Insurance, Indemnity

a) Requires that the Tenant insure the “interior” of the premises, which means interior walls, plumbing, electrical, HVAC systems, office ceilings, leasehold improvements of prior tenants, etc. These can only be insured under a building insurance policy, which is not typically

These provisions say even though the Landlord has to purchase building insurance at the Tenant’s expense, it is the Tenant’s insurance that is primary and does not contribute to the Landlord’s insurance. Since two different insurance carriers are involved, this is a lawsuit waiting to happen.

(B) Confuses both General Liability and Property insurance. In the underlined section, the word “of” should be “and”. That aside, “insured against by reasonably prudent...” lacks clarity to say the least. In insurance policies, there is no such thing as “all risk” property insurance.

a) At all times during the Lease term, Tenant shall procure and maintain, at its sole expense, Commercial Property Insurance covering the perils insured under Insurance Services offices (ISO) Special Causes of Loss Form, in an amount not less than one hundred percent (100%) of the replacement cost covering (a) the interior of the Premises, (b) all Tenant’s leasehold improvements in and to the Premises and (c) Tenant’s trade fixtures, equipment, business records and other personal property from time to time situated in the Premises.

All insurance required by Tenant shall (i) be primary and non-contributory, (ii) provide for severability of interests, (iii) be issued by insurers, licensed to do business in the state in which the Premises are located and which are rated A:VII or better by Best’s Key Rating Guide.

(B) Landlord’s insurance. Landlord shall maintain on the Building an “all risk” property insurance policy in the amount of the Building’s full replacement cost, insuring against risks normally insured against by reasonably prudent owners of comparable general liability insurance with a minimum combined single limit of liability of Five Million and No/Dollars (\$5,000,000.00) per occurrence for bodily injury and property damage, insuring against liability occurring in, on or about the property of Landlord and providing additional insured status to Tenant. Landlord shall utilize insurance companies that are rated no less than “A-, X” by A.M. Best or equivalent rating agency and Landlord will endeavor to provide a thirty (30) day notice of cancellation of non-renewal. Prior to the Rent Commencement Date, Landlord will furnish evidence of said insurance program.

(C) This waiver of subrogation only applies to the extent either party is able to collect from its insurance carrier. Since neither party can control the quality of the other parties' insurance program, the clause cannot provide any sense of clarity or security to either party.

(C) Waiver of Subrogation. To the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other on account of any and all claims Landlord and Tenant may have against the other with respect to property insurance actually carried, or required to be carried hereunder, to the extent of the proceeds realized from such insurance coverage.

### 7. Repair, Maintenance, Operating Expenses, and Payment.

(A) Note: Landlord's repair obligation does not include damage caused by an act or omission of the Tenant. Most losses in a leased building will be as a result of Tenant negligence because it controls the premises. Even if damage is not caused by the Tenant, the Landlord repair obligations do not include interior walls or utility systems outside the premises.

(A) Landlord's Repair and Maintenance Obligations, Landlord Notification. Landlord, at its sole expense and exclusive of Operating Expense reimbursable from Tenant in accordance with Section 7. (B), and unless if caused by an act or omission of Tenant, shall keep in good order, condition and repair the foundations, structural supports, roof and exterior walls of the Building, and utility systems outside the Premises.

(B) Note: The Tenant has to pay for the Landlord's insurance premiums, but does not have the benefit of this insurance.

(B) Operating Expenses and CAM Defined. "Operating Expenses" are all costs incurred by Landlord relating to the ownership and operation of the Industrial Property, Building, and Premises including but not limited to the following: Real Property Taxes as defined in Section 14. (A) and Section 14. (B); premiums for any insurance policies maintained by Landlord for General Liability or Property coverage including loss of rent, association dues, and licensing or certifying of the Building or Industrial Property to any governmental agency and any administrative or property management expenses together with the cost of any Common Area Maintenance "CAM" hereby defined as all costs and expenses relating to the operation, repair, maintenance, and non-structural replacement of the Building, specifically serving the Premises, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, all doors (including all personal and overhead doors) and all related door hardware (i.e. latching mechanisms, handles, hinges, keys etc.), flooring and base coverings, ceilings, framing, and drywall and wall coverings. Tenant's obligations shall include restorations, replacements or renewals, when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Notwithstanding anything to the contrary as herein contained in this Section 8. (A), Tenant shall have thirty (30) days grace period to make any said

(B) Note: No exception for fire or other casualty losses. So if the lessor does not have adequate insurance, the repair or replacement could be charged to the Tenant under this operating expense clause.

repair or replacements, such time period may be extended if such repair or replacement cannot be made within said thirty (30) days but Tenant has commenced same and is diligently working to make such repair or replacement.

**1. Tenant Maintenance, Repairs, Trade Fixtures, Alterations, Construction Liens.**

(A) Tenant's Obligations. Except as provided in Section 7. (A), Tenant shall, at Tenant's sole cost and expense and at all times, keep the Premises and every part thereof as herein described, in good order and condition as it substantially existed upon Commencement Date, normal wear and tear, structural repairs and replacement not arising out of Tenant's use of the Property, damage by fire, vandalism, the elements and any other insurable casualty, damage by condemnation and damage due to or occasioned by the negligence or acts of Landlord and/or other tenants in the Building, excepted. Tenant's obligations shall include, without limiting the generality of the foregoing, all equipment or facilities specifically serving the Premises, such as plumbing, and plumbing fixtures in the Premises, heating, air conditioning, ventilating, electrical, lighting, fire extinguishers current and updated, fire house connectors if within the Premises, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, all doors (including all personal and overhead doors) and all related door hardware (i.e. latching mechanisms, handles, hinges, keys etc.), flooring and base coverings, ceilings, framing, and drywall and wall coverings. Tenant's obligations shall include restorations, replacements or renewals, when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Notwithstanding anything to the contrary as herein contained in this Section 8. (A), Tenant shall have thirty (30) days grace period to make any said repair or replacements, such time period may be extended if such repair or replacement cannot be made within said thirty (30) days but Tenant has commenced same and is diligently working to make such repair or replacement.

(B) HVAC. Apart from the limited warranty provided by Landlord for the HVAC system as set forth in Section 31 hereof, Tenant will be responsible for and shall undertake any repairs and/or replacements of the HVAC system.

(A) This language says that the Tenant does not have responsibility for:

- Wear and tear
- Repairs not arising out of Tenant use (meaning that damage caused by negligence or arising otherwise from Tenant's use of property is not an exception)
- Fire, vandalism, the elements and other "insurable casualties" (not defined)
- Damaged caused by the Landlord and other tenants

This provision could be a minefield of opportunities to pin damage claims on the Tenant.

(B) Even though Landlord insures the building and its mechanical elements such as HVAC systems, this provision requires that the Tenant not only repair but replace the HVAC system, even if caused by an act of God such as lightning. This will not be covered by the Tenant's personal property insurance because it is a building item only covered by building insurance.

(E) Indemnity, Damage by Tenant to Other Tenants.

1. Indemnity. Excepting to the extent arising out of the willful or negligent acts or omissions of Landlord, Tenant shall protect, indemnify and hold the Landlord harmless from and against any and all loss, claims, liability or costs (including court costs and reasonable attorney's fees) incurred by reason of:

a) This broad requirement conflicts with some exceptions in prior language. It clearly says if the Tenant is negligent and the building is damaged, the Tenant has to pay.

a) any damage to any property (including but not limited to property of any Landlord) or death or injury to any person occurring in or about the Premises, the Building or the Industrial Property to the extent that such injury or damage shall be caused by or arise from any actual act, neglect, fault or omission by or of Tenant, its agents, servants, employees invitees, or visitors;

b) the conduct or management of any work or anything whatsoever done by the Tenant on or about the Premises or from transactions of the Tenant concerning the Premises;

c) Tenant's failure to comply with any and all governmental laws, Applicable Laws, ordinances and regulations applicable to the condition or use of the Premises or its occupancy; or

d) any breach or default of the part of Tenant in the performance of any covenant or agreement on the part of the Tenant to be performed pursuant to Lease.

e) In no event, however, shall Landlord be entitled to indemnification under this Section if such claim arises from a breach or default in the performance of any obligation on Landlord's part to be performed under the terms of this Lease, or arising from any negligence of the Landlord, or any of Landlord's agents, contractors or employees.

**24. Damage or Destruction**

(A) Is favorable because so far it gives the Tenant the right to terminate the lease if there is a major loss

(B) takes (A) away if the loss is the result of Tenant's negligence . (Chances are this will be the case because the Tenant has possession)

(A) Termination Right. Subject to the provisions of Section 24. (B), if the Premises or the Building shall be damaged to such an extent that there is a substantial interference for a period exceeding sixty (60) consecutive days with the conduct by Tenant of its business at the Premises, Tenant, at any time prior to commencement of repair of the Premises and following five (5) business days written notice to Landlord, may terminate Lease effective thirty (30) days after delivery of such notice to Landlord. Such termination shall not excuse the performance by Tenant of those covenants, which under the terms hereof survive termination. Rent shall be abated in proportion to the degree of interference during the period that there is such substantial interference with the conduct of the Tenant's business at the Premises.

(B) Damage Caused by Tenant. Tenant's termination rights under Section 24. (A) shall not apply if the damage to the Premises or Building is the result of any negligent or willful act or omission of Tenant or of any of Tenant's agents, employees, customers, invitees or contractors ("Tenant Acts"). Tenant shall continue to pay all rent and other sums due hereunder. If Tenant does not terminate the Lease pursuant to Section 24. (A) above, then Landlord shall

promptly repair and restore the Premises to substantially the same condition prior to such casualty. If Landlord fails to restore within ninety (90) days after the date of casualty, then Tenant shall have the right to terminate the Lease at any time thereafter upon at least thirty (30) days prior written notice unless Landlord completes restoration within such time period.

**25. Surrender/Restoration**

This language is favorable in some respects because most leases indicate that at the end of the lease, the Tenant has to return a complete, undamaged building. This has some exceptions, but the words

Tenant shall surrender the Premises by the end of the last day of the Termination Date or any earlier termination date, clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear, structural repairs and replacement not arising out of Tenant’s use of the Property, damage by fire, vandalism, the elements and any other insurable casualty, damage by condemnation and damage due to or occasioned by the negligence or acts of Landlord and/or other tenants in the Building, excepted. Without limiting the generality of the above, Tenant shall remove all personal property, trade fixtures and floor bolts, patch all floors and cause all lights to be in good operating condition, as more specifically set forth in Exhibit E (“Move-Out Conditions”). Upon Termination Date or earlier termination of Tenant’s right of possession, Tenant shall surrender the Premises to Landlord in substantially the same condition as received, broom clean, ordinary wear and tear structural repairs and replacement not arising out of Tenant’s use of the Property, damage by fire, vandalism, the elements and any other insurable casualty, damage by condemnation and damage due to or occasioned by the negligence or acts of Landlord and/or other tenants in the Building, excepted.

## BAD LEASE LANGUAGE #2

### 2. Rental

This implies that if the lessor does not receive sufficient proceeds from its property insurance policy, the difference is chargeable as additional rent.

Lessor shall receive the rent set forth in this Paragraph 2 free and clear of any and all other impositions, taxes, liens, charges or expenses of any nature whatsoever in connection with the ownership and operation of the Premises.

### 3. Repairs and Replacements to the Premises

This repair clause encompasses the entire building and has only two exceptions. This also requires that the lessee pay for the additions or improvements to a fire sprinkler system if required by the lessor's insurance carrier. This could be very expensive.

Lessee shall, during the continuance of this Lease, at its own expense: (a) keep the Premises and every part thereof, including, but not limited to, all electrical, mechanical and plumbing systems, the roof, plate glass and the four walls (interior and exterior) of the Premises in good appearance and repair (including all necessary replacement of any portion thereof), except for reasonable and normal wear and tear and subject to Lessor's obligations to repair the Premises in the event of a casualty as expressly set forth herein; and (b) make any repairs, alterations, additions or improvements to the Premises or any of its systems (e.g. plumbing, electrical, mechanical), which are required by any law, statute, ordinance, rule, regulation or governmental authority or insurance carrier.

This is a mess. It is a hodge-podge of liability and property insurance.

- It requires \$2,000,000 in liability insurance, but the lessor can increase this at any time. An increase to \$25,000,000 could cost thousands of dollars.
- It requires insurance for all liability. This is a problem because commercial liability policies have multiple exclusions. One of these exclusions is that there is no coverage for damage to the building that has been leased by/from the lessor, yet this says the insurance has to cover "damage to property".

As additional rent, Lessee shall, during the continuance of this Lease, at its own cost and expense, maintain the following insurance policies: (a) commercial general liability and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 for each occurrence (if such commercial general liability insurance contains a general aggregate limit, it shall apply separately to the Premises), or such other amounts as Lessor may from time to time reasonably require, against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises; (b) business interruption insurance; and (c) insurance against fire, vandalism, malicious mischief, and such other perils as are from time to time included in a standard extended coverage endorsement, insuring all merchandise, trade fixtures, furnishings, equipment and



- It requires that the lessee insure trade fixtures, equipment, wall coverings, carpeting and drapes. Even if these were Landlord-owned items, since these would not constitute lessee-owned personal property or leasehold improvements paid for by the lessee, the lessee is not covered under its insurance unless it buys building insurance.
- Plate glass is a building item that can only be insured under a building policy.
- This says “each liability policy shall provide that all losses be paid on behalf of lessor and lessee”. The drafter of this lease meant to apply this to a property policy. This language is not appropriate or available under a liability policy.
- This has a “waiver of subrogation” clause, which is fine, but it limits the waiver to the extent loss or damage is covered by insurance, leaving open the possibility of lawsuits where coverage is not provided.
- The language relating to a lessee’s insurance being primary applies to both property and liability insurance. This is a lawsuit waiting to happen when both policies cover the same item.

- Although it looks like the lessor has to buy insurance on the building, it is only for fire (because as we said, there is no such thing as “extended coverage”. There are many perils that could damage a leased building such as wind, hail, tornados, vehicle damage, collapse, bursting of pipes, vandalism, etc. If the lessor does not have coverage and the lessee does not buy building coverage, who is going to rebuild the building?
- This says “full insurable value”. This is not defined anywhere.

personal property such as signs, wall coverings, carpeting and drapes located on or within the Premises, in an amount equal to not less than 100% of the full replacement cost thereof. All insurance policies shall name both Lessee and Lessor as insured parties (and at the request of Lessor, shall name Lessor's mortgagee as an additional insured). Each damage policy insuring against loss or for damage to the Premises shall provide for payment of all losses directly to Lessor for the building and. to Lessee for Lessee's trade fixtures, furnishings, equipment, plate glass and personal property. Each liability policy shall provide that all losses be paid on behalf of Lessee and Lessor as their respective interests appear. Lessee and Lessor shall cause each insurance policy described in this Lease to be written in such a manner so as to provide that the insuring company waives all right of recovery by way of subrogation against the Lessee and/or Lessor in connection with any loss or damage covered by any such policies.

Lessee's insurance shall provide primary coverage to Lessor when any policy issued to Lessor provides duplicate or similar coverage, and in such circumstance Lessor's policy will be excess over Lessee's policy. All such insurance policies shall be in form, and issued by companies, reasonably satisfactory to Lessor.

Lessor shall, during the entire term hereof, carry insurance for fire and special extended coverage (as determined by Lessor) insuring the improvements located within the Premises and all appurtenances thereto (except merchandise, trade fixtures, furnishings, equipment, plate glass and personal property, such as signs, wall coverings, carpeting and drapes), for the full insurable value thereof (with deductibles determined solely by Lessor). Such insurance carried by Lessor shall include loss of rents coverage. During the term of this Lease, Lessee shall pay to Lessor as additional rent the cost of the premiums for all such insurance carried by Lessor and the expenses incurred by Lessor relative to insurance appraisals, adjusters and reasonable insurance consultants' and attorneys' fees in connection therewith. Such additional rent owing for the insurance carried by Lessor shall be paid in monthly installments on the first day of each calendar month, in advance, in an amount estimated by Lessor.

Subsequent to the end of each calendar year, Lessor shall furnish Lessee with a statement of the actual cost of such insurance carried by Lessor. If the total amount paid by Lessee under this Paragraph 4 for any calendar year shall be less than the actual amount due from Lessee for such year as shown on such statement, Lessee shall

pay to Lessor the difference between the amount paid by Lessee and the actual amount due, such deficiency to be paid within 10 days after the furnishing of each such statement, and if the total amount paid by Lessee hereunder for any such calendar year shall exceed such actual amount due from Lessee for such calendar year, such excess shall be credited against the next installment due from Lessee to Lessor under this Paragraph 4. For the calendar years in which this Lease commences and terminates, the provisions of this Paragraph 4 shall apply, and Lessee's liability for its proportionate share of such costs for such years shall be subject to a pro rata adjustment based on the number of days of the calendar year during which the term of this Lease is in effect. Lessee will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene Lessor's policies insuring against loss or damage by fire or other hazards or which will prevent Lessor from procuring such policies in companies acceptable to Lessor.

Note the last four lines. Although this is a clause that relates to the reimbursement of insurance premiums, it adds this provision that makes the lessee liable if anything it does is in violation of the conditions of the lessor's policy.

## **6. Indemnity**

- Although the intention of this language is to require that the lessee take care of third party lawsuits, it does not say this. It says the Tenant will pay for all losses in any way related to the premises.
- Granted it has a reciprocal provision, but it only applies to losses prior to the commencement date.

Lessee assumes liability for and shall indemnify, protect, save and keep harmless Lessor, its assigns, agents, servants and beneficiaries from and against all losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including reasonable attorneys' fees, of whatsoever kind and nature imposed upon, incurred by, or asserted against Lessor, or any other party so protected, in any way relating to or arising out of this Lease or of the use or possession of the Premises. Lessor assumes liability for and shall indemnify, protect, save and keep harmless Lessee, its assigns, agents, servants and beneficiaries from and against all losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including reasonable attorneys' fees, of whatsoever kind and nature imposed upon, incurred by, or asserted against Lessee, or any other party so protected, in any way relating to use or possession of the Premises prior to the Commencement Date. The indemnities contained in this Paragraph shall continue in full force and effect notwithstanding the termination of this Lease.

## 9. Non-Liability

This is a one-way waiver of subrogation of sorts, saying the lessor has no liability unless it is grossly negligent. Where is the language that does the same thing for the lessee?

Except in the event of Lessor's gross negligence or willful misconduct, Lessor shall not be responsible or liable to Lessee for any loss or damage to Lessee or its property from any cause whatsoever, including, but not limited to, any loss or damage resulting from burst, stopped or leaking water, gas, sewer or steam pipes. No such occurrence shall be deemed to be an actual or constructive eviction from the Premises or result in an abatement of rent.

## 11. Return

This provision is a big one. It says that except for wear and tear and unless the lessor is obligated to repair the premises, the Tenant has to give back the building in the same condition as when leased. When we look at the other lease provisions that relate to the lessor's repair obligations, Paragraph 13 speaks to this.

At the end of the term of this Lease, Lessee shall return the Premises to Lessor in the same condition in which it was received by Lessee, ordinary wear and tear, excepted and subject to Lessor's obligations to repair the Premises in the event of a casualty as expressly set forth herein.

## 13. Fire

- The lessor has to elect to rebuild.
- If the lessor elects to rebuild, it does not have to spend more than it receives from its insurance company.
- Even if the lessor elects to rebuild, the lessee has to pay for certain building items owned by the Landlord, such as trade fixtures, equipment, plate glass, wall coverings, carpeting, etc. Typically, a lessee will not be covered for this without "building" insurance.
- If more than 50% of the premises is damaged, the lessor only can terminate the lease and keep all the insurance proceeds.

If the Premises are shall be partially or totally destroyed by fire or other casualty insured under the insurance carried by Lessor so as to become partially or totally untenable, then the damage to the Premises shall be repaired by Lessor (unless Lessor shall elect not to rebuild as hereinafter provided) using the as-built plans and specifications for the Premises (as modified to give effect to any subsequent modifications to the Premises, any prior condemnation affecting the Premises and all applicable laws, rules, regulations and ordinances) in Lessor's possession, or, if no such as-built plans exist, using such plans and specifications as shall be developed by Lessee and approved by Lessor, so as to restore the Premises to the same operation, function and value as existed immediately prior to such fire or other casualty. From the date of the fire or casualty until the Premises are repaired by Landlord, the fixed rent due hereunder shall abate in the proportion that the part of the Premises destroyed or rendered untenable bears to the total Premises. Lessor shall not be required to expend more for repair or restoration of the Premises than the amount of insurance proceeds

paid Lessor with respect to damage to the Premises, but not including any amounts received on account of lost rent. Except as expressly provided to the contrary this Lease shall not terminate as the result of a fire or other casualty. If Lessor repairs or rebuilds, Lessee, at Lessee's sole cost, shall repair or replace all merchandise, trade fixtures, furnishings, equipment, plate glass, signs and personal property (including but not limited to wall coverings, carpeting and drapes) in a manner and to at least a condition equal to that prior to the damage or destruction thereof. Notwithstanding the above, if the Premises shall be destroyed to the extent of more than one-half of the value thereof, Lessor may at its option terminate this Lease forthwith by a written notice to Lessee, in which event, any and all insurance proceeds received from insurance policies insuring against loss o for damage to the Premises shall be and remain the property of Lessor. If the Premises shall be destroyed by casualty loss during the final two years of the Lease or if the repairs to the Premises shall take more than one hundred eighty (180) days to complete, Lessee and Lessor shall each have the option to terminate this lease with written notice to the other party.

#### **14. Care of the Premises**

It looks like the intent here is to keep the premises neat and clean, but that's not what it says.

The plain language of this provision indicates that if the building is destroyed by fire or bursting of pipes as two examples because of the Tenant's negligence, the lessee has to pay for the building damage.

Lessee shall not perform any acts or carry on any practices which may injure the Premises.