



**Lancaster, Brooks & Welch LLP**  
BARRISTERS AND SOLICITORS

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**Absolutely Gross Leases**

by Michael Mann

Are you planning on renting space for your business to operate? If so, be cautious of the form of lease agreement that you enter into with the property owner. In the commercial leasing world, there are generally two types of leases – a “gross” lease and a “triple net” lease. The purpose of this article is to highlight a few of the advantages and disadvantages of the different formats.

**“Gross Leases”**

When a tenant enters into a gross lease (sometimes called a “Fully Serviced Lease”), the tenant pays a fixed amount of rent to the landlord and the landlord is responsible for all other expenses relating to the property (which generally include utilities, maintenance, janitorial, security, etc.). In certain variations of this lease, the tenant may be responsible for some of the property taxes and insurance costs relating to the building; but in almost all cases the tenant will have to pay for its own consumption of utilities.

**“Triple Net Leases”**

By contrast, a triple net lease requires the tenant to pay a base (or “minimum”) rent plus a share of the landlord’s overall expenses. This base rent plus additional rent is usually due on a monthly basis. In all such situations, the tenant must pay for its own utilities.

**The Risk Factor**

Whether the parties enter into a net lease or a gross lease depends upon who is willing to bear the risk. With a gross lease, the landlord takes the chance that the rental amount it has set will cover all of its costs. This is why rent per square foot in gross leases is higher than market rents for similar premises which have triple net leases; however, from the tenant’s perspective, it can at least budget for consistent rent payments.

A triple net lease shifts the risk to the tenant. In this case, the tenant bears the uncertainty of the additional rent costs that are payable depending upon the landlord’s out-of-pocket expenses. At the beginning of each lease year, the landlord estimates monthly operating expenses and then an appropriate adjustment is made at year end for actual expenses incurred.

**“Common Ground”**

As you might expect, landlords usually have the greater bargaining power and they usually opt for triple net leases. Therefore, as a prospective tenant, you need to be cautious about the definition of such terms as “common areas”, “operating costs” and the tenant’s “proportionate share” of such costs. You would be well-advised to seek legal counsel to review a proposed lease in connection with your individual circumstances.

*The foregoing is provided to you for information purposes only. We caution you to obtain legal advice specific to your situation in all circumstances.*

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