

## Automated Retail: Stores without Staff, but not without Issues

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For many, air travel is required for business while for others it is used for pleasure. As millions of people are hustling through airports to make their flights, some may have taken a moment to stop to shop at one of the many staffless stores that are opening in airports. These staffless stores, which are often referred to as automated retail, sell goods that range from electronics such as headphones and chargers to cosmetics and clothing.

The staffless store phenomena is not limited to just airports as there is an increasing trend towards using these retail outlets in shopping centers throughout the country. We wrote on this new trend back in August of 2014 when the focus was on brick and mortar stores without staff, such as fitness centers and mattress stores. The 2016 version of staffless stores are a hybrid of the traditional kiosks/carts and a vending machine. They are typically similar in size to a vending machine but are situated in locations comparable to that of a traditional kiosk or inside of department stores. While branded in a manner similar to a kiosk, these automated outlets allow the retailer to avoid the cost of staffing the location.

The staffless store offers landlords and tenants a number of positive opportunities. For example, by offering tenants a lower cost way of penetrating a new market and giving landlords a way to increase revenues through the use of spaces that cannot be utilized effectively with traditional kiosks or carts. It can also introduce new retailers that otherwise would not be willing to incur the operating expense of having employees. Establishing the retailer in the Center initially through the use of an automated retail operation could also lead to later expansion opportunities with that retailer.

A landlord and tenant will often document the relationship for a staffless store by using a traditional kiosk or specialty lease form. However, there are a number of items that the parties should review when documenting the relationship. Some of those items include:

- Many kiosk leases include operational and staff requirements so any language requiring a certain number of staff at the location or staff attire needs to be addressed.
- Kiosk or cart leases often require that the kiosk/cart be adequately stocked with merchandise. While this requirement may still be applicable, the retailer needs to confirm that it has an adequate inventory monitoring process or software to ensure that the automated retail machine does not run out of product.
- The exchange/refund policy may need to be modified to address the fact that retailer personnel will not be present to make any exchange of product.
- The use of Center gift cards to pay for goods should be addressed in the Lease and by the automated retailer.
- Confirming that the insurance requirements for the tenant are appropriate given that there will not be staff located at the leased premises. The indemnification provisions should also be carefully reviewed for accuracy given the facts of a given situation.

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