



## **LBC LAWYERS**

### **COMMERCIAL LEASES**

If a proprietor of a business is not the owner of the shop from which the business operates, the proprietor must be in a position to negotiate a commercial leasing agreement with the owner of that premises.

A Commercial Lease often includes office space, industrial units, workshops and warehouses, retail shops whether they are within a shopping centre or not, storage sheds working yards and other non-residential property. It also includes retail leases which are excluded from the operation of section 5 of the *Retail Leases Act (NSW) 1994* ("the Act").

Commercial leases may often have the following terms and conditions including, but not limited, to:

#### **Period of Lease**

This outlines the period of time by which the Lease shall allow the Lessee exclusive possession of the premises, in addition to any renewal periods which may be given to them.

#### **Rent**

The payment of rent is an essential term of any lease. In exchange for the payment of consideration (rent) to the Lessor, the Lessee is given exclusive possession of the subject premises. Any outgoings and a rent review mechanism may also be included.

## **Bond**

A bond is an amount of money that will be held as security in the event that there is a deficiency with respect to the payment of rent or any breach of the terms agreed upon. There are no legislative provisions which surround a bond and, therefore, it is up to the parties to negotiate the amount.

## **Maintenance, repairs and structural works**

Commonly, the responsibility with respect to the repair of any structural defects to the premises is the Lessor's, whilst the Lessee is to undertake general repairs and maintenance. Where costs of maintenance of the premises are excessive it may be agreed that such costs will be equally shared between both parties.

## **Lessee's scope to carry out works**

A Lessee may have consent from the Lessor in certain circumstances to carry out works on the premises to suit its requirements. This may be in relation to installation of fixtures and fittings for the purpose of operating the business. Upon the expiry of the lease, it is usually the responsibility of the Lessee to remove the fit out and restore the shop to the condition it was in prior to the lease.

## **Breach, Termination and Resolution.**

The process of dealing with the Lessee's breaches and grounds for termination will usually be contained in the Lease Agreement. The Agreement may contain indemnity and liability clauses which will regulate any damage to the premises. Furthermore, there may be a dispute resolution mechanism outlined in the Agreement, expressing how such issues are to be resolved.

## **Renovation and Redevelopment**

Some leases may require the Lessee to refurbish the premises at various intervals which may be quite costly. For this reason, it is vitally important that refurbishment provisions are clear and specify the exact terms and schedule. Additionally, any

redevelopment provisions should be expressly stated to avoid future confusion.

It is evident that Commercial Lease Agreements are quite wordy and arduous as they attempt to strike the appropriate balance between both parties of the Lease, and seek to govern their relationship throughout the duration of the agreement. We highly recommended that you seek competent legal advice when entering into a commercial lease to ensure you are completely aware of each provision and how it will affect you.

The friendly and experienced team here at LBC Lawyers are able to assist you in providing the right advice so that your next commercial venture doesn't end up as a business nightmare!