

**A BRIEF GUIDE ASSIST FIRST TIME
BUYERS OR TENANTS OF COMMERCIAL
PROPERTY**



This brief guide has been prepared in good faith by Glass Meares Pty Ltd, as a service to our customers. However nothing within this document should be relied upon by any party, as we cannot guarantee the accuracy of details herein.

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Glossary Of Relevant Terms

Capital Gains Tax:

Please click link below to jump to Australian Tax Office Web site and a summary of the Capital Gains Tax.
<http://www.ato.gov.au/individuals/content.asp?doc=/content/31572.htm>

Floor Space Ratio "F.S.R":

In simple terms the allowable Floor Space Ratio for a parcel of land relates to the amount of building area that can be constructed upon a site. Eg: A property with land area of 100m² and an F.S.R of 1:1 will permit 100m² of building to be erected upon the site. Land of 100m² with an allowable F.S.R of 2:1 would allow for a building of 200m² to be erected upon the site etc. F.S.R's are set by Council's and other planning bodies and are effected by other factors such as site coverage ratios, parking requirements and setbacks which can also affect how much building area can be contained on a site.

Gross Floor Area/Gross Lettable Area:

The gross floor area of a building is appropriate for calculating areas and applying rents to the industrial component of a building (warehouse, factory etc). The gross floor area or gross lettable area is in simple terms a measurement of the entire internal area of a building envelope, when measured from the exterior of the walls.

Gross rent: eg \$140/m² pa gross:

Where a gross rent is charged, the rental is all inclusive (with the exception of tenant's utilities such as telephone, electricity, water usage etc). The Lessor is responsible for payment of outgoings from the rent it collects from the Lessee. However in many cases, the tenant will be responsible for payment of a percentage of any increases in outgoings (above and beyond outgoings as they were calculated at the lease commencement date).

G.S.T & Property:

The effects of G.S.T on commercial property are in some cases complex and are changing from time to time. You should rely solely upon up to date advice of your solicitor and accountant when considering G.S.T & your property purchase or lease. For the purpose of a brief summary, please click the link below to view a G.S.T summary contained on the Real Estate Institute Of NSW's web site. The first few sections of the document relate to Residential property. Commercial property information is found mid way through the article.

<http://www.reinsw.com.au/dir111/rei/REIContents1.nsf/docs/4KM53NCROY?opendocument&subcat=&s=all>

Market Review:

Where a market review is specified in a lease eg at the exercising of an option, the rent will be assessed in accordance with current rentals in the marketplace for similar properties. The specific guidelines for assessing this market rent will be specified in the lease document.

Net Lettable Area:

The net lettable area is generally used when calculating the building area that attracts rental within a commercial property, or in the office section of an industrial property. Net lettable area generally excludes common areas (such as common foyers and fire stairs) and other exclusions may also apply. The Property Council Of Australia, provides guidelines in respect of the correct method of measuring commercial and industrial buildings.

Glossary Of Relevant Terms (continued)

Net rent: eg: \$125/m2 pa net:

The majority of commercial and industrial rents are charged on a “net” basis. This means that the tenant pays the rental and also pays the relevant building outgoings. These outgoings can include water rates, council rates, Land Tax, Strata Levies, insurances etc. In the majority of cases, the Lessor will charge outgoings to the Lessee on a monthly basis or in some cases as costs are incurred.

Option: When Leasing:

At the end of an initial lease term, the tenant may have an option to extend its lease for a further term under pre-determined conditions. It is normal for the tenant to have to indicate its intention to exercise that option three to six months prior to expiry of the initial term. If the tenant fails to notify the Lessor by a pre-determined date, the option may lapse at which point the extension of the lease will be at the Lessor’s discretion and on its terms.

Option: When Purchasing:

Colloquially an option to purchase involves a Vendor granting a purchaser rights to purchase a property over a certain time period (say within three months) for a set price under set conditions. Often the Purchaser will pay an option fee to the Vendor and if it does not proceed with the purchase then the fee will be forfeited to the Vendor. If the purchaser does proceed, then often the option fee is credited to the purchase price. Options are generally only applicable to larger transactions or developments, however in some cases, tenants may obtain an option to purchase at a pre-agreed price for a time period. Eg: Lease with an option to purchase for a pre-agreed price during the term of the lease agreement.

Rate per m2:

Rental and sale prices for commercial buildings are often calculated using a rate per m2. This figure eg \$120/m2 pa is simply multiplied by the lettable area of the building in order to calculate the annual rental for a property. It is then necessary to ascertain whether that rent is net or gross. See below.

Rent Review:

Rents under commercial leases are generally “reviewed” on an annual basis with differing patterns applied. Examples of rent review patterns commonly used would include review to the greater of CPI or 4% annually with a “market review” to apply at certain intervals.

Stamp Duty:

In a real estate context, stamp duty is payable on leases, property sales and transfer or assignment of lease. To find out more or use the stamp duty calculator click on the link below and click the “duties” link in the menu on the right of screen:

<http://www.osr.nsw.gov.au>

Zoning:

The zoning of a property will outline the permissible uses for the site as set out by the Council in its Local Environment Plan (L.E.P). Common industrial zonings include General Industrial and Light Industrial. There are numerous specialised zonings which vary from Council area to Council area. Lessees are responsible for obtaining necessary council approvals and you should contact the relevant local council to clarify what approvals are required for your proposed use.

Typical Chronology For A Property Purchase

1. View relevant properties with an agent
2. Select your preferred property(s)
3. Submit a written offer to the agent in respect of a property. That offer should cover:
 - Price
 - Purchaser's details
 - Settlement period (see explanation below)
 - Special conditions: Eg is the purchase subject to anything special such as approval by your board of directors.
 - Any other relevant particulars.
4. If your offer is accepted, the Vendor's solicitor will issue a contract to your solicitor. In residential property transactions it is a legal requirement that a contract be available before a property is offered for sale. This is not the case with Commercial or Industrial property in NSW. The Vendor will instruct its solicitor to issue a contract in accordance with the conditions negotiated between the parties.
5. Once the parties agree all terms of the contract, then contracts will be "exchanged" with a deposit paid to the Vendor's agent (often 10% of G.S.T inclusive purchase price). The deposit is generally invested by the Agent under instructions from the two solicitors. Any interest earned on the deposit funds between exchange and settlement, is generally split equally between Vendor and Purchaser upon settlement (see below).
6. Depending upon the pre-agreed settlement period (normally 42 days from exchange), the contracts will eventually be settled and the balance of purchase price paid to the Vendor. Should the Purchaser not be in a position to settle on time, interest penalties may be incurred and in a worst case scenario, the whole deposit may be forfeited to the Vendor.

Typical Chronology For A Property Lease

1. Inspect premises with agent
2. Select suitable property
3. Request a lease proposal from the owner via Glass Meares. **A sample proposal can be found on the next page.**
4. If negotiations are successful then you will be asked to sign the proposal (sometimes referred to as a "heads of agreement"). This agreement will summarise the agreed terms of the lease. The tenant will also be asked to provide a deposit to the Agent (usually one or two month's rent).
5. Upon receipt of the heads of agreement document signed by the tenant and the deposit cheque, the agent will deposit the funds into its trust account.
6. The Agent will send a copy of the agreement to both the Lessor's and Lessee's solicitor. The Lessor's Solicitor will issue a lease to the Lessee's solicitor and they will negotiate until all parties have agreed to the content of the document. Once agreed, the lease is signed by both parties and a binding agreement has been reached.

The deposit that was paid to the agent when the heads of agreement was signed, will generally be credited to the tenant's rental account.

Sample Lease Proposal

Lessee name & address

Dear

LEASE PROPOSAL- *PROPERTY ADDRESS* SUBJECT TO EXECUTION OF LEASE DOCUMENTS & LESSOR'S WRITTEN CONSENT

Further to your inspection of the above property, we confirm that Glass Meares Pty Ltd acts as agent for the owners of *property address*. On behalf of our clients, we are pleased to provide the following lease proposal for consideration by your company. Please note this proposal is subject to execution of lease documents.

Premises:

Lessee:

ABN:.

Lease Commencement: Date

Lease Term: years

Option: years

Premises Rental: \$00000 pa net **plus outgoings & GST** to be paid monthly in advance by automatic bank transfer authority into the Lessor's nominated bank account. The Lessor will provide the relevant tax invoices to the lessee for GST and rental.

Outgoings: Outgoings are payable by the Lessee on top of net rental quoted above and are currently budgeted at \$0000 /m2 pa for office space. Please note that outgoings are subject to change.

Parking: 0 allocated car spaces within the secure basement are available at \$1,500 per space per annum plus G.S.T, payable in addition to the rental quoted above.

• **Rent Reviews:**

- Annual increase to the greater of CPI or 000% pa during the initial lease term and option period.
- Market review at the commencement of option
- Lease for first year of option period to be no less than the preceding year's rental.

Legal Costs: Lessee to pay the Lessor's legal costs (as per normal commercial practice). The lessee to also pay all government charges, stamp duty and taxes regarding the lease and its registration.

Sample Lease Proposal

Goods & Services

Tax:

Lessee to be responsible for all necessary G.S.T payments in respect of rental and outgoings. The Lessor will provide the necessary tax invoices in order to allow the Lessee to claim the appropriate "input tax credits".

Security Guarantee:

The lessee to provide an unconditional Bank Guarantee or security bond of equivalent to 4 months gross rental upon lease execution (prior to taking occupation of the premises).

Lessee's Works:

Any modifications to the premises that are to be undertaken by the Lessee, will require the Lessor's written consent prior to commencement.

Lessor's Works:

Insert any agreed works to be undertaken by the Lessor

Insurance:

The lessee will take out the relevant Public Liability insurance for the area for the amount of \$10,000,000, and provide evidence of same to the Lessor prior to taking occupation.

Deposit:

Lessee is to provide a deposit equivalent to one month's gross rent plus outgoings and G.S.T (\$????), together with a signed copy of this document, so that a lease can then be issued to its solicitor. The deposit will be held in Trust by Glass Meares Pty Ltd.

Should The Lessee execute the lease agreement, then the deposit will be credited to its rental obligation under the lease. Should the Lessee fail to proceed with the lease, then the Lessor will have the right to deduct the reasonable legal expenses it has incurred in relation to the preparation of the lease. The balance of the deposit would then be refunded to the Lessee.

Approvals:

Lessee to be responsible for obtaining any statutory, Council or other approvals required for its occupation of the premises.

Make Good:

The Lessee will be required to "make good" the premises at the completion of its occupancy, subject to fair "wear & tear".

Should this offer be acceptable, then please have an authorised signatory for your company initial each page and sign below, in order to acknowledge acceptance of the terms. Please then return the executed copy of this letter to our office, together with a deposit cheque in favour of Glass Meares Trust Account. We will then request that our client's solicitor issue a lease to your nominated solicitor as quickly as possible.

Please also provide your solicitor's details below where indicated. Thank you for your interest in the property.

Yours sincerely

Who Pays The Agent?

Who Pays The Agent?

In the vast majority of cases, the agent is paid by the owner of the property, although in some pre-agreed situations a buyer or tenant may wish to “retain” an agent to act on its behalf. Where you retain an agent, you will negotiate a fee in advance for the agent’s services. However this strategy is mainly used in larger transactions, where the Purchaser or Tenant is attempting to secure a property that is not formally on the market.

Agents such as Glass Meares are paid on a success basis. Therefore we only earn income when we successfully lease or sell a property. It is the agent that shows you a property first, who will be entitled to a fee should you lease or purchase that property. Please only allow one agent to show you any particular property, as this avoids any confusion.

Due to the “success only” nature of our income, Glass Meares makes every effort to provide high levels of service so that you will wish to view all your properties through our company. Where you see a property advertised by another company, you are welcome to contact Glass Meares first and we will approach the other agent on your behalf. We will then introduce you to the property and Glass Meares will share the other agent’s fee. This is normal market practice if you have an agent that you prefer to deal with.

Disclaimer

Potential Purchasers/Lessees please note: a) this material has been prepared in good faith and with due care by Glass Meares Pty Ltd (trading as Glass Meares) solely for the information of potential purchasers/lessees to assist them in deciding whether they are interested in the premises offered for sale or lease: b) the information does not form part of any offer or contract and is intended as a guide only: c) you should not rely upon any material contained in this document but should make independent investigations to satisfy yourselves as to the correctness of any statements or representations: d) All calculations, including, but not limited to dimensions, areas, rents and estimated selling prices, contained in the Material are based on figures provided to Glass Meares Pty Ltd by outside sources and have not been independently verified by Glass Meares Pty Ltd and therefore may not be correct: and e) no representation or warranty is made by Glass Meares Pty Ltd as to the accuracy of the Material, in whole or part. No liability for negligence or otherwise is assumed by Glass Meares Pty Ltd or its Principal, or the vendor/lessor for this property, for the material contained in this document. Any liability on the part of Glass Meares Pty Ltd, its servants or agents for damages for any claim by the potential purchaser/lessee arising out of or in connection with this Material, other than liability which is totally excluded by this clause, will not (whether or not such liability results from or involves negligence) exceed \$1,000.00.