

## Know the Answers Before You Negotiate

Encon Commercial Inc. understands that lease negotiations are where business decisions are made and lost. Landlord's are prepared to negotiate on every aspect of the lease and **Encon Commercial Inc.** works to achieve an above market position on all deal points. In short, achieving a successful lease is a combination of the following advisory services **Encon Commercial Inc.** provides to clients:

### 1. **The Lease Document and Your Leasehold Position:**

1. Document Control and Fair Market Position
2. Lease Forms vs. Standard Leases
3. Business Points and Economic Trade Offs
4. Gross vs. Net Implications
5. Term Flexibility and Options

### 1. **Leasehold Premises:**

1. Rentable / Usable / Leasable Area Comparison
2. Allocation Costs Based on Space Leased
3. Prorata Share – Common Area vs. Leased Spaces
4. Substitute Premises or Relocation Clauses
5. Commencement / Pre-occupancy / Rent Abatement
6. Right to Cancel
7. Common Areas Use
8. Maximizing Space and Alternative Uses

### 1. **Construction – Build-out:**

1. Turnkey vs. Vanilla Shell Plus Allowance
2. Build to Suit
3. Excess Cost Allocation and Alternatives
4. Change Orders
5. Permitted or Un-permitted Construction
6. Scheduling and Lease Commencement
7. Punch Lists and Walk Through
8. Maintenance and Repairs / Tenant vs. Landlord Responsibility

### 1. **Expansion Rights:**

1. Options to Expand and/or Renew
2. Right of First Refusal
3. Right of First Offer
4. Fair Market vs. Fixed Rate Options
5. Option Periods and Exercising Clause

### 1. **Usage of Premises:**

1. Authorization - Broad vs. Narrow Description
2. Restricted Uses
3. CC&Rs – Review and Adjustments
4. Government Compliance and Business License
5. Employee Ratio, Allocated Parking and Floor Loads

### 1. **Leasehold Term:**

1. Commencement and Setbacks to Commencement

2. Construction Implications
3. Delivery and Condition of Premises
4. Late Delivery and Hold Over Consequences
5. Cancellation Clauses
6. End of Term Obligations and Security Deposits

**1. Rent Obligation:**

1. Net / Modified Gross / Full Service Gross
2. Effective Lease Rate vs. Face Rate
3. Escalations – Fixed vs. COLA
4. COLA Floors and Caps
5. Fair Market Value and Market Impacts
6. Vacancy Impact
7. Tenant's Added Value and Financial Strength
8. Offsets and Rent Abatement
9. Landlord's Intent and Face Value

**1. Maintenance:**

1. Base Year Increases vs. Net Charge Pass Through
2. Internal vs. External
3. Payment Methods and Notices
4. Tax Bills and Property Reassessments
5. Management Fees and Hidden Charges
6. Repair vs. Replacement
7. Plumbing and Utilities
8. End of Term Fixtures

**1. Common Area Assessment and Impact:**

1. Common Area Definitions (Inclusion & Exclusion)
2. Common Area Usage
3. Common Area Charges and Calculations – Load Factor Ratios
4. Upgrades to Common Areas and Capital Cost Pass-through
5. Management Fees and Add-ons
6. Parking, Security and Standard Cleaning Services

**1. Operating Cost and Services:**

1. Gross Inclusion of Utilities – HVAC, Electrical, Gas, and Lighting
2. Common Area Charges (CAMS)
3. Managerial and Administrative Cost Inclusion
4. Insurance Increases and Pass-through
5. Interruption of Services

**1. Assignment and Subletting:**

1. Tenants Objectives and Flexibility
2. Landlord's Reasonable Consent
3. Corporate Transfers
4. Recapture of Space
5. Subletting Strategies and Limitations

**1. Insurance Obligation:**

1. Forms of Insurance and Coverage
2. Landlords Insurance and Tenant's Additional Coverage
3. Additionally Insured Clause
4. Insurance Commencement and Move-in

The site selection process is complex and detailed. During the leasehold negotiation stage, The landlord's expectations often do not fit the business objectives of the Tenant. **Encon Commercial Inc.** provides the knowledge base to address each item in the Tenant's favor to achieve a successful leasehold agreement, an agreement that enhances the business objectives of the client and provides flexibility and options for the term.