



**CAMBRIDGE**  
PROPERTY & CASUALTY

## **ENVIRONMENTAL MATTERS**

### **Hazardous Materials**

Except as herein expressly permitted, Tenant agrees that it will not use, handle, generate, treat, store or dispose of, or permit the use, handling, generation, treatment, storage or disposal of any Hazardous Materials (as hereinafter defined) in, on, under, around or above the Premises now or at any future time and will indemnify, defend and save Landlord harmless from any and all actions, proceedings, claims, costs, expenses and losses of any kind, including, but not limited to, those arising from injury to any person, including death, damage to or loss of use or value of real or personal property, and costs of investigation and cleanup or other environmental remedial work, which may arise in connection with the existence of Hazardous Materials on the Premises occurring or caused in whole or in part during the Term hereof and not caused by Landlord or its agents. The term "Hazardous Materials," when used herein, shall include, but shall not be limited to, any substances, materials or waste that are regulated by any local governmental authority, the state where the Premises is located, or the United States of America because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or the environment, including without limitation, above or underground storage tanks, flammables, explosives, radioactive materials, radon, petroleum and petroleum products, asbestos, urea formaldehyde foam insulation, methane, lead-based paint, polychlorinated biphenyl compounds, hydrocarbons or like substances and their additives or constituents, pesticides and toxic or hazardous substances on materials of any kind, including without limitation, substances now or hereafter defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the following statutes, as amended: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601, et seq., "CERCLA"); the Hazardous Materials Transportation Act (49 U.S.C. §1801, et seq., "HMTA"); the Toxic Substances Control Act (15 U.S.C. §2601, et seq., "TSCA"); the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq., "RCRA"); the Clean Air Act (42 U.S.C. 7401 et seq., "CAA") the Clean Water Act (33 U.S.C. §1251, et seq., "CWA"); the Rivers and Harbors Act (33 U.S.C. §401 et seq., "RHA"); the Emergency Planning and Community Right-to-Know Act of 1986 (41 U.S.C. §11001 et seq., "EPCRA"); THE Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 to 136y, "FIFRA"); the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq., "OPA"); and the Occupational Safety and Health Act (29 U.S.C. 651 et seq., "OSHA") and any so-called "Superlien law"; and in the regulations promulgated pursuant thereto, and any other applicable federal, state or local law, common law, code, rule, regulation, order, policy or ordinance, presently in effect or hereafter enacted, promulgated or implemented, or any other applicable governmental regulation imposing liability or standards of conduct concerning any hazardous, toxic or dangerous substances, waste or material, now or hereafter in effect. Notwithstanding the terms of this Section, Tenant may use the

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Hazardous Materials described on Exhibit \_\_\_\_\_, but only in full compliance with all applicable laws and only for such uses and in such quantities as may be described in Exhibit \_\_\_\_.

**Conduct of Tenant**

If Tenant, with the prior written authorization of Landlord, which authorization may be granted or denied by Landlord in its sole and absolute discretion generates, uses, transports, stores, treats or disposes of any Hazardous Materials:

- (A) Tenant shall, at its own cost and expense, comply with all environmental laws relating to hazardous or toxic materials;
- (B) Tenant shall
  - 1. not dispose of any Hazardous Materials in dumpsters or other containers;
  - 2. not discharge any Hazardous Materials into drains or sewers;
  - 3. not cause or allow the release, discharge, emission or run-off of any Hazardous Materials to air, to surface waters, to the land, to ground water, whether directly or indirectly;
  - 4. at Tenant's own cost and expense arrange for the lawful transportation and off-site disposal of all Hazardous Materials generated by Tenant;
  - 5. except as expressly permitted in Exhibit \_\_\_\_\_, provide secondary containment around all Hazardous Materials storage containers, storage facilities and above ground storage tanks;
  - 6. conduct all necessary environmental inspections, such as, but not limited to, asbestos inspections prior to any renovation or demolition, as required by 40 CFR Part 61 and provide copies of all such reports to the Landlord;
  - 7. comply with all reporting requirements under any local, state or federal ordinance, statute or regulation, the provisions under 40 CFR Part 61, or various regulations controlling the emissions into the atmosphere of volatile organic compounds and provide copies of all such reports and notifications to Landlord;
  - 8. use only highly skilled people to address all environmental issues associated with the leasehold, that such people and all employees of the Tenant shall receive all required training or certification under any local, state or federal law specifically mentioned or alluded to in this Lease;
- (C) Tenant shall promptly provide Landlord with copies of all communications, permits or agreements with any governmental authority or agency (federal, state or local) or any private entity relating in any way to the violation or alleged violation of any Environmental Laws or to any violation of Tenant's obligations under subparagraph (B) above;

- (D) Landlord and Landlord's agents and employees shall have the right to enter the Premises and/or conduct appropriate tests for the purpose of ascertaining that Tenant complies with all applicable laws, rules or permits relating in any way to the presence of Hazardous Materials on the Premises, provided, however, if Landlord or Landlord's agents or employees intend to conduct or perform any non-emergency testing which may interfere with Tenant conducting its business, Landlord shall provide Tenant with no less than five (5) days prior written notice before commencing such testing; and
- (E) Upon the written request of Landlord no more frequently than once every year, or on any other occasion in the event that Landlord has reason to believe an environmental problem exists at the Premises, Tenant shall provide Landlord the results of appropriate tests of air, water and soil to demonstrate that
1. the Tenant is in compliance with all applicable laws, rules or permits relating in any way to the presence of any Hazardous Materials on the Premises or the Building; and
  2. the lack of any releases, discharges or emissions, in which event Landlord shall reimburse Tenant for the reasonable out-of-pocket costs incurred by Tenant in performing such tests. If such tests do not demonstrate items (1) and (2) above, Tenant shall bear the cost of such tests.

If in the presence, release, threat of release, placement on or in the Premises and/or the Building occurs or is caused in whole or in part during the Term of this Lease, or the generation, transportation, storage, treatment, or disposal at the Premises and/or the Building occurs or is caused in whole or in part during the Term of this Lease of any Hazardous Materials gives rise to liability (including but not limited to, a response action, remedial action, or removal action) under any environmental laws or common law theory, including, but not limited to nuisance, strict liability, negligence and trespass, then unless and only to the extent Landlord or its agents caused any of the foregoing, Tenant shall promptly take any and all remedial and removal action necessary to clean up the Premises containing such Hazardous Materials and mitigate exposure to liability arising from the Hazardous Materials whether or not required by Law.

### **Tenant's Environmental Indemnity**

Tenant does hereby indemnify, defend and hold harmless Landlord and its agents and their respective officers, directors, beneficiaries, lenders, shareholders, partners, agents and employees and their respective successors and assigns from all fines, suits, procedures, claims liabilities, damages (including consequential damages) and actions of every kind, and all costs associated therewith (including reasonable attorneys', experts' and consultants' fees and costs of testing) arising out of or in any way connected with any deposit, spill, discharge or other release of Hazardous Materials that occurs or is caused in whole or in part during the Term of this Lease, at or from the Premises as a result (directly or indirectly) of Tenant's and/or any agent, employee, invitee, independent contractor, or member of Tenant's (collectively, the "Tenant Parties") activities in connection with the Premises, or which arises at any time from:

- (A) Tenant's failure to provide all information, make all submissions, and take all steps required by all applicable governmental authorities;

- (B) any Hazardous Materials on, in, under or affecting all or any portion of the Premises or the groundwater as a result of events that took place during the Term of this Lease;
- (C) any violation by Tenant or claim of a violation by Tenant of any governmental law, statute, rule, regulation, ordinance, requirement, decree, order or judgment now or hereafter in effect relating to public health, safety, protection of the environment or any Hazardous Material;
- (D) the imposition of any lien for damages caused by, or the recovery of any costs for, the remediation cleanup of Hazardous Material as a result of events that took place during the Term of this Lease and which were caused, directly or indirectly, by Tenant or any Tenant Party;
- (E) costs of removal of any and all Hazardous Material from all or any portion of the Premises, which hazardous Material were placed on the Premises and during the Term of this Lease by Tenant or any Tenant Party;
- (F) costs incurred to comply, in connection with all or any portion of the Premises, with all governmental regulations with respect to Hazardous Materials on, in, under or affecting the Premises, which Hazardous Materials were placed on the Premises during the Term of this Lease by Tenant or any Tenant Party; or
- (G) any spills, discharges, leaks, escapes, releases, dumping, transportation, storage, treatment or disposal of any Hazardous Substances which occur during the Term of this Lease and were caused, directly or indirectly, by a Tenant Party, but only to the extent that such Hazardous Materials originated from or were or are located on the Premises. Tenant's obligations and liabilities under this Lease shall survive the expiration of this Lease.

#### **Landlord's Right to Enter Premises**

Landlord shall have the right and privilege (but not the obligation) to enter the Premises to make inspections and other tests (including, but not limited to, drilling) of its condition, including, but not limited to, air, soil and groundwater sampling and other inspections for Hazardous Materials provided; however, if Landlord or Landlord's agents or employees intend to conduct or perform any non-emergency testing which may interfere with Tenant conducting its business, Landlord shall provide Tenant with no less than five (5) days prior written notice before commencing such testing. In the event any unpermitted Hazardous Materials first introduced by Tenant are discovered during the inspections, Tenant shall reimburse Landlord for the cost of all inspections and tests in addition to its liability under this Lease.

#### **Tenant's Notification Requirements**

Notwithstanding anything to the contrary contained in this Lease, Tenant agrees to provide immediate telephonic notification to Landlord in the event of any release of Hazardous Material in any manner within or outside of the Premises. Tenant shall further utilize its reasonable efforts to report to Landlord any other release of Hazardous Materials within or outside of the Premises by any party other than Tenant.