

Americans with Disabilities Act—Addendum.

Notwithstanding anything else in this lease to the contrary, this paragraph shall apply to all issues related to compliance with both the Americans with Disabilities Act ("ADA") and the _____ [state statute]. In the event of any conflict between the rest of the lease and this Paragraph, this Paragraph shall control.

(a). Any remodeling, construction, reconstruction, installation of improvements or other work done to the common areas or other portions of the property of which the Premises are a part (the "Property") shall be performed by Landlord, at Landlord's expense, in compliance with the requirements of the ADA and the _____ [state statute] and regulations promulgated pursuant to them.

(b). Any remodeling, construction, reconstruction, installation of improvements or other work done to the Premises shall be done in compliance with ADA and _____ [state statute] requirements, at the expense of the party who is performing the work.

(c). In the event that a regulatory agency, private party, organization or any other person or entity makes a claim under either the ADA or the _____ [state statute] against either (or both) parties, the party whose breach (or alleged breach) of responsibility under this lease gave rise to the claim shall promptly retain attorneys and other appropriate persons to advise the parties regarding the same, and shall in good faith and at that party's sole cost and expense take whatever actions are necessary to bring the Premises or the Property, as the case may be, into compliance with ADA or _____ [state statute] requirements. That party shall defend, save and hold harmless the other party from any and all expenses incurred in responding to such claim, including without limitation the fees of attorneys and other advisors, court costs, and costs incurred for bringing the Property and/or the Premises into compliance. If the claim relates to an aspect of the Premises or the Property as it existed at the time of the execution of the lease, as opposed to work performed by either party after the execution of the lease, then Landlord shall be deemed to be the party whose breach of responsibility gave rise to the claim.

[Alternatives: if a claim is made, Tenant has the option of terminating the lease; the parties split the cost in an agreed-upon proportion (e.g., 50/50, 60/40, etc.); Tenant bears the cost if the claim pertains only or primarily to the Premises, while Landlord bears the cost if the claim relates only or primarily to the Property; etc.]

(d). Common area maintenance charges shall not include any costs or expenses incurred by Landlord in bringing the Premises or the Property into compliance with ADA or _____ [state statute] requirements, either voluntarily or in response to a claim of non-compliance.

[Alternatives: only a certain dollar amount or percentage may be included; all of the cost for such items may be included; those pertaining to the Premises could be passed on in CAM charges, but not those pertaining to common areas; etc.]

(e). Tenant shall not change its use of the Premises without the prior written consent of Landlord. If the proposed change in use would, in the good faith written opinion of Landlord's advisors, trigger expenditures to comply with ADA or _____ [state statute] requirements not applicable to the then-current use of the Premises by Tenant, Landlord may refuse the proposed change in use on that ground or condition approval of the change in use on Tenant's agreement to bear the expense of compliance with ADA and _____ [state statute] requirements triggered by Tenant's proposed change in use. This subparagraph shall also apply to proposed assignments or subleases which would change the use of the Premises.

[Alternatives: An outright prohibition on change of use; Landlord's options limited to approval or disapproval; Tenant bears the first \$_____ of expenses; etc.]

(f). Notwithstanding the above, neither party shall be responsible for any costs or expenses relating to practices of the other which are deemed to be discriminatory under the ADA or _____ [state statute] and which relate solely to the conduct of such party (as opposed to physical barriers), and each party shall indemnify the other against costs or expenses relating to the other party's conduct.