

Asbestos in walls and use of other hazardous materials.

Hazardous Materials Usage

Lessor and Lessee agree as follows with respect to the existence of "Hazardous Material" (as defined in subparagraph (f) below) in, on, or about the Premises:

(a). Lessee acknowledges that Lessor has furnished Lessee with a copy of an asbestos survey dated _____ (the "Asbestos Survey") prepared by _____, regarding the presence of asbestos-containing material in the Premises and the Center, and that Lessee has read and understands the report. Lessee approves of the operating and maintenance recommendations as set forth in the Asbestos Survey, and agrees to abide by those recommendations to the extent they relate to Lessee's use or occupancy of the Premises or Center.

(b). Lessor's maintenance obligations as provided in Paragraph _____ of this Lease shall include the obligation to maintain, at Lessor's expense, the asbestos-containing material existing in the structural walls and roof of the Premises in accordance with the recommendations set forth in the Asbestos Survey, except for any damage or disturbance caused by any act or omission of Lessee, Lessee's employees, suppliers, shippers, customers, invitees, sublessees, or assignees and except for any alterations to the walls or roof of the Premises performed by Lessee. Lessee agrees that Lessor shall be deemed reasonable in withholding its consent under Paragraph _____ of the Lease to any proposed alteration of the structural walls or roof of the Premises if Lessor determines that the alteration would possibly disturb the asbestos-containing material or require Lessor to remove or abate the asbestos-containing material at Lessor's expense.

(c). In spite of anything to the contrary contained in this Lease, Lessor reserves the right to enter the Premises at any time and from time to time during the term of the Lease, upon not less than seven days' advance notice to Lessee, to take any action with respect to asbestos or asbestos-containing material that is necessary or desirable to comply with Hazardous Material Laws, or to implement any of the recommendations set forth in the Asbestos Survey or in any subsequent surveys or reports prepared by Lessor's contractors or consultants (for purposes of this subparagraph, "Remedial Action"). Lessor agrees to consult with Lessee during that seven-day period prior to the taking of Remedial Action to discuss possible ways to minimize disruption to Lessee's business. Under no circumstances, however, shall the taking of any Remedial Action by Lessor be deemed or construed to be a default by Lessor under this Lease, or an actual or constructive eviction of Lessee from the Premises, and the Lease shall remain in full force and effect. Lessee waives any claim for damages against Lessor, its partners, agents, and employees arising out of or related to any Remedial Work, including, without limitation, damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by any Remedial Action, and, in addition, Lessee waives any claim for injunctive relief arising out of or related to any Remedial Action. If any Remedial Action renders a portion of the Premises unusable for more than 15 consecutive business days, then Base Rent shall be abated, beginning with the sixteenth business day after that unusability began, until the period of that unusability ends, based on the proportion of the Premises so rendered unusable.

(d). Lessor and Lessee shall each give written notice to the other as soon as reasonably practicable of (i) any communication received from any governmental authority concerning Hazardous Material which relates to the Premises, and (ii) any condemnation of the Premises by Hazardous Material that constitutes a violation of Hazardous Material Laws. Without limiting the above, if Lessee causes or permits anything to be done in, on, or about the Premises that results in the possible disturbance of the asbestos-containing material, or if Lessee discovers any possible disturbance of asbestos-containing material, however caused, Lessee shall immediately notify Lessor of that possible disturbance.

(e). Lessee covenants and agrees that during the term of this Lease, neither Lessee nor any of Lessee's agents, employees, contractors, invitees, assignees, or sublessees shall cause any Hazardous Material to be brought upon, kept, or used in, on, or about the Premises or Center, or transported to or from the Premises or Center without the prior written consent of Lessor, which consent Lessor shall not unreasonably withhold so long as Lessee demonstrates to Lessor's satisfaction that that Hazardous Material: (1) is necessary or useful to Lessee's business;