

Hazardous materials—Representations and remedies for breach.

Hazardous Materials. Landlord and Tenant agree as follows with respect to the existence of use of "Hazardous Material" (as defined in section G) on the Property:

A. Landlord here makes the following representations to Tenant, each of which is made only to the best of Landlord's knowledge as of the Effective Date and is based on no inquiry other than (i) information received from _____, from whom Landlord acquired the Property in _____, and (ii) the making and examination of that study of the Property undertaken by _____, the results of which are summarized in the letter dated as of _____ and that study dated _____ entitled "Subsurface Soil and Ground Water Investigation Performed at the _____ (the "Study")":

(1). Any handling, transportation, storage, treatment, or use of Hazardous Material that has occurred on the Property before the Effective Date has been in compliance with all laws regulating Hazardous Material.

(2). The Property is, as of the Effective Date, in compliance with all laws regulating the handling, transportation, storage, treatment, use, and disposition of Hazardous Material.

(3). The soil and ground water on or under the Property is free of Hazardous Material other than those materials identified as being present on the Property by (i) the Study or (ii) that study dated _____ prepared by _____ and entitled "Assessment of Contamination From Leaks of Hazardous Materials in the _____ Ground Water Basin—205 J Report."

B. The provisions of this section B shall apply only if (i) it is determined at any time that the representations of Landlord contained in section A are not correct and the Landlord had actual knowledge of that incorrectness as of the Effective Date; or (ii) Landlord, its agents, employees, or contractors (but not tenants of Landlord or their agents, employees, or contractors) violate any Law regulating the handling, transportation, storage, treatment, use, or disposition of Hazardous Material with respect to the Property. If this section B applies because of an occurrence described in the immediately preceding sentence, then the following shall apply:

(1) Landlord shall be responsible for all costs incurred in complying with all Laws that relate to Hazardous Material and the occurrence in question; and

(2) Landlord shall indemnify, defend, and hold Tenant harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) that arise during or after the Lease Term from or in connection with the Hazardous Material and the occurrence in question except for Tenant's lost profits or damages or loss to Tenant's business.

C. Tenant shall (i) not cause or permit any Hazardous Material to be brought upon, or kept or used in or about the Property by Tenant, its agents, employees, contractors, or invitees, without the prior written consent of Landlord (which consent Landlord shall not unreasonably withhold as long as Tenant demonstrates to Landlord's reasonable satisfaction that such Hazardous Material is necessary or useful to Tenant's business and will be used, kept, and stored in a manner that complies with all Laws regulating any such Hazardous Material so brought upon, used or kept in or about the Property). If Tenant breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Property caused or permitted by Tenant results in contamination of the Property, or if contamination of the Property by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for resulting damage, then Tenant shall indemnify, defend, and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Property, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Property, damages arising from any adverse impact on marketing of space in the Building, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) that arise during or after the Lease Term as a result of that contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Property. Without limiting the above, if the