



COMMERCIAL - ENVIRONMENTAL ISSUES ADDENDUM

(C.A.R. Form CML-EIA, 4/09)

THIS ENVIRONMENTAL ISSUES ADDENDUM is attached to and incorporated by reference into that certain Confidentiality and Non-Disclosure Agreement ("Confidentiality Agreement") dated _____ in which _____ is referred to as ("Buyer") and _____ is referred to as ("Seller").

Buyer Seller Both Buyer and Seller is referred to in the Confidentiality Agreement as the ("Delivering Party").

Buyer Seller Both Buyer and Seller is referred to in the Confidentiality Agreement as the ("Receiving Party").

(CHECK, ONLY IF APPLICABLE): IF THE PROPERTY INCLUDES ANY LEASED PROPERTY, THEN NEITHER BUYER NOR ANY OF THOSE BUYER'S REPRESENTATIVES WHO PERFORM ANY WORK (AS DEFINED HEREIN) ON THE PROPERTY ("BUYER'S ENVIRONMENTAL REPRESENTATIVES"), MAY ENTER THE PROPERTY PURSUANT TO THE LICENSE GRANTED HEREBY UNLESS AND UNTIL LANDLORD HAS EXECUTED THE CONSENT ATTACHED HERETO.

1. DEFINED TERMS: All defined terms used herein shall have the same meaning as set forth in the Confidentiality Agreement to which this Environmental Issues Addendum is attached.

2. DELIVERY OF ENVIRONMENTAL DOCUMENTS: In connection with the Transaction, the Seller has delivered or will deliver copies of the following environmental documents, which environmental documents, together with any Work Product of Buyer relating thereto, shall be included in the definition of ("Information"):

- A. That certain Phase I _____ Report, dated _____, prepared by _____.
- B. That certain Phase II _____ Report, dated _____, prepared by _____.
- C. Other _____.

3. GRANT OF LICENSE: Seller hereby grants to Buyer and to Buyer's Environmental Representatives, a temporary, non-exclusive license ("License") to enter upon the Property, subject to all of the terms, covenants and conditions set forth in the Confidentiality Agreement.

4. PERSONAL TO BUYER: The License to enter the Property is temporary, non-exclusive and is personal to Buyer and to Buyer's Environmental Representatives and, therefore, is not assignable.

5. PURPOSE: This License is granted to Buyer and to Buyer's Environmental Representatives for the sole purpose of conducting environmental inspections, investigations, tests, studies and evaluations of the Property, (collectively, the "Work") in connection with Buyer's proposed purchase of the Property and/or the Business.

6. TERM: The term of the License shall commence upon the completion of all of the conditions precedent to authorized entry onto the Property, and the full execution and delivery of the Confidentiality Agreement, and shall terminate upon the date ("Termination Date") which is the first to occur of: (a) the termination of the negotiations regarding the Transaction for any reason; or (b) the Close of Escrow, if there is an Escrow; or (c) the consummation of the Transaction, if there is no Escrow or (d) _____. Neither Buyer, nor Buyer's Environmental Representatives, shall have any right to enter the Property pursuant to the License granted hereunder, unless and until the Confidentiality Agreement is fully executed, and Buyer has complied with or has caused compliance with all of the conditions precedent to authorized entry onto the Property. All other provisions of the Confidentiality Agreement, including without limitation, the indemnification provisions shall survive any termination of the License or completion of the Work.

7. NOTICE OF WORK: As a condition precedent to entry onto the Property, by Buyer or Buyer's Environmental Representatives, Buyer shall give Seller and the Seller's listing agent ("Listing Agent"), whose Notice information is set forth on the signature page, no less than five (5) business days' prior notice before commencing any Work on the Property (the "Work Commencement Notice"). The Work Commencement Notice shall contain the names, addresses and telephone numbers of the Buyer's Environmental Representatives requiring access to the Property to complete the Work, and the express reason such access is required, and shall be accompanied by the Permits and Approvals required under Paragraph 8 and the Certificates required under Paragraph 9. Any Representatives of Buyer who access the Property shall be deemed to be ("Buyer's Environmental Representatives") for purposes of this Environmental Issues Addendum. If the Work will include any invasive testing of the Property, or any portion thereof, of any kind whatsoever, including, without limitation, any drilling of test holes, wells, borings or other invasive testing of the Property, or any portion thereof, of any kind whatsoever, including, without limitation, any drilling of test holes, wells, borings or other invasive testing on the Property, or the taking of any samples of building materials, soil, air, groundwater or other materials from the Property, or the implementation of any tests and investigations generally outside of the scope of a usual and customary Phase I environmental site assessment report (the "Phase II Testing"), the Work Commencement Notice also shall be accompanied by a work plan, describing in reasonable detail the proposed Phase II Testing and the locations of all sampling sites ("Work Plan").

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Buyer's Initials (_____) (_____)

Seller's Initials (_____) (_____)

Reviewed by _____ Date _____



The Work Plan, the Permits and Approvals and the Certificates (collectively, the “**Work Papers**”) shall be subject to Seller’s review and approval. Seller shall notify Buyer in writing of any deficiencies in the Work Papers, and Buyer shall rectify such deficiencies within three (3) business days to the satisfaction of Seller. Seller shall have the right to: (a) review and consent to the Work Plan and have its own Representatives review the Work Plan and advise Seller as to the necessity of the Phase II Testing, (b) have its own Representatives present to observe the Work, and (c) take split samples of any building materials, soil, air, groundwater or other material from the Property sampled by Buyer or Buyer’s Environmental Representatives; provided, however, that processing of such Seller’s portion of any split samples shall be at Seller’s sole cost and expense. Actual access to the Property shall be coordinated through the Seller and the Seller’s Listing Agent.

8. COMPLIANCE WITH LAWS: Buyer shall, at its sole cost and expense, comply with all applicable laws, regulations, rules and orders with respect to the Work or any other activities by the Buyer or Buyer’s Environmental Representatives on the Property, regardless of when the same become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and shall furnish Seller with satisfactory evidence of such compliance upon Seller’s request. As a condition precedent to Buyer’s entry onto the Property, Buyer shall obtain, at its sole cost and expense, all permits or approvals that may be necessary or appropriate in connection with the performance of the Work (“**Permits and Approvals**”), and shall provide Seller with copies thereof, together with the Work Commencement Notice. Should any discharge, leakage, spillage, release of “Hazardous Materials”(as defined herein), or emission of Hazardous Materials occur upon, under, on, from or about the Property caused by the acts or omissions of the Buyer or Buyer’s Environmental Representatives or from any Hazardous Materials transported to or from the Property by Buyer or Buyer’s Environmental Representatives, or if the entry by or Work performed by Buyer or Buyer’s Environmental Representatives exacerbates any Hazardous Materials condition existing prior to such entry on the Property, Buyer shall, at its sole cost and expense, remediate any and all property affected thereby to the reasonable satisfaction of Seller and in compliance with any rules and regulations of any governmental body having jurisdiction thereof.

9. INSURANCE REQUIREMENTS: During the term of the License and for a period of two (2) years after the expiration or earlier termination of the License or the completion of the Work, whichever is longer, and as a condition precedent to any entry on the Property by Buyer or Buyer’s Environmental Representatives, Buyer shall maintain, at Buyer’s sole cost and expense, the types of insurance policies with liability limits in the amounts set forth below. All such insurance policies shall be issued by insurers reasonably satisfactory to Seller, shall cover the entry upon the Property by Buyer and Buyer’s Environmental Representatives and all Work to be completed on the Property by Buyer and Buyer’s Environmental Representatives, and shall name Seller as an additional insured where indicated. As a condition precedent to any entry on the Property by Buyer or Buyer’s Environmental Representatives, and thereafter upon Seller’s request, Buyer shall provide to Seller, or cause to be provided to Seller, certificates of insurance and endorsements binding upon Buyer’s insurers evidencing the insurance policies and the coverages required herein (“**Certificates**”). The coverage limits provided in any such insurance policies shall in no event be deemed to limit Buyer’s liability under the provisions of the Confidentiality Agreement.

A. LIABILITY: From both Buyer and Buyer’s Environmental Representatives entering the Property, Commercial General Liability Insurance with limits of not less than \$2,000,000 in the aggregate, including but not limited to completed operations, fire, legal liability, and the personal injury perils, and automobile liability insurance with limits not less than \$1,000,000, including non-owned and hired automobile liability coverages, naming Seller as an additional insured.

B. WORKERS’ COMPENSATION: From both Buyer and Buyer’s Environmental Representatives entering the Property, Workers’ Compensation and Employer’s Liability Insurance as required by law, but in no event shall the liability limits under such policy be less than \$1,000,000.

C. E & O: From Buyer’s Environmental Representatives entering the Property, Errors and Omissions Professional Liability Insurance (including, without limitation, pollution coverage) with liability limits of not less than \$1,000,000.

10. CONDITION OF PROPERTY: Neither Buyer nor Buyer’s Environmental Representatives shall by their acts or omissions cause the release of Hazardous Materials onto, under or about the Property. Buyer shall conduct all of the Work at its sole cost and expense, and in a first class worker-like manner satisfactory to Seller in its reasonable judgment, and pursuant to the Permits and Approvals required under Paragraph 8 and the Certificates required under Paragraph 9. Buyer is aware that there may be pipelines or other structures beneath the Property, notwithstanding the absence of markers, monuments or maps indicating their existence. For purposes of the Work, Buyer accepts the Property in its present condition and without any representation or warranty by or from Seller as to the condition of the Property or any structures or improvements thereon or thereunder. If Buyer excavates or drills, or causes any excavation or drilling, Buyer shall first try to locate such structures in accordance with generally accepted practices employed by reputable environmental consulting firms prior to any drilling or excavating with mechanized equipment. Buyer shall cover any open holes or any other dangerous conditions created by or for Buyer at all times when Buyer is not physically working in the actual vicinity thereof, and shall in any event at all times cause all reasonably necessary safety precautions to be taken in connection with the Work conducted by Buyer or Buyer’s Environmental Representatives pursuant to the Confidentiality Agreement.

11. DEFINITION OF HAZARDOUS MATERIALS: For purposes of the Confidentiality Agreement, (“**Hazardous Materials**”) shall mean any hazardous or toxic material, substance, or waste which is or becomes regulated by any governmental authority in the State in which the Property is located, or of the United States Government, including, without limitation, any material or substance which is: (i) defined as “hazardous,” “hazardous waste,” “hazardous substance,” “extremely hazardous waste” or “restricted hazardous waste” under any State case law, statute, ordinance, rule or regulation (collectively, “**Laws**”); (ii) any petroleum or petroleum by-products or fractions thereof;

Buyer’s Initials (_____) (_____)

Seller’s Initials (_____) (_____)

Reviewed by _____ Date _____



(iii) asbestos in any form; (iv) any hydrocarbon substances; (v) PCB's; (vi) formaldehyde; (vii) leakage from underground storage tanks; (viii) listed as a "toxic pollutant" pursuant to Section 311 of the Federal Pollution Control Act (33 U.S.C. Section 1317) including any amendments thereto; (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903) including any amendments thereto; (x) defined as "acutely hazardous" pursuant to California Health and Safety Code §25110.02; or (xi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Section 9601) including any amendments thereto; or in the regulations or judicial or administrative orders, decisions or decrees promulgated pursuant to any of the foregoing Laws. The foregoing list of definitions and statutes is intended to be illustrative and not exhaustive, and such list shall be deemed to include all definitions and laws applicable to the subject matter contained herein.

12. NO ADMISSION: In entering into the Confidentiality Agreement or in performing or permitting the performance of the Work in, at, under or upon the Property, Seller and Buyer do not admit or acknowledge, nor shall they be deemed to have admitted or acknowledged, liability for the presence of any Hazardous Materials or other substances or chemicals at or about the Property or in the building materials, air, soil or groundwater under or about the Property.

13. BUYER'S RESPONSIBILITIES: As a material part of the consideration to Seller in exchange for the License, Buyer hereby assumes all risk of damage to or loss of property or injury to or death of persons in, upon or about the Property, caused by the acts or omissions of Buyer or Buyer's Environmental Representatives on or about the Property in connection with the Work or with the entry upon the Property by Buyer or Buyer's Environmental Representatives, and Buyer hereby waives all claims in respect thereof against Seller.

14. REPAIRS: If any facility or property of Seller, or any other third party is damaged or if a release of Hazardous Materials occurs due to Work by Buyer or Buyer's Environmental Representatives, Buyer, as soon as reasonably practicable, shall give Seller notice by telephone, confirmed by letter within two (2) business days after the release, in accordance with the Notices provision contained in the Confidentiality Agreement. If any portion of the Property, including, without limitation, any improvements, facilities, the environment and/or personal property suffers any damage caused by the acts or omissions of Buyer or Buyer's Environmental Representatives on the Property in connection with the Work, including, without limitation, damage arising from any entry upon the Property, Buyer, at its sole cost and expense, immediately shall repair all such damage and restore the Property to substantially the condition it was in before such damage occurred.

15. CLEAN SITE: Upon the earlier to occur of: (a) completion of the Work by Buyer, or (b) the Termination Date, Buyer, at its sole cost and expense, shall seal any groundwater wells or other facilities opened or created by Buyer or by Buyer's Environmental Representatives and remove all tools, equipment and other materials brought onto the Property by Buyer or Buyer's Representatives. Upon completion of the Work or other termination of this License, Buyer shall leave the Property in substantially the same condition existing prior to Buyer's entry, including, without limitation, grading and compacting soil, if necessary. All holes created by Buyer or Buyer's Environmental Representatives shall be filled to surrounding ground level with clean, compacted, earthen material. Buyer shall be responsible for proper and lawful disposition of all drill cuttings and well water and other wastes generated by the activities of the Buyer or Buyer's Environmental Representatives on the Property.

16. MECHANICS' LIENS: Buyer shall not permit any mechanics' or other liens to be filed against the Property by reason of labor or materials furnished to the Property at the direction or request of Buyer or Buyer's Environmental Representatives. If any such lien is filed against the Property, Buyer shall cause the lien to be discharged of record, either by payment of the claim or by posting and recording a bond, within twenty (20) days after demand by Seller. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction.

17. EXPANDED INDEMNIFICATION:

A. ADDITIONAL CLAIMS: The definition of Claims as provided in the Confidentiality Agreement, shall include Claims arising out of or in connection with the entry onto the Property by Buyer or Buyer's Environmental Representatives, including without limitation: (a) the entry upon or Work conducted at, on, under or about the Property by Buyer or Buyer's Environmental Representatives; or (b) any breach of the Confidentiality Agreement by Buyer or Buyer's Environmental Representatives; or (c) any mechanics' or other liens filed against the Property by reason of labor or materials furnished to the Property at the direction or request of Buyer or Buyer's Environmental Representatives; or (d) claims asserted by any Buyer's Environmental Representatives or by any other third party acting by, through or under Buyer or Buyer's Environmental Representatives, against any Indemnified Party arising out of the Work.

B. EXCLUDED CLAIMS: Notwithstanding the foregoing, Buyer's obligations under this Paragraph shall not extend to any Claims to the extent such Claims arise out of the existence of any Hazardous Materials on, under or about the Property which are not brought onto, released, discharged, spilled or leaked onto the Property by Buyer or Buyer's Environmental Representatives, except that Buyer shall be responsible to the extent that the Work (or any portion of it) causes an exacerbation of any existing environmental condition.

18. ADDITIONAL REPORTS: As soon as reasonably practicable after the first to occur of: (a) the completion of the Work; or (b) the Termination Date, Buyer shall provide to Seller, at no cost or expense to Seller, copies of all other documents, studies, surveys, analyses, information, audits, data and reports that were prepared by, or obtained from third parties regarding the Work conducted by or on behalf of Buyer or Buyer's Environmental Representatives, whether oral or written (collectively, the "Additional Reports"). The Additional Reports shall constitute Buyer's Work Product, and shall be included in the definition of Information.

19. SURVIVAL OF PROVISIONS: Notwithstanding the expiration or earlier termination of the License granted herein or the completion of the Work, Buyer's obligations shall survive and remain in full force and effect.

Buyer's Initials (_____) (_____)

Seller's Initials (_____) (_____)

Reviewed by _____ Date _____



THIS ENVIRONMENTAL ISSUES ADDENDUM, HAS SIGNIFICANT LEGAL CONSEQUENCES. BROKERS ARE NOT ATTORNEYS AND DO NOT PROVIDE LEGAL ADVICE. PRIOR TO SIGNING BELOW, EACH PARTY SHOULD SEEK THE ADVICE OF THEIR OWN LEGAL COUNSEL AS TO THE CONSEQUENCES OF THIS, ENVIRONMENTAL ISSUES ADDENDUM.

EACH PARTY ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF LEGAL COUNSEL PRIOR TO EXECUTION OF THIS ENVIRONMENTAL ISSUES ADDENDUM AND HAS EITHER DONE SO OR HAS DECIDED NOT TO DO SO.

Check here if the Commercial Landlord's Environmental Consent is attached (C.A.R. Form CML-LEC).

THIS ENVIRONMENTAL ISSUES ADDENDUM is executed as of _____.

SELLER:

If Seller is an individual:

Seller: _____

Seller: _____

OR, If Seller is an entity:

_____ (Name of Entity)
a _____ (Type of Entity)

By: _____ (Signature)
Name: _____ (Name)
Its: _____ (Title)

By: _____ (Signature)
Name: _____ (Name)
Its: _____ (Title)

Notice Information for Seller:

Address: _____

Telephone: _____ Facsimile: _____

BUYER:

If Buyer is an individual:

Buyer: _____

Buyer: _____

OR, If Buyer is an entity:

_____ (Name of Entity)
a _____ (Type of Entity)

By: _____ (Signature)
Name: _____ (Name)
Its: _____ (Title)



By: _____ (Signature)
Name: _____ (Name)
Its: _____ (Title)

Notice Information for Buyer:

Address:

Telephone: _____ Facsimile: _____

LISTING AGENT:

Listing Agent: _____

By: _____

Print Name: _____ DRE License Number: _____

Notice Information for Listing Agent:

Address:

Telephone: _____ Facsimile: _____

SELLING AGENT:

Selling Agent: _____

By: _____

Print Name: _____ DRE License Number: _____

Notice Information for Selling Agent:

Address:

Telephone: _____ Facsimile: _____

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COMMERCIAL - LANDLORD'S ENVIRONMENTAL CONSENT
(C.A.R. Form CML-LEC, 4/09)
(COMPLETE ONLY IF LEASED PROPERTY INVOLVED IN TRANSACTION)

The undersigned is the Landlord under the Lease described in the Confidentiality and Non-Disclosure Agreement (C.A.R. Form CML-CNDA) dated _____, and hereby:
 (i) consents to the foregoing Environmental Issues Addendum (C.A.R. Form CML-EIA); (ii) consents to the delivery of any Information relating to Property owned or leased by Landlord; and (iii) consents to and joins in the granting of the License granted by Seller to Buyer hereunder.

(The definitions in the Confidentiality and Non-Disclosure Agreement and Environmental Issues Addendum are applicable to this Commercial-Landlord's Environmental Consent (C.A.R. Form CML-LEC)).

LANDLORD:

If Landlord is an individual:

Landlord: _____

Landlord: _____

OR, If Landlord is an entity:

_____ (Name of Entity)
 a _____ (Type of Entity)

By: _____ (Signature)
 Name: _____ (Name)
 Its: _____ (Title)

By: _____ (Signature)
 Name: _____ (Name)
 Its: _____ (Title)

Notice Information for Landlord:

Address:

Telephone: _____ Facsimile: _____

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CML-LEC 4/09 (PAGE 1 OF 1)

Reviewed by _____ Date _____



COMMERCIAL-LANDLORD'S ENVIRONMENTAL CONSENT (CML-LEC PAGE 1 OF 1)

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