

SAMPLE AGREEMENT BETWEEN TENANT AND LANDLORD

NOTE: You are advised to refer to this document as a “sample agreement”. Please consult your counsel before formatting an agreement based on this sample. You should format the agreement based on the facts pertaining to your site, and your requirements. This form should be filed only if the LANDLORD is taking the responsibilities to investigate and remediate the site.

AGREEMENT CONCERNING AN APPLICATION TO AND DISBURSEMENTS FROM THE DRY CLEANING ESTABLISHMENT REMEDIATION FUND

THIS IS AN AGREEMENT CONCERNING THE APPLICATION TO AND DISPOSITION OF ANY FUNDS DISBURSED FROM THE DRY CLEANING ESTABLISHMENT REMEDIATION FUND (the “Agreement”) by and between < landlord name, company, address >, (hereinafter referred to as the LANDLORD, whether one or more), and < tenant name, company, address >, (hereinafter referred to as the TENANT, whether one or more), (collectively referred to herein as the “Parties”).

WITNESSETH:

WHEREAS, TENANT owns and operates a dry cleaning establishment located at <address>; and

WHEREAS, TENANT occupies a retail leasehold located at <address> (hereinafter the “Site”); and

WHEREAS, the soil and groundwater at and adjacent to the Site have been contaminated with certain chemicals associated with the operation of a dry cleaning establishment; and

WHEREAS, TENANT affirms that such contamination predated the TENANT’s purchase and operation of its dry cleaning business over ten years ago; and

WHEREAS, in entering into this Agreement the LANDLORD and the TENANT expressly disclaim any and all responsibility for the existing soil and groundwater contamination on the Site

WHEREAS, in entering into this Agreement LANDLORD and the TENANT expressly agree that this Agreement shall not be construed to fix liability for existing soil and groundwater contamination on LANDLORD, TENANT or any third party; and

WHEREAS, LANDLORD and TENANT both desire to submit to the Connecticut Department of Economic and Community Development an application (the “Joint Application”) for a grant from the Dry Cleaning Establishment Remediation Fund, established pursuant to Connecticut General Statutes 12-263m (hereinafter the “Fund”)

WHEREAS, LANDLORD has undertaken to initiate and maintain a remediation of the soil and groundwater at the Site, contaminated with chemicals associated with the operation of a dry cleaning establishment, at LANDLORD’s sole cost and expense, and expects to continue to maintain said remediation as required pursuant to Connecticut Department of Environmental Protection Order No. HM----, dated -----; and

WHEREAS, under the terms of the Fund, the applicant has maintained the dry cleaning business at the site for a period of at least one year prior to the date of application, and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for such other good and valuable consideration, LANDLORD and TENANT do hereby agree to the following terms of this Agreement:

1. LANDLORD and TENANT agree to complete the Joint Application for a grant from the Fund. Monies allocated from the Fund will to be used for investigation and remediation projects to remediate soil and groundwater contamination associated with the chemicals used in the operation of a dry cleaning establishment. This cooperative effort by LANDLORD and TENANT shall include the production of further information and documentation of the Application as may be requested by the Department of Economic and Community Development.
2. TENANT agrees to immediately assign to LANDLORD any funds disbursed to his name from the Fund pursuant to any application to the Fund related to the Site.
3. This Agreement shall be binding upon the Parties' respective administrators, heirs, successors, assigns, grantees and transferees.
4. If there is a future legislative modification of the Fund created under Connecticut General 12-263m, or if the Connecticut Department of Economic and Community Development modifies its regulations or procedures such that an owner of real estate where there exists a dry cleaning establishment can make application to the Fund, LANDLORD and TENANT will seek a modification of their Joint Application to the Fund to designate the LANDLORD as sole applicant to the Fund for the Site and specify that all future disbursement of funds be made exclusively to the LANDLORD.

Witnessed:

LANDLORD

<name>

By: _____

Title:

Date: _____

TENANT

<name>

By: _____

Title:

Date: _____