

## Hold Tenant Accountable if It Violates Building's Environmental Program

The following lease clause was drafted by Washington, D.C., attorney Desmond D. Connall Jr. and New York City attorney Jeffrey A. Moerdler. Use it when you want your tenants to comply with the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) standards and similar environmental regulations and laws applicable to your building.

Paragraph a says that the tenant acknowledges that you've chosen to follow the LEED program's standards and other environmental regulations

at your building. Paragraph b says that the tenant must comply with those standards and regulations. Paragraph c says that you have a right to enter the tenant's space to bring the tenant into LEED program compliance and that the tenant must pay your self-help costs and any penalties you incur as a result of its noncompliance. Paragraph d requires the tenant to pay any governmental penalties it incurs from its noncompliance.

Show this clause to your attorney before putting it in your lease.

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### 'GREEN' BUILDING

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- a. LEED Standards.** Tenant acknowledges that the Building *[is being/has been]* constructed and, at Landlord's option, shall be operated in accordance with the U.S. Green Building Council's Leadership in Energy and Environmental Design program's standards, as same are amended, supplemented, or replaced from time to time, and, at Landlord's option, any similar standards (hereinafter referred to as "LEED"). The Building *[is in the process of being/has been]* certified as a *[platinum/gold/silver/certified]* level structure and will be operated in an environmentally responsible and energy-efficient manner.
- b. Compliance with LEED Conditions.** Throughout the Lease Term, unless Landlord notifies Tenant in writing that Landlord has elected to no longer operate the Building in accordance with LEED, Tenant shall, in addition to compliance with all other Lease obligations herein, including, without limitation, Clause *[insert # of environmental compliance clause]*, comply with the Building's LEED requirements as set forth in Exhibit *[insert #]* attached hereto, as they may be supplemented or amended by Landlord by written notice to Tenant from time to time (the "LEED Conditions").
- c. Reimbursement.**
- (i) If Tenant fails to observe, perform, or otherwise comply with the LEED Conditions for *[insert #, e.g. 30]* days after written notice (unless a shorter period is necessary in order for Landlord to comply with the LEED Conditions), Landlord may enter the Premises to perform such act or replace such materials as may be reasonably necessary to keep the Building in compliance with the LEED Conditions. Tenant shall pay Landlord, as Additional Rent, all costs (including reasonable attorney's fees) incurred by Landlord in connection with any action taken by Landlord to enforce the LEED Conditions, together with interest thereon at *[insert #]* percent per annum, within *[insert #, e.g., 30]* days of Landlord's demand therefor.
  - (ii) If any penalties, fines, or other enforcement obligations are imposed against Landlord as a result of Tenant's failure to comply with the LEED Conditions, Tenant shall pay Landlord, as Additional Rent, the full amount of the fine, penalty, or other enforcement obligation, together with interest thereon at *[insert #]* percent per annum, within *[insert #, e.g., 30]* days after Landlord's demand therefor.
- d. Governmental Penalties.** Tenant shall pay any penalties, fines, or other enforcement obligations imposed by any federal, state, or local governmental agency against Tenant for Tenant's failure to comply with the LEED Conditions on or prior to the date such payment is due.