

ENVIRONMENTAL ACTIVITIES ON SEPTA PROPERTY

Defined Terms from the ROE Agreement shall also apply herein. In addition, the term “**Work Site**” shall mean the area of property on which the Work hereunder is to be performed, as well as any property that is used for staging or access regarding the Work. The delineation of the Work Site will include SEPTA Property, but may also go beyond SEPTA Property and include other property that Permittee has a right to access/use for the Work and that is adjacent to and nearby the SEPTA Property (“**Others’ Property**”).

PART A - Soil Disturbance and Soil Removal

- A. Even though Permittee must obtain written approval from SEPTA, through the right-of-entry permitting process, to perform work that involves Soil Disturbance and/or Soil Removal on the Work Site, as part of or in preparation for the performance of the Work, Permittee must also give SEPTA 72-hours’ written notice prior to commencing any Work that includes Soil Disturbance and/or Soil Removal.
- B. If the Work Site includes both SEPTA Property and Others’ Property, Soil Disturbance and/or Soil Removal must be performed on both sites in compliance with the Agreement, and this document. If Soil Disturbance and/or Soil Removal anywhere on the Work Site has the potential to have any effect on the SEPTA Property, SEPTA shall have the right, but not the obligation, to be present at and when Soil Disturbance and/or Soil Removal is performed on the Work Site.
- C. Permittee shall obtain and fully comply with any and all instructions SEPTA may have regarding such Soil Disturbance and/or Soil Removal and the movement of soil on the SEPTA Property. The methods and location of Soil Disturbance and/or Soil Removal on SEPTA Property are subject to SEPTA’s review, written approval, observation, direction and oversight.
- D. Permittee hereby commits that if Soil Removal from the Work Site becomes necessary, whether or not it was anticipated and reported on the Application or an addendum, Permittee will (i) give SEPTA 72-hours’ notice prior to taking any action for Soil Removal; (ii) comply with the requirements as set forth herein; and (iii) obtain and fully comply with any and all instructions SEPTA may have regarding such Soil Removal. The methods and location of disposal for all soils removed (“**Removed Soils**”) from SEPTA Property are subject to SEPTA’s review and written approval. Although Permittee may recommend to SEPTA a disposal site for Removed Soils from the SEPTA Property, SEPTA reserves the right to reject or approve recommended disposal sites. Permittee shall not dispose of clean fill in quarries, residential properties, or locations where SEPTA soil would be combined with untested fill. Permittee must handle and manage Removed Soils, from the Work Site, in accordance with Pennsylvania Department of Environmental Protection (PADEP) Management of Fill Policy and all applicable Federal, State and local laws, regulations, ordinances, and orders that relate to or concern the Environmental Activities and regulations (“**Environmental Law**”).
- E. Permittee shall be responsible for the cost of Testing of Removed Soil as set forth below.

PART B - Environmental Testing.

- A. Even though Permittee is obtaining written approval from SEPTA, through the ROE Process, to perform Testing on the Work Site as part of or in preparation for the performance of the Work, Permittee is also required to give SEPTA 72-hours written notice prior to commencing any such Testing.
- B. For Testing on the Work Site, Permittee must discuss with the project manager, and SEPTA's System Safety Department upon request, the specifics and the details of Testing, and, how the Testing will impact in any way the SEPTA Property. Permittee shall submit a proposed testing, sample collection, and analysis plan for SEPTA's review and approval. SEPTA reserves the right, but does not have an obligation, to be present on the Work Site at and when Testing occurs on the Work Site.
- C. Permittee shall be responsible for the undertaking of and the cost and expense of all Testing, whether performed at and on the Work Site or off the Work Site. Permittee will immediately provide to SEPTA a copy of the results of all Testing pertaining to the Work Site.
- D. If the Work Site includes both SEPTA Property and Others' Property, SEPTA shall also have the right to require Permittee to take split samples, making one set of sample available to SEPTA for its own use at its discretion.
- E. Permittee shall immediately provide to SEPTA, at no cost to SEPTA, a copy of results from any and all Testing performed on the Work Site. Except as may be required by applicable law or as authorized by SEPTA in writing, Permittee must not disclose Testing results pertaining to the SEPTA Property to anyone other than to SEPTA and, when applicable, to the entity that hired Permittee to perform the Work or the Testing and, if necessary, to any entity that owns Others' Property, if any.

PART C – Pre-existing Environmental Dangers.

- A. If any Environmental Activities performed by or on behalf of Permittee in connection with the Work indicate the existence, discovery, generation, handling, and/or disposal of waste, hazardous substances, controlled substances, contamination, hazardous conditions, or other dangerous or unfavorable environmental conditions (“**Environmental Dangers**”), and those Environmental Dangers existed within SEPTA Property prior to the Permittee's entry onto SEPTA Property (“**Pre-existing Environmental Dangers**”) at levels requiring reporting or further investigation, testing, monitoring or other Environmental Protections (as defined in Part D), Permittee shall notify, take direction from and cooperate with SEPTA's System Safety Department prior to taking any further action regarding the Pre-existing Environmental Dangers. SEPTA has sole discretion in how Pre-existing Environmental Dangers on SEPTA Property shall be handled with Environmental Protections, subject to compliance with Environmental Law.
- B. If Work Site includes both SEPTA Property and Others' Property, and Pre-existing Environmental Dangers are discovered on both properties, Permittee shall take due care to keep and handle separately the soils from SEPTA Property and the Others' Property; and to handle all Environmental Activities and Environmental Protections separately on and for the two properties and as two incidents with regard to reporting, etc. Permittee shall be responsible to the owner(s) of the Others' Property with regard to notification and handling of Pre-existing Environmental Dangers specifically found on the Others' Property. If Pre-existing Environmental Dangers are discovered on just the Others' Property as a result of Permittee's performance of the Work,

Permittee shall inform SEPTA of such finding so that SEPTA may consider whether SEPTA will perform further testing on the Premises that is nearby the Others' Property.

C. SEPTA shall be responsible for and liable for, at its own expense, Pre-existing Environmental Danger(s) discovered to exist and to have originated on the Premises, and the Environmental Protections that are the necessary response to the Pre-existing Environmental Danger. SEPTA will not be responsible for Pre-existing Environmental Danger(s) that are discovered to exist on the Others' Property or that are discovered to have originated on the Others' Property and permeated into SEPTA Property or any other property.

PART D - Created Environmental Dangers.

A. Permittee shall immediately notify SEPTA in writing of the development of a created Environmental Danger ("**Created Environmental Danger**") on SEPTA Property, and shall take and comply with direction from SEPTA's System Safety Department prior to taking any further action regarding the Created Environmental Danger. SEPTA has sole discretion in how a Created Environmental Danger caused by Permittee on SEPTA Property shall be handled by way of the effective, practical, industry standard (or better) methods, actions, facilities, installations, etc. which prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or ground water; which otherwise protect water quality from potential adverse effects, and/or which involve the mitigation, precautions, prevention, containment, clean-up, remediation, reclamation, restoration, purification or other actions (collectively herein "**Environmental Protections**"), subject to compliance with Environmental Law.

B. Permittee shall perform Environmental Protections, as directed by SEPTA, registering and using Permittee's own EPA generator number(s). In no event shall SEPTA be identified as the generator of an Environmental Danger that is caused by the Work. Permittee will promptly provide SEPTA with a copy of any waste manifests, and all other documents related to any and all Environmental Protection requirements or activities performed regarding the Created Environmental Dangers.

C. Permittee shall be responsible for the costs associated with all Environmental Protection activities or actions undertaken for any purpose, including whether to mitigate or resolve the Created Environmental Dangers.

D. Permittee shall be responsible for and liable for, and shall release, hold harmless and indemnify SEPTA for, any loss, claims, lawsuits, administrative actions, violations, damages (including indirect and consequential), court costs and legal expenses, fees, penalties and all other associated costs and expenses, of any kind, as well as **any liabilities due to personal injury of third parties or damage to property of third parties**, resulting from, arising out of, or related to, the Created Environmental Danger(s), without regard to the extent thereof.

E. Permittee shall also be responsible for undertaking, at Permittee's sole expense, all mitigating Environmental Protection actions, and for coordinating such activities with SEPTA, that may help to minimize or mitigate any disruption to or interference with SEPTA Property and SEPTA operations from a Created Environmental Danger. Permittee's responsibility for the execution of such minimizing or mitigating Environmental Protections shall be without regard to the extent of the Environmental Danger, and without regard to whether any Pre-existing Environmental Danger may have exacerbated or contributed to the Created Environmental Danger.

F. SEPTA shall in no way be liable for Created Environmental Dangers on Others' Property. In the event of a Created Environmental Dangers on Others' Property, Permittee shall release, hold harmless, and fully indemnify SEPTA for any and all costs SEPTA incurs as a result thereof.

G. Permittee shall immediately inform SEPTA of all communications with any governmental authority relating to performance of Environmental Protections, and, with adequate prior written notice, shall invite SEPTA to attend any relevant meetings. Permittee shall provide SEPTA with all plans or submissions related to any such Environmental Protections and SEPTA shall have the ongoing right to approve such plans or submissions as they pertain to the Premises, prior to their implementation.