

INDEMNIFICATION OF CITY  
For Work on Properties Subject to the  
City Transit Property Lease between  
the City of Philadelphia and SEPTA

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Permittee, in performing the Work at the location(s) identified in the ROE Agreement, acknowledges that such locations are leased to the Southeastern Pennsylvania Transit Authority (“SEPTA”) by the City of Philadelphia (the “City”) pursuant to that certain City Transit Properties Lease Agreement (the “Lease”), which Lease requires third-party contractors in the City Property to make the agreements set forth below for the benefit of the City. This section shall apply to the following sites owned by the City:

a. Indemnification.

(i). Permittee hereby expressly and irrevocably agrees fully to defend, indemnify and hold harmless the City from and against any and all claims, losses, suits, demands, damages, liabilities, consequential damages, charges, fines, settlement payments, penalties or expenses (including, but not limited to, the fees and costs of attorneys and other professionals) with respect to: (i) the conduct, operation or management of the Work performed on the City Property; or (ii) any accident, sickness, disease, bodily injury to or death of any person or damage to any property howsoever caused that arises out of the Work on City property (any such event, a “Claim”), provided that such Claim or Claims shall not have arisen by reason of the sole negligence of the City.

(ii). Permittee and its attorney and insurer shall notify the City of any Claim and keep the City fully informed of all matters involving, concerning or relating to the defense and indemnification of the City. The City shall have the right to review any and all correspondence, pleadings, or filings prior to any such correspondence, pleading, or filing being submitted in connection with the Claim. Permittee and its attorney and insurer shall take no factual or legal position that is contrary to the City’s position or rights including, but not limited to, any rights or immunities bestowed upon the City under 42 Pa.C.S. § 8501 et seq. and other law. In the event that Permittee or its attorney or insurer fails or refuses to defend and indemnify the City or the City reasonably believes that its rights may be adversely affected or prejudiced, the City may select counsel of its own choice and defend against any such claim at Permittee’s sole cost and expense.

(iii). Permittee also expressly and irrevocably agrees to forego any protection afforded under § 303(b), as amended, of Pennsylvania’s Workers’ Compensation Act, 77 P.S. § 481(b), and fully to defend, indemnify and hold harmless the City and to assume unlimited liability for harm or injury suffered by any employee, worker, agent, servant or subcontractor of Permittee or any other person. Except if caused by the sole negligence of the City, Permittee hereby expressly and irrevocably releases and agrees to be fully liable

for and shall fully indemnify, defend and hold harmless the City from and against any and all Claims relating to, in connection with, arising out of, or resulting from the Agreement or Permittee's occupation or use of City Property that are made by any employee, worker, agent, servant or subcontractor of Permittee including Claims for compensation or benefits payable to any extent by or for Permittee, subcontractor or agent under any workers' or similar compensation acts or other employee benefits acts.

(iv). This release and indemnification shall be for those events that may be sustained during the existence of the Agreement and upon or after the termination of the Agreement as a result, direct or indirect, of Permittee's performance. Permittee's obligation and liabilities under this section shall survive the expiration of the Agreement.

b. Applicable Law. Permittee agrees that Permittee's entry onto City Property and performance of the Work shall be in accordance with Applicable Laws, including, without limitation, the Right-of-Way Management Ordinance codified as Chapter 11-700 of The Philadelphia Code.

c. Notices. Permittee shall notify the City of any Claim, and keep the City apprised of the progress of any Claim, either by (a) first class United States mail, postage prepaid, registered or certified with return receipt requested, or (b) sent by reliable express mail service (such as United Parcel Service) with tracking ability and delivery receipt to the following addresses:

City of Philadelphia Risk Management Department  
1515 Arch Street - 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
Attention: Barry Scott

With copies to: City of Philadelphia Law Department  
1515 Arch Street, 17<sup>th</sup> Floor  
Philadelphia, PA 19102  
Attention: Divisional Deputy, Real Estate and Economic Development

Governing Law. Permittee's agreements set forth here shall be governed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to principles of conflicts of laws. Permittee agrees to submit to the jurisdiction of courts, whether federal or state, located in Philadelphia, Pennsylvania.