

Indemnification and Insurance Agreement

Certificate Holder

The Port Authority of New York and New Jersey
4 World Trade Center
150 Greenwich Street
New York, New York 10007

Additional Insureds

The Port Authority of New York and New Jersey and all of its affiliates (as set forth on “Exhibit A” attached hereto and made a part hereof)

To the fullest extent permitted by law, _____ (“Indemnitor”) shall indemnify, defend and hold harmless the entities listed on Exhibit A and all affiliates and subsidiaries, including their Commissioners, directors, officers, employees and agents (collectively, the “Port Authority Indemnitees”), from and against any and all loss or damage, claim, demand, liability, fine, injury, cost, expense, penalty, lien, suit or action (collectively, a “Claim”) whether by reason of bodily injury (including to Indemnitor’s employees), death or damage to property, or otherwise, including, without limitation, claims for reasonable attorneys’ fees, professional fees, court costs, expenses and disbursements, directly or indirectly arising out of (i) any work of Indemnitor or of any of its sub-contractors, or any of Indemnitor’s or such sub-contractor’s respective agents, servants or employees (each, an “Indemnitor Party” and, collectively, “Indemnitor Parties”); (ii) any Indemnitor Party’s failure to perform any work required; (iii) any Indemnitor Party’s negligence, willful misconduct, breach of contract or infringement of any patent right (except to the extent specified in any contract for Indemnitor Party’s work) or (iv) any Indemnitor Party’s failure to comply with any applicable law, rule, regulation or permit; and Indemnitor shall, at its own cost and expense, defend any suit or action based upon any Claim which may be asserted or commenced against any Port Authority Indemnitee and shall pay and satisfy (a) all judgments which may be rendered in any such Claim and (b) all related costs and expenses, including reasonable attorneys’ fees, court costs, expenses and disbursements, and shall keep any property of the Port Authority Indemnitees free and unencumbered of any charge or lien of any kind. In handling any such suit or action, Indemnitor, and its subcontractors and insurers, shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of any court, tribunal, agency, special district, commission, or other authority exercising judicial or regulatory functions over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, directors, officers,

agents, or employees, their affiliates, successors and/or assigns, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority. The Port Authority is an intended third-party beneficiary of the agreement between Indemnitor and its subcontractors and insurers with the direct right to enforce the agreement with respect to this provision. Should insurance not be provided as per the requirements outlined below, Indemnitor shall indemnify, defend, and hold harmless the Port Authority Indemnitees at its sole expense.

Indemnitor shall advise:

The Port Authority of New York and New Jersey
4 World Trade Center
150 Greenwich Street
New York, New York 10007

Attention: General Counsel

promptly, in writing, of the service upon any Indemnitor Party of any summonses, notices, letters or other communications alleging any claim or liability against the Port Authority Indemnitees or with respect to the building, property or the surrounding area where an Indemnitor Party is working.

Indemnitor agrees that the terms of this Indemnification and Insurance Rider ("Rider" or "Agreement") shall apply to (a) the Port Authority Indemnitees, and (b) any tenant, occupant or licensee in the building or property with respect to which work, goods or services are performed, provided, rendered or undertaken by or on behalf of any Indemnitor Party. In the event of any conflict between the terms of this Rider and any agreement the Indemnitor may have with any Port Authority Indemnitee or any tenant, occupant or licensee, the terms of this Rider shall govern and control. Indemnitor agrees that an electronic signature to this of this Indemnification and Insurance Rider, whether affixed digitally or transmitted by fax, email or other electronic means, is intended to authenticate Indemnitor's writing and to have the same binding and legal effect as an original signature.

Indemnitor shall secure and keep in full force and effect, and cause its sub-contractors to secure and keep in full force and effect, throughout the term of this Rider:

- a. Commercial General Liability Insurance, including Contractual Liability (to specifically include coverage for the work to be performed), Personal Injury Liability, Professional Liability Insurance, written on an occurrence form, with combined bodily injury and property damage limits of liability of not less than \$2,000,000 per occurrence, per project and general aggregate. The limits of liability can be provided in a combination of a Commercial General Liability and a follow form Umbrella Liability policy. The policy should be written on form CG00 01 07 98 and shall not include any exclusions or limitations other than those incorporated in the standard ISO form. Such insurance is to be primary and non-contributory insurance, notwithstanding any insurance maintained by the Port Authority Indemniteses.;
- b. Workers' Compensation Insurance providing statutory benefits for the Indemnitor Parties and each sub-contractor's employees, and Employer's Liability coverage in an amount that is not less than \$1,000,000 and;

c. Automobile Liability Insurance, including owned, non-owned and hired-car liability insurance for combined limits of liability of \$2,000,000 per occurrence. The limits of liability can be provided in a combination of an Automobile Liability policy and a follow form Umbrella Liability policy.

d. Any other insurances that the Port Authority deems required as applicable to the work, goods or services being performed, provided, rendered or undertaken.

Indemnitor agrees to have included in each of the above policies, and shall cause its sub-contractors to have included in each of the above policies, including Workers' Compensation, a Waiver of Subrogation in favor of the Port Authority Indemnitees.

All required insurance policies shall (a) be maintained with insurance companies licensed within the State where the work is being performed and holding an A.M. Best rating of no less than A-, and (b) contain a provision that coverage will not be canceled, non-renewed or materially changed until at least thirty (30) days' prior written notice has been provided to the Certificate Holder indicated above. The thirty (30) day notice provision shall be provided on the Certificate(s) of Insurance and/or by endorsement. In the event that the insurance companies cannot provide the thirty (30) day notice provision to the Certificate Holder, Indemnitor shall provide such notice to the Certificate Holder instead. Certificates in customary forms, i.e., Acord 25 (2009/09) (for items (a), (b) and (c) above), accompanied by Additional Insured endorsements CG2010(0704) and CG2037(0704), evidencing all terms of this Rider shall be delivered 5 days prior to event to the Certificate Holder indicated above simultaneously with the execution and delivery of this Agreement. All additional insureds indicated on Exhibit A shall be covered under Commercial General Liability, Automobile, and Umbrella Liability policies.

Any self-insured retention shall cover any liability imposed upon the Indemnitor and any and all subsidiaries with respect to all operations and obligations assumed by the Indemnitor and any and all subsidiaries. The undersigned represents that such program provides the additional insureds set forth on Exhibit A with all rights, immunities and protections that would be provided by traditional independent insurance required under the Rider, including, but not limited to, the defense obligations that insurers are required to undertake in liability policies pursuant to the terms of this Rider.

The requirements for insurance procured by the Indemnitor shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Indemnitor under this Agreement. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance to protect the Indemnitor against the obligations imposed on them by law or by this Agreement or any other agreement.

Accepted and agreed to by:

(Indemnitor)

(Date)

(Signature)

(Title)

Indemnitees and Additional Insureds

Certificate Holder:

**Port Authority of New York and New Jersey
Treasury Department / Risk Financing Division
4 World Trade Center
150 Greenwich Street, 19th Floor, New York, New York 10007**

- 1.) The Port Authority of New York and New Jersey**
 - 2.) Port Authority Trans-Hudson Corp.**
 - 3.) The City of New York**
- Any and all owners and affiliated entities of the foregoing**