

BAY CRANE

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EMPLOYER ACCIDENT WAIVER, INDEMNITY AND INSURANCE AGREEMENT AND RELEASE OF LIABILITY

I, _____, am the [title] _____
of [business name] _____, located at _____
_____ (“Employer”).

Employer is the Depositor (defined below), or an agent, representative or subcontractor of the Depositor and the employer of _____ (“Employee”). Employer agrees to the terms and conditions of this Employer Accident Waiver, Indemnity and Insurance Agreement and Release of Liability (“Employer Hold Harmless Agreement”), by which Employer assumes all of the risks of Employee, and any other Employer invitee, entering and participating in all activities associated with the performance of any and all activities, work or services, on behalf of Employer, relating to the delivery and storage of property, goods, equipment, tools, etcetera (“Stored Items”), which have been deposited by, or at the direction of, the owner of the Stored Items (“Depositor”) at one or more of the facilities operated by Bay Crane Service of New York, Inc., Bay Crane Service of New Jersey, Inc., Bay Crane Service of Connecticut, Inc., Bay Crane Northeast LLC, Bay Crane Mid-Atlantic LLC or Bay Crane Midwest LLC (“Bay Crane”). A list of such facilities can be found at www.baycrane.com/terms-conditions/ and is incorporated by reference herein (“BC Warehouse”). Employer’s assumption of risk hereunder includes, for example and without limitation, any risks, claims, suits or causes of action that may arise from negligence or carelessness on the part of any authorized person or entity at the BC Warehouse, or from the operation of any equipment or tools owned, maintained or controlled by Employer.

Employer has requested or will request, from time to time, that Bay Crane allow Employee access to the BC Warehouse for the purpose of performing work, services or checking on the Stored Items. Employer authorizes Employee to enter and perform work or services related to the Stored Items at the BC Warehouse, and Employer agrees to sign this Employer Hold Harmless Agreement. Bay Crane has agreed to allow Employee, and any other Employer invitee, access to the BC Warehouse, subject to the terms and conditions set forth below.

Employer certifies that Employee is physically fit, has been sufficiently prepared or trained to participate in the activities that Employer has directed and authorized Employee to perform at the BC Warehouse, and neither Employer nor Employee have been advised that Employee should not participate in such activities by a qualified medical professional. Employer further certifies that there are no known health-related reasons or problems which preclude Employee’s participation in this activity.

Employer acknowledges that this Employer Hold Harmless Agreement may be used by Bay Crane, its employees, representatives, agents and assigns as part of their risk management program.

In consideration for permission from Bay Crane for Employer’s authorized Employee to have access to the BC Warehouse, Employer hereby takes this action for itself and its successors and assigns as follows:

(A) **WAIVER, RELEASE AND DISCHARGE.** Employer hereby waives, discharges and releases Bay Crane, its directors, officers, agents, employees, representatives and any other authorized person present at the BC Warehouse, from any and all liability, including but not limited to, liability arising from the negligence or fault of the above listed entities or persons, for Employee’s death, disability, personal injury, property damage, property theft or actions of any kind which may hereafter occur to Employee while traveling to and from, or present at the BC Warehouse.

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(B) **PROMISE NOT TO SUE.** Employer agrees to hold harmless and promises not to sue Bay Crane or any of the entities or persons mentioned in (A) above, for any loss or damage, claim or any and all causes of action that could be made as a result of Employee's participation in any work activity or service at the BC Warehouse.

(C) **INDEMNIFICATION.** To the fullest extent permitted by law, Employer agrees to indemnify and save Bay Crane, its directors, officers, employees, representatives and agents, harmless from claims for death or injury to persons, including Employee, of loss, damage or injury to property, including the equipment used and/operated at the BC Warehouse, the Stored Items, or other materials, tools, mechanical devices, etcetera, arising in any manner, directly or indirectly, out of Employee's performance of, or resulting from, Employee's work. Employer's duty to indemnify hereunder shall include costs or expenses arising out of claims specified herein, including all court and/or arbitration costs, filing fees, attorneys' fees and costs of settlement. This restriction on indemnity shall not affect the validity of any insurance contract, workers' compensation agreement or other agreement issued by an admitted insurer. This does not preclude Bay Crane from requiring indemnification for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of a party other than Employee, whether or not Employer or Employee are partially negligent. Employer's obligations hereunder shall not be limited by the amount of liability insurance and the purchase of such insurance for Bay Crane shall not operate to waive any of the above obligations. This provision is separate and distinct from any other provision or paragraph in this Employer Hold Harmless Agreement, including any provision or paragraph concerning procurement of insurance. If this paragraph is declared invalid, then all other paragraphs of this Employer Hold Harmless Agreement shall stand. Furthermore, as part of Employer's additional obligations hereunder, Employer shall bear the cost of any investigation or adjustment (including but not limited to, attorneys' fees and costs, private investigator/adjuster fees and costs, expert fees and costs, costs of storage and down time for inability to use the property, and costs of testing of property, whether or not initiated by Bay Crane, Bay Crane's insurance carriers or Bay Crane's third-party adjusters, into any accident of any kind, in the event such accident or occurrence happens.

(D) **INSURANCE.** Employer agrees to purchase the following insurance coverages prior to Employee accessing the BC Warehouse: i) workers' compensation and employer's liability insurance, with limits of at least the statutory minimum or \$1,000,000, whichever is greater; ii) primary non-contributory commercial general liability insurance on an occurrence basis, including bodily injury and property damage coverages with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; iii) excess/umbrella non-contributory insurance in the amount of at least \$5,000,000 and all primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of the Bay Crane's insurance policies; iv) from any and all causes, including, but not limited to, overloading, misuse, fire, theft, flood, explosion, overturn, accident and acts of God; v) all policies are to be written by insurance companies acceptable to Bay Crane; vi) Bay Crane and all affiliated partnerships, joint ventures, corporations and anyone else whom Bay Crane is required to name as an additional insured by contract, are to be included as additional insured on all liability insurance policies, including excess/umbrella policies (ISO Form CG 20 10 10 01, CG 20 37 10 01, CG 20 28 07 04 and CG 20 34 03 97 must be used), Bay Crane shall be named on all insurance policies, and Employer shall provide all insurance certificates to Bay Crane when requested; vii) all policies shall be endorsed to require the insurer to give thirty (30) days advance notice to all insured's prior to cancellation; viii) all of Bay Crane's policies, and the policies of anyone Bay Crane is required to insure are excess over all of Employer's policies. In the event of loss, proceeds of property damage insurance on the property or equipment shall be first made payable to Bay Crane. Employer's agreement to indemnify and hold Bay Crane harmless from any liability, damage and loss are in addition to, and not an alternative to, these insurance provisions and the purchase of any of the above coverages shall not operate to waive any of the above indemnity provisions. To the extent that Employer may perform, or cause Employee's performance as contemplated, under this Employer Hold Harmless Agreement without obtaining the above

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coverages, such an occurrence shall not operate, in any way, as a waiver of Bay Crane's right to maintain any breach of contract action against Employer.

Employer acknowledges and agrees to waive any and all rights of subrogation and any and all lien rights (including those arising from workers' compensation/employer's liability policies or other employee benefit programs, commercial general liability policies, or similar policies) which may accrue to Employer or Employer's insurers.

Employer acknowledges and agrees that this waiver shall bind Employer's insurers of all levels and agrees to put these insurers on notice of this waiver and have any necessary endorsements added to the insurance policies applicable to this Employer Hold Harmless Agreement.

Employer acknowledges and agrees that Bay Crane and its employees, representatives and agents are NOT responsible for the errors, omissions, acts or failures to act of any person or entity conducting any activity at the BC Warehouse.

Employer acknowledges and agrees that Employee's activities may involve a test of a person's physical and mental limits and that any activity performed at the BC Warehouse carries with it the potential for death, serious injury and property loss. The risks include, but are not limited to, those caused by terrain, facilities, temperature, weather, activities of other people located at the BC Warehouse, equipment and vehicular traffic including, but not limited to activities caused by any of Bay Crane's directors, officers, agents, employees, representatives or any person at the BC Warehouse.

Employer hereby consents to Employee's receipt of medical treatment which may be deemed advisable in the event of any injury, accident and/or illness during this activity. Employer understands, and has advised Employee, that while participating in this activity, Employee may be photographed or videotaped, and Employer agrees to allow such photos, videos or film likenesses to be used for any legitimate purpose by Bay Crane.

This Employer Hold Harmless Agreement shall be construed as broadly and to the maximum extent permissible under the substantive laws of the state where the BC Warehouse is located, to provide indemnity, a release, a no sue clause, an insurance clause and waiver.

EMPLOYER CERTIFIES THAT THIS DOCUMENT HAS BEEN READ AND IS FULLY UNDERSTOOD. EMPLOYER IS AWARE THAT THIS IS A RELEASE OF LIABILITY, AN INDEMNITY AND AN INSURANCE CONTRACT AND IS SIGNED OF EMPLOYER'S OWN FREE WILL. EMPLOYER FURTHER CERTIFIES THAT THE SIGNATORY BELOW IS AUTHORIZED TO ENTER INTO AND SIGN THIS AGREEMENT ON BEHALF OF EMPLOYER.

EMPLOYER:

By: _____ (Signature)
Name: _____ (Printed)
Title: _____
Date: _____
Email: _____

BAY CRANE:

By: _____ (Signature)
Name: _____ (Printed)
Title: _____
Date: _____
Email: _____