

# INTERCOMPANY STATE AND LOCAL TAX INDEMNIFICATION AGREEMENT

This Intercompany State and Local Tax Indemnification Agreement (the "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ ("Indemnitee"), and \_\_\_\_\_ ("Indemnitor"). Indemnitor and Indemnitee may collectively be referred to herein as the "Parties" or individually as a "Party."

## RECITALS

WHEREAS, Indemnitor and Indemnitee are members of the same affiliated, consolidated, combined, or unitary group of corporations for certain state and local tax purposes;

WHEREAS, the Parties desire to allocate responsibility and provide indemnification for certain state and local tax liabilities that may arise in connection with their respective business operations, transactions, and filings; and

WHEREAS, this Agreement sets forth the terms and conditions under which Indemnitor will indemnify, defend, and hold harmless Indemnitee from and against certain state and local tax liabilities.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## AGREEMENT

### Section 1. Definitions

For purposes of this Agreement, the following terms shall have the meanings set forth below:

**"State and Local Taxes"** means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind imposed by any state, local, municipal, or other regional taxing authority within the United States, including but not limited to income, franchise, gross receipts, sales, use, excise, property, payroll, employment, transfer, and license taxes, together with any interest, penalties, or additions to tax imposed with respect thereto.

**"Taxing Authority"** means any state, local, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality administrative body responsible for the assessment, collection, or administration of any State and Local Taxes.

**"Tax Claim"** means any assessment, audit, examination, inquiry, demand, litigation, or other proceeding by or before any Taxing Authority regarding State and Local Taxes that could give rise to an indemnification obligation under this Agreement.

### Section 2. Tax Indemnification

**2.1 Indemnification by Indemnitor.** Indemnitor hereby covenants and agrees to indemnify, defend, and hold harmless Indemnitee, its affiliates, officers, directors, employees, and agents from and against any and all liability for State and Local Taxes resulting from, arising out of, or attributable to:

- (a) The business activities, operations, assets, or transactions of Indemnitor conducted in the state or local jurisdictions of \_\_\_\_\_;
- (b) Any failure by Indemnitor to timely and properly file any state or local tax returns or reports required to be filed by it; and
- (c) Any inaccuracy in or breach of any representation, warranty, or covenant made by Indemnitor in connection with the tax positions or tax filings of the affiliated group.

**2.2 Exclusions.** Notwithstanding anything to the contrary herein, Indemnitor shall not be obligated to indemnify Indemnitee for any State and Local Taxes to the extent such taxes are directly attributable to the gross negligence, willful misconduct, or fraud of Indemnitee.

### Section 3. Procedures for Indemnification

**3.1 Notice of Claim.** Indemnitee shall promptly notify Indemnitor in writing of the receipt of any notice of assessment, audit, or other inquiry by a Taxing Authority that could reasonably be expected to result in a Tax Claim for which indemnification may be sought under this Agreement. The failure of Indemnitee to give prompt notice shall not relieve Indemnitor of its indemnification obligations hereunder except to the extent that Indemnitor is actually and materially prejudiced by such failure.

**3.2 Defense and Settlement.** Indemnitor shall have the right, at its own expense, to participate in or assume the defense of any Tax Claim. If Indemnitor assumes the defense, it shall employ counsel reasonably satisfactory to Indemnitee. Indemnitee shall have the right to employ separate counsel and participate in the defense at its own expense. Indemnitor shall not settle or compromise any Tax Claim without the prior written consent of Indemnitee, which consent shall not be unreasonably withheld, conditioned, or delayed, if such settlement would have a material adverse effect on the tax liability or ongoing business operations of Indemnitee.

**Section 4. Payment and Reimbursement**

Any indemnification payment required to be made by Indemnitor to Indemnitee under this Agreement shall be made in immediately available funds within \_\_\_\_\_ business days after receipt of written demand by Indemnitee, accompanied by reasonable documentation verifying the amount of the tax liability paid or to be paid to the Taxing Authority.

**Section 5. Miscellaneous**

**5.1 Term.** This Agreement shall remain in full force and effect until the expiration of the applicable statute of limitations for the tax periods covered by this Agreement.

**5.2 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of \_\_\_\_\_, without giving effect to any principles of conflicts of law.

**5.3 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written.

**5.4 Amendments and Waivers.** No amendment, modification, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both Parties.

**5.5 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the Parties hereto have caused this Intercompany State and Local Tax Indemnification Agreement to be executed by their duly authorized representatives as of the date first written above.

**INDEMNITOR:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**INDEMNITEE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_