

**AGREEMENT TO RELEASE AND INDEMNIFY
CITY: SANDWICH BOARD SIGN/SIDEWALK CAFE/
STREET FURNITURE AT**

(Name and Address of Establishment)

In consideration of the sum of \$1.00 and for other good and valuable considerations made by the City of Wilmington, receipt of which is hereby acknowledged by _____ (hereinafter referred to as "Applicant"), and in consideration of the issuance of the permit herein applied for, Applicant hereby agrees as follows:

To the fullest extent permitted by law, the Applicant shall release, indemnify, keep and save harmless the City, its agents, officials, and employees from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials, or employees of the City or third persons, and to all property proximately caused by, incident to, resulting from, arising out of or occurring in connection with the Applicant's use or occupancy of the City's sidewalks or pedestrian ways as may be permitted pursuant to this application (or by any person acting for the Applicant or for whom the Applicant is alleged to be in any way responsible), whether such claim is based in whole or in part on contract, tort (including alleged active or passive negligence or participation in the wrong) or upon an alleged breach of any duty or obligation on the part of the City its agents, officials or employees.

The provisions of this agreement shall include any claims for equitable relief or for damages (compensatory or punitive) against the City, its agents, officials, and employees, including alleged injury to the business of any claimant, and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include without limitation the costs incurred by the City, its agents, officials and employees, in

connection with investing any claim or defending any action, and shall also include reasonable attorney's fees by reason of the assertion of any such claim against the City, its agents, officials or employees. The Applicant shall maintain during the life of the street furniture, sandwich board sign or sidewalk cafe, permit insurance covering the Applicant's liability assumed under this agreement. The Applicant expressly understands and agrees that any insurance protection required as a condition to the issuance of the permit herein applied for, or otherwise provided by the Applicant, shall in no way limit the Applicant's responsibility to release, indemnify, keep and save harmless and defend the City as herein provided.

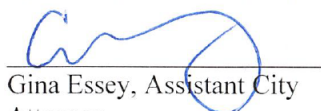
By executing this release and indemnity, Applicant expressly accepts those portions of the City's sidewalks or pedestrian ways to be used for the street furniture, sandwich board sign and/or sidewalk cafe in their present condition. Applicant further agrees that it shall have no claim against the City for failure to repair or maintain those portions of the sidewalks or pedestrian ways used for the sidewalk furniture, sidewalk cafe, or sandwich board signs or for any damages to the same by the City, however caused.

The intention of the Applicant is that this release and indemnity be incorporated into any permit for a sandwich board, sidewalk cafe or street furniture issued to it pursuant to Chapter 18, Section 18-575(f)(Sandwich Board Signs), Chapter 4 Section 4-109(Sidewalk Cafes) and Chapter 11 Section 11-45(Street Furniture) of the Wilmington City Code and this application. It is further the intention of the Applicant that this release and indemnity be broadly construed and applied in favor of the City.

This the _____ day of _____, 20____.

(Name of Applicant)

APPROVED AS TO FORM:



Gina Essey, Assistant City
Attorney

By: _____
(Signature)

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