

INDEMNIFICATION AGREEMENT BETWEEN THE TOWNSHIP OF BERLIN AND THE TOWNSHIP OF VOORHEES

THIS INDEMNIFICATION AGREEMENT is made this 15th day of August, 2022 by and between the Township of Berlin ("Berlin") a Municipal Corporation of the State of New Jersey, having its principal place of business located at 135 NJ-73, West Berlin, NJ 08091 and the Township of Voorhees ("Voorhees"), a Municipal Corporation of the State of New Jersey, having its principal place of business located at 2400 Town Center, Voorhees, New Jersey 08043;

WHEREAS, Voorhees and Berlin have entered into an Agreement to share a police chief/share police chief services, pursuant to N.J.S.A. 40A:65-4, et seq.; and

WHEREAS, Voorhees desires to be indemnified by Berlin from any and all lawsuits and/or claims arising from or related to any issues in the Berlin Township Police Department, existing now and which may arise in the future; and

WHEREAS, Voorhees and Berlin, as parties to the Shared Services Agreement have agreed that one of the conditions required to bring the Agreement into effect is that Voorhees and Berlin enter into an Indemnification Agreement indemnifying each other against claims made by employees of the other municipality; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements between the parties and for the consideration in the aforementioned Shared Services Agreement, the parties hereto agree as follows:

1. Indemnification.

a. Berlin shall indemnify, defend and hold harmless Voorhees and its respective officers, officials, employees, representative and agents, from and against any and all losses, damages, punitive damages, liens, liabilities and claims of any nature whatsoever ("Losses" arising out of based upon or resulting from (i) any liability arising from or related to any lawsuit, action, claim or proceeding, whether brought or threatened, by any future, current, or former police officer, employee, officer, official, agent or representative of any such future, current, or former police officer, employee, officer, official, agent or representative of Berlin, related to any issues in the Berlin Police Department; (ii) any breach or non fulfillment by Berlin or any future, current, or former police officer, employee, officer, official, agent or representative of Berlin of any agreements or obligations (including but not limited to contractual and/or constitutional and/or statutory and/or regulatory obligations). Berlin shall reimburse Voorhees for any and all fees, costs and expenses of any kind related to any Losses (including without limitations, any and all Legal Fees (as hereinafter defined)) and, for purposes hereof, such fees, costs and expenses shall be deemed to be Losses. "Legal Expenses" shall mean any and all fees, costs and expenses of any kind reasonably incurred by Voorhees and its counsel in defending against any threatened or asserted claim and/or lawsuit.

b. Voorhees shall indemnify, defend and hold harmless Berlin and its respective officers, officials, employees, representatives and agents, from and against any and all losses, damages, liens, liabilities and claims of any nature whatsoever ("Losses") arises out of, based upon or resulting from any or all of (i) any liability arising from or related to any other lawsuit, action, claim or proceeding, whether brought or threatened by any future, current, or former police officer, employee, officer, official, agent or representative of Voorhees or by any relative or representative of any such future, current or former police officer, employee, officer, official, agent or representative of Voorhees related to any issues in the Voorhees Police Department; (iii) any breach or non fulfillment by Voorhees or any future, current or former police officer, employee, officer,

official, agent or representative of Voorhees of any agreements or obligations (including but not limited to contractual and/or constitutional and/or statutory and/or regulatory obligations). Voorhees shall reimburse Berlin for any and all fees, costs and expenses of any kind related to any Legal Fees (as hereinafter defined)) and, for purposes hereof, such fees, costs and expenses shall be deemed to be Losses. "Legal Expenses" shall mean any and all fees, costs and expenses of any kind reasonably incurred by Berlin and its counsel in defending against any threatened or asserted claim and/or lawsuit.

c. With respect to a claim for indemnification, Voorhees and/or Berlin shall be entitled to control the defense of such action, to the extent permitted by the insurance carrier, with counsel reasonably satisfactory to the municipality being indemnified; provided, however, that the municipality being indemnified shall be entitled to participate in the defense of such claim and shall be entitled to assist in the defense of such claim if it so chooses, in its sole discretion.

d. The municipality which is providing indemnification shall obtain the prior written approval of the other municipality before entering into any settlement of any litigation, lawsuit, action, claim, or proceeding covered under this Indemnification Agreement or ceasing to defend against any such litigation, lawsuit, action, claim, or proceeding. Such approval shall not be unreasonably withheld.

e. Neither municipality shall consent to the entry of any judgment or enter into any settlement which fails to include as an unconditional term of any such judgment or settlement the giving by each claimant to the other municipality a release from all liability (including but not limited to all losses, damages, punitive damages, attorney's fees and costs) in respect to such claim.

f. If the municipality required to provide indemnification does not assume control of the defense of such action as provided for in this Indemnification Agreement, the other municipality shall have the right to defend such action in such matter as it may deem appropriate at the cost and expense of the municipality required to provide indemnification and that municipality required to provide indemnification shall reimburse the other municipality therefor in accordance with this Indemnification Agreement.

g. In the event that either Berlin or Voorhees shall be obligated to defend, the municipality required to defend pursuant to this Indemnification Agreement shall, upon payment of such indemnity in full, be subrogated to all rights of the other municipality with respect to all claims to which such indemnification relates.

2. Effective Date; Duration of Agreement.

a. The effective date of this Indemnification Agreement shall be the effective date of the Shared Service Agreement. A copy of this Indemnification Agreement shall be filed with each Municipality's Municipal Clerk and shall be open to public inspection in each Municipality.

b. The duration of this Indemnification Agreement shall be the same duration as the Police Chief Agreement, unless a longer duration is agreed to in a writing approved and executed by both participating Municipalities.

3. Assignment of Rights and Obligations. Voorhees and Berlin agree that there will be no assignment of their respective rights or obligations under this Indemnification Agreement, except to the extent that their insurance carriers will cover same, unless agreed in a writing approved and executed by both participating municipalities.

4. **Waiver.** Failure of either Voorhees or Berlin to insist upon strict performance of any part or provision of this Indemnification Agreement at any time shall not constitute a waiver of such Municipality's right to insist upon strict performance of this Indemnification Agreement in the future.

5. **Merger; Integration.** This Indemnification Agreement contains the entire and only agreement between the participating Municipalities, other than the "Shared Services Agreement between the Township of Berlin and the Township of Voorhees for Police Chief/Shared Police Chief Services", and no oral statements, representations or prior writing not contained in this Indemnification Agreement shall have any force or effect. This Indemnification Agreement shall not be modified in any way except by a writing approved and executed by both participating Municipalities. The Indemnification Agreement is an explicit part of the Shared Service Agreement.

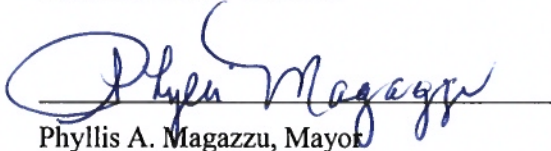
6. **Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey.

7. **Severability.** If any term or provision of this Agreement or the application thereof to any participating Municipality or circumstances, to any extent, shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

8. **Duplicate Originals.** This Agreement may be signed in one or more duplicate original counterparts, each of which shall be original, but all of which together constitute one and the same Agreement.

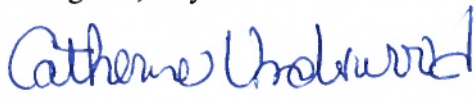
IN WITNESS WHEREOF, the Parties hereto have caused this Indemnification Agreement to be executed by the respective authorized representatives as of the date first written above.

TOWNSHIP OF BERLIN



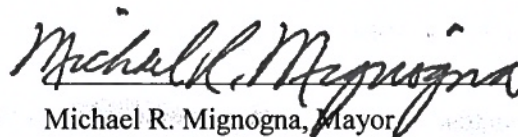
Phyllis A. Magazzu, Mayor

Attest:



Catherine Underwood, RMC

TOWNSHIP OF VOORHEES



Michael R. Mignogna, Mayor

Attest:



Dee Ober, RMC