



Prequalification & Subcontract Review

Thank you for your interest in working with Consigli Construction and affiliates

Pre-qualification

In an effort to select the most highly qualified, safety conscious Subcontractors we have a comprehensive pre-qualification process. If not already pre-qualified with Consigli, please follow the below steps.

One: Let us know who you are

- Email prequal@consigli.com and provide your company name, contact person and email address
- Feel free to reach out to Stephanie Broderick – sbroderick@consigli.com

Two: Receive Request

- A request to complete Consigli prequalification will be sent to the contact through either ISQFT or prequalification@consigli.com

Three: Complete & Submit the Prequal

- Complete the prequal form on ISQFT
- Information you will be asked for includes:
 - o Organization information
 - o Safety & Quality Information
 - o References
 - o Surety Letter
 - o Sample Insurance Certificate and all **ONGOING AND COMPLETED OPERATIONS**
 - o **ENDORSEMENTS**
 - o OSHA 300A Logs (1 form per year)
 - o Documentation of Worker's Comp EMR
 - o Financial Statements
- Submit Prequal via the Dashboard on ISQFT

Subcontract Review

Attached is a Sample of our standard Subcontract Agreement. This Document defines our standard subcontract terms and conditions, Exhibits A and B, as well as the typical Subcontract format for all parts of this document such as, Exhibit C, Scope of Work thru Exhibit G Project Safety Requirements.

If your company is fortunate enough to be awarded work with Consigli, it will be expected that you fully execute a Subcontract which acknowledges these terms as part of the working agreement.

Please take this opportunity to review this contract and respond promptly with any concerns.

For questions pertaining to our Subcontract Agreement, please do not hesitate to contact either

Peter Capone, Director of Purchasing

508-458-0308 pcapone@consigli.com

Barbara Moody, Subcontract Administration Manager

508-458-0344 bmoody@consigli.com

Or any member of our Purchasing Team in our organization

Purchasers

Connecticut, Maine, Mass, Washington, DC, Pleasant Valley, Albany, NY and NYC

Jennifer Savoie, Don O'Regan, Sunita Verma, Mike Baker, Joe Vetrano, Bob Eagles, Justin Parker

Kevin Morse, Rob McClintock, Ryan Mangini, Justin Couto, Matt Rose

New York City

Doug Renna, Paul Sheridan, Craig Stroud

Pleasant Valley or Albany - Estimating

Craig Mitchell

Thank you and we look forward to working with you!



Subcontract

#SC-000-000

To:

Not Yet Bought

Date: 1/1/2000

Job: 000 Sample

Job Address:

Description: Sample Subcontract

Scope of Work:

Provide all labor, materials, equipment and supervision required to complete all of the Sample Subcontract for the project as specified and as shown and as further modified and/or clarified in accordance with the subcontract exhibits, as listed below, which are attached hereto and hereby made a part here of.

EXHIBIT "A" - SUBCONTRACT GENERAL CONDITIONS
EXHIBIT "B" - SUBCONTRACT SPECIAL CONDITIONS
EXHIBIT "C" - SCHEDULE OF WORK
EXHIBIT "D" - SUBCONTRACT PRICING
EXHIBIT "E" - PROJECT SCHEDULE REQUIREMENTS
EXHIBIT "F" - SCHEDULE OF DOCUMENTS
EXHIBIT "G" - PROJECT SAFETY REQUIREMENTS
EXHIBIT "H" - PROJECT SPECIFIC REQUIREMENTS
EXHIBIT "I" - RECYCLING ATTACHMENT
EXHIBIT "J" - INSURANCE REQUIREMENTS

EXHIBIT "L-1" - PROGRESS RELEASE OF LIEN WAIVER
EXHIBIT "L-2" - FINAL RELEASE OF LIEN WAIVER

1 30-001 \$0.00
Total Subcontract Amount: \$0.00

Retainage Percent: 5.00 or 10%

Bonds Required (Yes/No): No

Not Yet Bought

Date

Consigli Construction Co., Inc.

Date

Page 1 of 1

• **Consigli Construction Co., Inc.**

Construction Managers and General Contractors

72 Sumner Street, Milford, MA 01757 • phone: (508)473-2580 • fax: (508)473-3588 • web: www.consigli.com

Hartford CT • Washington, DC • Milford, MA • Portland, ME • Pleasant Valley, NY • New York City, NY

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT "A"
Subcontract General Conditions

ARTICLE 1 — WORK TO BE PERFORMED

- A. In consideration of the Subcontract Price as stated in **Exhibit "D"** (the "Subcontract Price"), Subcontractor shall furnish and install all work, labor, materials, equipment, permits, approvals, and supervision, and shall assume, perform, and furnish everything necessary for the prompt execution and proper completion of the work described herein, including but not limited to tools, light, scaffolding and staging, ladders, hoisting, power, details, computations, and all other facilities unless expressly excluded in **Exhibit "C"–Schedule of Work**, all in complete accordance with the General Contract Documents as herein defined which are specifically incorporated herein and made a part hereof by reference, and further defined in **Exhibit "F" – Schedule of Documents** (collectively, the "Work"). Subcontractor represents and warrants that it is experienced and knowledgeable in the coordination and procurement of the various elements of the trades included in Subcontractor's Work. Subcontractor agrees to use its best skill and judgment in the performance of its Work and to cooperate with Contractor so that Contractor may fulfill its obligations to Owner.
- B. Subcontractor agrees to be bound to Contractor by the General Contract Documents and all other instruments herein referred to and further to assume toward Contractor all the obligations and responsibilities pertaining to the Work that Contractor by the General Contract Documents has assumed to Owner, including the furnishing of such warranties and guarantees as are required in the General Contract Documents. Subcontractor shall comply with all rulings, orders, instructions, and operating procedures issued or promulgated by Contractor with respect to the Work. Subcontractor further agrees that Contractor shall have all rights, privileges, and immunities which Owner has in connection with its Contract with Contractor. Without limitation, Subcontractor expressly agrees that any "Required Subcontract Term" or similar provisions included in the General Contract Documents are incorporated herein by reference.

ARTICLE 2 — TIME OF PERFORMANCE

- A. Time is of the essence of this Subcontract. Accordingly, Subcontractor shall commence the Work upon notice from Contractor and shall promptly and expeditiously perform the Work in accordance with the instructions of Contractor utilizing union or open shop labor, as agreed to in **Exhibit "C" –Schedule of Work**, which can work in harmony with Contractor and other subcontractors, provide approved materials, equipment, and tools in such quantities and of such types as required to meet the **Project Schedule Requirements** defined in **Exhibit "E"**.
- B. Subcontractor shall complete its Work in sufficient time to allow Contractor and all other subcontractors to complete the entire Project within Contractor's planned schedule as further defined in **Exhibit "E" – Project Schedule Requirements**. If requested by Contractor, Subcontractor shall furnish a progress and/or recovery schedule to Contractor in such detail as Contractor requires to meet Subcontractor's obligations and to allow Contractor to fully assess Subcontractor's schedule impact on the overall Project Schedule.
- C. If Contractor determines Subcontractor has not fulfilled its contractual obligations to meet the schedule requirements as defined in **Exhibit "E"** then Contractor shall have the following remedies:
- 1) Direct Subcontractor to take all actions necessary, including performance of the Work on overtime, shifts, weekends, holidays, etc., until such time that Subcontractor is no longer behind schedule;
 - 2) Issue a deductive change order to remove all or portions of Subcontractor's remaining Work from this Subcontract and perform it directly or with other subcontractors;
 - 3) Supplement Subcontractor's crew with additional qualified manpower. The cost for the additional manpower will be paid by Subcontractor or deducted from amounts otherwise due Subcontractor;
 - 4) Deduct the cost of such delay from any payments due Subcontractor; or
 - 5) Terminate this Subcontract if Subcontractor is in breach in accordance with **Article 14**.
- D. In the event any delay in the completion of the Work is caused by Subcontractor which causes or results in added costs being incurred by Contractor, a sum equal to all such costs to the extent attributable to Subcontractor shall be chargeable to and paid by Subcontractor to Contractor.
- E. Subcontractor understands and agrees that as the job progresses, Contractor will make changes to adjust and update the Project Schedule from time to time to meet job requirements, variations in weather, change orders or other causes, whether or not within the control of Contractor. Subcontractor shall promptly furnish all detail and data required by Contractor to prepare or update the Project Schedule. Any claim by Subcontractor for an extension in the time for performance shall be timely made as required by **Article 9** below and shall not be valid unless sufficient detail to justify the requested time extension is provided. When issued by Contractor, a revised Project Schedule shall supersede all other schedules previously issued. Subcontractor acknowledges that it is aware of the likelihood of changes to the Project Schedule and the impact of weather conditions and has anticipated same in scheduling, pricing and planning the Work.

ARTICLE 3 — INSURANCE AND BONDS

- A. Subcontractor shall, at its sole expense, provide and maintain in effect at all times during the performance of the Subcontract, insurance coverage with limits not less than those set forth in this **Article 3** and **Exhibit "J"** attached hereto (unless modified in **Exhibit "C"** of this Subcontract), as detailed in this **Article 3** under forms of policies satisfactory to Contractor and Owner. In the event there is a conflict with the limits required in this **Article 3** and the limits set forth in **Exhibit "J,"** then the reference to the higher limit shall control and Subcontractor shall procure the higher limit.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- B. Commercial General Liability:** Commercial General Liability Insurance (“CGL”) with limits of at least **\$1,000,000 each occurrence; \$2,000,000 general aggregate** (on a per project basis as set forth in Section D (i)); **\$2,000,000 products-completed operations hazard aggregate; \$1,000,000 personal and advertising injury; \$100,000 damages to rented premises each occurrence; and \$10,000 medical expenses** (any one person). The CGL insurance shall cover, without limitation, liability arising from Bodily Injury, Personal and Advertising Injury, Property Damage, Premises, Independent Contractors, Contractual Liability, and Products and Completed Operations. The CGL coverage shall be provided for both ongoing and completed operations and shall be written on an occurrence-based coverage form at least as broad as CG 00 01 12/07 CGL Coverage form as issued by the Insurance Services Office, Inc., or its equivalent.
- C. Excess/Umbrella Liability:** Excess/Umbrella Liability Insurance with limits at minimum **\$5,000,000 each occurrence and \$5,000,000 in the aggregate (see Exhibit J for specific requirements)** and following form to the CGL insurance and the Business Automobile Liability Insurance required by this Article and must “drop down” for defense and indemnity in the event of exhaustion of the underlying insurance.
- D. Liability Insurance Specific Requirements:** Without limiting the foregoing, the CGL and Excess/Umbrella coverage required herein shall comply with the following: (i) there shall be aggregate limits of insurance in the amounts required in this **Article 3** and **Exhibit J** dedicated to the Project with a per Project endorsement and no aggregate limitation; (ii) the limits of insurance shall not be eroded by defense costs; (iii) there shall be no modification to or deletion of the definition of the “insured contract”; (iv) there shall be no insured vs. insured (cross-suits) exclusion; (v) there shall be no exclusion for claims arising out of subsidence or earth movement; (vi) if Subcontractors working on residential projects (which shall include for rent and for sale dwellings of any type, including but not limited to dormitories and assisted living facilities), there shall be no exclusion for residential construction; (vii) if Subcontractor is furnishing or installing EIFS, there shall be no EIFS exclusion; (viii) there shall be no exclusion for the insureds’ vicarious liability, strict liability, or statutory liability; (ix) there shall be no professional liability exclusion broader than ISO form CG 22 79, or its equivalent; (x) there shall be no exclusions based on the nature and scope of Subcontractor’s work, including without limitation any Classification Limitation applicable to Subcontractor’s Work; (xi) there shall be no exclusions for liability assumed under contract for liability imposed by reason of statute or law; (xii) if Subcontractor performs any work or conducts any operations within 50 feet of any railroad (including light rail, fixed rail or any other rail system), Subcontractor’s insurance shall be endorsed to delete any exclusion, including the Contractual Liability exclusion, for work performed within 50 feet of a railroad (a copy of such endorsement shall be provided to Contractor before work within 50 feet of the railroad commences); (xiii) if Subcontractor is enrolled in a CCIP on this Project, the ISO form CG 21 31 (05/09 edition) endorsement is the only acceptable “wrap-up exclusion” endorsement to Subcontractor’s CGL and Excess/Umbrella coverage; (xiv) there shall be no exclusion or limitation for bodily injury, third-party action over, fall from height, exterior work, or any other labor law or injury to worker-type claim; and (xv) there shall be no Property Damage/Damage to Work exclusion such as the ISO form CG 22 94 which modifies the standard “Your Work” exclusion in the ISO CG 00 01.
- E. Additional Insured Requirements:** All insurance required by this Article (excluding only Workers’ Compensation and Professional Liability insurance, where required) shall name Contractor and Owner, and any other parties so required by the General Contract Documents, as an “additional insured” on a primary and non-contributing basis. With respect to the CGL coverage, acceptable additional insured endorsements are (i) ISO CG 20 10 AND CG 20 37 or (iv) endorsement(s) providing equivalent coverage to the additional insureds as these ISO issued forms. Any edition of ISO form CG 20 33 is strictly prohibited. Non-ISO endorsements must be approved in writing by Contractor. Such insurance shall, by specific endorsement, be deemed to be primary insurance to any similar insurance Contractor may obtain for its own benefit which will be excess or secondary but not contributing insurance. This insurance for the additional insureds shall be at least as broad as the coverage provided for the named insured Subcontractor. In the event Subcontractor has in force any insurance with coverages broader and/or limits higher than the minimum coverage amounts specified in this **Article 3** or **Exhibit “J”** (a) such broader coverages and higher limits shall insure and be available to all additional insureds and (b) this Subcontract shall be deemed to require such broader coverages and higher limits. The Excess Umbrella insurance required by this Section, and any other insurance required by this Subcontract which is furnished via an excess/umbrella policy form, shall expressly provide that (x) it covers any party as an additional insured who qualifies as such on the underlying insurance; (y) follows form for such additional insured coverage; and (z) the coverage afforded to such additional insured is primary and the additional insured’s other insurance shall be non-contributing to any of the additional insured’s other insurance, whether such other insurance be primary, excess/umbrella, self-insured, or on any other basis. Each such policy obtained by Subcontractor shall provide that the insurer shall defend any suit against the Additional Insured even if such suit is frivolous or fraudulent, so long as such suit arises or is alleged to arise from work of Subcontractor. A copy of each Additional Insured endorsement obtained by Subcontractor shall be attached to the Certificate of Insurance provided by Subcontractor.
- F. Business Auto Liability:** Business Automobile Liability Insurance with limits of at least **\$1,000,000 combined single limit** (each accident) and on a current CA 00 01 ISO form, or its equivalent, covering “any auto,” including all owned, hired and non-owned vehicles used in connection with the work. Such coverage shall be primary and non-contributory to any coverage available to the Additional Insureds, and shall include, without limitation, loading and unloading, uninsured and underinsured motorist coverage, and medical payment protection.
- G. Workers Compensation/Employer’s Liability Insurance:** Subcontractor shall provide and maintain during the term of work, including any warranty periods, Workers’ Compensation Insurance coverage for all of Subcontractor’s workers at the site of the Project for the state(s) in which work is to be performed as well as the state(s) where the workers may reside in accordance with the **state(s) law with statutory limits**. Additionally, Subcontractor shall maintain during the term of the Work Employers’ Liability Coverage with limits of **\$1,000,000 Bodily Injury per Accident/Employer; \$1,000,000 Bodily Injury per Disease/Employer; and \$1,000,000 Policy limit by disease**. If exposure to United States Longshore & Harbor Workers Act or Maritime Act or the Defense Base Act exists, policies shall be endorsed to provide such coverage.
- H. Tools and Equipment Insurance:** Subcontractor agrees to furnish insurance which shall insure all its equipment and tools and any tools and equipment rented to Contractor for its use on other portions of the Contract or elsewhere which also lists Contractor as an additional insured. Subcontractor waives subrogation for damage to such equipment and tools. Subcontractor’s insurance shall contain a waiver of subrogation consistent with this provision. Such insurance shall be on a replacement cost basis up to the full insurable value of the tools and equipment.
- I. Sub-subcontractor Requirements:** All requirements in this **Article 3** and **Exhibit J** that Subcontractor is obligated to perform shall likewise be imposed upon, assumed and performed by each of its sub-subcontractors of every tier. Subcontractor and sub-subcontractors shall execute a

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

written agreement, which shall include all such requirements. Subcontractor is responsible for verifying that its sub-subcontractors, truckers, vendors and suppliers of any tier maintain insurance in like form and amounts, including the additional insured requirements. Subcontractor will be liable for any claim, damage, loss, cost or expense arising from reductions, changes, or deletions in sub-subcontractor's insurance that deviates from the requirements of this Article. Subcontractor will maintain evidence of insurance from all sub-subcontractors of every tier and make such evidence of insurance available to Owner and/or Contractor upon request. If this work involves Structural Steel installation it is the responsibility of this Subcontractor to forward Contractor proof that Contractor is being included as additional insured on the erector's policy.

- J. Waiver of Subrogation:** To the fullest extent permitted by law, Subcontractor waives all rights against Contractor and Owner as well as other parties as required by the General Contract Documents for recovery of all damages to the extent the damages are covered by CGL, Excess/Umbrella, Business Automobile liability or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above (including any deductibles, coinsurance, or self-insured retentions). All policies obtained by Subcontractor pursuant to this Subcontract shall include waivers of subrogation consistent with this provision.
- K. Primary and Non-Contributory:** All insurance, whether primary, umbrella, or excess, required by this Subcontract shall include contractual liability coverage that shall respond on a primary and non-contributory basis to claims against the Indemnified Parties defined in **Article 4, A** below, and any similar insurance obtained by such Indemnified Parties shall be secondary and non-contributory regardless of "Other" insurance provisions or rules of horizontal exhaustion.
- L. Insurance Documents:** Certificates of insurance acceptable to Contractor per **Exhibit J** shall be filed with Contractor prior to commencement of Subcontractor's Work (including a copy of the required Additional Insured Endorsement). Subcontractor shall provide an updated certificate of insurance upon renewal of any coverage. Upon the request of Contractor, Subcontractor shall provide copies of Subcontractor's full insurance policies.
- M. Notice of Cancellation:** These certificates and the insurance policies required by this **Article 3** shall contain a provision by endorsement that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to Contractor, except 10 days prior written notice of cancellation due to nonpayment of premium. In the event any carrier refuses or fails to provide such notice directly to Contractor, Subcontractor shall be obligated to provide such notice within ten (10) days of receipt of same and shall accept full and complete liability for all damages or losses suffered by Contractor on account of any such failure of notice or cancellation or expiration.
- N. Maintenance of Insurance:** Subcontractor shall maintain CGL and Excess Umbrella coverage for itself and all additional insureds for the duration of the Project and maintain Completed Operations coverage for itself and each additional insured for at least 6 years (or the statutory period of repose under prevailing state law, whichever is longer) after substantial completion of the entire Project or such longer time as required by the General Contract Documents.
- O. Evidence of Insurance After Final Payment:** If any of the foregoing insurance coverages are required by this **Article 3** and/or **Exhibit J** or the General Contract Documents to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by Subcontractor with reasonable promptness according to Subcontractor's information and belief.
- P. Deductibles/Coinsurance/Retentions:** Subcontractor shall be responsible for deductibles, coinsurance, and self-insured retentions on its own insurance coverages and for the costs of deductibles assessed against Contractor due to any act or omission of Subcontractor. Subcontractor must obtain Contractor's prior written permission for deductibles or self-insured retentions greater than \$50,000.00 per occurrence. Coverage afforded to the additional insureds shall not be conditioned on the payment of any deductible, coinsurance, or retention.
- Q. Insurer Rating:** All insurance required under this Schedule must be written with insurance companies authorized by state where Subcontractor is performing work to provide such insurance coverage. All such insurers must be reasonably acceptable to Contractor and rated no less than A-VII as shown in the most current issue of A.M. Best's Key Rating Guide.
- R. Waiver:** Any waiver or modification of the insurance requirements stated in this Schedule must be agreed to in writing by Owner or Contractor.
- S. Failure to Comply:** If Subcontractor (or any of its subcontractors) shall fail to provide or maintain any or all of the required insurance described hereunder, Subcontractor will be deemed to be in material breach of this Contract and Contractor, in its discretion and without waiving any other remedies, shall be entitled to (i) withhold payments or recoup payments already made to Subcontractor for work on the Project, (ii) terminate Subcontractor for cause, and (iii) purchase replacement insurance at Subcontractor's expense in the name of Subcontractor. In the event Subcontractor shall fail to promptly provide such requested bonds or required insurance, Contractor may terminate this Subcontract and re-let the Work to another Subcontractor and all Contractor costs and expenses incurred thereby shall be paid by Subcontractor, including any price differential.
- T. New York Labor Law:** Subcontractor acknowledges that the Work may require the use of scaffolding and performance at high elevations. Subcontractor agrees that the insurance provided hereunder shall provide full and complete coverage on a primary and non-contributing basis for the Contractor, Owner, and all additional insureds against any and all claims, including, but not limited to strict liability claims and claims under NY Labor Law 240 and similar laws in other jurisdictions, arising out of the use of scaffolds and/or elevated work on the Project.
- U. Scope-Specific Insurance and Bond Requirements:** ONLY IF required in **Exhibit "B" – Subcontract Business Terms**, Subcontractor shall provide:
- 1) **Alternate Employer/Leased Employer Coverage:** If Subcontractor leases employees through a labor services company, professional employer organization, or other such company, evidence of insurance must be provided through an Alternate Employer/Leased Employee endorsement naming Contractor, Owner, and Subcontractor on the employment company's workers' compensation policy and a waiver of subrogation in favor of Contractor, Owner, and other parties required by the General Contract Documents.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- 2) Professional Liability Insurance: Subcontractor shall provide professional liability insurance with limits of at least \$2,000,000 per claim/aggregate if Work under this Subcontract includes any professional services, design assist, design-build, stamped drawings, or LEED certification services. Such coverage shall include a prior acts endorsement and shall be maintained for at least 6 years (or the statutory period of repose under prevailing state law, whichever is longer) after completion of the Work or such longer time as required by the General Contract Documents.
- 3) Pollution Liability Insurance: Subcontractors whose Work includes demolition, abatement or remediation of hazardous materials as those terms are defined in federal, state or local law shall provide Pollution Liability Insurance coverage with limits of at least \$5,000,000 per occurrence and \$5,000,000 aggregate; including coverage for asbestos, lead, and PCBs. If Subcontractor's scope of Work includes transporting hazardous materials, the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles. If Subcontractor is subject to the Motor Carrier Act of 1980, then the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy.
- 4) Riggers Liability Insurance: Subcontractor and/or its sub-subcontractors shall carry Riggers Liability Insurance with limits no less than \$1,000,000 per occurrence if Subcontractor's Work involves moving, lifting, lowering, rigging or hoisting of property or equipment belonging to others. Such insurance shall insure against physical loss or damage to the property or equipment.
- 5) Marine and Aircraft Liability Insurance: If Subcontractor's means and methods for this Project include use of water craft or air craft, marine and aircraft liability insurance with limits of at least \$5,000,000 per occurrence, including passenger liability, shall be provided if Subcontractor for any owned, leased, chartered, or hired watercraft or aircraft of any type used in the performance of this Subcontract.
- 6) Cyber Risk Liability Insurance: If required in Exhibit "C"-Scope of Work, Subcontractor shall provide cyber-risk liability insurance for data breach and unauthorized privacy disclosures with limits of at least \$2,000,000 per claim/aggregate and coverage equivalent or superior to ISO form endorsement CG 00 65 (12/07).
- 7) **Performance and Payment Bonds:** Subcontractor shall at its own expense, when required in Exhibit "D" of this Subcontract, procure and deliver to Contractor separate performance and payment bonds to secure Subcontractor's obligations under this Subcontract. Said payment and performance bonds shall be in an amount equal to 100% of the Subcontract Price and in form and from corporate sureties satisfactory to Contractor.

ARTICLE 4 — INDEMNIFICATION

- A. To the fullest extent permitted by law, Subcontractor shall (1) defend, indemnify and hold harmless Contractor, Contractor's surety, Owner, and any other entity or individual as required by this Subcontract or by the General Contract Documents, and the principals, members, officers, directors, employees, agents, and consultants of each of them (the "Indemnified Parties"), from and against any and all demands, claims, causes of action, liabilities, losses, damages, and expense, including but not limited to attorneys' fees, for bodily injury, sickness, disease or death, or for injury or destruction of property, arising out of Subcontractor's Work under this Subcontract and caused, in whole or in part, by, the acts or omissions of Subcontractor, or any of Subcontractor's subcontractors, suppliers, or other persons or entities for whose acts Subcontractor may be liable, regardless of whether caused in part by the Indemnified Party; (2) assume, on behalf of the Indemnified Parties, the defense of any such demand, claim, cause of action, liability, loss, damage, or expense which may be brought against them or any of them; and (3) reimburse the Indemnified Parties for any attorneys' fees and expenses incurred by them with respect to any such claim, regardless of whether or not caused in part by an Indemnified Party. Notwithstanding the foregoing, the indemnity required by this section shall not apply if such demand, claim, cause of action, liability, loss, damage, or expense is caused by the sole negligence of an Indemnified Party.
- B. In claims against any Indemnified Party brought by an employee of Subcontractor, Subcontractor's sub-subcontractors, anyone directly or indirectly employed by them, or anyone for whose acts Subcontractor may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Subcontractor or Subcontractor's sub-subcontractors under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. To the fullest extent permitted by law, Subcontractor further agrees to defend, indemnify, and hold harmless Contractor. Contractor's surety, and Owner from any and all demands, claims, causes of action, liabilities, losses, damages, or expense by any party arising out of or in consequence of the acceptability, fitness, sufficiency, performance, or non-performance of Subcontractor's Work or materials furnished, or for payment of any labor performed or material or equipment furnished in connection with improvements to real property or related to Subcontractor's Work by any party by or through Subcontractor. Subcontractor will defend all such claims at its own cost and expense and shall reimburse Contractor for all cost and expense arising out of such claim, including reasonable attorneys' fees.
- D. To the fullest extent permitted by law, Subcontractor shall defend, indemnify, and hold harmless Contractor and its surety and Owner for any and all demands, claims, causes of action, liabilities, losses, damages, or expense, including reasonable attorneys' fees, arising out of infringement of any patent, copyright or other intellectual property rights by Subcontractor in connection with Subcontractor's Work, which may be brought against Contractor or Owner, and shall be liable to Contractor for all loss, including all costs, expenses and attorneys' fees, but shall not be responsible for such defense or loss when a particular design, process, product of a particular manufacturer or manufacturers is required by the General Contract Documents unless Subcontractor has reason to believe that a particular design, process or product required by the General Contract Documents may be an infringement of an intellectual property right, and failed to properly notify Contractor of such concern.
- E. To the fullest extent permitted by law, Subcontractor agrees to protect, defend, indemnify, and hold harmless Contractor and its surety from (i) the imposition of any required payments, fines and/or penalties by OSHA or any other government agency and Contractor shall have the right to deduct from the next periodic payment due Subcontractor all OSHA or other governmental payments, fines and/or penalties levied against Contractor and all expenses relating thereto arising out of or in consequence of the work of Subcontractor or any of its sub-subcontractors and (ii) employment or employment practices of Subcontractor or any sub-subcontractor or vendor of Subcontractor, including claims arising out of unlawful discrimination or harassment in violation of **Article 22** and **Article 23** below.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- F. The provisions of this Article 4 shall survive completion of Subcontractor's Work or the earlier termination of this Subcontract.

ARTICLE 5 — TAXES, LICENSES, PERMITS, AND COMPLIANCE WITH PUBLIC LAWS

- A. Subcontractor shall pay any and all taxes whatsoever levied against Contractor and Subcontractor or either of them on account or as a consequence of any operations conducted under this Subcontract unless further defined in **Exhibit "B"—Subcontract Special Conditions** of this Subcontract as not required.
- B. Subcontractor shall comply with Contractor's jobsite procedures and regulations and with all applicable local, State and Federal laws, rules and regulations and shall obtain all licenses and permits required (excluding the general building permit) for all of its Work. Subcontractor shall obtain and pay for all permits and inspections required for its Work and shall furnish any securities or deposits required to permit performance of its Work. Subcontractor shall, to the extent permissible under applicable law, comply with the provisions of any Project Labor Agreement that applies to work on a specific jobsite being performed under the Subcontract, if defined in **Exhibit "C"** of this Subcontract. Subcontractor shall pay rates of wages and shall observe hours of work and other economic terms and conditions of employment as required by this Subcontract, the General Contract Documents or required by law.
- C. Subcontractor further warrants that it is familiar with and shall fully comply with, at its own expense, all provisions of the applicable Federal Occupational Safety & Health Act, Equal Employment Opportunity Programs, all Fair Employment Practices Laws, Affirmative Action Programs, Minority Manpower Programs, the Immigration Control and Reform Act of 1986 (IRCA), Workers Compensation Laws, and amendments and related laws, and all other federal, state, municipal, and other laws, regulations, and rulings. Subcontractor agrees, upon request by Contractor, to produce within five (5) days whatever documents or information is required by Contractor to establish Subcontractor's compliance with any applicable federal, state, municipal, or other regulatory laws, ordinances, or regulations.
- D. Subcontractor alone is obligated to provide for the safety of its employees at the job site. Subcontractor agrees to perform the Work in a safe manner, to provide a safe place to work, and to abide by and enforce all applicable federal, state, and local safety laws, rules, or regulations governing the performance of the Work, including but not limited to the requirements of **Exhibit "G"** to this Subcontract. Subcontractor shall furnish all apparel, materials, equipment, tools, labor, instruction, and supervision necessary for the safety of its employees and its compliance with the applicable safety laws, rules, or regulations. Subcontractor further agrees to cooperate with any other safety programs in effect on the job site. Contractor reserves the right to suspend Subcontractor's Work if, in Contractor's opinion, a safety violation exists.
- E. Subcontractor shall at all times conduct all operations under this Subcontract in a manner to avoid risks of bodily harm to persons, damage to any property and fire. Subcontractor shall be solely responsible to take all precautions necessary and continuously inspect all work, materials and equipment to discover, determine and correct any such conditions which may result in any of the aforementioned risks.

ARTICLE 6 — PROSECUTION OF THE WORK

- A. Subcontractor shall supply a sufficient number of skilled workers and ample quantities of approved material and equipment to perform the Subcontract. Subcontractor shall promptly replace and dismiss any worker to whom Contractor, Owner, or Architect objects. Subcontractor shall immediately commence the Work upon notice from Contractor and shall at all times prosecute the Work in complete harmony with the operations and forces of Contractor, including other subcontractors.
- B. Subcontractor shall complete the Work in a first-class manner equal in all respects to the best standards of practice and to the full satisfaction of Owner, Architect, and/or Contractor in strict conformity with the General Contract Documents. Subcontractor shall supervise and direct its Work, and shall cooperate with Contractor in scheduling and performing its Work to avoid conflict, delay in or interference with the work of Contractor, other subcontractors or Owner's own forces. No exclusion or changes from the drawings, specifications or bid instructions contained in the General Contract Documents will be permitted unless submitted in writing and accepted in writing by Contractor.
- C. Unless stated otherwise in **Exhibit "C"—Schedule of Work** or **Exhibit "E"—Project Schedule Requirements**, within five days of executing this Subcontract, Subcontractor shall provide to Contractor a Submittal Log detailing all products and portions of the Work requiring submission of shop drawings, product data, samples and similar submittals and stating lead time for all such products and portions of the Work.
- D. Subcontractor shall promptly submit shop drawings, product data, samples and similar submittals required by the General Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Contractor or other subcontractors. By submitting shop drawings, product data and samples, Subcontractor thereby represents that it has determined and verified all measurements, field construction criteria, materials, catalog numbers and similar data, and that it has checked and coordinated each shop drawing and sample with the requirements of the Work and of the General Contract Documents.
- E. In addition to shop drawings, catalogs, calculations, samples, etc., specified, Subcontractor shall prepare at its own expense and furnish promptly, whenever requested by Contractor shop drawings, manufacturer's data, templates, schedules, reports, samples or any other data that may be necessary in the opinion of Contractor for distribution among other Subcontractors and to Contractor for the proper prosecution of the Work. Subcontractor shall lay out its own Work and be responsible for the accuracy of same. Subcontractor shall exercise the utmost diligence to obtain all drawings, details, and information necessary to perform its Work and, if at any time, drawings or information have not been furnished, Subcontractor shall promptly inform Contractor in writing as to what drawings or information are required to expeditiously complete the Work. Subcontractor shall, before proceeding with any affected part of the Work, call to Contractor's attention in writing any errors in or inconsistencies between or in any of the Contract Documents and any other condition which will adversely affect its Work.
- F. Suspension of work hereunder, for any unexcused cause, by Subcontractor for a period of more than forty-eight (48) hours, Sundays and holidays excepted, without prior written permission of Contractor, shall be deemed an abandonment of performance and shall be grounds for termination by Contractor upon twenty-four (24) hour notice.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- G.** Subcontractor shall cooperate fully with the other Subcontractors employed on the Work and shall so plan and conduct the Work, in accordance with Contractor's Project Schedule (as further defined in **Exhibit "E"**), to be performed hereunder as not to interfere with their operations or with those of Contractor. Subcontractor shall direct all communications on the Project to Contractor and will not communicate directly with Owner, Architect, or their agents.
- H.** Contractor expressly reserves the right to determine the order and sequence of all work, including the Work, and phases thereof as herein provided for. Subcontractor agrees that its sole remedy for additional time and money on account of the order and sequence which is directed by Contractor shall be to recover additional compensation and a time extension only if and only to the extent Contractor is able to recover same from Owner.
- I.** Subcontractor agrees that Contractor, Owner and the Architect will each have the authority to reject Work which does not conform to the General Contract Documents. The Architect's decisions on matters relating to aesthetic effect shall be final and binding on Subcontractor unless stated otherwise in the General Contract Documents.
- J.** Subcontractor shall cooperate with Contractor, other subcontractors and Owner's own forces whose work might interfere with Subcontractor's Work. Subcontractor shall participate in the preparation of coordination drawings or the like in areas of congestion, specifically noting and advising Contractor of potential conflicts between the Work of Subcontractor and the work of Contractor, other subcontractors or Owner's own forces.
- K.** Subcontractor shall furnish (i) a competent English-speaking superintendent or foreman at the jobsite (who shall be subject to the approval of Contractor) to supervise the Work and (ii) a competent English-speaking project manager. Subcontractor shall, upon execution of this Subcontract, designate in writing an official representative of Subcontractor, who shall have full authority to act on any and all matters pertaining to the execution of this Subcontract and whose acts will be binding upon Subcontractor.
- L.** Subcontractor shall not further subcontract its Work without written consent of Contractor. With respect to any Work that is further subcontracted by Subcontractor, and any supply agreements entered into by Subcontractor, all conditions of this Subcontract applying to Subcontractor shall be incorporated by reference into any sub-subcontract and supply agreement including, but not limited to, insurance requirements, plans, specifications, safety, indemnification, etc. and the sub-subcontractor and supplier shall assume towards Subcontractor all of the obligations and responsibilities which Subcontractor by the General Contract Documents assumes toward Contractor and Owner. In addition, each sub-subcontract and supply agreement shall contain a provision under which each sub-subcontractor and supplier consents to the assignment of all Subcontractor's rights under the sub-subcontract or supply agreement to Contractor if it so elects in writing.
- M.** Contractor may at any time by written order make changes in, additions to or deductions from the Work to be performed under this Subcontract and Subcontractor shall promptly proceed with the performance of the Work as so changed. For changes directed by Contractor, Subcontractor shall be entitled to an equitable adjustment in the Subcontract price based on actual net direct costs incurred plus an allowance for overhead and profit as set forth in **Exhibit "D"**, provided, however, as a condition precedent to any equitable adjustment Subcontractor must provide written notice to Contractor prior to commencing such changed Work. **ANY CLAIM BY SUBCONTRACTOR FOR AN INCREASE IN THE SUBCONTRACT PRICE DUE TO CHANGES ORDERED BY CONTRACTOR AND/OR OWNER AND/OR CHANGED CONDITIONS MUST BE SUBMITTED IN A TIMELY MANNER (PER ARTICLE 10, A BELOW) OR SUCH CLAIM SHALL BE WAIVED. UNDER NO CIRCUMSTANCES SHALL SUBCONTRACTOR COMMENCE WORK IT CONSIDERS TO BE EXTRA OR A CHANGE PRIOR TO WRITTEN NOTICE TO CONTRACTOR AND RECEIPT OF WRITTEN DIRECTION TO PROCEED FROM CONTRACTOR. SUCH NOTICE SHALL INCLUDE A DESCRIPTION OF THE CLAIMED EXTRA WORK AND PROJECTED PRICE AND SCHEDULE IMPACT. SUBCONTRACTOR WAIVES THE RIGHT TO PAYMENT FOR WORK PERFORMED IN VIOLATION OF THIS PROVISION.**
- N.** Subcontractor hereby acknowledges and agrees that upon receipt from Contractor of a notification of a Change Order Request, Subcontractor will respond no later than seven (7) calendar days from the receipt thereof (unless a different time is stated in **Exhibit "C"**) in writing as to the effect on the Subcontract Price and/or Project Schedule Requirements of said Change Order Request, and will provide full and complete detailed information to substantiate the effect. Should Subcontractor fail to respond within such seven (7) calendar days (or a different time as stated in **Exhibit "C"**), Contractor shall determine the cost and schedule impacts, if any, unilaterally and amend the Subcontract accordingly.
- O.** If at any time Subcontractor's actual progress is inadequate to meet the requirements of this Subcontract due to causes within Subcontractor's control, Contractor may notify Subcontractor who shall then provide a written recovery plan and take such steps required to improve its progress. If within a reasonable period as determined by Contractor (but in any event within three (3) business days), Subcontractor does not provide a written recovery plan and improve its performance to meet the Project Schedule Requirements set forth in **Exhibit "E"** as they have been adjusted by Contractor, Contractor may require an increase in Subcontractor's labor force, number of shifts, overtime operations, or weekend work, all without additional cost to Contractor. Neither such notice, nor Contractor's failure to issue such notice, shall relieve Subcontractor of its obligation to achieve the quality of Work and the rate of progress required by this Subcontract. Project float provided for in the project schedule is for the exclusive use of Contractor and Contractor may backcharge Subcontractor for damages suffered by Contractor to the extent caused by a delay of Subcontractor in the performance of this Subcontract.
- P.** If Subcontractor determines that any previous work required to be performed under the General Contract Documents or any portion of work on which Subcontractor's Work is dependent is not in accordance with the General Contract Documents, Subcontractor shall, prior to commencing that portion of the Work, promptly notify Contractor in writing. Commencement of the Work in a particular area will be acknowledged as acceptance of the surfaces and conditions within that particular area and any further preparation, cleaning or maintaining of the area after acceptance will be Subcontractor's responsibility.
- Q.** Provided Subcontractor has been paid undisputed amounts due, Subcontractor hereby agrees to defend, indemnify and hold harmless Contractor, Owner and any applicable sureties from and against any laborer's, materialmen's, supplier's, or other similar lien or bond claim filed or asserted by Subcontractor or any of its sub-subcontractors, materialmen or suppliers (of any tier) in connection with the Work. In the event such lien or bond claim is filed, Subcontractor shall, upon forty-eight (48) hours' written notice, cause such lien or bond claim to be released and discharged,

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

or file a bond to secure discharge of such lien or bond claim. In the event that Subcontractor shall fail to do so, Contractor shall have the right to withhold and/or pay to the third-party all sums necessary to obtain the release of such lien or claim and discharge or to file a bond in lieu of such lien (including reasonable attorneys' fees, bond or other premiums and costs). Contractor shall have the right to deduct all amounts so incurred from the Subcontract Price.

- R. Subcontractor warrants and shall insure that all construction tools, equipment, temporary facilities and other items used by Subcontractor in accomplishing its Work, whether purchased, rented or otherwise provided by or to Subcontractor, are in a safe, sound and good condition and capable of performing the functions for which they are intended and are maintained in conformance with applicable laws, regulations, emissions standards, manufacturer's recommendations and good engineering practice.
- S. It is understood and agreed that the Work provided for in the Subcontract constitutes only a part of the work being performed on this Project for Owner by Contractor and other subcontractors. Subcontractor therefore agrees to perform the Work called for in the Subcontract in such a manner that he will not injure or damage any other work performed by Contractor or any other subcontractor, and Subcontractor further agrees to furnish reasonable protection for its own work-in-place and all materials stored on-site for use under the Subcontract, and to bear and be solely liable for all loss and/or damage of any kind to or in connection with said Work and materials prior to the final completion and acceptance thereof, unless said loss or damage is caused by the sole negligence of Contractor; and to pay or reimburse Contractor on account of any damage or injury to the work or property of Owner, Contractor and other subcontractors caused by or arising from the performance of its Work as provided in the Subcontract, including the cost of replacing, repairing, refinishing or restoring any work damaged, removed or displaced in the course of correcting or repairing work or replacing materials hereunder which are rejected by Owner or Architect or which are deemed to be at variance with the requirements of the Subcontract.
- T. Subcontractor shall make a careful analysis and comparison of the drawings, specifications, and other documents listed in **Exhibit "C"** and **Exhibit "F"**. Prior to starting its Work, Subcontractor shall conduct a visual inspection of the Project site to become familiar with local conditions and to correlate site observations with such documents. Should Subcontractor discover any errors, inconsistencies, or omissions in such documents or between the documents and the actual conditions, Subcontractor shall report such discoveries to Contractor in writing within three (3) business days. Contractor may then instruct Subcontractor as to the temporary or permanent measures to be taken, and Subcontractor shall comply with such instructions. If Subcontractor performs Work contrary to any applicable laws, statutes, ordinances, building codes, rules, or regulations, without notice to Contractor and advance approval by appropriate authorities, including Contractor, Subcontractor shall assume appropriate responsibility for such Work and shall bear all associated costs, charges, fees, and expenses. Nothing contained herein shall relieve Subcontractor of responsibility for its own errors, inconsistencies, or omissions.

ARTICLE 7 — PROTECTION OF PUBLIC AND OF PROPERTY

- A. Subcontractor shall at its own expense:
- 1) Protect from injury all property and persons which may be affected by its operations hereunder and shall be fully responsible for all damages or expense to any person or any property arising from or in consequence of any act or omission of Subcontractor under this Subcontract.
 - 2) Protect all Work performed by it hereunder until the satisfactory completion and acceptance of each operation or phase of the Work.
 - 3) Protect all adjacent work or materials provided by others, from any damage occurring directly from the completion of the Work of this Subcontract or any damage caused by the negligent acts of any employees employed by this Subcontractor.
- B. To the extent that Subcontractor manufactures, processes, uses or stores toxic or hazardous substances at the Project Site, it must comply with any applicable Right-To-Know-Law and the rules and regulations promulgated pursuant thereto ("Right-To-Know-Law") and any other similar laws. For purposes of the Right-To-Know-Law, Subcontractor is deemed to control that space where the Work is performed ("Work Area"). With respect to its Work Area, Subcontractor shall assume responsibility for compliance with the Right-To-Know-Law. Since Subcontractor's Work Area is one among many at the Project site, Subcontractor shall also coordinate the implementation of the Right-To-Know-Law with Contractor and any other subcontractor(s) whose employees may be exposed to a toxic or hazardous substance, which Subcontractor is using in its Work Area.
- C. To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold Contractor and Owner harmless for any liabilities, damages or claims, including reasonable attorneys' fees, for any discharge, dispersals, release or seepage of hazardous materials into the environment while owned by or while under the custody or control of Subcontractor.

ARTICLE 8 — MEASUREMENT AND PAYMENT

- A. **Progress Payments**
- 1) Prior to submission of the first application for payment, Subcontractor shall deliver to Contractor, for review and approval, a detailed breakdown of the Subcontract Price showing a Schedule of Values for the various parts of the Work. Once accepted, this Schedule of Values will be used as a basis for payment of Subcontractor's monthly requisition, unless the General Contract Documents provide another basis for the determination of the periodic payments.
 - 2) Based upon applications for payment submitted to Contractor by Subcontractor, corresponding to applications for payment submitted by Contractor to Owner and/or Architect and certificates for payment issued by the Architect, Contractor shall make progress payments on account of the Subcontract Price to Subcontractor as provided below and elsewhere in the Subcontract Documents.
 - 3) The period covered by each application for payment shall be one calendar month ending on the last day of the month or as further defined in **Exhibit "D"**. Subcontractor represents and warrants with each requisition that all applicable payroll taxes and other withholding

Subcontract Agreement - Consigli Construction Co., Inc.

Page 7 of 34

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

assessments have been paid, and that all employees have been properly classified for workers' compensation insurance purposes, and that the appropriate premiums have been paid to its insurance carrier. Subcontractor is an independent contractor and Contractor shall have no obligation with respect to payroll taxes, workers' compensation insurance, union benefits and other assessments.

- 4) Subcontractor's application for payment shall be submitted not sooner than the 20th of the month and not later than the 25th day of the month within which the Work was completed. Any application for payment not received within the time period set forth herein shall be rejected as untimely and Subcontractor shall not be entitled to submit an application for payment until the following month. Subcontractor may not submit more than one application for payment in any thirty (30) day period. Any extra application for payment submitted within such thirty (30) day period shall be deemed null and void and Contractor shall have no obligation to respond to such extra application for payment.
- 5) Provided an original application for payment is received by Contractor not later than the 25th day of a month, and subject to the approval of Contractor, Architect and/or Owner, Contractor shall include Subcontractor's Work covered by that application in the next application for payment which Contractor is entitled to submit. Unless the Project is enrolled for payment by Textura™ as provided in Exhibit "D," all original signed and notarized requisitions should be mailed to Contractor's office: 199 West Road, Pleasant Valley, NY 02569. Neither Contractor's submission of Subcontractor's application for payment to Owner nor the inclusion by Contractor of amounts claimed due by Subcontractor in any application for payment submitted by Contractor to Owner shall constitute or be deemed acceptance of Subcontractor's application for payment, either in whole or in part. Receipt of payments by Contractor from Owner shall in each instance be an express condition precedent to the right of Subcontractor to receive payment from Contractor, its payment bond surety or its statutory lien bond surety. Subcontractor shall not be entitled to progress payments from Contractor, its payment bond surety or its statutory lien bond surety, unless, until and then only to the extent such payment has been received by Contractor from Owner.
- 6) If an application for payment is received after the application date fixed above, Subcontractor's Work covered by it shall be included by Contractor in the next application for payment submitted to the Architect subject to review and approval of amounts claimed due.
- 7) Before issuance of each progress payment, Subcontractor shall submit evidence satisfactory to Contractor that all payrolls, bills for materials, equipment and subcontractors and all known indebtedness connected with Subcontractor's Work have been satisfied.

B. Final Payment

- 1) Final payment constituting the entire unpaid balance of the Subcontract Price, including retainage, shall be made by Contractor to Subcontractor when Subcontractor's Work is fully performed in accordance with the requirements of the Subcontract Documents, the Architect has issued a certificate for payment covering Subcontractor's completed Work and Contractor has received payment from Owner.
- 2) Notwithstanding anything else set forth in this Subcontract, receipt of final payment by Contractor from Owner shall in each instance be an express condition precedent to the right of Subcontractor to receive final payment from Contractor, its payment bond surety or its statutory lien bond surety. Subcontractor shall not be entitled to final payment from Contractor, its payment bond surety or its statutory lien bond surety, unless, until and then only to the extent such payment has been received by Contractor from Owner.

C. Measurement and Payment Terms

- 1) Basis for Rejecting Current Applications for Payment and/or Revising Prior Applications for Payment
 - a) Contractor may withhold approval of an application for payment in whole or in part, to the extent reasonably necessary to protect the interests of Contractor and/or Owner and/or the Architect or as otherwise allowed by the General Contract Documents. Contractor may also withhold its approval or, because of subsequently discovered evidence, may nullify the whole or a part of a previously approved application for payment, to such extent as may be necessary in Contractor's opinion to protect Contractor and/or Owner and/or Architect from loss for which Contractor may be exposed, including but not limited to loss resulting from acts and omissions because of:
 - i. defective Work not remedied;
 - ii. third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to Contractor is provided by Subcontractor;
 - iii. failure of Subcontractor to make payments properly to sub-subcontractors or suppliers or otherwise for labor, materials or equipment;
 - iv. reasonable evidence that the Work cannot be completed for the unpaid balance of the Subcontract Price;
 - v. damage to Contractor, Owner or a separate contractor;
 - vi. reasonable evidence that the Subcontract Work will not be completed within the Contract Time as defined in the General Contract Documents and/or Exhibit "E", and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vii. failure to carry out the Work in accordance with the General Contract Documents;
 - viii. failure to provide or maintain insurance coverages required by Article 3 above; or
 - ix. any other material breach of any term of this Subcontract.
 - b) When the above reasons for withholding approval are removed, approval will be made for amounts previously withheld. If Contractor withholds approval for payment for the reason set forth in subparagraph (iii) above, Contractor may, at its sole option, issue joint checks to Subcontractor and to any sub-subcontractor or material or equipment supplier or union benefit fund to whom Subcontractor failed to make payment for Work properly performed or material or equipment suitably delivered. If Contractor makes payments by joint check, Contractor shall notify Subcontractor and Subcontractor will reflect such payment on the next application for payment.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- 2) Subcontractor shall maintain books, records and other compilations of data pertaining to the performance of the Work and the determination of quantities, progress payments and retainage in such detail to properly substantiate payment under this Subcontract. All such records shall be kept for a period of six years or for such longer period as specified in the General Contract Documents. All document retention periods start on the first day after final payment under this Subcontract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting there from, or until the end of the applicable retention period, whichever is later. Contractor shall have the right to examine the books, records, and other compilation of data which pertains to the performance of the Work and the determination of quantities, progress payments and retainage and shall have the right to adjust the payments and/or retainage should the books, records and other compilations fail to substantiate such payments. Subcontractor shall have the burden to substantiate the payments.
- 3) No partial payment, or certificate thereof, shall constitute the acceptance or approval by Contractor of the Work or material for which the partial payment is made. No partial payment shall constitute a waiver by Contractor of any right to require fulfillment of the entire scope of the Subcontract. Neither the final payment nor any partial payment, nor any certificate for either, shall constitute acceptance by Contractor of defective work or improper materials or of any element of Subcontractor's performance determined to be at variance with the Subcontract Documents and/or the General Contract Documents as required.
- 4) In the event Subcontractor is directed to perform extra work on a time and material basis, Subcontractor shall be responsible for obtaining verification of time and material slips from an authorized representative of Contractor. All slips for time and material work must be delivered to Contractor not later than the first work day of the week following the week in which the time and material work was performed or the time required by the General Contract Documents, if sooner.
- 5) In addition to any other conditions precedent set forth in the General Contract Documents for release of retainage and/or final payment, Subcontractor shall execute and deliver to Contractor prior to final payment: (i) a consent of surety (when applicable), (ii) an affidavit listing all sub-subcontractors, materialmen, and union benefits payments (where applicable) and certifying that there are no liens, claims or demands by sub-subcontractors, materialmen, laborers, other employees or third persons, (iii) a certificate from the appropriate state and local taxing authority evidencing payment of all applicable taxes, and (iv) all as-built drawings, maintenance manuals, warranties and other close-out documentation necessary or required in connection with the Work.
- 6) Subcontractor's acceptance of final payment shall constitute full and final settlement of all obligations of Owner and Contractor to Subcontractor with respect to this Subcontract, except those claims which Subcontractor has specifically reserved in writing, with amounts of each such claim specified. Failure to specify the amount of any claim so reserved shall constitute a waiver of such claim.
- 7) Every progress application for payment submitted by Subcontractor shall include an executed Subcontractor Progress Release of Lien in the form attached as **Exhibit "L-1"** and the application for final payment shall include an executed Subcontractor Final Release of Lien in the form attached as **Exhibit "L-2."** An executed waiver form delivered by Subcontractor to Contractor via email in portable document format (.pdf) shall be deemed an original for all purposes. However, Contractor may, in its discretion, notify Subcontractor in any circumstance that it will require authentication of any electronic transmissions or require that Subcontractor deliver original documents prior to acceptance of applications for payments, lien waivers, or other documents contemplated herein.

ARTICLE 9 — DELAY

- A. Subcontractor shall have no claim for damages for delays, hindrances, interference, and obstructions to its Work, or other such events no matter how or by whom caused. In case of such delays, hindrances, interference, or obstructions not due in any part to Subcontractor's fault, Subcontractor shall be entitled only to such extension of time of performance as may be allowed by Contractor provided that Subcontractor has given written notice within five (5) days of the commencement of the delay in form and substance required by the General Contract Documents (unless the General Contract Documents require notice sooner).

ARTICLE 10 — CLAIM OF SUBCONTRACTOR

- A. Subcontractor may make claim for the additional direct extra costs of labor and material incurred due to an increase in the scope of its Work due to changes or modifications to General Contract Documents provided it shall have first complied with all the applicable terms and provisions in the General Contract Documents pertaining to submission of claims, changes, and modifications and this **Article 10**. Subcontractor expressly waives all claims for indirect or consequential damages including but not limited to loss of productivity, interference, compression, impact, and unabsorbed home office overhead. Unless the General Contract Documents provide a shorter claim period, all claims by Subcontractor for direct costs of extra work shall be made not later than ten (10) days after the event or condition giving rise to the claim occurs or is first observed (except in the case claims for additional time due to delay which shall be reported within five (5) days as provided in **Article 9** above). In no event shall Contractor become or be liable to Subcontractor on account of any such claims in excess of the amount actually received by Contractor from Owner on account of such claim.
- B. The existence of any dispute, controversy or claim between Contractor and Subcontractor shall not occasion or permit any delay in the prosecution of the Work or claimed extra or other work, and Subcontractor agrees to proceed with its Work and the disputed claimed extra work without delay and without regard to such dispute, controversy or claim or the pendency of any proceeding in relation to the same. In the event Contractor disputes whether any work is in fact extra work or is otherwise the responsibility of Subcontractor, Subcontractor's sole remedy shall be to complete the disputed work and the Work promptly as directed under protest and make claim as provided elsewhere in this Subcontract and in accordance with the General Contract Documents when applicable. Failure of Subcontractor to comply with the provisions of this paragraph of the Subcontract shall constitute a material breach of the same with all the remedies to Contractor provided for in Section 14 of these Subcontract General Conditions.

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- C. ANY CLAIM BY SUBCONTRACTOR FOR AN INCREASE IN THE SUBCONTRACT PRICE DUE TO CHANGES ORDERED BY CONTRACTOR AND/OR OWNER AND/OR CHANGED CONDITIONS MUST BE SUBMITTED IN A TIMELY MANNER (PER **ARTICLE 10, A**) OR SUCH CLAIM SHALL BE WAIVED. UNDER NO CIRCUMSTANCES SHALL SUBCONTRACTOR COMMENCE WORK IT CONSIDERS TO BE EXTRA OR A CHANGE PRIOR TO WRITTEN NOTICE TO CONTRACTOR AND RECEIPT OF WRITTEN DIRECTION TO PROCEED FROM CONTRACTOR. SUCH NOTICE SHALL INCLUDE A DESCRIPTION OF THE CLAIMED EXTRA WORK AND PROJECTED PRICE AND SCHEDULE IMPACT. STRICT COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE SHALL BE AN EXPRESS CONDITION PRECEDENT TO ANY ACTION OR PROCEEDING COMMENCED BY SUBCONTRACTOR AGAINST CONTRACTOR FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THIS SUBCONTRACT.

ARTICLE 11 — CLAIMS AGAINST SUBCONTRACTOR

- A. Subcontractor shall promptly pay or discharge all bills, obligations, liens, and charges incurred in connection with the prosecution of any of its Work hereunder and shall, to the extent permitted by law, promptly take all necessary steps to hold Contractor fully harmless and indemnified from any cost, attorneys' fees, loss, or damage arising therefrom. Any such costs paid by Contractor on behalf of Subcontractor shall be deducted from sums due Subcontractor hereunder.
- B. Contractor may, in its sole discretion, issue joint, multi-party or direct checks to any lower tier subcontractor or supplier without incurring any contractual obligation to the lower tier subcontractor or supplier for unpaid invoices.
- C. Immediately upon request from Contractor, Subcontractor will provide a listing will all backup documentation of all sub-subcontractors and suppliers with contract amounts.
- D. Nothing in this Article is intended to limit Contractor's right and remedies under this Subcontract, the General Contract Documents, or as provided by law and/or equity.

ARTICLE 12 — SUPPLEMENTAL DOCUMENTATION REQUIREMENTS

- A. Subcontractor shall, on request of Contractor, furnish certified payrolls, certified materials' certificates, documentation required by State or Federal Wage and Hour Laws, Prevailing Wage Laws, Equal Employment Opportunity and Affirmative Action programs or environmental protection laws and rules of the federal and state government or such further documentation as may be required by Contractor to establish that Subcontractor has kept current in its payments to sub-subcontractors, material suppliers, workers, governmental agencies, or labor organizations and otherwise complied with all General Contract Documents. Contractor shall have the right to interview and question Subcontractor's employees in order to establish compliance regarding worker classification, payment of wages, prevailing wages, safety protection and/or instruction, as EEO and Affirmative Action verification, and any other legal or regulatory requirement. Any payments due to Subcontractor may be retained by Contractor to assure Subcontractor's compliance with the provisions of this Article.

ARTICLE 13 — ASSIGNMENT

- A. Neither this Subcontract nor any of the funds due or becoming due hereunder may be assigned or sublet by Subcontractor without the prior written consent of Contractor.
- B. Contractor may assign the Subcontract. Subcontractor hereby consents to such assignment and agrees to be bound to the assignee, by the terms of the Subcontract. Subcontractor further agrees to be bound by any assignment of subcontract provisions of the General Contract Documents.

ARTICLE 14 — REMEDIES OF CONTRACTOR

- A. Subcontractor stipulates and agrees that each of the terms, conditions and covenants set forth herein constitutes a material condition of this Subcontract. In the event of any material breach by Subcontractor of any condition of this Subcontract or of the General Contract Documents Contractor may, after providing Subcontractor written notice of the breach or breaches by email and Subcontractor's failure to cure said breach or breaches within seventy-two (72) hours from the date of such written notice (or, in the case of abandonment, twenty-four (24) hours' notice as provided in **Article 6, F** above), deem Subcontractor in default and, in addition to all other remedies available under the law:
- 1) Complete Subcontractor's Work or supplement Subcontractor's forces at Subcontractor's expense and, in any event, deduct from any payment otherwise due or becoming due all sums chargeable to Subcontractor and damages due to such breach; and/or
 - 2) Withhold further payments otherwise due or becoming due Subcontractor; and/or
 - 3) Terminate the Subcontract for default; and/or
 - 4) Take any other steps Contractor deems necessary to cure any default by Subcontractor and deduct any cost incurred by Contractor in so proceeding from amounts due or to become due to Subcontractor.
- B. In any case, Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of Subcontractor's failure to perform this Subcontract in accordance with its terms. Subcontractor's failure to perform shall include the failure of its suppliers and/or sub-subcontractors of any tier to perform. Subcontractor's liabilities shall include, but not be limited to: (a) damages and other delay costs payable by Contractor to Owner (including but not limited to that portion of any liquidated or other delay damages assessed by Owner against Contractor due to the fault or neglect of Subcontractor); (b) Contractor's costs to complete Subcontractor's Work and any increased costs of performance, such as extended general conditions and other increased costs resulting from Subcontractor-caused delays or improper Work (plus overhead markup of 15%); (c) warranty and re-work costs (plus overhead markup of 15%); (d) liability to third parties; (e) attorneys' fees and related costs incurred by Contractor in any proceeding against Subcontractor or its sureties to enforce any of Contractor's rights as provided herein; and (f) costs of

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

compliance, expense and damages, including but not limited to fines and penalties assessed against Contractor incurred as a result of violations of safety or any other laws rules, codes or relations by Subcontractor.

- C. Upon a termination for default, Contractor may take immediate possession of all equipment, materials, tools, and appliances at the site or sites of the Subcontract Work and may complete said Work either with its own forces or by the employment of any other person, firm, or corporation. No further payment shall be or become due Subcontractor following such termination for default. When the Work is wholly completed, Subcontractor shall pay Contractor all costs of completing the Work and all damages of every kind or nature caused by said termination less the amount of any balances due Subcontractor. Any supplementation of Subcontractor's work force with labor engaged directly by Contractor for the benefit of Subcontractor shall not relieve Subcontractor from its responsibilities under this Agreement or under permits or licenses applicable to Subcontractor's Work.
- D. In the event Contractor is a party to any legal proceeding on account of any acts or conduct of Subcontractor, Subcontractor agrees to pay Contractor all reasonable expenses including attorneys' fees incurred in connection with the legal proceeding.
- E. This Subcontract may be terminated by Contractor if Subcontractor is not approved by Owner as Subcontractor for the Work described herein if such approval is required by Owner. Subcontractor shall not be entitled to any payments in the event of such termination.
- F. Any sum or sums chargeable to Subcontractor under any provision of this Subcontract (except to the extent of personal injury or other damages covered by Subcontractor's insurance where Subcontractor's insurer acknowledges coverage and assumes all liability without reservation) may, at the election of Contractor, be deducted from any payments otherwise due or to become due to Subcontractor under this or any other subcontract between Contractor (including any subsidiary or affiliate of Contractor, any entity which is at least fifty percent owned or controlled by the owners of Contractor, or any joint venture in which Contractor or any of the foregoing is a venturer) and Subcontractor (including any subsidiary or affiliate of Subcontractor, any entity which is at least fifty percent owned or controlled by the owners of Subcontractor or any joint venture in which Subcontractor or any of the foregoing is a venturer) with any remaining amounts due to Contractor to be paid by Subcontractor, or Contractor may sue Subcontractor (and its surety) and recover damages.
- G. In the event that Subcontractor becomes insolvent, or is adjudged a bankrupt, or files for protection under Chapter 7 or 11 of the Bankruptcy Act, or makes an assignment for the benefit of creditors or if a Receiver is appointed to administer its affairs or it becomes otherwise disabled from performing this Subcontract in accordance with its terms, Contractor may immediately terminate this Subcontract by written notice to Subcontractor.

ARTICLE 15 — CONVENIENCE TERMINATION

- A. Contractor may notify Subcontractor to discontinue the Work or any part thereof for the convenience of Contractor. Such notice shall be given to Subcontractor in writing, and, thereupon, Subcontractor shall discontinue such Work or such part thereof as Contractor so designates.
- B. If, following a termination of Contractor by Owner, Contractor notifies Subcontractor to discontinue the Work, or any part thereof, Contractor shall pay and Subcontractor shall accept, as full payment for all Work done and materials provided, the amount of compensation actually received by Contractor from Owner on account of the Work actually completed by Subcontractor subject to any claims of Contractor against Subcontractor.
- C. If, in the absence of a termination of Contractor by Owner, Contractor notifies Subcontractor to discontinue the Work, or any part hereof, Contractor shall pay, and Subcontractor shall accept as full payment for all Work done and materials provided, the following sums:
 - 1) For all completed items of work for which there are unit prices provided in the Contract, the Contract unit prices as specified in **Article 1** or in Schedules to this Subcontract.
 - 2) For all unpaid work on completed or partially-completed items, an amount based on the percentage of completion of Subcontractor's Work actually achieved and accepted, including approved change orders and all credits due Contractor, plus a termination for convenience fee equal to one-half percent (1/2%) of the original Subcontract Price (the "Termination Fee"), provided, notwithstanding anything else set forth in this Subcontract, in no event shall the amount due or paid Subcontractor on account of a termination for convenience exceed the Subcontract Price multiplied by the percentage of completion achieved by Subcontractor plus the Termination Fee, regardless of its actual costs. Any dispute between Contractor and Subcontractor regarding the amount properly due Subcontractor on a termination for convenience shall be subject to the Dispute Resolution provision in **Article 16**. With respect to any disputed work or cost related to a dispute over the amounts due upon a termination for convenience, upon request of Contractor, Subcontractor shall furnish itemized statements of the cost of Work performed and shall give Contractor access to all accounts, bills, payroll records, and vouchers relating thereto.
- D. In the case of a termination for convenience, Subcontractor shall not be paid, and neither Subcontractor nor any entity claiming through Subcontractor, shall have any claim for loss of anticipated profits, for loss of expected reimbursement, or for any increased expenses resulting directly or indirectly from the discontinuance of any or all Work or from unbalanced allocation among any items of this Subcontract relating to overhead expense on the part of Subcontractor or for any other cause. To the extent that Subcontractor has claims for disputed extra work or otherwise, Subcontractor shall make such claims in accordance with those provisions of the General Contract Documents and this Subcontract as are applicable. Nothing in this Article shall be considered a waiver by Contractor of any other provision of the General Contract Documents or this Subcontract or any other defenses pertaining to such claims.

ARTICLE 16 — DISPUTE RESOLUTION

- A. Subcontractor agrees to be bound by and to strictly adhere to the requirements of any provisions in the General Contract Documents relating to notice, submission, processing, and resolution of claims or disputes. Compliance with these provisions shall be an express condition precedent to Subcontractor's right to make a claim against Contractor. Notwithstanding the foregoing and in consideration of \$10.00 included in the Subcontract Price, the receipt of which is hereby acknowledged, any and all claims or disputes arising out of or relating to this Subcontract or

Subcontract Agreement - Consigli Construction Co., Inc.

Page 11 of 34

REV 1/12/21 PV/ALB

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

breach thereof shall be decided, at the sole option of Contractor, either by submission to (1) arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association or (2) judicial decision by the Supreme Court of the State of New York, sitting in Dutchess County; provided, however, the determination by Owner, the Architect, or any Court, Board of Arbitration, or other tribunal pursuant to the provisions of the General Contract Documents with respect to any dispute or claim relating to this Subcontract or the Work performed or to be performed hereunder shall be binding upon Subcontractor, and Subcontractor agrees to accept such determination, provided Subcontractor shall have been given reasonable notice of such dispute, proceeding, or litigation and opportunity to defend or present claims. Accordingly, at the sole option of Contractor, Subcontractor agrees that any action under any bond, including but not limited to actions under the Miller Act, 40 U.S.C. §270a *et seq.* or similar state law to bring a civil action against Contractor and/or its surety with respect to such matters as involve common issues of law and fact regarding the positions and interests of Owner shall be stayed until the conclusion of Contractor's dispute with Owner. Subcontractor shall be bound by any findings or decisions in such proceedings. At the sole option of Contractor, any legal proceeding with Subcontractor shall be consolidated with any other legal proceeding relating to the work under the General Contract. THE PARTIES EXPRESSLY AGREE TO WAIVE ALL RIGHTS TO TRIAL BY JURY. IN THE EVENT THAT CONTRACTOR EXERCISES THE OPTION TO HAVE A DISPUTE RESOLVED IN COURT, SUCH CASE SHALL BE HEARD BY A JUDGE, JURY-WAIVED.

- B. In any dispute resolution process involving Contractor's surety, Contractor's surety shall have and shall be entitled to raise any and all defenses available to Contractor under this Subcontract or at law.
- C. Contractor and Subcontractor agree that for all disputes under this Subcontract, responsible persons selected by each party will meet in good faith (including exchange of all necessary documentation) to resolve the issue between them within fifteen (15) days of the written request of either party. The parties further agree that, as a condition precedent to instituting legal action against each other or their sureties, at the sole option of Contractor, they shall participate in non-binding mediation in New York, New York pursuant to the Construction Industry Mediation Rules of the American Arbitration Association.
- D. No claim or action by Subcontractor arising out of or related to this Subcontract shall lie or be maintained against Contractor unless such action is commenced no later than one (1) year after either (a) the cause of action accrues, (b) the termination or conclusion of this Subcontract, or (c) the last day Subcontractor performed any physical work at the Project site, whichever of the proceeding events shall occur first.

ARTICLE 17 — INTELLECTUAL PROPERTY AND DATA SECURITY

- A. Subcontractor shall use the General Contract Documents provided in connection with this Subcontract only for the purposes of fulfilling the requirements of this Subcontract and shall not disclose such documents or their contents or any information pertaining to Contractor, Contractor's surety, Owner, and any other entity or individual as required by this Subcontract or by the General Contract Documents or Contractor's affairs to any person, firm or corporation other than as needed to fulfill this Subcontract. Subcontractor shall, upon Contractor's request or upon completion of the Subcontract, promptly return all General Contract Documents to Contractor to the extent required by the General Contract Documents.
- B. Subcontractor represents and warrants to Contractor that it has adequate corporate safeguards, systems, procedures and policies in place to protect Contractor and Owner from and against any security and privacy liability (including but not limited to, privacy violations, information theft, intentional and/or unintentional release of private information, and alteration of electronic information), network security, media liability, business interruption and extra expense, crisis-management expenses (including but not limited to, notification expenses, public relations, reputational damage, forensic investigations, and credit monitoring expenses) and cyber extortion (collectively, "Cyber Liability") in relation to the Work. To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold harmless Contractor and Owner, and any other parties so required by the General Contract Documents as an "additional insured", from and against any and all claims, damages, liabilities, losses, and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, liability, loss or expense is attributable to Cyber Liability, and caused in whole or in part by any actual or alleged act or omission of Subcontractor or anyone directly or indirectly retained or engaged by it or anyone for whose acts it may be liable.

ARTICLE 18 — WARRANTY/THIRD PARTY BENEFICIARIES

- A. Subcontractor shall strictly comply with all warranty requirements of the General Contract Documents applicable to the Work. In addition, Subcontractor warrants to Owner, Contractor, and Architect that materials and equipment furnished under this Subcontract will be of good quality and new unless otherwise required or permitted by the General Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the General Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the General Contract Documents.
- B. Subcontractor further agrees to furnish any special warranties in accordance with the General Contract Documents for the Subcontract Work as a condition precedent to final payment.
- C. Unless the General Contract Documents have more stringent requirements, within seven (7) day of receipt by Subcontractor of a written notice of a warranty claim, Subcontractor shall return to the site to respond to a warranty claim, provided that in the event the failure of an item under warranty creates an ongoing or imminent threat to life safety or the damage to physical property, then Subcontractor shall respond in not less than twenty-four (24) hours.
- D. Owner is an intended third-party beneficiary of this Subcontract and any express or implied warranties hereunder.

ARTICLE 19 — LABOR HARMONY

- A. All trades will be awarded by Contractor and labor will be employed on the Project without discrimination as to whether employees of any subcontractors are members or non-members of any labor organization and Subcontractor accepts this Subcontract with this express understanding. Subcontractor agrees to provide only labor that will work in harmony with all other labor on the Project. There shall be no manifestations on the Project site or adjacent to the Project site of any dispute between any labor organization and Subcontractor. Subcontractor

Subcontract Agreement - Consigli Construction Co., Inc.

Page 12 of 34

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

agrees to employ workers, agents, suppliers and subcontractors who will perform the Work under this Subcontract whether or not other workers on the Project are members or non-members of any labor or collective bargaining organization. Should any workers employed by Subcontractor engage in a strike or other work stoppage or cease to work due to picketing or a labor dispute of any kind, said circumstances shall be deemed a failure to perform the Work on the part of Subcontractor subject to the conditions and terms set forth in **Article 14** above.

- B. Should there be a work stoppage or slowdown caused by a strike, picketing, boycott or by a voluntary or involuntary cessation of work by employees of Subcontractor or of any supplier of Subcontractor or of any sub-subcontractor, which in the reasonable judgment of Contractor will cause, or is likely to cause delay in the progress of construction, then upon forty-eight (48) hours' written notice Contractor shall have the right to declare Subcontractor in default of this Subcontract and to take such steps as are necessary to finish the uncompleted portion of Work and all other remedies under **Article 14** above.

ARTICLE 20 — NO WAIVER

- A. No action or failure to act by Owner, Contractor or Architect, shall constitute a waiver of any right or duty afforded any of them under the General Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence to any breach under this Subcontract except as may be specifically agreed to in writing by Contractor.

ARTICLE 21 — USE OF ELECTRONIC FILES

- A. As a convenience to Subcontractor, Contractor may provide electronic files, including drawings, specification sections, and other documents, in electronic format to assist Subcontractor in preparing shop drawings and other submittals required for the Work and for preparing as-built or record drawings. If so provided, such electronic files shall be used only as a supplement to previously issued paper General Contract Documents. The furnishing of electronic files does not relieve Subcontractor of its obligation to fully comply with the General Contract Documents, including and without limitation, the need to check, confirm and coordinate all dimensions and details, take field measurements, verify field conditions and coordinate Subcontractor's Work with that of other trades.
- B. By providing electronic files, Contractor does not convey any license or right, including copyright, in the original documents, or any right to prepare derivative documents.
- C. The use or re-use of any electronic files by Subcontractor or on Subcontractor's behalf shall be at Subcontractor's sole risk and without liability to Contractor. Subcontractor shall indemnify, defend and hold Contractor, its officers, consultants and employees harmless against all damages, liabilities, losses or expenses arising out of or relating to Subcontractor's use of the electronic files furnished through Contractor.
- D. Electronic files furnished pursuant to this Article are not General Contract Documents. No representation is made by Contractor as to the accuracy, completeness, or condition of the electronic files that may be furnished pursuant to this **Article 21**, and differences may exist between these files and the paper General Contract Documents due to corruption, viruses, or other anomalies. In the event of a discrepancy, the hard copies of General Contract Documents shall govern. Subcontractor accepts responsibility for any and all loss or damage arising from the copying, loading or use of such electronic data by Subcontractor and agrees to waive any such claims against Contractor.
- E. If during the course of performing the Work Subcontractor transfers electronic files furnished pursuant to this **Article 21** to a third-party, Subcontractor agrees to obtain written confirmation that such third-party agrees to the terms and conditions set forth in this **Article 21** prior to transfer thereof and as a condition of their use.
- F. Subcontractor agrees to execute such other and further documents relating to the use of electronic files as reasonably required by the Architect or Owner.

ARTICLE 22 — NON-DISCRIMINATION

- A. It is Contractor's policy not to discriminate against any employee or applicant for employment because of race, color, religion, gender or gender identity, sexual orientation, age, disability, veterans' status, or national origin. Additionally, it is Contractor's policy to take affirmative action and promote a system which ensures that equal opportunity is the working procedure and end result without discrimination in promotions, raises and layoffs.
- B. Subcontractor acknowledges and will conform to Contractor's policies stated herein. Whenever required by law or contract, Subcontractor will comply with all applicable Federal, State and Local Laws, Rules and Regulations for Equal Employment Opportunity, including but not limited to Executive Order 11246 as amended and the Equal Employment and Affirmative Action clauses of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and all other provisions contained within the General Contract Documents.

ARTICLE 23 — POLICY AGAINST EMPLOYEE HARASSMENT AND INTIMIDATION

- A. Contractor's company policy will not tolerate harassment of any employee regardless of race, color, religion, gender or gender identity, sexual orientation, age, disability, veteran status or national origin, and will back this policy with appropriate sanctions, including dismissal if necessary. This policy applies to any type of harassment, not only sexual harassment.
- B. It is illegal and against Contractor's policies for any employee, male or female, to sexually harass another employee by: (i) making unwelcomed sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature, a condition of any employee's continued employment, or (ii) making submission to or rejections of such conduct the basis for employment decisions affecting the employee, or (iii) creating and intimidating, hostile or offensive working environment by such conduct.
- C. Each Subcontractor's foreman or supervisor will be held responsible for the prevention of harassment of any employee on the Project site by Subcontractor's employees or sub-subcontractors. Harassment of any employee for any reason on or off the job site is a matter of serious

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

concern. Contractor's policy is to provide a meaningful work experience for all employees. Interference with the policy will result in immediate corrective action. This applies to on-site employees of Contractor, Subcontractor and their suppliers.

- D. Any employee who believes he or she has been the subject of harassment or intimidation should report the alleged act immediately (within 48 hours after the alleged harassment occurs) to Contractor's job superintendent and Contractor's Human Resources Department. An investigation of all complaints will be undertaken immediately. Any supervisor, agent or other employee who has been found by Contractor after appropriate investigation to have harassed another employee will be subject to appropriate sanctions depending on the circumstances, from a warning up to and including termination.
- E. Contractor recognizes that the question of whether a particular action or incident is a purely personal, social relationship or is harassment, requires a factual determination based on all facts in this matter. Contractor recognizes also that false accusations can have serious effects on innocent individuals. Contractor will not tolerate false reports or intimidation of those making true reports.
- F. All Subcontractor's employees shall act responsibly to establish a pleasant working environment free of discrimination and harassment. Subcontractor acknowledges and shall conform to Contractor's Policy Against Employee Harassment and Intimidations.

ARTICLE 24 — ENTIRE CONTRACT

- A. This Subcontract and the attached exhibits and schedules shall constitute the entire contract between the parties and shall supersede any proposals or agreements and may not be altered or amended in any respect by writing duly executed at the point of change by the parties hereto.

ARTICLE 25 — SEVERABILITY

- A. Any article or provision of this Subcontract, which may be deemed in violation of law, shall not affect in any manner the remaining provisions of this Contract.
- B. This Subcontract is intended to incorporate by reference all applicable provisions of law which by law are required to be incorporated in this Subcontract.

ARTICLE 26 — ELECTRONIC SIGNATURES/PORTABLE DOCUMENT FORMAT VERSIONS AS ORIGINALS

- A. This Subcontract shall be effective as of the date first written above. Scanned copies of this Subcontract as executed, signature pages, executed change orders or modifications, and/or lien waivers delivered via email in portable document format (.pdf) shall be deemed originals for all purposes and the same shall be binding and enforceable. The burden of proof of delivery shall be upon the party initiating the transmission. However, Contractor may, in its discretion, notify Subcontractor in any circumstance that it will require authentication of any electronic transmissions or require that Subcontractor deliver original, wet-signature documents prior to acceptance of this Subcontract, any change orders or modifications hereto, and any applications for payments, lien release forms, or other documents contemplated herein.

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

Exhibit “B”
Subcontract Business Terms

☐ **Scope-Specific Insurance Requirements.** If checked below, the coordinating provisions in **Article 3, Paragraph U of Exhibit A** apply to this subcontract.

<input type="checkbox"/>	Insurance Requirement
<input type="checkbox"/>	Alternate Employer/Leased Employer Coverage
<input type="checkbox"/>	Professional Liability Insurance
<input type="checkbox"/>	Pollution Liability Insurance
<input type="checkbox"/>	Riggers Liability Insurance
<input type="checkbox"/>	Marine and Aircraft Liability Insurance
<input type="checkbox"/>	Cyber Risk Liability Insurance
<input type="checkbox"/>	Performance and Payment Bonds

☐ **No CGL Wrap Up Exclusion.** If the Project is enrolled in a CCIP or OCIP program, Subcontractor acknowledges that its commercial general liability policy does not contain any exclusions that would prohibit coverage due to the Project being enrolled in a CCIP or OCIP program. Subcontractor further agrees to ensure that there is no wrap up exclusion under any policy of insurance required which would void its insurance policy from responding. Subcontractor further agrees to provide Contractor with a copy of each wrap up exclusion, if any, which exists under required insurance policies in advance of any on-site Work and, at Contractor's sole and absolute discretion, may be required to endorse policies of insurance to specifically show that coverage applies separately and on a per project basis to this specific Project.

☐ **Disadvantaged Business Enterprise, Small Business Enterprise, Women's Business Enterprise, Minority Business Enterprise, or Veteran's Business Enterprise.** If Subcontractor is performing Work as a Disadvantaged Business Enterprise, Small Business Enterprise, Women's Business Enterprise, Minority Business Enterprise, or Veteran's Business Enterprise and (1) Subcontractor is decertified for any reason or (2) all or part of the amounts paid to Subcontractor are disallowed by Owner or any governmental agency, then Contractor may immediately terminate this Subcontract under Article 14 and/or 15 of Exhibit A. If Subcontractor is an "other-than-Small Business Enterprise," then it shall comply with Subcontractor Utilization Plan requirements to the extent applicable to the Project.

☐ **Subcontractor Design Services.** Whenever the General Contract Documents specifically require Subcontractor to furnish, as part of its Work, design or engineering services or certifications of any kind, including design included in a building information model if included in the Work, Subcontractor shall cause such services or certifications to be provided by a properly licensed design professional in accordance with the standard of care, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other Submittals prepared by such professional. Contractor shall be entitled to rely upon the adequacy, accuracy, and completeness of such services and such information. Subcontractor shall furnish a certificate of insurance from each design professional certifying to professional liability insurance coverage for such design profession in an amount not less than \$2,000,000 or such greater amount as required by the General Contract Documents. To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold Contractor harmless from all claims, damages or losses, including reasonable attorneys' fees, arising out of or related to any errors or omissions in design, or to any claim for infringement or misappropriation of any other person's intellectual property arising out of such design, in addition to any other claims for which indemnification is required hereunder.

☐ **Subcontracts on Federal Projects:** If the Owner of the Project is the United States or any division of the federal government, in addition to the representations and warranties in Exhibit A, Article 22, Paragraph B above, Subcontractor represents and warrants that its information technology systems and other internal systems, policies and procedures are in compliance with NIST 800-171, DFAR Clause 252.204-7012, and any variation of thereof applicable to the specific federal agency for whom the work is being performed as indicated in the General Contract Documents and a current 3rd party Cybersecurity Maturity Model Certification per DFAR Clause 252.204-7021 at the specified level, when required.

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “C”

Schedule of Work

EXECUTED CONTRACTS, INSURANCE, FEIN - Subcontractors and Vendors will not be authorized to mobilize or remain on site without providing Contractor with: (i) a fully executed Subcontract; (ii) a current Certificate of Insurance or renewal certificate; and (iii) a Federal Employer Identification Number or completed IRS W-9 form.

SCOPE OF WORK – The Scope of the Subcontract Work includes all labor, materials, equipment and supervision required for the completion of all of the **TRADE Work** for the above referenced project in strict accordance with the contract documents listed below.

1. **CONTRACT DOCUMENTS** – All work shall be completed in strict accordance with the below listed specification sections (and the specified related sections), without exception. No deviations from the specifications regarding materials and execution shall be tolerated. Where contradictions occur between drawings and specifications, the more stringent requirement shall apply. The documents are further described in **Exhibit “F”**, the **“Schedule of Documents”**, a copy of which is attached hereto and made part hereof.
 - A. Agreement between Owner and Contractor, including General Conditions
 - B. Contract Drawings, as prepared by **Architect** dated **date of drawings**.
 - C. Project Specifications, as prepared by **Architect** dated **date of drawings**, including but not limited to the following:
 - 1)
 - D. Addenda as prepared by **Architect**
 - 1)
2. **SCOPE OF WORK** – The Scope of the Subcontract Work also includes, but is not limited to, the following items:
 - A.
3. **ADDITIONAL TRADE-SPECIFIC REQUIREMENTS** – The following items are also included and have been mutually understood and agreed upon:
 - A. CO-LOCATION
 - a) Contractor may elect to co-locate the coordination team at the project site for discrete 2-3 day sessions, up to 5 times during the coordination process.
 - b) Co-location is defined as the coordination team (subcontractors, Contractor staff, design team designates) working on site in a common space. Subcontractors will actively produce/develop their coordination drawings and coordinate with the other responsible subcontractors to resolve conflicts while on site.
 - c) Each entity will bring their own hardware/software, Contractor will be responsible for providing a common platform/methodology to share files and assist in identifying conflicts.
 - d) The co-located team shall meet daily to plan and monitor the progress of the Work and the work of Contractor and other subcontractors and shall document decisions and questions through the established project processes.
4. **ADDITIONAL PROJECT-SPECIFIC REQUIREMENTS** – The following items are also included and have been mutually understood and agreed upon:
 - A. **Additional Requirements for Protection of Work.** Subcontractor shall provide barricades and warning signs as necessary and as required for the protection of the items described above. Subcontractor shall also provide such police officers, watchmen, and flagmen as may be deemed necessary and shall receive no additional compensation therefore except to the extent that Contractor is reimbursed by Owner for the specific services of each said officer, watchman, or flagman.
 - B. **Advertising Signage.** Subcontractor shall not, without Contractor's and Owner's prior written consent, install or maintain any sign, trademark or advertisement or other identification symbol in or about the Project (including, but not limited to any tower cranes, man-lifts, or similar equipment, scaffolding, barricades, fencing, etc.). Contractor and Owner shall have the right, at Subcontractor's expense and without notice to Subcontractor, to remove any sign, trademark, advertisement or other identification symbol installed in violation of this Paragraph. This shall include, but not be limited to, any signage requested during topping off ceremonies. If placement of any unauthorized signage results in any cost resulting from lost marketing opportunities of the Contractor, Subcontractor shall be responsible for burdening these costs and shall be back charged accordingly
 - C. It is mutually understood and agreed that Subcontractor has made a complete and comprehensive review of all of the contract drawings and specifications and has figured into the Subcontract price all Work required to provide complete and proper working systems in accordance with “Intent” of the General Contract Documents.
 - D. Subcontractor shall be responsible for clean-up of trash and debris to Contractor's dumpsters on a daily basis. If Subcontractor does not comply, said Subcontractor will be given one (1) verbal warning and (48) hours to correct the situation. Upon such time that Subcontractor does not correct the problem, said Subcontractor will be subject to back charges for the cost associated with Contractor providing subsequent cleaning services.

Subcontract Agreement - Consigli Construction Co., Inc.

Page 16 of 34

REV 1/12/21 PV/ALB

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- E. It is understood that Consigli recycles excess materials per the Environmental Protection Committee's recycling attachment (**Exhibit "I"**). Therefore, Subcontractor is responsible for separating waste into designated dumpsters. Any subcontractor that does not comply with this direction will be liable to pay for the dumpster which will be considered mixed use or construction debris per **Exhibit "I."**
- F. All Work shall be completed in strict accordance with all governing codes, standards and regulations. All Work shall further conform to the requirements and interpretations of local authorities having jurisdiction over the Project. If authorities having local jurisdiction determine that project documents do not meet current governing codes, standards and regulations, this Subcontractor shall notify General Contractor before commencement of Work. It shall also be the responsibility of this Subcontractor to secure all approvals and permits necessary to proceed with its scope of Work and to obtain all permits necessary for Owner to occupy the facilities for their intended use.
- G. It is mutually understood and agreed that the Subcontract Price includes the cost of all materials and labor required to complete the scope of Work of the Subcontract and any associated price increases for the duration of the Project.
- H. Provisions for protection of the Work of this Subcontract, areas of Work, and adjacent work.
- I. All field measurements and verification necessary to complete Work of this Subcontract.
- J. Contractor will provide a list of all Owner utility or service shutdowns required to complete their work within 15 days of award. List will be compressive and specify each shut down required and not be general in nature. Examples include specific water shutdowns, power shut downs, and any other shutdowns that would impact Owner's operation.
- K. Provisions for all layout as required to complete the Work of this Subcontract from control provided by Contractor.
- L. Includes protection of all materials and equipment supplied by this Subcontractor, stored on site.
- M. Includes repair of existing work disturbed as a result of the completion of the Work of this Subcontract.
- N. All costs associated with hook-up to the temporary power panel and/or utility power distribution shall be the responsibility of Subcontractor. In the event that Subcontractor plans on having a trailer located on the Project site, then Subcontractor shall also be responsible for all mobilization costs, demobilization costs, and associated utility and power hook-up costs as well as the removal of any temporary utility and power hook-ups noted above, at the project completion.
- O. Task lighting as required to complete the Work of this Subcontract. Temporary construction lighting within OSHA standards shall be provided by others.
- P. All offsite storage costs required by this Subcontractor.
- Q. Provisions for all submittals, warranties, maintenance manuals, training and other closeout requirements as specified.
- R. It is mutually understood and agreed that all rejected submittals shall be resubmitted within one (1) week of rejection.
- S. Subcontractor is responsible to issue daily reports to Contractor's Superintendent on a weekly basis.
- T. Subcontractor's onsite Foreman or Supervisor must attend the Pre-Operations meeting.
- U. Subcontractor's on-site personnel will be required to attend weekly project mandatory meetings with Contractor's on-site personnel, and other appropriate parties when directed by Contractor's Project Manager. Absence from required meetings will result in liquidated damages of \$500.00 per incident.
- V. This project will utilize Contractor controlled project management website for all project documentation. This data base, known as Procore, will be accessed through the internet and will be updated in real time by project team members such as the architect or Contractor. This Subcontractor will be issued a user name and password and will be expected to obtain drawings, sketches RFIs, meeting minutes, coordination drawings, schedule updates, change information, etc. via this database. Contractor will notify subcontractors as relevant items are added. It will be the responsibility of this contractor to regularly check and review updated documents as they are added to the database.
- W. This project will utilize electronic processing of Change Orders via DocuSign Electronic Signature. All subcontractors will be required to sign all Change Orders using this process.
- X. It is mutually understood and agreed that the project at hand may involve renovation of existing building(s). If this is the case, the existing building(s) may contain lead, asbestos, or other hazardous materials. Therefore, it shall be the responsibility of Subcontractor to thoroughly review the existing site conditions, existing building elements and any environmental reports and/or surveys prior to commencing Work. If it is confirmed that hazardous materials of any kind exist, it shall be the responsibility of Subcontractor to train all employees with respect to protection from said hazardous materials in accordance with all applicable OSHA standards and regulations prior to commencing Work on site.
- Y. This is a Lean Project, please refer to Exhibit G for further rules and regulations.
- Z. Placeholder for additional clarifications
5. **EXCLUSIONS** – The following items are excluded from the Scope of Work of this Subcontract:

Subcontract Agreement - Consigli Construction Co., Inc.

Page 17 of 34

REV 1/12/21 PV/ALB

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

A. Exclusions (placeholder)

PV/Albany Office - Sample Subcontract Agreement

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “D”

Subcontract Pricing

1. **SUBCONTRACT PRICE** – It is mutually understood and agreed that the Subcontract price for completing the Work of this Subcontract is **\$xxx,xxx**

- A. This project addressed herein is **TAX EXEMPT / TAXABLE** therefore, all state of NY sales and usage taxes shall be **excluded /included** in the Subcontract price.

Contact Person _____ > If New Sub: Company Address _____

Phone _____

E-Mail _____

Cost Code(s) _____ Value _____

Cost Code(s) _____ Value _____

Cost Code(s) _____ Value _____

Cost Code(s) _____ Value _____

DATE OF AWARD TO SUBCONTRACTOR _____

2. **TEXTURA™ CPM PAYMENT MANAGEMENT SYSTEM**

- A. All Project Payment Applications and all supporting documents (including but not limited to waivers of lien and sworn statements) shall be in electronic format and shall be submitted to Contractor using the Textura™ CPM payment management system. Subcontractor shall be responsible for the fees and costs associated with Subcontractor's use of the Textura™ CPM payment management system. Subcontractor shall include a similar requirement in all sub-subcontracts or purchase orders entered by Subcontractor.

- 1) Fees to Subcontractors are calculated as 0.22% (22 basis points) of total contract value (including net change orders), with no minimum fee and a maximum fee of \$3,750.00. Fees to Subcontractors' subcontractors and suppliers are a fixed fee of \$100 per subcontract or supplier contract.

3. **ALLOWANCE FOR OVERHEAD AND PROFIT ON CHANGES** – Allowable mark-up for overhead and profit, which shall include all management and supervision above the level of working foreman, general conditions and required insurances, shall be **%** for self-performed work and **%** for subcontracted work.

4. **SUBCONTRACTOR BONDS OR SUBCONTRACTOR DEFAULT INSURANCE (“SDI”) PROGRAM** **Check the appropriate box**

☐ Subcontractor shall furnish a Performance and Payment Bond in a form and from a surety satisfactory to Contractor in the amount of the full value of the Subcontract Agreement. Premiums for said bond are to be paid by Subcontractor, and the costs for same are included in the Subcontract Price. Having satisfied all conditions of awards as set forth elsewhere in these documents, Subcontractor shall, within a five (5) day period, furnish Performance and Payment Bonds. In the event that Subcontractor fails to provide the required bonds within five (5) days, or within such extended period as Contractor may grant, Contractor may revoke its award this Subcontract seek damages from Subcontractor.

☐ This Project has been included in Contractor's SDI program. All Subcontractors with a Subcontract value of **\$25,000** or more must pre-qualified prior to completing any work on this project. Subcontractor agrees to provide all financial and other information needed for Contractor to pre-qualify Subcontractor. In the event that Contractor, in its sole discretion, chooses to require Performance and Payment Bonds for Subcontractor in lieu of enrolling Subcontractor in to the SDI program, Subcontractor shall provide such bonds and the parties shall proceed in accordance with the prior paragraph.

5. **RETAINAGE** -- Contractor shall withhold **5% or 10%** retainage from the total value of the Subcontract price until Substantial Completion of the project or acceptance of Subcontractor's Work by Owner, Architect and Contractor. Provided that all conditions precedent to progress and final payment set forth in **Article 8** of the Subcontract General Conditions and the applicable terms and conditions of General Contract Documents, if any, retainage shall be paid in the next application for payment submitted after Substantial Completion of the entire Work as defined in the General Contract Documents, subject to the following hold-backs equal to: (i) two hundred percent (200%) of the amount necessary to complete or correct Subcontractor's punch list items and defective work, including documentation required for close-out, including but not limited to warranties, as-built documents, operations and maintenance manuals, and systems training; and (ii) the reasonable value of claims (and any forecast of costs, expenses and attorneys' fees to be incurred as a result of such claims).

6. **SCHEDULE OF VALUES** – Subcontractor will be required to cooperate with Contractor and Owner to develop a detailed breakdown of its Subcontract Price in order to show the division of costs between several parts of the Work and in the manner and form required by both Contractor and

Subcontract Agreement - Consigli Construction Co., Inc.

Page 19 of 34

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

Owner showing also breakouts of labor, material, overhead, general conditions and profit. It is understood and agreed that this will also apply to all Subcontractor's lower tier sub-subcontractors.

7. **ALTERNATES** – In the event that Contractor, subject to the approval of Owner and/or the Architect, modifies the Scope of the Subcontract Work to include any or all of the following changes, Subcontractor will make the modifications as directed and the Subcontract price will be increased or decreased, as the case may be, in accordance with the lump sum and/or unit prices as set forth below each item, which includes all applicable costs of construction, insurance, overhead and profit:

Alternate Pricing:

Description of Modification	Add/Deduct
A.	
B.	

8. Unit Rates:

Unit Rates:

Description of Work	Unit Rate
A.	
B.	

8. **PREPAID MATERIALS/MATERIALS STORED OFF-SITE** - To the extent Contractor is requested to make payment to Subcontractor for materials or equipment fabricated and/or procured by Subcontractor that are either partially completed or completed and stored on a site other than the Project site, as a condition precedent to payment, Subcontractor shall provide:

- (i) A bill of sale itemizing the materials and/or equipment and all related component parts (collectively the "Materials") that transfers title of the Materials to Contractor;
- (ii) Reasonable proof that the Materials are stored in a secure location, segregated from general inventory, and suitably identified to this Subcontract by tags, labels or other markings;
- (iii) A certificate of insurance covering the Materials; and,
- (iv) Any other documents or information required by the General Contract Documents or reasonably requested from Owner or any lender.

Subcontractor authorizes Contractor to record a UCC-1 Financing Statement evidencing Contractor's ownership interest in the stored Materials and to give notice of such interest to third parties, including but not limited to Subcontractor's secured lenders. Subcontractor further agrees to execute documents necessary to disclose Contractor's ownership of the Materials and, at Contractor's direction, to give such notice to any secured lender or others who may claim an interest in the property of Subcontractor. Subcontractor will not list the Materials as assets on its financial books and records. The Contractor reserves the right to remove the Materials (and any components) at any stage of completion or partial completion at any time after an event of a default by the Subcontractor under the Subcontract.

Notwithstanding Contractor's payment for and ownership of the Materials before delivery and/or installation at the Project, Subcontractor is responsible for the fabrication, completion, storage, delivery, handling, installation, risk of loss and risk of insurance of the Materials wherever located in accordance with the Subcontract.

At all times, Contractor and its authorized designees shall have the right to enter the premises of Subcontractor to inspect the Materials and the fabrication process. The Subcontractor shall not assert any claims or take any action against the Materials in contravention of Contractor's ownership thereof.

Subcontractor shall promptly notify Contractor of the occurrence of either (i) any event of default under any agreement between Subcontractor and any of its creditors or other condition or circumstance which may cause any person to make a claim to any Materials located on Subcontractor's premises, or (ii) loss, theft, damage or other casualty of any of the Materials. If either of such events occurs, Subcontractor will at its own cost deliver the Materials or partially completed Materials then located on Subcontractor's premises and/or take such other or additional actions with respect thereto as Contractor may reasonably require to protect and preserve Contractor's ownership interests therein.

In the event of a default by Subcontractor and in addition to any other rights of Contractor under **Article 14 of Exhibit A-Subcontract General Conditions**, Contractor may employ personnel to complete, package and/or remove the Materials in whatever stage of production (unassembled, partially assembled or completed) and related specially purchased Materials identifiable to this Subcontract, and Subcontractor grants a license to Contractor and Contractor's employees, contractors and agents to access Subcontractor's land and facilities, wherever located, whether owned or leased

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

by Subcontractor, at any time to complete, package and/or remove the Materials from the Subcontractor's premises. If Contractor elects to invoke its rights under this paragraph, Contractor shall direct such work and shall in its sole discretion determine the manner in which such work shall be completed. The costs and expenses incurred by the Contractor under this paragraph shall be deducted from the Subcontract Price.

PV/Albany Office - Sample Subcontract Agreement

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “E”

Project Schedule Requirements

1. **CONSTRUCTION SCHEDULE** - Subcontractor hereby acknowledges and agrees that it has been made aware of and hereby agrees to comply with the following schedule for the Subcontract Work:

A. Submittals and Shop Drawings shall be provided no later than [redacted] after receipt of notice to proceed.

B. Lead time on materials shall be no longer than [redacted] after approvals.

C. Mobilization and start of construction will occur the week of [redacted].

D. Milestones:

1) Work shall be completed by [redacted]

2) Work shall take no longer than [redacted] weeks.

or

1) {Activity Name} {Activity Duration}

2) {Activity Name} {Activity Duration}

3) {Activity Name} {Activity Duration}

4) {Activity Name} {Activity Duration}

E. Complete all Work in accordance with Contractor's Construction Schedule.

1) Subcontractor will participate in schedule development meetings are required by Contractor.

F. This is a Lean Project and Subcontractor will participate in the Last Planner Systems including daily schedule/planning meetings when on site.

It is also mutually understood and agreed that these dates represent the intention of Contractor and Subcontractor and that in the event the actual dates are adjusted to suit project conditions, Subcontractor will adjust its sequence and duration to timely complete its Work in accordance with the adjusted schedule.

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “F”

Schedule of Documents

1. **AGREEMENT BETWEEN OWNER AND CONTRACTOR—copy on Consigli FTP site and/or Procore**
2. **CONTRACT DRAWINGS & SPECIFICATIONS:**
(as prepared by fill in Architect)

In accordance with the attached Document and Specification Log dated _____, _____ Pages
3. **MISCELLANEOUS DOCUMENTS:**

PV/Albany Office - Sample Subcontract Agreement

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “G”
Project Safety Requirements

1. **COVID-19 Site Specific Safety Plan Requirements** – It is mutually understood and agreed that the subcontractor shall comply with, and include any cost associated for, compliance with all COVID-19 safety plan requirements as defined by the Contractor. This shall include, but not be limited, modifications for manpower and crews in order to accommodate schedule, PPE requirements, testing requirements, etc.
2. **HEALTH AND SAFETY HAZARD AWARENESS** - Subcontractor recognizes that it and its Subcontractors, suppliers and employees have the obligation to comply with all federal and/or state safety and health laws and regulations. Subcontractor specifically acknowledges that it has the primary responsibility to prevent and/or correct all health and safety hazards within the operations for which it and its employees or its Subcontractors and their employees are responsible. Subcontractor further acknowledges that it and its Subcontractors, suppliers and employees have special expertise in recognition and prevention of such hazards in the operations for which they are responsible and that Contractor does not have such expertise and is relying upon such expertise by Subcontractor and its Subcontractors, suppliers and employees. Contractor retains the right to direct Subcontractor to eliminate all hazards of which Contractor has actual knowledge, but the recognition and abatement of such hazards are the responsibility of Subcontractor and its Subcontractors, suppliers and employees. Subcontractor agrees to indemnify Contractor and all other Subcontractors for all costs and penalties incurred, including attorney fees, as a result of hazards created by Subcontractor, its Subcontractors, suppliers and employees. Subcontractor hereby certifies that it will not allow on the project site any Subcontractor, supplier and/or employee of any of them who is not fully trained in all safety aspects of the Subcontract Work and who is not expert in the operations comprising the Subcontract Work.
3. **OSHA REQUIREMENTS** - Subcontractor hereby acknowledges that it is familiar with the Federal Regulation 29CFR Part 1926 - Safety and Health Regulations for Construction. In compliance with that regulation, Contractor has developed a written Hazard Communication Program identifying the requirements for hazardous material identification. Subcontractor hereby agrees to conform with the requirements of the OSHA regulations and to follow the procedures set forth in Contractor's Communication Standard identified herein and in accordance with those regulations and that standard shall forward to Contractor's office to the attention of the Safety Manager copies of all "Safety Data Sheets" for materials being brought onto the jobsite. The Safety Data Sheets shall be accompanied by a letter of transmittal stating the name of Subcontractor, the name and location of the jobsite, description of what Safety Data Sheets are being sent and any special precautionary measures that should be taken when using these materials.
4. **BASIC SAFETY RULES AND REGULATIONS** - Subcontractor hereby agrees to comply completely during the performance of the Subcontract Work with all of Contractor's designated safety programs for the project.
5. **ACCIDENT REPORTING** - Subcontractor hereby acknowledges and agrees to orally notify Contractor's Project Superintendent within twenty-four (24) hours after any of Subcontractor's employees and/or equipment and/or motor vehicles or any of its lower tier subcontractor's and/or supplier's employees and/or equipment and/or motor vehicles are involved in a jobsite accident or injury. Further, Subcontractor also hereby acknowledges and agrees to provide Contractor with a completed first report of injury within five (5) days after any of Subcontractor's or any of its lower tier subcontractor's or supplier's employees are injured in a jobsite accident.
6. **TRAINING** – All Subcontractors' personnel shall have OSHA 10 hour construction training and certification prior to working on any Consigli Project site. All supervisory shall have OSHA 30 hour Construction Training and Certification. Personnel that are not trained will be asked to leave the project site until certification is obtained. All subcontractor personnel performing work in NYC shall comply with site safety training (Local Law 196 of 2017) requirements.
7. **CRANE SAFETY POLICY** – When mobilizing cranes on site for completion of their respective work, all Subcontractors shall comply with Contractor's Crane Safety Policy, including but not limited to, third party independent inspection of all Lattice Boom and Tower Cranes during set up and prior to operation.
8. **OSHA REQUIREMENTS FOR EXCAVATION** - Subcontractor hereby acknowledges and certifies that it is familiar with Federal Regulation 29 CFR, Part 1926, Subpart P – Excavations. Subcontractor hereby agrees to perform the Subcontract Work in full accordance with all of the requirements set forth in this regulation.
9. **OSHA RECORDABLE INCIDENT RATES** - Subcontractor will be required to submit on a monthly basis its OSHA recordable and lost day incident rates for this specific Project if specifically required by Contractor's Project Manager or Project Superintendent.
10. **SAFETY PRECONSTRUCTION MEETING** – It is mutually understood and agreed that Subcontractor shall attend a safety preconstruction meeting to review all safety requirements as pertains to the completion of the Work of their Subcontract. This shall take place on-site, prior to the start of Work, with the Contractor's safety representative. Subcontractor's onsite Foreman shall be required to attend.
11. **CONSIGLI SAFETY RULES AND REGULATIONS** – The successful Bidder/Subcontractor, as a condition of employment, will be required to comply with all applicable Federal, State, County, Municipal, Client and Construction Manager SAFETY RULES AND REGULATIONS. **(NOTE: Federal OSHA Standards are referenced, however the more stringent of State, Owner or Local Safety Codes will also apply.)**
12. **100% 6FT. FALL PROTECTION** – Contractor has adopted a 100% Six Foot Fall Protection policy on this Project. All work over six feet in height will have a fall protection system in place. Instances where fall protection may create an unsafe condition will be dealt with on a case-by-case basis. Subcontractors shall include in the scope of their work compliance with 100% Six Foot Fall Protection standards for all work activities as detailed in Contractor's Site Specific Safety Manual, which is incorporated by reference in this Subcontract Agreement.
13. **FALL PROTECTION REMOVAL/ACCESS** – If for any reason fall protection must be removed or access is needed to roof decks, controlled access zones, or any areas that do not have the permanently affixed fall protection measures (guardrail systems) and the Contractor's Superintendent is not notified in a timely manner, then the Superintendent can require the non-compliant party to then complete a "Fall Protection Access Permit". The permit shall be completed by Subcontractor and returned to the Contractor's Project Site Office.

Subcontract Agreement - Consigli Construction Co., Inc.

Page 24 of 34

REV 1/12/21 PV/ALB

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

14. LEAN PROJECT RULES AND REGULATIONS

OVERVIEW

- A. This is a Lean project, so all Subcontractors are required to participate in Contractor's Lean design and construction program.
- B. All Subcontractors' project managers and foremen will participate in short term planning meetings as required by Contractor, including but not limited to Pull Planning, Make Ready Planning / Roadblocks Log updates, and Weekly Commitment Planning and Learning meetings.
- C. All Subcontractors' foremen working on-site shall participate in Daily Stand-Up meetings to coordinate work, identify roadblocks to current and impending on-site activities, collaborate on strategies for removing those roadblocks, and identify opportunities for improving throughput and workflow.

MATERIALS MANAGEMENT

- A. All Subcontractors will deliver all materials just in time for installation. Subcontractors must obtain prior approval from Contractor's Superintendent at least 48 hours in advance to schedule all material deliveries to the site. No materials shall be delivered to the site earlier than 72 hours before said materials are to be installed/put into place. If materials have to be delivered before that 72-hour window, Subcontractor shall get prior approval from Contractor's Superintendent. Contractor has the right to refuse any deliveries not properly scheduled or due to logistical constraints as necessary.
- B. All Subcontractors shall place delivered materials on wheeled carts, wheeled racks, or in wheeled bins to enable easy relocation in case materials need to be moved. If there are designated material laydown areas (e.g., "Subcontractor parking spots") and project-specific storage/staging rules, Subcontractors shall store/stage their materials accordingly. Subcontractors may deliver and store materials/tools on pallets only if pallet jacks are delivered simultaneously and kept with said delivery to enable immediate mobility of materials.
- C. All Subcontractors shall use rubber wheeled carts when moving material or removing trash from a building. Any damage caused by Subcontractor shall be repaired at the cost of Subcontractor. Back charges will be appropriately assessed for the cost of the repairs.
- D. All Subcontractors shall, where feasible, elevate all electrical extension cords, hoses, or cables to remove them from all walking/working surfaces.

TRASH REMOVAL

- A. All Subcontractors shall provide wheeled trash bins in workstations for immediate placement of all debris produced as a part of Subcontractors' on-site installation operations. All Subcontractors will cut anything larger than 6' down to size prior to placing it into trash bins. All Subcontractors will sweep their work areas each day. No trash or materials shall be left on the floor.
- B. All Subcontractors shall dump wheeled containers into Contractor-supplied dumpsters on a daily basis.
- C. Storage of delivered materials in cardboard containers is discouraged. When materials must arrive or stay in cardboard containers, all Subcontractors shall remove said containers from the project immediately after the products are unpacked.

Subcontractors found in non-compliance with any of the applicable rules and regulation will receive a "Notice of Violation" either oral or written. Failure to abate the violation or continued failure to comply with the Basic Safety Rules and Regulations may result in liquidated damages. Liquidated damages, if assessed, will only be used by the Construction Manager to fund programs at the Jobsite to promote Safety.

Following is a list of the Basic Safety Rules and Regulations, many of which carry the potential for liquidated damages and the amount of the liquidated damages which could be assessed:

- A. Subcontractor shall submit its company SAFETY PROGRAM/HAZCOM PROGRAM and designate its Competent person prior to starting work. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- B. All job related ACCIDENTS AND INJURIES shall be reported to the Contractor's Project Superintendent immediately and a copy of all injury reports shall be submitted to the Project Superintendent within (72) hours of occurrence. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- C. Subcontractor's employees must report all UNSAFE CONDITIONS AND NEAR ACCIDENTS to their supervisor and the Jobsite safety officer so that corrective action can be taken.
- D. Subcontractor's employees shall attend any Jobsite SAFETY ORIENTATIONS as required. Subcontractor's supervisors shall attend Contractor WEEKLY SAFETY MEETINGS. Subcontractor must hold a "Weekly Tool-Box Safety Meeting" and submit for record those employees who have attended, along with a list of topics and related information discussed. **Failure to comply with any of the above may result in \$500.00 liquidated damage assessment to Subcontractor per written incident.**
- E. Copies of CERTIFICATIONS FOR SPECIALIZED TRAINING required to perform certain types of hazardous work or operate certain tools and equipment may be required to be submitted prior to work commencing. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating employee.**
- F. Subcontractor shall provide all required PERSONAL PROTECTIVE EQUIPMENT (PPE) (i.e. head, hearing, eye and face protection) to his employees for their use in order to perform their work safely and in compliance with local and federal codes of safe practice and manufacturers recommendations. All equipment shall be in good working order and all defective equipment shall be discarded and removed offsite immediately. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating employee.**

Subcontract Agreement - Consigli Construction Co., Inc.

Page 25 of 34

REV 1/12/21 PV/ALB

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- G. HARD HATS (ANSI Z89.1) shall be worn at all times on site. Alterations or modifications of hat or liner shall be prohibited. **Failure to wear hard hats may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating worker.**
- H. SAFETY GLASSES (ANSI Z87.1) shall be required to be worn 100% of the time on all Jobsites and also inside or around existing manufacturing facilities. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating employee.**
- I. GLOVES All Subcontractor personnel performing work with their hands shall be required to wear gloves that are appropriate to the task. When not performing actual work with their hands, employees will be required to have gloves available for immediate use. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating employee.**
- J. HEARING PROTECTION shall be worn in areas where noise levels exceed 90 DBA, where exposure to 85-90 DBA exceeds (8) hours per day, or where posted. **Failure to wear hearing protection when required may result in a \$500.00 liquidated damage assessment for each violating employee, assessed to Subcontractor.**
- K. All workers must wear CLOTHING having adequate protection to the body. Sturdy work boots, shirts with sleeves and long pants must be worn. No sneakers, sandals, tank tops, cut-off shirts or shorts allowed. **Failure to be properly clothed may result in a \$500.00 liquidated damage assessment to Subcontractor for each violating worker.**
- L. Subcontractor must implement a RESPIRATORY PROTECTION PROGRAM per OSHA standards as required by their respective trades and working conditions in field. **Failure to do so may result in a \$500.00 liquidated damage assessment for each day that Subcontractor does not conform to OSHA standards.**
- M. "HORSEPLAY" on the Jobsite is strictly prohibited. No running on Jobsite unless extreme emergencies warrant. Fighting on construction premises will result in immediate dismissal of employee, who shall be excluded from all Contractor's projects. **Failure to adhere to this policy may result in a \$500.00 fine for each violating employee, assessed to the Subcontractor.**
- N. Subcontractor shall provide FALL Protection anytime work over 6' is conducted. **Failure to do so may result in a \$1000.00 liquidated damage assessment to Subcontractor.**
- O. Subcontractors must provide FALL PROTECTION (harnesses/shock-absorbing lanyards, etc.) as required for their employees where permanent or temporary fall prevention is not in place. **Failure to do so may result in a \$1000.00 liquidated damage assessment to Subcontractor.**
- P. FIREARMS, ALCOHOLIC BEVERAGES OR ILLEGAL DRUGS are not allowed on site. Personnel, vehicles and equipment are subject to search upon entering or leaving and while on the site premises. The use of alcohol beverages or the use and possession of illegal drugs during the workday, either on site, during breaks or lunch, or before work, is prohibited. **Anyone caught using illegal drugs or alcohol, during any of these times is subject to immediate termination or dismissal from the site indefinitely and a \$1000.00 liquidated damage assessment may be made to Subcontractor for each violating worker involved.**
- Q. CAMERAS AND RECORDABLE DEVICES are not allowed unless approved through Contractor's project manager's office.
- R. All Subcontractors shall keep their respective areas clean and hazard free. HOUSEKEEPING will be done on a daily basis or more frequently if conditions warrant. **Failure to do so may result in a back charge to Subcontractors involved for clean-up directed by Contractor.**
- S. All TOOLS, whether company or personal, must be in good working condition. Defective tools must not be used and should be removed offsite (i.e. chisels with mushroom heads, hammers with split or loose handles, saws or grinders missing guards, etc.). **Failure to comply may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- T. TOOL LANYARDS are required by Contractor to insure safe working conditions, Subcontractors shall provide their personnel with OSHA approved tool lanyard or tethers for any and all overhead work or work performed at the perimeter of the building. **Failure to comply may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- U. Ground Fault Circuit Interrupters (GFCI's) shall be used on all extension cords, electric tools and portable electric equipment powered from a temporary electric service or generator. Tools and equipment shall be inspected each week by a competent person for defects. If electrical power is used from permanent power system or existing building, Subcontractor shall provide a GFCI system between his equipment and permanent power. All temp lighting will be attached by non-conductive wiring and bulbs shall be protected on all sides. All extension cords shall be 12 gauge minimum. **Failure to comply may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- V. PERMITS, written and properly authorized may be required for work of any type including welding and open flame, live electrical work, excavation, confined spaces, cranes, lockout/tagout, blasting, fire protection water, powder-actuated tool, etc. Check with Contractor for work permits required. **Failure to do so may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- W. Subcontractor must obtain HOTWORK PERMIT for all open flame work as required by the Project Superintendent/Jobsite Safety Manager. During welding, burning, soldering, cutting, grinding, or using gas heaters or salamanders, adequate fire prevention precautions must be implemented, consisting of removal of flammables and combustibles, protection of adjacent areas, appropriate fire extinguishers or standpipes, and similar measures. If these are not employed, then a fire watch, equipped with an approved portable fire extinguisher is required during, and for a sufficient time after, the welding, burning, cutting or grinding operation. **Failure to comply may result in a \$1,000.00 liquidated damage assessment to Subcontractor.**

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

- X. BURNING AND CUTTING EQUIPMENT shall be inspected daily before being used. All hoses and manifolds shall be removed from bottles and protective caps replaced at end of each day. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- Y. Crowfoot connections of COMPRESSED AIR HOSES shall be wired or whip checks installed to prevent accidental disconnection. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- Z. LOCKOUT/TAGOUT procedures are in force and shall be followed to protect persons from injury due to inadvertent operation of power-driven equipment, opening of pipeline valves, or energizing of electrical circuits. Coordinate this procedure with Contractor. **Failure to do so may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- AA. LIVE ELECTRICAL WORK is not allowed without written approval from Contractor. Proximity work to electrical equipment is also not allowed without written approval from Contractor. **Failure to comply may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- BB. Subcontractor shall provide its own LADDERS, which must be in accordance with OSHA and ANSI specification. All ladders must be in safe condition without broken or defective rungs, rails and hardware. No metal ladder shall be used in or around any electrical work. Ladders shall be secured top and bottom and extend three feet (3') past the walking surface. Ladders shall be rated 1A minimum. **Failure to comply may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- CC. SCAFFOLDING of all types shall be provided, erected and used in accordance with Contractor's Safety and Health Chapters as they apply. **Failure to do so may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- DD. CONFINED SPACES procedures are in force and require an entry permit from Contractor. Confined spaces include manholes, vessels, duct work, etc., where such hazards as oxygen deficiency, hazardous gases, contamination, high temperatures, fire and difficulty in escaping are involved. **Failure to follow these procedures may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- EE. HAZARDOUS MATERIALS procedures are in force and protection of all personnel regarding acids, corrosives, flammables and toxics shall be per OSHA 29CFR 1926, Subpart D (Hazard Communication). **Failure to follow these procedures may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- FF. All WARNING SIGNS, barricades and tags will be used to the fullest extent and shall be obeyed. **Failure to follow these procedures may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- GG. All EARTHMOVING AND COMPACTION EQUIPMENT must have working alarm, horns, and protective devices in compliance with OSHA 1926.602 standards. **Failure to comply may result in a \$500.00 fine for each machine assessed to Subcontractor.**
- HH. All TRENCHES/EXCAVATIONS shall be in accordance with OSHA 29CFR 1926, Subpart P with particular emphasis on excavations over 5'0", and sloping requirements. "DIGSAFE", utility companies and facility owner must be notified for verification of utilities prior to digging. Subcontractor shall complete a written excavation checklist. **Failure to do so may result in a \$1000.00 liquidated damage assessment to Subcontractor.**
- II. All CONCRETE AND MASONRY CONSTRUCTION shall be in accordance with OSHA 29CFR 1926, Subpart Q, with particular attention to general requirements of construction loads, guarding of reinforcing steel to eliminate the hazard of impalement, personal protective equipment, fall protection for erecting reinforcing steel and limited access zone for masonry construction. **Failure to follow these procedures may result in a \$1,000.00 liquidated damage assessment to Subcontractor.**
- JJ. All CRANES shall have a current Certification Sticker by independent crane certification company, have a current maintenance log, required swing radius protection, and operator's licenses where required. **Failure to comply may result in a \$1000.00 liquidated damage assessment to Subcontractor who rents/leases/owns the crane.**
- KK. FLAMMABLE LIQUIDS shall be stored in approved metal safety cans and contents shall be labeled by NFPA standards. Indoor storage of flammable or combustible liquids shall not exceed 25 gallons unless stored in approved cabinets. A fire extinguisher shall be placed in the immediate vicinity of flammable liquid storage and compressed gases. **Failure to do so may result in a \$500.00 liquidated damage assessment to Subcontractor.**
- LL. VENTILATION METHODS shall be provided by Subcontractor whenever hazardous substances such as dusts, fumes, mists, vapors or gases are produced in the course of Subcontractor's work. Provide fans, ducts or other means and exhaust substances to the outside. See OSHA 1926.57 for details. **Failure to do so may result in a \$1000.00 liquidated damage assessment to Subcontractor.**
- MM. SEXUAL HARASSMENT, including verbally or physically offensive behavior on the Jobsite, is prohibited. **Failure to adhere to this policy may result in a \$1,000 liquidated damage assessment to Subcontractor and the dismissal of the offending employee(s) from the Jobsite.**
- NN. ALL OTHER regulations of any federal, state, or local agency or those of the Consigli Safety and Health Program shall be complied with at all times by Subcontractor/Vendors of any tier and their employees. **Failure of Subcontractor/Vendor to comply with or failure to promptly abate any violation of OSHA regulations, not otherwise herein listed, when requested by Contractor, may result in a \$500 liquidated damage assessment to Subcontractor/Vendor for each incidence of occurrence or unheeded request.**

NOTE: These Basic Safety Rules and Regulations highlight some of the major components and requirements of Contractor's Safety Program. A complete Safety Program Manual will be made available with the Subcontract Agreement or upon request.

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT “H”
Project Specific Requirements

1. Subcontract corporate advertising / branding is not allowed on the project site
2. No smoking shall be allowed on site
3. No abusive or inappropriate language will be tolerated
4. No one shall physically abuse any individual on our project site
5. All workers food scraps and trash must be disposed of into a waste basket or dumpster at all times
6. No radios or any other musical instruments are allowed on site
7. All deliveries need to be coordinated with the jobsite superintendent 48 hours in advance to schedule all material deliveries to the site. If lean project, please refer to Exhibit G for further clarification.
8. Normal working hours are Monday – Friday 7:00 am – 3:30 pm. or as directed by the job superintendent as required by project
9. All subcontractors shall use rubber wheeled carts when moving material or removing trash from a building. Any damage caused by Subcontractor shall be repaired at the cost of Subcontractor. Back charges will be appropriately assessed for the cost of the repairs. If this is a lean project, please refer to Exhibit G for further clarification.
10. Please check with project superintendent to verify parking on or near the site.
11. Subcontractor participation shall be required for all Safety Pre-construction planning meetings.
12. All Subcontractors shall be responsible for submission of an “Activity Hazard Analysis/Job Hazard Analysis for each and every task within all definable features of work. Said pre-task safety plans shall be prepared prior to subcontractor Safety pre-construction meeting. Any additional tasks or changes in operations, not considered at the time of the safety pre-construction meeting, shall require additional or updated AHA’s or JHA’s accordingly.
13. All Subcontractors shall be responsible for supplying their employees with drinking water during work hours as required to sustain the wellness of their employees during their daily work activities.
14. **If this Sub contractor is providing the structural steel for this project** Subcontractor shall provide a (2) line safety cable railing system at the perimeter of each floor or, roof level and all floor opening as required per local, state, federal regulations. The (2) line Safety system shall consist of 3/8" aircraft grade cable with no span between stanchions/columns greater than 12 feet. Each straight run of cable (both top and mid cables) shall have turnbuckles installed. Termination of cables shall occur at stanchions and columns only and shall be done with 3 Crosby clamps
 - A. **If working in NYC** - Subcontractor shall provide a (2) line safety cable railing system (4 lines at 0", 21", 42", and 60" if working in NYC) at the perimeter of each floor or, roof level and all floor opening as required per local, state, federal regulations. The guard rail system shall consist of 3/8" aircraft grade cable with no span between stanchions/columns greater than 12 feet. Each straight run of cable (all heights) shall have turnbuckles installed. Termination of cables shall occur at stanchions and columns only and shall be done with 2 Crosby clamps
15. **If this Sub contractor is providing a lattice boom or tower crane for this project**, it is mutually understood and agreed that this sub-contractor shall have all lattice boom or tower cranes inspected and certified, by a qualified third part certification agency ON SITE, following the assembly and erection of crane on site, prior to the start of work.
16. Any subcontractors staffed with 20 or more workers (30 workers for drywall trade) on site shall be required to have their Safety Manager visit the site on a weekly basis to inspect their operations for identification of safety and health related non-compliance issues. Follow up correspondence shall be forwarded to the Contractor’s Corporate Safety Director within 24 hours of site visit.

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
EXHIBIT "I"
ENVIRONMENTAL PROTECTION COMMITTEE RECYCLING ATTACHMENT

It is mutually understood and agreed that Contractor shall provide separate containers for the disposal of materials as categorized below:

METAL LOADS

- Steel
- Copper
- Aluminum
- File Cabinets
- Metal Desks (with wood tops acceptable)
- Machinery
- Motors
- Pipes
- Metal Chairs
- Brass
- NO paper, NO plastic, NO trash of any kind

CLEAN WOOD WASTE

- Whole or broken pallets
- Fencing
- Wood scraps
- Wood crates
- NO paper, NO plastic, NO trash of any kind

CONCRETE LOADS

- Concrete (maximum 4' diameter)
- Some dirt acceptable
- NO paper, NO plastic, NO trash of any kind

C & D LOADS

- Any type of construction debris
- Any type of painted wood
- Tree branches
- Stumps

YARD WASTE

- Grass
- Leaves
- Brush Cuttings (1" diameter maximum)
- MUST BE "Dirt and Trash Free"
- Excavated shrubs with stumps are acceptable only if dirt free, washed and under 20 lbs.
- If dumpster has stumps OVER 20 lbs. or the load is dirty, the entire load will be charged back as a C & D load

ALL LOADS ARE SUBJECT TO INSPECTION

If any dumpsters are rejected, Subcontractors responsible for contamination are subject to liquidated damages of \$750



Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

EXHIBIT 'J' CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE OF A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Subcontractor's Agent Name and Address	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td colspan="2">CONTACT NAME:</td></tr><tr><td style="width: 50%;">PHONE (A/C, EXT):</td><td style="width: 50%;">PHONE (A/C, NO.):</td></tr><tr><td colspan="2">E-MAIL ADDRESS:</td></tr><tr><td colspan="2">PRODUCER CUSTOMER ID#:</td></tr><tr><td colspan="2">INSURERS AFFORDING COVERAGE</td></tr><tr><td colspan="2">NAIC #</td></tr></table>	CONTACT NAME:		PHONE (A/C, EXT):	PHONE (A/C, NO.):	E-MAIL ADDRESS:		PRODUCER CUSTOMER ID#:		INSURERS AFFORDING COVERAGE		NAIC #	
CONTACT NAME:													
PHONE (A/C, EXT):	PHONE (A/C, NO.):												
E-MAIL ADDRESS:													
PRODUCER CUSTOMER ID#:													
INSURERS AFFORDING COVERAGE													
NAIC #													
INSURED Subcontractor's Name and Address	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%;">INSURER A:</td><td style="width: 50%;">AM Best Rated A-, VII or better</td></tr><tr><td>INSURER B:</td><td>AM Best Rated A-, VII or better</td></tr><tr><td>INSURER C:</td><td>AM Best Rated A-, VII or better</td></tr><tr><td>INSURER D:</td><td>AM Best Rated A-, VII or better</td></tr><tr><td>INSURER E:</td><td>AM Best Rated A-, VII or better</td></tr></table>	INSURER A:	AM Best Rated A-, VII or better	INSURER B:	AM Best Rated A-, VII or better	INSURER C:	AM Best Rated A-, VII or better	INSURER D:	AM Best Rated A-, VII or better	INSURER E:	AM Best Rated A-, VII or better		
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INSURER C:	AM Best Rated A-, VII or better												
INSURER D:	AM Best Rated A-, VII or better												
INSURER E:	AM Best Rated A-, VII or better												

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INS R LT R	TYPE OF INSURANCE	ADD'L INSRD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/Y Y)	POLICY EXP (MM/DD/Y Y)	LIMITS														
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> RESIDENTIAL COVERAGE <input type="checkbox"/> RIGGERS LIABILITY REQ GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	X	ABC			<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$100,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$10,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$2,000,000</td></tr><tr><td>RIGGERS</td><td>\$ 1,000,000.00 IF CHECKED</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000	MED EXP (Any one person)	\$10,000	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$2,000,000	PRODUCTS - COMP/OP AGG	\$2,000,000	RIGGERS	\$ 1,000,000.00 IF CHECKED
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	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTO <input type="checkbox"/>	X	X	ABC			<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td></td></tr><tr><td>BODILY INJURY (Per accident)</td><td></td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td></td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000	BODILY INJURY (Per person)		BODILY INJURY (Per accident)		PROPERTY DAMAGE (Per accident)							
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PROPERTY DAMAGE (Per accident)																					
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS MADE	X	X	STRUCTURAL STEEL GLASS & GLAZING, FIRE PROTECTION, PLUMBING, HVAC, ELECTRICAL ALL OTHER TRADES			<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>EACH OCCURRENCE</td><td>\$ 15,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 15,000,000</td></tr><tr><td>EACH OCCURRENCE</td><td>\$ 10,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 10,000,000</td></tr><tr><td>EACH OCCURRENCE</td><td>\$ 5,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 5,000,000</td></tr></table>	EACH OCCURRENCE	\$ 15,000,000	AGGREGATE	\$ 15,000,000	EACH OCCURRENCE	\$ 10,000,000	AGGREGATE	\$ 10,000,000	EACH OCCURRENCE	\$ 5,000,000	AGGREGATE	\$ 5,000,000		
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	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	INCLUDES EXEC. OFFICERS, SOLE PROP.			<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td><input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER</td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$1,000,000</td></tr><tr><td>E.L. DISEASE-EA EMPLOYEE</td><td>\$1,000,000</td></tr><tr><td>E.L. DISEASE-POLICY LIMIT</td><td>\$1,000,000</td></tr></table>	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER		E.L. EACH ACCIDENT	\$1,000,000	E.L. DISEASE-EA EMPLOYEE	\$1,000,000	E.L. DISEASE-POLICY LIMIT	\$1,000,000						
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	PROFESSIONAL POLLUTION LIABILITY INSURANCE	X	X	DESIGN & TESTING SUBCONTRACTORS DEMOLITION & ABATEMENT SUBCONTRACTORS			<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>EACH OCCURRENCE/ AGGREGATE</td><td>\$2,000,000/\$2,000,000</td></tr><tr><td>EACH OCCURRENCE/ AGGREGATE</td><td>\$5,000,000/\$5,000,000</td></tr></table>	EACH OCCURRENCE/ AGGREGATE	\$2,000,000/\$2,000,000	EACH OCCURRENCE/ AGGREGATE	\$5,000,000/\$5,000,000										
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DESCRIPTION OF OPERATIONS – JOB : **PROJECT NAME –**

Consigli Construction Co., Inc., Owner and other parties as required by contract are listed as additional insureds on a primary/non-contributing basis to named insured on the above referenced General Liability and Umbrella Liability policies as it relates to work performed at the captioned project. General Liability policy per ISO 12 07 form and includes coverage for "X, C, U" (hazards, collapse of building, blasting and damage to underground property), Completed Operations, Residential Construction coverage, and Contractual Liability. All policies referenced herein include a waiver of subrogation in favor of Consigli Construction Co., Inc., Owner, and others where required by contract. Worker's Compensation applies in the state which work is performed. **GC- Required Endorsements-** Commercial General Liability endorsement are ISO Additional Insured Endorsement CG 2010 AND CG 2037 or an ISO form providing equivalent coverage to the additional insured as these ISO issued forms.

CERTIFICATE HOLDER Consigli Construction Co., Inc. 199 West St., Suite 100 Pleasant Valley, NY 12569	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
L-1 Progress Release of Lien Waiver - SAMPLE
WAIVER AND PAYMENT AFFIDAVIT

GENERAL

CONTRACTOR: CONSIGLI CONSTRUCTION CO., INC. 199 West Road, Pleasant Valley, NY 02569

SUBCONTRACTOR / MATERIAL SUPPLIER: _____

PROJECT: _____

Total Contract Amount: \$ _____ Total Amount Previously Paid: \$ _____ Amount Paid This Date: \$ _____

The undersigned acknowledges that it has been paid the amount set forth above and it has been paid all sums due for all labor, services, equipment or materials furnished by the undersigned or on behalf of the undersigned to or in connection with the project and the undersigned hereby releases, discharges, relinquishes and waives any and all claims, suits, bond claims, liens, and rights of lien for all work, labor, services, equipment or materials furnished or performed in connection with construction located at the project through ____/____/____ whether such claims, demands and rights arise pursuant to a written or oral contract or otherwise. This release does not cover any retention, if any, or labor, services equipment or materials furnished after that date.

The undersigned hereby certifies, as an inducement to Consigli Construction Co., Inc. to pay funds to it under its Subcontract or Material Purchase Agreement (MPA) for work performed prior to ____/____/____, and acknowledging that Consigli Construction Co., Inc. will rely upon such representation that all bills for labor, materials, equipment rental, taxes, fringes and benefits and all other charges arising out of performance of the Subcontract or MPA through the date above have been fully paid by the undersigned, except as follows:

Name	Address & Phone # & Contact Person	Amount Due
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned further agrees that if it does not promptly pay the above and furnish Consigli Construction Co., Inc. with releases (Form 2) from the above parties, then Consigli Construction Co., Inc. shall be authorized to make payment to the above by jointly payable checks and deduct the amount due from sums due Subcontractor or supplier under the Subcontract or MPA.

The undersigned warrants that all subcontractors, suppliers, equipment lessors, labor, taxes, union benefits and fringes applicable to this project have been paid in full through the date set forth above and agrees to defend, indemnify and hold Consigli Construction Co., Inc. and all sureties harmless against any loss arising from the nonpayment thereof.

The undersigned certifies or declares under the penalty of law that the foregoing is true and correct.

Executed as a sealed instrument this ____ day of _____, 201__.

Subcontractor/ Material Supplier Company Name: _____

Subcontractor/ Material Supplier: _____ Printed Name: _____ Title: _____
Duly Authorized Signature

Witness Name Printed and Signature: _____

L-2 - Final Release of Lien Waiver - SAMPLE
WAIVER AND PAYMENT AFFIDAVIT

GENERAL

CONTRACTOR: CONSIGLI CONSTRUCTION CO., INC., 199 West Road, Pleasant Valley, NY 02569

SUBCONTRACTOR / MATERIAL SUPPLIER: _____

PROJECT: _____

Total Contract Amount: \$ _____ Total Amount Previously Paid: \$ _____ Amount Paid This Date: \$ _____

The undersigned acknowledges that it has been paid the amount set forth above and it has been paid all sums due for all labor, services, equipment or materials furnished by the undersigned or on behalf of the undersigned to or in connection with the project and the undersigned hereby releases, discharges, relinquishes and waives any and all claims, suits, bond claims, liens, and rights of lien for all work, labor, services, equipment or materials furnished or performed in connection with construction located at the project through ____/____/____ whether such claims, demands and rights arise

Subcontract Agreement - Consigli Construction Co., Inc.

Page 31 of 34

Project Name
City, NY – Job No.

SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor

pursuant to a written or oral contract or otherwise. This release does not cover any retention, if any, or labor, services equipment or materials furnished after that date.

The undersigned hereby certifies, as an inducement to Consigli Construction Co., Inc. to pay funds to it under its Subcontract or Material Purchase Agreement (MPA) for work performed prior to __/__/__, and acknowledging that Consigli Construction Co., Inc. will rely upon such representation that all bills for labor, materials, equipment rental, taxes, fringes and benefits and all other charges arising out of performance of the Subcontract or MPA through the date above have been fully paid by the undersigned, except as follows:

Name	Address & Phone # & Contact Person	Amount Due
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned further agrees that if it does not promptly pay the above and furnish Consigli Construction Co., Inc. with releases (Form 2) from the above parties, then Consigli Construction Co., Inc. shall be authorized to make payment to the above by jointly payable checks and deduct the amount due from sums due Subcontractor or supplier under the Subcontract or MPA.

The undersigned warrants that all subcontractors, suppliers, equipment lessors, labor, taxes, union benefits and fringes applicable to this project have been paid in full through the date set forth above and agrees to defend, indemnify and hold Consigli Construction Co., Inc. and all sureties harmless against any loss arising from the nonpayment thereof.

The undersigned certifies or declares under the penalty of law that the foregoing is true and correct.

Executed as a sealed instrument this _____ day of _____, 201__

Subcontractor/ Material Supplier Company Name: _____

Subcontractor/ Material Supplier: _____ Printed Name: _____ Title: _____
Duly Authorized Signature

Witness Name Printed and Signature: _____

Project Name
City, NY – Job No.
SC-xxx-xxx Between Consigli Construction Co., Inc. and Subcontractor
Exhibit “M”
Scaffolding Indemnity Agreement

(Subcontractor) hereafter called “User”, in consideration and by reason of its Employees’, Agents’, Subcontractors’, Laborers’ and Materialmens’ use of and operations on, around, and near Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists, rented by, purchased, and/or erected for Consigli Construction NY, LLC, hereby agrees, to the fullest extent permitted by law, to indemnify, hold harmless, and defend, at User’s sole cost and expense, Consigli Construction NY, LLC and the project owner from and against any and all liabilities, including but not limited to liabilities under Labor Law Sections 240, 241(6), and all losses, demands, debts, claims, causes of action, damages, awards, judgments, actions, and proceedings at law or in equity or otherwise, whether based upon statute or otherwise, costs, including attorney’s fees, costs, and disbursements, arising out of and/or in connection with and/or in any way relating to the use of and operations on, around, and near said Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists and related equipment and items by User and User’s Employees, Agents, Subcontractors, Laborers, and Materialmen. Each User will be responsible on a daily basis for the following:

- a. Assume the responsibility of training and certifying your Employees on the safe use of said Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists and related equipment as per all OSHA Regulations.
- b. Verifying and accepting the Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists as being in safe condition before using said equipment on a daily basis. Daily sign off will be required before using said equipment.
- c. OSHA compliance of all related OSHA Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists Regulations for the User’s own respective Employees.

Each User is expressly not allowed to do the following:

- (1) Remove, replace, move, or adjust any Planks, Side Brackets, Outriggers, Guardrails, Toeboards, Netting, or any other Scaffold Components for the User’s own use.
- (2) Allow access to or use the said Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists by any User and User’s Employees, Agents, Subcontractors, Laborers, and Material Men without signing this Scaffolding Indemnity Agreement & supplying the Certificate of Insurance.