



CONSIGLI
Est. 1905

SHORT-FORM SUBCONTRACT

Job No.: Insert job number
 Subcontract No.: SC- To be assigned by Admin
 Cost Code _____ Cost _____
 Cost Code _____ Cost _____

THIS AGREEMENT, made on _____, by and between _____ (“Subcontractor”), Contact Name: _____ Address: _____ E-Mail: _____ Telephone No.: _____ Fax No.: _____ - and - **Consigli Construction Co., Inc.** (“Contractor”), Address: 199 West Road Suite 100 Pleasant Valley, NY 12569, Telephone No: (845) 635-1800.

- And -

WITNESSETH:

WHEREAS, Contractor has entered into a contract dated _____ (“Prime Contract”) with _____, (“Owner”), for the construction of _____, (“Project”) at _____; and **WHEREAS**, Subcontractor desires to perform a portion of such Prime Contract, as described more fully below. **NOW THEREFORE**, it is agreed as follows: (Team to complete)

Section 1 – Scope of Work

- A. **CONTRACT DOCUMENTS** – The Scope of Work includes all labor, materials, equipment and supervision required for the completion of Subcontractor’s Work for the above referenced Project in strict accordance with the following documents:
 - 1) Contract drawings dated Drawing Date, as prepared by Architect
 - 2) Specifications dated Specification Date, as prepared by Architect
 - 3) Addenda dated Addenda Date, as prepared by Architect
 - 4) Exhibit “G” – Project Safety Requirements
 - 5) Exhibit “H” – Project Specific Requirements
 - 6) Exhibit “J” – Sample Insurance
 - 7) Exhibit “M” – Scaffolding Indemnity
 - 8) Exhibit “N” – Labor Laws
- B. **GENERAL SCOPE INCLUSIONS** – In General, the Scope of Work of this Subcontract includes, providing all labor, materials, equipment and supervision required to furnish and install all of the Scope of Work as specified and as shown including, but not limited to the following:
 - 1) _____
 - 2) _____
- C. **ADDITIONAL CLARIFICATIONS** – The following items are also included in the Scope of Work and have been mutually understood and agreed upon:
 - 1) If this is a LEAN Project, please refer to Exhibit “G” – Project Safety Requirements, for further rules and regulations.
 - 2) Place Holder
- D. **CONSTRUCTION SCHEDULE** – The Subcontractor hereby acknowledges and agrees that it has been made aware of and hereby agrees to comply with the following schedule for this Subcontract:
 - 1) Submittals and Shop Drawings shall be provided no later than _____ after receipt of notice to proceed.
 - 2) Lead time on materials shall be no longer than _____ after approval.
 - 3) Mobilization and start of construction will occur the week of _____.
 - 4) Milestones:

Work shall be completed by [REDACTED].

Work shall take no longer than [REDACTED] weeks.

- 5) The date of substantial completion for the Project will occur on or before [REDACTED].
- 6) Complete all Work in accordance with the Contractors Construction Schedule.
- 7) It is also mutually understood and agreed that these dates represent the intention of Contractor and the Subcontractor and that in the event the actual dates are adjusted to suit project conditions, the relative duration will not be affected.

E. **EXCLUSIONS** – The following items are excluded from the Scope of Work of this Subcontract:

1) Insert Exclusion

2) Insert Exclusion

F. **FLOW DOWN** – Subcontractor agrees to assume toward Contractor all the obligations and responsibilities pertaining to the work that Contractor by the aforesaid Prime Contract and the Contract Documents has assumed to Owner including the furnishing of such warranties and guarantees as are required in the Contract Documents. Subcontractor agrees that Contractor shall have all rights, privileges, and immunities which Owner has in connection with the Prime Contract with Contractor.

Section 2 – Prosecution of Work – Subcontractor shall prosecute the Work in a prompt manner as directed by Contractor so as to promote the general progress of the entire Project and shall not delay or hinder the work of Contractor. The time of performance is of the essence. In the event Subcontractor is delayed in the progress of the Work for any reason whatsoever (other than delay caused by its own acts or omissions or that of its sub-subcontractors/vendors/suppliers), Subcontractor shall be entitled to a time extension or additional compensation only to the extent Contractor recovers such from Owner under the terms of the Prime Contract.

Section 3 – Payment

- A. Contractor agrees to pay Subcontractor, upon satisfactory completion of Work as specified herein, the sum **Payment Sum** (\$ xxx,xxx), adjusted as required by differences between estimated and actual quantities for items expressly identified to be paid for on a unit price basis and subject to additions and deductions for changes agreed upon or otherwise determined.
- B. The period covered by each application for payment shall be one (1) calendar month ending on the last day of the month. Provided an original application for payment is received by Contractor not later than the 25th day of the month, Contractor shall include Subcontractor's Work covered by that application in the next application for payment which Contractor is entitled to submit to the Architect. No faxed copies of requisitions will be accepted by Contractor's accounting department. For any projects not using Textura Payment Systems, signed and notarized requisitions should be mailed to Contractor's Office: 199 West Road, Suite 100, Pleasant Valley, NY 12569. 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 or final payments from Contractor, its payment bond surety or its statutory lien bond surety until and then only to the extent such payment has been received by Contractor from Owner. Progress payments will be made on approved work, less retainage of five percent (5%). Before issuance of each progress payment, Subcontractor shall submit evidence satisfactory to Contractor that all payrolls, bills for materials, equipment and sub-subcontractors and all known indebtedness connected with Subcontractor's Work have been satisfied. The payment of any current estimates or of any retained percentage hereunder shall not be construed as an acceptance of defective or improper materials or workmanship. Any audit obligations applicable to Contractor under the Prime Contract shall apply to Subcontractor.
- C. In the event Subcontractor is either directed to perform extra work or is requesting to perform extra work on a time and material basis, Subcontractor must submit a notification via the Quickbase T&M form/QR code provided by Contractor on the Procure site. Subcontractor shall be responsible for obtaining verification of the time and material work from an authorized representative of Contractor. All slips for time and material work must be delivered to Contractor on the same day that the work is completed. Pricing associated with the slips must be submitted no 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.

Section 4 – 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. Fees to Subcontractors' subcontractors and suppliers are a fixed fee of \$100 per subcontract or supplier contract.

Section 5 – Changes – Contractor may make changes in the Work by written order to Subcontractor, and Subcontractor shall promptly proceed with the Work as changed, following receipt of a Change Order Request, Subcontractor will promptly respond with an adequate breakdown to the full satisfaction of Contractor. If Subcontractor fails to provide an adequate breakdown to the satisfaction of Contractor, Subcontractor must resubmit via the Change Order Request form provided by Contractor on the Procure site. Subcontractor may be entitled to a price adjustment as provided in the Prime Contract for such changes.

Section 6 – Liens and Claims – Subcontractor shall pay for all labor, materials, equipment and other items provided directly or indirectly to Subcontractor in performing under this Subcontract and will defend, indemnify, and hold harmless Contractor and Owner from any and all claims, suits or liens resulting from any such failure by Subcontractor.

Section 7 – Warranty – Subcontractor warrants its Work against all deficiencies and defects in materials and/or workmanship and agrees to satisfy same without cost to Owner or Contractor for all time periods required by the Contract Documents, but in any event not less than one (1) year from Substantial Completion of the entire Project. This warranty shall be in addition to and not in limitation of any other express warranty or remedy required by law, the Contract Documents, or the Prime Contract. Subcontractor shall promptly take down and remove from the premises and immediately replace or correct all materials, whether worked or

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un-worked, and all portions of the Work determined by Contractor as failing to conform to the Contract Documents, notwithstanding that such defective material or Work may not previously have been objected to or may have been paid for or estimated for payment. If Subcontractor shall fail to replace or correct Work deemed defective by Contractor within three (3) business days after written notice from Contractor, Contractor may take down, remove, correct and replace the same at Subcontractor's expense.

Section 8 – Insurance

- 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 **Exhibit “J” – Sample Insurance** attached hereto, as detailed in this **Section 8** under forms of policies satisfactory to Contractor and Owner. In the event there is a conflict with the limits required in this **Section 8** and the limits set forth in **Exhibit “J,”** then the reference to the higher limit shall control and Subcontractor shall procure the higher limit.
- 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” – Sample Insurance for specific requirements**) and following form to the CGL insurance and the Business Automobile Liability Insurance required by this **Section 8** 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 **Section 8** and **Exhibit “J” – Sample Insurance** 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 fifty (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 fifty (50) feet of a railroad, a copy of such endorsement shall be provided to Contractor before work within fifty (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 (ii) 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 **Section 8** or **Exhibit “J” – Sample Insurance** (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 8**, 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/Employee; \$1,000,000 Bodily Injury per Disease/Employee; and \$1,000,000 Policy limit by disease. If exposure to United States Longshore and 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 **Section 8** and **Exhibit "J" – Sample Insurance** 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 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" – Sample Insurance** 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 **Section 8** shall contain a provision by endorsement that coverages afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to Contractor, except ten (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 six (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 **Section 8** and/or **Exhibit "J" – Sample Insurance** 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 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. **Scope-Specific Insurance and Bond Requirements:** **ONLY IF** your work of this Subcontract includes the following:
- 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.

- 2) **Professional Liability Insurance:** If required, 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 six (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:** If Subcontractor's 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:** If required, 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 watercraft or aircraft, 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, 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, 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 one hundred percent (100%) of the Subcontract Price and in form and from corporate sureties satisfactory to Contractor.
- 8) **Abuse and Molestation Coverage:** If required, Subcontractor shall provide abuse and molestation insurance for abuse of children or vulnerable adults with limits of at least **\$500,000 per occurrence** and **\$1,000,000 aggregate**.

Section 9 – Indemnification

- A. To the fullest extent permitted by law, Subcontractor shall (i) 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; (ii) 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 (iii) 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 9** 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.

- F. The provisions of this **Section 9** shall survive the completion of Subcontractor's Work or any termination of this Subcontract.
- G. In the event of the use of Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists by Subcontractor, or its employees, subcontractors or material men, Subcontractor shall be subject to the Scaffolding Indemnity Agreement attached as **Exhibit M** to this Subcontract. **REMOVE IF NOT REQUIRED**

Section 10 – Labor – Subcontractor, in connection with all Work covered by this Subcontract, shall comply with and be bound by any labor agreements executed by Contractor or on Contractor's behalf. Failure at any time to comply with any of the provisions of such agreements will, at the option of Contractor, be cause for immediate termination of this Subcontract for default.

Section 11 – Contractor's Remedies and Termination

- A. Subcontractor shall commence Work upon notice from Contractor and shall promptly complete said work in accordance with the instructions of Contractor to meet the project schedule as identified in this Subcontract or as otherwise communicated by Contractor. In the event that Contractor determines that Subcontractor is not maintaining the schedule, Contractor may take such action as it deems necessary, including termination of this Subcontract, as provided below, or supplementation of Subcontractor's work force, as needed to ensure the orderly completion of the Work required by the Prime Contract. The cost of supplementation or replacement of Subcontractor shall be paid by Subcontractor.
- B. In the event of any breach by Subcontractor of any condition of this Subcontract, the Prime Contract or the Contract Documents, Contractor may, in addition to all other remedies available under the law, take any or all of the following measures:
 - 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;
 - 2) Withhold further payments otherwise due or becoming due Subcontractor;
 - 3) Terminate the Subcontract for default in the following manner: Contractor shall give to Subcontractor written notice of the breach, and, unless said breach is cured by Subcontractor within seventy-two (72) hours from the date of the notice, the Subcontract shall be deemed terminated for default except for cessation or abandonment of work in which case termination shall be upon twenty-four (24) hours' notice.
- C. 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 term, including but not limited to (i) damages payable by Contractor to Owner; (ii) Contractor's costs to complete Subcontractor's work and any increased costs of performance (plus fifteen percent (15%) overhead); (iii) warranty and rework costs (plus fifteen percent (15%) overhead); (iv) liability to third parties; (v) attorneys' fees and related costs incurred by Contractor on account of Subcontractor's default or pursuit of collection; and (vi) costs of 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. 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. Any sum or sums chargeable to Subcontractor under any provision of this Subcontract 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 and Subcontractor or any of their affiliates.
- E. In the event that Subcontractor becomes insolvent, or is adjudged bankrupt, or files for protection under Chapters 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.
- F. In addition to the foregoing, Contractor may notify Subcontractor to discontinue all 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. In the event of a termination for convenience Contractor shall pay to Subcontractor its reasonable pro rata costs of performance to date, but in no event (i) more than the Contract Price, (ii) payment on unexecuted work; and (iii) payment for anticipated profit on unexecuted work.
- G. If Subcontractor can establish, or it is otherwise determined that Subcontractor was not in default or that the failure to perform is excusable (*i.e.*, arose out of causes beyond the control and without the fault or negligence of Subcontractor), the default clauses prescribed in herein provide that a termination for default will be considered to have been a termination for the convenience of Contractor and, therefore, in such circumstances, the rights and obligations of the parties are governed accordingly.

Section 12 – Disputes – 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 breach thereof shall be decided, at the sole option of Contractor, either by submission to (i) arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association or (ii) 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 those involving 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.**

Section 13 – Safety – Subcontractor shall take all reasonable safety precautions pertaining to its Work and the conduct thereof. Without limiting the generality of the foregoing, it shall comply with all applicable laws, ordinances, rules, regulations and orders issued by any public or governmental body or authority, whether federal or otherwise, including, but not limited to, OSHA, DOB rules and regulations and Contractor's safety plan and other requirements set forth in **Exhibit "G"**

Short Form Subcontract Agreement – Consigli Construction Co., Inc.

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– **Project Safety Requirements** attached. All Subcontractor personnel shall comply with all personal protective equipment requirements, including, but not limited to, wearing OSHA-approved hard hats and safety glasses at all times. This is a mandatory requirement.

Section 14 – General Protection – Hazardous Materials – The Project may involve renovation of existing building(s). If so, the existing building(s) may contain lead, asbestos, or other hazardous materials. It shall be the responsibility of the Subcontractor to thoroughly review the existing site conditions, existing building elements and any environmental reports and/or surveys prior to commencing its work. If it is confirmed that hazardous materials of any kind exist, it shall be the responsibility of Subcontractor to train its employees with respect to protection from said hazardous materials in accordance with all applicable OSHA standards and regulations prior to commencing work on site.

Section 15 – Compliance with Laws – Subcontractor shall fully comply with all applicable laws, ordinances and regulations, including those related to labor, employment, wage and hour, overtime, equal opportunity and discrimination, the environment, noise, health, hygiene and safety, and shall obtain and pay for all permits, licenses and official inspections necessary for its work. Subcontractor acknowledges that its bid or proposal was submitted in good faith and without collusion or fraud with any other person or entity. Subcontractor represents that it is not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from bidding by any local, state, or federal government agency. Subcontractor shall ensure that the requirements of this paragraph pass through to its sub-subcontractors.

Section 16 – Policy Against Discrimination, Harassment, and Intimidation

- A. Contractor’s company policy will not tolerate any type of discrimination, harassment, or bias-motivated conduct against any person due to their 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 or individual workers or termination of this Subcontract if necessary. 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. Interference with the policy will result in immediate corrective action. This applies to on-site employees of Contractor, Subcontractor and their suppliers. 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.
- B. Any Subcontractor employee who believes he or she has been the subject of harassment or intimidation should report the alleged act immediately to Contractor’s superintendent. An investigation of all complaints will be undertaken immediately under Contractor’s standard operating procedure for the investigation of a bias-motivated event at a jobsite. Any employee of Subcontractor who has been found by Contractor after appropriate investigation to have harassed another person on the jobsite or engaged in bias-motivated conduct will be subject to appropriate sanctions depending on the circumstances, from a warning, up to and including removal from the jobsite, or referral to law enforcement.
- C. 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.

Section 17 – Utilizing Contractor Website – The Project will utilize Contractor’s controlled project management website for all project documentation. This database, known as Procure, will be accessed through the internet and will be updated in real time by project team members including Architect and Contractor. Subcontractor will be issued a username 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 Subcontractor as relevant items are added. It will be the responsibility of Subcontractor to regularly check and review updated documents as they are added to the database.

Section 18 – Sales Tax – All prices set forth herein include all applicable Sales and/or Use Taxes unless stated otherwise in the Contract Documents.

Section 19 – Entire Agreement – This Subcontract 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. This Subcontract is intended to incorporate by reference all applicable provisions of law which by law are required to be incorporated in this Subcontract. This Subcontract is binding on the parties and their successors and assigns.

Sign:

Contractor – *Consigli Construction Co., Inc.*

Sign:

Subcontractor –

Print:

Date:

Print:

Date:

EXHIBIT "G"

Project Safety Requirements

1. **COVID-19 SITE SPECIFIC SAFETY PLAN REQUIREMENTS** – It is mutually understood and agreed that 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 29 CFR 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. **OSHA 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 of Subcontractor's 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, Owner, and Construction Manager SAFETY RULES AND REGULATIONS. (NOTE: Federal OSHA Standards are referenced, however the more stringent of State, Owner or Local Safety Codes shall also apply.)
12. **100% 6FT FALL PROTECTION** – Contractor has adopted a 100% 6FT Foot Fall Protection policy on this Project. All work over six (6) 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. Subcontractor shall include in the scope of its Work compliance with 100% 6FT 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.
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.
14. **SUPERSTRUCTURE CONCRETE** – If Subcontractor's Work involves superstructure concrete, the following provisions apply:
 - A. Subcontractor is required to provide a safety plan detailing the sequence of deck formwork installation. This will include formwork drawings, access locations, fall protection plan, sequence of guard rail installation, detail of temporary guardrail construction to be turned over to Contractor, and

stripping operations. This safety plan shall include a logistics plan detailing ground floor operations, crane information with lift plan(s), pump locations, material loading locations, washout locations, lay down areas, rebar column/cage fabrication areas, etc.

- B. Subcontractor shall remove all nails from formwork and sleeve installation as they are exposed during stripping operations. All nails must be removed from the ceiling by the end of the shift when they became exposed.
- C. All floor openings (holes) shall be covered prior to formwork below being stripped. Covers shall meet or exceed OSHA 1926.502(i). If plywood is used, it shall be at least two (2) inches larger than opening in all directions. "Hole" to be marked on plywood and plywood shall be secured to prevent accidental movement. Plywood is to be new and not re-used form plywood.
- D. Floor Turnover guidelines shall be communicated to subcontractor via floor turnover form/Custody of Fall Protection. This form may be modified if conditions are found to be mutually agreeable and meet all requirements for fall protection. Subcontractor is responsible for maintenance of fall protection systems (guardrails, hole covers) prior to completing deck turnover.
- E. Subcontractor shall secure re-shores within ten (10) feet of the building perimeter. The means to secure re-shores shall be detailed in the Subcontractors safety plan submitted to the Contractor.
- F. Subcontractor shall Install full height vertical protection at building perimeter on all active concrete work levels (formwork, stripping, shoring, reshoring) except the active formwork deck where no floor exists above. Full height vertical netting (one-fourth (1/4) inch High Density polyethylene Orange FR Vertical Debris Netting (or similar) is required on guardrails of active formwork deck.
- G. Unless a Perimeter Protection System (Peri LPS or similar) is installed, the Subcontractor shall Install horizontal debris netting within two (2) floors or thirty (30) feet of stripping operations. As the work progresses, this netting is moved up the building to stay as close as possible to the stripping operation.
- H. Cast in Place Concrete fall protection anchor straps (DBI Sala Concrete Anchor Strap 2100050 – or similar) are required to be installed at the perimeter every twenty (20) feet or column line (whichever is closer) and minimum of two (2) per elevator shaft per floor.
- I. Rebar Mat – walk paths are required for common pathway access. These walk paths shall be constructed of, minimum, rough sawn 2x lumber or scaffold grade plank (or prefabricated alternative) and be a minimum of eighteen (18) inches wide. Walk paths shall be secured to the mat below to prevent accidental displacement. If structurally approved, wire mesh (maximum 4"x4") can be used on top of mat for walk path.

15. **LEAN PROJECT RULES AND REGULATIONS**

A. ***OVERVIEW***

- i. This is a LEAN project, so all Subcontractors are required to participate in Contractor's LEAN design and construction program.
- ii. 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.
- iii. 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.

B. ***MATERIALS MANAGEMENT***

- i. All Subcontractors will deliver all materials just in time for installation. Subcontractors must obtain prior approval from Contractor's Superintendent at least forty-eight (48) hours in advance to schedule all material deliveries to the site. No materials shall be delivered to the site earlier than seventy-two (72) hours before said materials are to be installed/put into place. If materials have to be delivered before that seventy-two (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.
- ii. 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.
- iii. 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. Backcharges will be appropriately assessed for the cost of the repairs.
- iv. All Subcontractors shall, where feasible, elevate all electrical extension cords, hoses, or cables to remove them from all walking/working surfaces.

C. ***TRASH REMOVAL***

- i. 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 six (6) feet 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.
- ii. All Subcontractors shall dump wheeled containers into Contractor-supplied dumpsters on a daily basis.
- iii. 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.

16. **Subcontractors found in non-compliance with any of the applicable rules and regulations, including, but not limited to the list below, 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. Assessment of liquidated damages will only be used by the Construction Manager to fund programs at the Jobsite to promote Safety.

- 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 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 seventy-two (72) hours of occurrence. **Failure to do so may result in a \$500 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's 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 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 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 its 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 liquidated damage assessment to Subcontractor for each violating employee.**
- 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 liquidated damage assessment to Subcontractor for each violating worker.**
- H. SAFETY GLASSES (ANSI Z87.1) shall be required to be worn one hundred percent (100%) of the time on all Jobsites and also inside or around existing manufacturing facilities. **Failure to do so may result in a \$500 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 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 eight (8) hours per day, or where posted. **Failure to wear hearing protection when required may result in a \$500 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 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 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 fine for each violating employee, assessed to the Subcontractor.**
- N. Subcontractor shall provide FALL Protection anytime work over six (6) feet is conducted. **Failure to do so may result in a \$1,000 liquidated damage assessment to Subcontractor.**
- O. Subcontractor 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 \$1,000 liquidated damage assessment to Subcontractor.**
- P. FIREARMS, ALCOHOLIC BEVERAGES AND 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 \$1,000 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 liquidated damage assessment to Subcontractor.**

- T. TOOL LANYARDS are required by Contractor to ensure 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 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 its 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 twelve (12) gauge minimum. **Failure to comply may result in a \$500 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 liquidated damage assessment to 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 liquidated damage assessment to Subcontractor.**
- Y. Crowfoot connections of COMPRESSED AIR HOSES shall be wired or have whip checks installed to prevent accidental disconnection. **Failure to do so may result in a \$500 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 (3) feet past the walking surface. Ladders shall be rated 1A minimum. **Failure to comply may result in a \$500 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 29 CFR 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 fine for each machine assessed to Subcontractor.**
- HH. All TRENCHES/EXCAVATIONS shall be in accordance with OSHA 29 CFR 1926, Subpart P with particular emphasis on excavations over five (5) feet, 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 \$1,000 liquidated damage assessment to Subcontractor.**
- II. All CONCRETE AND MASONRY CONSTRUCTION shall be in accordance with OSHA 29 CFR 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 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 \$1,000 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 twenty-five (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 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. Subcontractor to 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 \$1,000 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: A complete Safety Program Manual will be made available upon request.

Sample Short Form for Review

EXHIBIT "H"

Project Specific Requirements

1. Subcontractor participation shall be required for all Safety Pre-construction planning meetings.
2. All Subcontractors shall be responsible for submission of an "Activity Hazard Analysis/Job Hazard Analysis" (or AHA/JHA) 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.
3. 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.
4. Any subcontractors staffed with twenty (20) or more workers (or thirty (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 Safety Director at safety@consigli.com and the Contractor's Project superintendent within twenty-four (24) hours of the site visit.
5. Subcontract corporate advertising/branding is not allowed on the project site.
6. No smoking is allowed on site.
7. No abusive or inappropriate language will be tolerated.
8. No one shall physically abuse any individual on our project site.
9. All workers' food scraps and trash must be disposed of into a waste basket or dumpster at all times.
10. No radios or any other musical listening devices are allowed on site.
11. All deliveries need to be coordinated with the jobsite superintendent forty-eight (48) hours in advance to schedule all material deliveries to the site. If LEAN project, please refer to **Exhibit "G" – Project Safety Requirements** for further clarification.
12. Normal working hours are Monday – Friday 7:00 am – 3:30 pm or those directed by the job superintendent, as required by project
13. 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. Backcharges will be appropriately assessed for the costs of the repairs. If this is a LEAN project, please refer to **Exhibit "G" – Project Safety Requirements** for further clarification.
14. Please check with project superintendent to verify parking on or near the site.
15. **If this Subcontractor is providing the structural steel for this project** Subcontractor shall provide a two (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 two (2) line Safety system shall consist of three-eighths (3/8) inch aircraft grade cable with no span between stanchions/columns greater than twelve (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 three (3) Crosby clamps.
16. **If this Subcontractor is providing a lattice boom or tower crane for this project**, it is mutually understood and agreed that this subcontractor shall have all lattice boom or tower cranes inspected and certified, by a qualified third-party certification agency ON SITE, following the assembly and erection of crane on site, prior to the start of work.



EXHIBIT "J" - SAMPLE 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
CONTACT NAME:
PHONE (A/C, No. Ext):
PHONE (A/C, No.):
E-MAIL ADDRESS:
PRODUCER CUSTOMER ID#:
INSURERS AFFORDING COVERAGE:
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

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

Table with columns: INS RT R, TYPE OF INSURANCE, ADD'L INSRD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/Y Y), POLICY EXP (MM/DD/Y Y), LIMITS. Rows include General Liability, Automobile Liability, Umbrella Liab, Workers Compensation and Employers' Liability, Professional Pollution Liability Insurance.

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 Road, 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

Exhibit “M” Scaffolding Indemnity Agreement

Subcontractor (hereafter called “User” for purposes of this **Exhibit “M”**) 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 Co., Inc., hereby agrees, to the fullest extent permitted by law, to indemnify, hold harmless, and defend, at User’s sole cost and expense, Consigli Construction Co., Inc. and the project Owner from and against any and all liabilities, including, but not limited to, liabilities under Labor Law Sections 240 and 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. Assuming the responsibility of training and certifying your employees, agents, subcontractors, laborers, and materialmen 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:

- A. Remove, replace, move, or adjust any Planks, Side Brackets, Outriggers, Guardrails, Toeboards, Netting, or any other Scaffold Components for the User’s own use.
- B.
- C. Allow access to or use of said Scaffolding, Scaffolding Access Stairways & Ramps, and Material Hoists by any User and User’s employees, agents, subcontractors, laborers, and materialmen without signing this Scaffolding Indemnity Agreement & supplying the Certificate of Insurance.

EXHIBIT "N"
Compliance with Labor and Wage Theft Prevention Laws

1. Subcontractor acknowledges, represents and warrants that Subcontractor is aware of and understands the obligations of Subcontractor and each of its lower-tier subcontractors in connection with all applicable state and federal wage and house and worker classification laws, including, but not limited to, the requirements of NY Labor Law c. 31, Article 6, §§ 190-199 and § 198-e; NY Labor Law c. 31, Article 25-B (the NYS Construction Industry Fair Play Act); NY General Business Laws c. 35-E; and NY General Business Laws c. 35-E, § 756-f.
2. Subcontractor acknowledges, represents and warrants that Subcontractor, and any of its lower-tier subcontractors shall pay and ensure the payment of all wages, benefits, supplements and taxes to each of their employees and independent contractors working at the Project, including ensuring that such employees and independent contracts are correctly classified according to the applicable wage rate laws of any New York state entity.
3. In accordance with the requirements of these laws, and upon three (3) days written notice to Subcontractor by Contractor, Subcontractor shall complete and provide to Contractor certified payroll records in the form annexed hereto as **Attachment 1**, with all of the requested information for each employee of Subcontractor working at the Project, on a weekly basis.
4. In accordance with the requirements of these laws, upon three (3) days written notice to Subcontractor by Contractor, Subcontractor shall provide to Contractor in writing:
 - a) the names of all workers of Subcontractor on the Project, including the names of all those designated as independent contractors;
 - b) the names of all Subcontractor's lower-tier subcontractors working on the Project;
 - c) the anticipated start date of each of Subcontractor's lower-tier subcontractors on the Project;
 - d) the scheduled duration of work of each of Subcontractor's lower-tier subcontractors on the Project;
 - e) when applicable, the identity of each local union with whom each lower-tier subcontractor of Subcontractor on the Project is a signatory; and
 - f) the name, address, phone number and e-mail address of a contact for each of Subcontractor's lower-tier subcontractors.
5. Subcontractor shall pay to Contractor an administrative fee of one thousand dollars (\$1,000) for each failure of Subcontractor or its subcontractor of any tier to provide Contractor with the information required in this **Exhibit "N."** This administrative fee is in addition total costs and/or damages provided for in this Subcontract and any and all related and governing statutes.
6. Subcontractor shall defend, indemnify and hold harmless Contractor and Owner from and against any and all claims, demands, suits, actions, proceedings, subpoenas, liabilities, losses, obligations, penalties, costs, charges, and expenses, including without limitation attorneys' fees and costs, in connection with the failure of Subcontractor, or any of its subcontractors of any tier, to pay any of its employees (including independent contractors) working at the Project any wages, benefits, supplements, and taxes.
7. Subcontractor shall insert the following language in each of its lower-tier subcontractor contracts or purchase orders:

"Subcontractor shall defend, indemnify and hold harmless Contractor, Prime Contractor, and Owner from and against any and all claims, demands, suits, actions, proceedings, subpoenas, liabilities, losses, obligations, penalties, costs, charges, and expenses, including without limitation attorneys' fees and costs, in connection with the failure of Subcontractor, or any of its subcontractors of any tier, to pay any of its employees (including independent contractors) working at the Project any wages, benefits, supplements, and taxes. Subcontractor consents to being sued directly by Contractor and/or Owner for any failure in this regard."
8. Subcontractor's failure to timely comply with a request for information as provided herein may result in Contractor withholding payments to Subcontractor.

ATTACHMENT 1Instructions for the Preparation and Submission of a Payroll Report

1. All persons who performed any on-site construction activity, during the period of the requisition, shall be listed on the Payroll Report.
2. Separate Payroll Reports shall be submitted by the prime contractor and each subcontractor who performed any on-site construction activity during the period of the requisition.
3. Failure to provide the required Payroll Report may result in the requisition for payment being returned unpaid or the payment being reduced.
4. **PAYROLL REPORT HEADING:** The Payroll Report Heading shall require the following information:
 - a) **NAME OF PRIME CONTRACTOR:** Enter the name of the firm that has entered into the contract.
 - b) **NAME OF CONTRACTOR / SUBCONTRACTOR:** The legal name of the firm submitting the Payroll Report shall be placed immediately below this designation. Circle either the word CONTRACTOR or SUBCONTRACTOR as applicable.
 - c) **ADDRESS:** Insert the current address (i.e., street, city, state and zip code) of the firm submitting the Payroll Report.
 - d) **PHONE NO.:** Enter the telephone number of the firm submitting the Payroll Report in the space provided. **OWNER:** Enter the name of the Owner that has the contract with the Prime Contractor.
 - e) **PAYROLL NO.:** In the space provided, enter the Payroll Number of the Contractor or Subcontractor.
 - f) **JOB CODE:** In the space provided, enter the Contractor/ Subcontractor's in-house labor distribution code or job number where applicable.
 - g) **WEEK ENDING DATE:** In the space provided, enter the last date of the pay-week (i.e., month, day, year).
 - h) **PROJECT NAME & LOCATION:** In this space, enter the Project Name and Location where contract work is being performed.
 - i) **TAX I.D. NO.:** If applicable, enter in this space the Federal Tax Identification Number of the firm submitting the Payroll Report.
5. For every employee who performed any on-site construction activity during the period of the Payroll Report, the following information shall be provided:
 - a) **NAME, ADDRESS, LAST FOUR DIGITS OF THE SOCIAL SECURITY NO.:** The legal name, current address and the last four digits of the social security number of each employee. (Employers must keep the full social security number on file for each of their covered workers.) If the employee has no social security number, please list his/her IRS Individual Taxpayer Identification Number and mark it "ITIN".
 - b) **LIST TRADE & CHECK WORK CLASSIFICATION:** Specify and insert the Trade applicable to the work performed by each employee, i.e., Electrician, Laborer, etc. Check next to the letter J if the individual is a Journey person. Check next to the letter A if the person is a Registered Apprentice with the Department of Labor of the State of New York. Check next to the letter H only if the person is a Helper in a trade classification that has Helper rates listed.
 - c) **TIME:** RT indicates Regular Time, and OT indicates Overtime.
 - d) **DAY AND DATE:** Below this heading, in the first row, enter the appropriate sequence of the contractor's pay records. MTWTFSS, for example, is the sequence to use if the workweek ends on a Sunday, and SSMTWTF is the sequence if the workweek ends on a Friday. In the second row, below each letter representing the day of the workweek, insert the corresponding date. Below the heading HOURS WORKED EACH DAY, at the intersection of the column of the particular day and date and the horizontal row of the employee's name, insert the hours worked each day in the appropriate box either for RT (Regular Time) and / or OT (Overtime). If an employee worked Shift Time, the RT (Regular Time) row shall be used and adjusted accordingly.
 - e) **TOTAL HOURS:** Add the hours worked for Regular and / or Shift Time with the hours worked for Overtime, and enter separate totals in this column.
 - f) **BASE RATE OF PAY PER HOUR:** Specify the actual base rate of pay per hour paid to the employee. Do not include supplemental benefits in this amount.
 - g) **TOTAL BASE PAY:** Total amount earned by the employee, not including benefits.

SUPPLEMENTAL BENEFITS:

 - h) **RATE PER HOUR:** Amount of supplemental benefits paid / provided per hour.
 - i) **PAID TO:** Place a check mark in the appropriate box: U for Union if benefits paid to a Union, E for Employee if benefits paid in cash (or check) directly to the Employee, or O for Other, if benefits are otherwise paid / provided to the employee. If U is checked, you must insert the "Local" number of the union in that box.
 - j) **TOTAL BENEFITS PAID:** Total amount of supplemental benefits paid / provided for the workweek to the employee.
 - k) **GROSS PAY:** Total amount earned for workweek: This amount comprises the Total Base Pay plus any benefit paid in cash (or check) directly to the employee [i.e., column (7) + column (9) E if Box E is checked and payment made directly to employee]. No other type of benefit should be included in this column's total.
 - l) **TOTAL TAX AND OTHER DEDUCTIONS:** Enter the sum total of all deductions in this column (including FICA, Federal, State and City Taxes, etc.). This does not absolve you from maintaining appropriate tax and other records required by law).
 - m) **NET PAY:** Total amount of pay after all deductions (i.e., the actual Take-Home Pay).

EMPLOYER NAME		CERTIFIED PAYROLL				CHECK IF PROJECT LABOR AGREEMENT (PLA)	PAYROLL #	WEEK ENDING DATE						
EMPLOYER ADDRESS		EMPLOYER EMAIL ADDRESS	EMPLOYER PHONE #	EMPLOYER TAX I.D. #	PROJECT NAME									
NAME OF PRIME CONTRACTOR, BUILDING OWNER OR UTILITY Consigli Construction Co., Inc.		CONTRACT REGISTRATION # N/A	OWNER		PROJECT OR BUILDING ADDRESS									
(1)	(2)	(4)												
WORKER NAME ADDRESS LAST FOUR DIGITS OF SSN	TRADE CLASSIFICATION UNION LOCAL # JOURNEYPERSON OR APPRENTICE	THIS PROJECT, CONTRACT OR BUILDING			ALL WORK (PUBLIC)									
		DAY			TOTAL HOURS	HOURLY RATE OF PAY	GROSS PAY (THIS PROJECT)	W			BONA FIDE FRINGE BENEFITS			
		HOURS WORKED EACH DAY						TOTAL GROSS PAY (ALL WORK)	WITHHOLDINGS & DEDUCTIONS	NET PAY	HOURLY CONTRIBUTIONS TO BENEFIT FUNDS OR INDIVIDUAL ACCOUNTS	ALL OTHER BONA FIDE FRINGE		
							EMPLOYER PROJECTED ANNUAL					EMPLOYEE PROJECTED ANNUAL HOURS	ANNUALIZED HOURLY RATE	

Sample Short Form for Review

FALSIFICATION OF THIS STATEMENT IS A PUNISHABLE OFFENSE.

This certified payroll report has been prepared in accordance with the instructions for this form. I certify that the above information represents the hours worked by, wages paid to and bona fide fringe benefits provided to all of the workers employed by the above-named employer on this project, contract or building during the period shown. **I understand that falsification of this statement is a punishable offense.**

OFFICER OR PRINCIPAL OF EMPLOYER (Print Name)

TITLE

SIGNATURE

DATE