

## INDEMNITY AND INSURANCE AGREEMENT

INDEMNITY AND INSURANCE AGREEMENT (this "Agreement"), made as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between \_\_\_\_\_ ("Owner"), having an address of \_\_\_\_\_ and \_\_\_\_\_ ("Contractor") having an address of \_\_\_\_\_.

WHEREAS Owner is the owner of that certain parcel of real property and improvements thereon known as and located at \_\_\_\_\_ (the "Premises"),

WHEREAS Contractor desires and Owner has agreed to permit Contractor to perform certain services within or upon the Premises (hereinafter the "Contractor's Work");

NOW THEREFORE, for good and valuable consideration, Contractor agrees as follows:

### **ARTICLE 1 - INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless Owner and its managers, operators, agents, employees, partners, principals, shareholders, affiliates, lenders, officers and directors (collectively, the "Indemnified Parties") from and against: (1) any and all claims, suits, damages, losses or liabilities for injuries (including death) to persons or property arising out of, or in connection with, the work being performed or services being provided by Contractor and its subcontractors; and, (2) any and all costs, expenses and fees, including but not limited to, reasonable attorneys' fees and expenses incurred in connection therewith and in connection with the enforcement of this indemnification agreement, any architects', engineers' and consultants' fees and disbursements, and all other professional fees and disbursements and court costs and fees arising out of or in connection with any such claim, suit, damage, loss or liability. This indemnity specifically contemplates full indemnity in the event that liability is imposed against an Indemnified Party without negligence and solely by reason of statute, operation of law or otherwise, and partial indemnity in the event of any actual negligence on the part of an Indemnified Party causing or contributing to the underlying claim, in which case indemnification will be limited to any liability imposed over and above that percentage attributable to actual fault, whether by statute, operation of law or otherwise, to the fullest extent permitted by law.

The foregoing indemnity shall include injury to or death of any employee of the Contractor or subcontractor and shall not be limited in any way by an amount or type of damages, compensation or benefits payable under any applicable Workers Compensation, Disability Benefits or other similar employee benefits acts. This clause shall survive the expiration or termination of this contract and the work.

## ARTICLE 2 - INSURANCE

Without limiting the Contractor's liabilities or indemnification obligations, Contractor shall, at its sole expense, maintain during the term of the Work under this Agreement, and as otherwise required hereunder, the following insurance coverages in addition to any other insurance which Contractor may be required or chooses to carry.

1. Workers Compensation and Employers Liability insurance in amounts no less than the required statutory limits.
2. Automobile Liability Insurance for Bodily Injury and Property Damage in the amount of \$1,000,000 combined and covering all owned, non-owned and hired vehicles. The policy shall name the Indemnified Parties as additional insureds on a primary and non-contributory basis.
3. Commercial General Liability Insurance with limits of no less than \$1,000,000 per occurrence & \$2,000,000 aggregate (per project). The policy shall name the Indemnified Parties as additional insureds on a primary and non-contributory basis for all ongoing and completed operations under ISO Forms CG20 38 04 13 and CG 20 37 or their equivalents. The coverage provided under this CGL policy shall be written on an "occurrence" basis with no policy provisions that preclude coverage for any workers employed at the job site or that otherwise restrict, reduce, limit or impair contractual liability coverage or the status of any additional insureds. Completed Operations coverage shall remain in force for not less than five (5) years after completion of the work and shall include the Indemnified Parties as additional insureds on a primary and non-contributory basis.
4. Umbrella Liability Insurance in an amount not less than \$5,000,000 providing excess coverage over all limits and coverages required in paragraph 2 and 3 above and naming the Indemnified Parties as additional insureds on a primary and non-contributory basis.

All policies noted in above shall be written with insurance companies licensed to do business in the State of New York and rated no lower than A- in the most current edition of A.M. Best's Property-Casualty Key Rating Guide. All policies shall contain a provision that the coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to the Owner

Contractor waives all rights of subrogation against the Indemnified Parties and all policies required by Contractor under this Agreement shall provide such waivers of subrogation by endorsement or otherwise.

Certificates of Insurance evidencing the above coverages shall be furnished to Owner prior to the start of Contractor's work and copies of the policies shall be made available to Owner for inspection at Owner's request. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required. If any information concerning reduction or cancellation of coverage is not furnished by the insurer, it shall be furnished by the Contractor with reasonable promptness according to Contractor's information and belief.

Contractor shall cause its subcontractors to procure insurance covering the above liabilities under policies in form, in amounts and with insurance companies licensed to do business in the State of New York and acceptable to Owner. Contractor will obtain said policies or certificates thereof and deliver them to Owner.

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the day and year first set forth above.

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

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