

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

AGREEMENT

MADE AS OF THE 31st

DAY July

IN THE YEAR OF 2024

BETWEEN OWNER: 534 West 42nd Street Condominium

AND THE CONTRACTOR: Cercone Exterior Restorations

THE OWNER/CONTRACTOR AND THE SUBCONTRACTOR AGREE AS SET FORTH BELOW:

ARTICLE 1.0 INDEMNIFICATION

- 1.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, THEIR AGENTS AND EMPLOYEE OF EITHER OF THEM FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE CONTRACTORS WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING LOSS OF USE RESULTING THEREFROM, CAUSE IN WHOLE OR IN PART BY NEHGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, THE CONTRACTORS SUBCONTRACTORS, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR OTHERWISE REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THE PARAGRAPH 1.0.
- 1.2 IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS PARAGRAPH 1.0 BY AN EMPLOYEE OF THE CONTRACTOR, THE SUBCONTRACTOR, THE SUBCONTRACTOR'S SUB-SUBCONTRACTORS, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGAITON UNDER THIS PARAGRAPH 1.0 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE SUBCONTRACTOR OR THE SUBCONTRACTOR'S SUB-SUBCONTRACTORS UNDER WORKERS' OR WORKMEN'S COMPENSATION ACTS OR OTHER EMPLOYEE BENEFIT ACTS.
- 1.3 THE OBLIGATIONS OF THE CONTRACTORS UNDER THIS PARAGRAPHN 1.0 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM ARISING OUT OF (1) THE PREPARATION OR APPROVAL OF MAPS, DRAWING, OPINIONS, REPORTS, SURVERYS, CHANGE ORDERS, DESIGNS, OR SPECIFICATIONS, OR (2) THE GIVING OF OR THE FAILURE TO GIVE DIRECTIONS OR INSTRUCTIONS BY THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF =ANY OF THEM PROVIDED SUCH GIVING OR FAILURE TO GIVE IS THE PRIMARY CAUSE OF THE INJURY OR DAMANGE

1.4 CONTRACTOR WAIVES ALL RIGHTS AGAINST OWNER AND ARCHITECT AND THEIR AGENTS, OFFICERS, DIRECTORS AND EMPLOYEES FOR RECOVERY OF DAMAGES TO THE EXTENT THAT THESE DAMAGES ARE COVERED BY COMMERCIAL GENERAL LIABILITY, UMBRELLA LIABILITY, BUSINESS AUTO LIABILITY OR WORKERS COMPENSATION AND EMPLOYEE LIABILITY MAINTAINED PER INSURANCE REQUIREMENTS STATED ABOVE.

ARTICLE 2.0

INSURANCE REQUIREMENTS

2.1 THE CONTRACTOR SHALL PURCHASE AND MAINTAIN INSURANCE OF THE FOLLOWING TYPES OF COVERAGE AND LIMITS OF LIABILITY.

COMMERCIAL GENERAL LIABILITY – INCLUDING PREMISES, PROD/COMP OPS; CONTRACTUAL LIABILITY WORKERS COMPENSATION AND EMPLOYERS’ LIABILITY BUSINESS AUTOMOBILE, INCLUDING HNOA UMBRELLA LIABILITY	\$1,000,000 EA/OCC \$2,000,000 AGG/PROJ \$1,000,000 EACH EMPLOYEE \$1,000,000 CSL PER/ACC \$10,000,000 FOR GC EXTERIOR SUBS – MUST PROVIDE \$ 10,000,000 INTERIOR SUBS - MUST PROVIDE \$5,000,000
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IF THE CONTRACTOR PURCHASES AND MAINTAINS A CGL POLICY WITH A PER OCCURRENCE LIMIT OF MORE THAN \$1,000,000, THIS PROVISION WILL AUTOMATICALLY BE DEEMED TO REQUIRE CGL COVERAGE WITH A PER-OCCURRENCE LIMIT THAT IS EQUAL TO THE ACTUAL LIMIT OF THE CGL POLICY PURCHASED AND MAINTAINED BY THE CONTRACTOR. IF A PER-OCCURRENCE LIMIT OF MORE THAN \$1,000,000 IS PROVIDED UNDER THE CGL POLICY, THIS PROVISION WILL ALSO BE DEEMED TO REQUIRE EXCESS/UMBRELLA LIABILITY COVERAGE WITH A PER-OCCURRENCE LIMIT OF \$5,000,000 MINUS THE AMOUNT OF THE PER-OCCURRENCE LIMIT OF THE CGL POLICY OVER \$1,000,000

NO EXCLUSIONS FOR CONTRACTUAL OR WORKER INJURY ARE ACCEPTABLE

THE OWNER AND THEIR AGENTS ARE TO BE NAMED AS AN ADDITIONAL INSURED ON A PRIMARY AND NONCONTRIBUTORY BASIS TO THE CONTRACTORS COMPREHENSIVE GENERAL LIABILITY USING APPROPRIATE ISO FORMS THAT INCLUDE PREMISES OPERATIONS LIABILITY, CONTRACTUAL LIABILITY, ADVERTISING AND PERSONAL INJURY LIABILITY AND PRODUCTS/COMPLETED OPERATIONS LIABILITY. ALL CONTRACTORS ARE REQUIRED TO PROVIDE WAIVER OF SUBROGATION BY ENDORSEMENT FOR GENERAL LIABILITY COVERAGE FOR THE CONTRACTOR AND THE OWNER. CG2010 1185 OR CG20347 WILL BE REQUIRED FOR PRODUCTS/COMPLETED OPERATIONS ADDITIONAL INSURED ENDORSEMENTS.

2.2 COVERAGES WRITTEN ON AN OCCURRENCE BASIS SHALL BE MAINTAINED WITHOUT INTERRUPTION FORM DATE OF COMMENCEMENT OF THE SUBCONTRACTOR WORK UNTIL EXPIRATION OF THE APPLICABLE STATUTE OF LIMITATIONS RELATING TO LATEN DEFECT IN CONSTRUCTION OF OR IMPROVEMENT TO REAL PROPERTY OF THE STATE IN WHICH THE WORK PERFORMED.

2.3 CERTIFICATES OF INSURANCE ACCEPTABLE TO THE OWNER SHALL BE FILED WITH THE CONTRACTOR PRIOR TO COMMENCEMENT OF ANY SUBCONTRACTOR’S WORK. THE

CERTIFICATES AND INSURANCE POLICIES REQUIRED BY ARTICLE 2 SHALL CONTAIN THE LANGUAGE SHOWN ON THE SAMPLE CERTIFICATE ENCLOSED AND CONTAIN A PROVISION THAT COVERAGES AFFORDED UNDER THE POLICIES WILL NOT BE CANCELED OR ALLOWED TO EXPIRE UNTIL AT LEAST 30 DAYS; PRIOR WRITTEN NOTICE HAS BEEN GIVEN TO THE OWNER. 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 OF COVERAGE IS NOT FURNISHED BY THE INSURER, IT SHALL BE FURNISHED BY THE SUBCONTRACTOR WITH REASONABLE PROMPTNESS ACCORDING TO THE SUBCONTRACTORS' INFORMATION AND BELIEF

2.4 WAIVERS OF SUBROGATION

THE CONTRACTOR WAIVES ALL RIGHTS AGAINST (1) THE OWNER, AND ITS AGENTS, AND EMPLOYEES; (2) THE ARCHITECT AND ARCHITECT'S CONSULTANTS; AND (3) OF OWNER'S SEPARATE CONTRACTORS FOR DAMAGES CAUSED BY FIRE, OR OTHER CAUSES OF LOSS, TO THE EXTENT THOSE LOSSES ARE COVERED BY PROPERTY INSURANCE REQUIRED BY THE AGREEMENT OR OTHER PROPERTY INSURANCE APPLICABLE TO THE PROJECT, EXCEPT SUCH RIGHTS AS THEY HAVE TO PROCEEDS OF SUCH INSURANCE. THE CONTRACTOR SHALL REQUIRE SIMILAR WRITTEN WAIVERS IN FAVOR OF THE INDIVIDUALS AND ENTITIES IDENTIFIED ABOVE FROM ITS SEPARATE CONTRACTORS, SUBCONTRACTORS, AND SUB-SUBCONTRACTORS. CONTRACTOR AGREES THAT THE POLICIES OF INSURANCE PURCHASED AND MAINTAINED BY EACH PERSON OR ENTITY AGREEING TO WAIVE CLAIMS PURSUANT TO THIS SECTION 2.4 SHALL NOT PROHIBIT THIS WAIVER OF SUBROGATION.

OWNER Claude Simon

CONTRACTOR Henry Cercone

SIGNATURE AND TITLE

President
534 West 42nd Street Condominium

SIGNATURE AND TITLE