

WEHR CONSTRUCTORS, INC.
SUBCONTRACT AGREEMENT SUPPLEMENT

The material and/or performance of service covered by the attached Subcontract Agreement between Wehr Constructors, Inc. ("Wehr") and the Subcontractor as designated therein, ("the Subcontractor") shall also be subject to the following provisions of this Subcontract Agreement Supplement, including all other documents made a part hereof by reference ("Supplement"):

1. This Supplement shall be deemed binding upon acceptance by the Subcontractor of the Subcontract Agreement, or by shipment of the material in whole or in part, or by the performance or commencement of performance of work or services specified in the Subcontract Agreement, subject to all of the terms and conditions provided in the Subcontract Agreement, this Supplement, and the Subcontract – including the Contract Documents (as defined herein below).

2. (a) No modifications of, additions to, or deletions of the terms or conditions of this Supplement or the Subcontract Agreement, whether included separately by the Subcontractor or upon the copy provided for the Subcontractor's acceptance, or otherwise proposed by Wehr, shall become a part of the Subcontract between the Subcontractor and Wehr unless accepted in writing by the party to be bound thereby. It is further agreed that no terms contained in the Subcontractor's quotation, offer, proposal or acknowledgment shall be a part of the Subcontract unless specifically accepted by Wehr in writing.

(b) This Supplement, and the documents incorporated herein by reference, contain all the terms and conditions agreed to by the parties hereto, and no other terms, conditions, or representations, oral or otherwise, respecting the subject matter of this Supplement, the Subcontract Agreement and the Subcontract shall be construed as forming any part of the Subcontract except as set forth above in Paragraph 2(a).

3. (a) "The Subcontract", as used herein, consists of the Subcontract Agreement, this Supplement, the Bid Package and all of its contents, the Prime Contract, including the contract between Owner and Wehr and all Contract Documents enumerated therein, the conditions of the contract between Wehr and Owner (general, supplementary and other conditions), the drawings, specifications, schedules, all addends issued prior to execution of this Supplement, all documents incorporated, enumerated or incorporated by reference into the above, and modifications and changes issued after the date of this Supplement incorporated and adopted pursuant to the terms of this Supplement. Each and every document enumerated in this Paragraph is incorporated into this Supplement and made a part hereof as if restated in full.

(b) "The Owner", as used herein, means the person or legal entity, whether public or private, with whom Wehr has contracted for the construction of the project to which the Subcontract applies. When used herein, Owner is also to be construed as the properly designated agent or representative of the Owner through whom the Owner does, or may give directions, may bind the Owner in contract, or is otherwise authorized by the Owner to speak on its behalf.

(c) The terms "Architect" and "Engineer", as used herein, are to be given the ordinary meaning applied to those terms and the professions they represent.

(d) The term "Subcontract Amount" means the price of the bid, as accepted by Wehr, which is intended by the parties to be the amount of compensation payable from the Owner, through Wehr, to the Subcontractor, subject to subsequent change orders, cancellations, and other amendments which from time-to-time may occur.

(e) The term "Prime Contract" means the contract between Wehr and the Owner for the prosecution of the project and includes any and all documents incorporated therein by reference (the "Contract Documents").

4. The Subcontractor represents that it has investigated, examined, inspected and thoroughly familiarized itself with the Subcontract and all such documents as enumerated in Paragraph 3 ("the Subcontract Documents"), the site and adjoining premises in connection with which the work covered by the Subcontract is to be performed, that it has thoroughly informed itself as to any difficulties in connection therewith, and that Wehr has made no representation of any kind or nature with reference thereto not contained in the Subcontract. Any site-related information provided Wehr, without warranty as to its accuracy, shall be for informational purposes only, and Subcontractor shall independently verify the accuracy of any such information before relying upon it. Commencement of this or any portion of the work thereof by the Subcontractor shall be conclusive evidence that the jobsite or that part thereof where such work is being installed is in proper condition for the reception and installation of the work.

5. The Subcontract Amount includes all applicable federal, state, local, sales and transportation taxes of every description unless otherwise arranged and mutually agreed in writing, and is a firm price subject to no adjustment or escalation except mutually agreed change orders. The Subcontractor agrees to make all payments of applicable taxes as required by the taxing authorities and agrees to fully indemnify, hold harmless and defend Wehr and the Owner from any claim relating to the Subcontractor's obligations for payment of taxes herein.

6. If the Subcontract involves performance of work at the jobsite, the Subcontractor will comply with all applicable Workers Compensation laws, will maintain such insurance as will protect the Subcontractor from claims under such laws, and will carry Contractor's Public Liability and Property Damage insurance along with all other insurance as required by the Subcontract. At a minimum, and without regard to the insurance requirements set forth in the Prime Contract (unless such insurance requirements in the Prime Contract exceed the minimum requirements provided herein, in which event all insurance requirements in the Prime Contract shall be fully satisfied), Subcontractor shall purchase and maintain insurance with the following coverages and minimum limits of liability:

- Commercial General Liability policy (CGL) with limits of Insurance *not less than* \$1,000,000 each occurrence and \$2,000,000 aggregate.
 - If the CGL coverage contains a General Aggregate Limit, such General Aggregate Limit should apply separately to each project.
 - CGL coverage should be written on Insurance Services Office (ISO) occurrence form CG 00 01 (with an edition date no earlier than 10/01) or an equivalent, providing coverage for liability arising from premises, operations, blanket contractual of a type that provides coverage for the indemnification clause in this subcontract, independent contractors, products-completed operations, and personal injury and advertising injury.
 - The Contractor, Owner and all other parties required of the Contractor, should be named as additional insureds on the subcontractors CGL policy using ISO Additional Insured Endorsements CG 2037 (10/01) and either CG 2010 (10/01) or CG 20 38 (04/13), or an endorsement providing equivalent coverage to the additional insureds. The coverage for the additional insureds should provide primary, non-contributory coverage AND include completed operations coverage.
 - CGL coverage for shall be maintained by Subcontractor and all additional insureds for the duration of the project. Subcontractor shall maintain completed operations coverage for itself and each additional insured for the length of the

states statute of repose of the state where the project is located or if such state does not have a statute of repose, a minimum of 5 years after the completion of the work.

- Business Automobile Liability coverage with limits *not less than* \$1,000,000 each accident. Coverage should include liability arising out of all owned, leased, hired and non-owned automobiles.
- Commercial Umbrella coverage with limits *not less than* \$2,000,000. Coverage should include all entities that are additional insureds on the CGL.
- Workers' Compensation and Employers' Liability coverage with limits *not less than* \$500,000 each accident, \$500,000 for bodily injury by accident, and \$500,000 each employee for injury by disease. Where applicable, U.S. Longshore and Harborworkers Compensation Act Endorsement or the Maritime Coverage Endorsement should be attached to the policy.
- To the fullest extent permitted by law, Subcontractor shall obtain a waiver of subrogation on the CGL, Business Automobile, Workers' Compensation and Umbrella Liability policies.
- Subcontractor shall provide to Wehr a Certificate of Insurance demonstrating that Subcontractor has purchased and is maintaining the required coverage and minimum limits.
- Subcontractor shall provide to Wehr a copy of the additional insured endorsement verifying the type of additional insured coverage which is required.
- The coverages on the CGL and Umbrella policies issued to Subcontractors shall not exclude residential work.
- Subcontractors shall use insurance companies with an A.M. Best Financial Strength Rating no less than "A-."

Prior to starting work, the Subcontractor shall furnish satisfactory evidence to Wehr and the Owner and to other parties upon request, that the Subcontractor has insurance as required by the above provisions and the Contract Documents. All such insurance, including general liability and umbrella/excess liability except Workers' Compensation/Employer's Liability, shall be name Wehr and the Owners as additional insured shall provide primary coverage (including Completed Operations) for all claims and losses against Wehr and the Owner, including but not limited to those claims that arise out of injuries to the employees of the Contractor, employees of the Contractor, employees of the Contractor's subcontractors or injuries of third parties, from your work under this agreement, or as a result of the Subcontractor's performance. To the extent that the contract between the Owner and Wehr requires the Architect and/or Engineer to be names as additional insureds, then they too shall be included as additional insureds on the insurance certificate provided to Wehr from the Subcontractor. Such certificates shall provide for fifteen (15) days prior written notice to Wehr before cancellation of the policy. Wehr may pay any required premiums to maintain said insurance and such amounts, if paid, shall be back charged to the Subcontractor. Any other insurance in force for said additional insureds under the Subcontractor's policy(ies) shall not contribute in the payment of any claim made hereunder to the extent of the limits of liability afforded hereunder. Any coverage provided by Wehr and the Owner shall be excess coverage.

7. The Subcontractor shall timely prepare and provide shop drawings as directed by the Subcontract and, in any event, will furnish same for approval by the Architect or Engineer. Subcontractor will obtain approval from the Architect, Engineer or Wehr prior to fabrication of any item under the Subcontract. Submittal data shall be prompt and complete to ensure scheduled delivery of equipment and/or materials pursuant to the Subcontract Documents and so as not to delay progress of the work. Delay in approval of any drawings shall not, in and of

itself, relieve the Subcontractor of its duty and responsibility to perform the work in the manner necessary to produce the results required by the Subcontract Documents and within the time requirements of the project schedule.

8. As built documents and data shall be prepared, updated, maintained and recorded by the Subcontractor as applicable to the Subcontractor's work consistent the requirements of the Subcontract (including the Bid Package and its contents), and shall be submitted concurrent with the Subcontractor's request for progress payments for review and approval by Wehr. Such review and approval shall be a condition precedent to progress payment under the terms of this Agreement. Approval of any drawings shall not relieve the Subcontractor, or any of the Subcontractor's subcontractors, of their duty and responsibility to perform the work in the manner necessary to produce the result required by the Subcontract Documents.

9. (a) Upon a material breach of the Subcontract, Wehr, in its sole discretion, may pursue any remedy it has at law or through the Subcontract, including but not limited to:

1. Notifying the Subcontractor and its surety, if any, in writing that a material breach has occurred and Wehr considers the Subcontract in Default; and/or
2. Terminating the Subcontract; or
3. Supplementing the work force of the Subcontractor to perform any portion of the work; or
4. Deleting any portion of the work from the Subcontract; or
5. Taking possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Subcontractor for Wehr's use in completing the work to be performed under the Subcontract; and
6. Accepting assignment of any delivery orders or subcontracts; or
7. Completing and/or correcting the work by means of a substitute subcontractor; or
8. Any other action deemed appropriate after consideration of all the circumstances.

(b) The Subcontractor shall be held financially responsible to the extent of any delay in the completion of the Subcontract and for any damages, whether actual, consequential, or liquidated, which result there from (whether owed to another contractor, architect, engineer, supplier, subcontractor, or the Owner), and for any costs incurred by Wehr in the completion of its contractual obligations to the Owner which are caused in whole or in part by the delay of the Subcontractor.

10. At the time of returning the acknowledgment copy of the Subcontract Agreement, the Subcontractor must attach thereto a letter, in duplicate, listing the names and complete addresses of the principal material suppliers as well as any subcontractors the Subcontractor intends to use in connection with the Subcontract. If not subcontracting, please so state in the letter. Wehr reserves the right to reject the Subcontractor's use of any subcontractors or materialmen considered to be unsatisfactory. Rejection of a subcontractor by Wehr will not result in any change to the Subcontract Amount.

11. No assignment of the Subcontract, or of monies due or to become due hereunder, or of any interest herein, shall be made without prior written consent of Wehr and, if required in the Prime Contract, the Owner, Architect, Engineer or any other such person therein designated.

12. Time is of the essence. Therefore, the Subcontractor agrees to promptly deliver the ordered services and materials at the times and in accordance with the performance and delivery requirements specified in the Subcontract and schedules. Failure on the part of Subcontractor to perform or make submittals and deliveries within the specified time shall be deemed a material breach and shall permit Wehr, at its option, to exercise its remedies pursuant to Paragraph 9.

13. If Wehr determines the progress of the Subcontractor's work has been stopped, materially delayed, or fallen behind schedule, Wehr may, by written notice, direct the Subcontractor to take such steps Wehr deems necessary to improve the rate of progress. In that event, the Subcontractor will have no less than 48 hours to increase the labor force, increase the number of shifts and overtime operations, increase the days of work, and/or submit for approval a schedule demonstrating the method under which the required rate of progress will be regained. The foregoing is not an exhaustive list of steps which Wehr may direct the Subcontractor to undertake. Should, in Wehr's judgment, a sufficient rate of progress not be regained, Wehr shall have the option to employ workmen and take such other steps as necessary to prosecute the work in a timely manner. The foregoing is in addition to, and without waiving, any other remedies Wehr may have including those provided in Paragraph 9 herein. All costs incurred by Wehr associated with bringing the Subcontractor's work back on schedule will be the sole responsibility of the Subcontractor.

14. It is understood that contracts will be awarded and labor employed on the job without discrimination. The Subcontractor agrees that in the event of a work stoppage resulting from a labor dispute directed at the Subcontractor, Wehr has the right to proceed as set forth in Paragraphs 9 and 13 herein, in addition to any other provisions and remedies as set forth in the Subcontract.

15. (a) Should the Subcontractor be delayed, rendered less efficient, lose productivity, or otherwise be adversely impacted in the prosecution of the Subcontractor's work by the act, neglect or default of Wehr, the Owner, Architect, Engineer, other trade subcontractors, or others, or by any damage caused by fire, lightning, windstorm or other casualty for which the Subcontractor is not responsible, then the Subcontractor shall submit a notice of claim for extension of time within seven days of the Subcontractor's knowledge of the circumstances leading to the delay or other adverse impact. No time extension shall become operative until approved in writing by Wehr. Any such extension, or permitting the Subcontractor to continue after the time to complete the work has expired, shall not be construed as a waiver of any or all claims for loss or damages for breach of one or more of the provisions of the Subcontract. Should the Subcontractor fail to comply with the above, the Subcontractor waives any and all claims for extensions, and further waives any and all claims for damages, impact costs, loss of productivity, and/or inefficiencies, whether direct or consequential, on account of any such delay or other adverse impact.

(b) Should Wehr refuse to approve a claim for extension, the matter may, at Wehr's option, be referred to the Architect, Engineer, or Owner for determination. The decision of the Owner, Architect or Engineer shall be final, subject to the limits stated in the Contract Documents and the Subcontract.

(c) Under no circumstances shall Wehr be liable to Subcontractor, either for damages or the granting of an extension of time in which to complete the work, unless the Owner is liable to Wehr for damages or an extension of time to complete the project as a result of the circumstances, attributable in whole or in part to acts or omissions of the Owner, causing the delay in the Subcontractor's work. Any equitable adjustment and/or damages the Subcontractor may be entitled to receive on account of a properly and timely made delay claim shall be limited to its fully documented and demonstrated additional direct costs of performance caused by such delay and shall not include claims for lost profits, attorneys fees, overhead, indirect costs, rental charges attributable to equipment owned by Subcontractor or any affiliate of Subcontractor, and/or consequential damages.

16. All material, work or services under the Subcontract are subject to inspection and acceptance. Materials rejected on account of inferior quality or workmanship will be returned to the Subcontractor. Any expense incurred by Wehr for transportation, labor for repacking, reloading, trucking, and/or otherwise are the sole responsibility of the Subcontractor. Rejected materials or services are not to be replaced except upon receipt of instructions from

Wehr. Acceptance of defective materials or services shall not constitute a waiver, and shall not preclude Wehr from thereafter rejecting other defective materials delivered, or work performed, under the Subcontract.

17. If Wehr elects to make payment in advance of the receipt of work or materials, it is agreed by the Subcontractor that such prepayment shall not constitute a waiver of any rights or claims which Wehr may have arising out of or connected to the inspection and acceptance of the merchandise or work after receipt of the Subcontractor's performance under this Agreement.

18. (a) Warranties, guarantees and/or maintenance services as specified and applicable to the work required under the Subcontract shall be the sole obligation and responsibility of the Subcontractor. If no guarantee is specifically provided for in the specifications, and if the Subcontractor does not provide a separate written warranty, the Subcontractor hereby agrees to guarantee the Subcontractor's work, including all labor and materials, to be free of any faulty materials or workmanship for a period of one year from substantial completion, (as defined in the Contract Documents), which is in addition to and not in lieu of any other obligations or warranties the Subcontractor may have, or rights or remedies Wehr may have. The Subcontractor, at its own cost and expense, also agrees to be responsible for and to correct any and all defective materials or workmanship attributable to Subcontractor's work, and also damages resulting therefrom. Emergency repairs or protection by the owner or Wehr shall not invalidate the warranty.

(b) If the Subcontractor provides its own warranty, except as herein enumerated, the terms of that warranty prevail. Notwithstanding the foregoing, any provisions in the Subcontractor's standard warranty making coverage less than one year, or regarding venue, choice of law, personal jurisdiction, limitations on liability, (other than the length of time the warranty is to exist) or arbitration are hereby rejected and superseded by the Subcontract.

19. The Subcontractor agrees to begin work as called for in the Subcontract documents, or immediately upon verbal or written notice by Wehr, and agrees to supply adequate equipment, materials and properly skilled workmen to properly prosecute the work in accordance with the construction progress schedules, and any modifications thereto, to achieve the project completion date established by Wehr. The Subcontractor agrees to coordinate its work with other subcontractors and trades, with due acknowledgment and consideration herein that other work is dependent on the progress of the Subcontractor's work for proper completion. The Subcontractor, its subcontractors and suppliers, along with the employees, agents and representatives of each, covenant that they will at all times work in harmony with those employed by Wehr and others.

20. Subcontractor warrants that it will at all times comply with the Wehr Code of Conduct (available for review at www.wehrconstructors.com), Wehr adopted policies applicable to its subcontractors concerning workplace safety, drug testing and other matters (available for review at www.wehrconstructors.com), and safety standards as dictated by the Occupational Safety and Health Administration (OSHA), applicable state requirements, or by industry standards and custom, whichever are more stringent. Subcontractor also warrants that it will indemnify and hold harmless Wehr and the Owner for any fines, violations, injuries (whether to person or property) or any other loss or damage caused by Subcontractor, or its subcontractors or materialmen, failure to comply with such safety standards.

21. The Subcontractor is responsible for all debris, trash and waste materials created by the Subcontractor and shall clean up any debris, trash and/or waste materials on a daily basis and remove it to a location, on or off site, designated by, or acceptable to, Wehr. If the Subcontractor fails to clean up and properly dispose of all debris, trash and waste materials within eight hours after notice by Wehr to do so, Wehr shall have the right to perform said

clean up and charge the Subcontractor all expenses incident thereto, including labor, transportation, dumping costs and other expenses incurred.

22. Subcontractor warrants for itself, its subcontractors and materialmen that all work will be at or above industry standards such that the final product will be completed in a first class and workmanlike manner. Subcontractor further warrants that all materials and other supplies will be in accordance with the specifications in the plans and that all materials and procedures for installation will fully comply with all safety, fire, health, and other standards whether imposed by governmental authority or industry standards, whichever is higher.

23. Payments on subcontracts will be made subject to all provisions as stated herein, and to the extent not inconsistent with the Subcontract payments shall be made subject to the same terms as specified in the Prime Contract and all contract documents incorporated therein under which the work is performed. Payment of any progress payment, final payment, or any approved portion of the Subcontractor's monthly estimate shall be conditioned on receipt by Wehr of payment from the owner. Subcontractor agrees that payment to Wehr by the Owner is a condition precedent to the Subcontractor's right to payment and that as a result thereof, the risk of non payment by the Owner is shared equally by Wehr and the Subcontractor. No progress payment under the Subcontract shall be conclusive evidence of the satisfactory performance of the Subcontract either in whole or in part, and no payment shall be construed to be acceptance of defective work or improper materials.

24. Payment to the Subcontractor is subject to Wehr withholding an amount reasonably necessary, at its discretion, to fully protect and insure itself against any actual or potential liability or damage directly or indirectly relating to the Subcontract, or the Subcontractor's breach or threatened breach of the Subcontract. In addition, and subject to any controlling statutory guidelines, Wehr may withhold payment from the Subcontractor, in whole or in part, for the reasons and circumstances by which the Owner may withhold payment from Wehr under the Contract Documents, regardless of whether or not the Owner has actually withheld payment to Wehr. The Subcontractor agrees that Wehr reserves the right at its sole discretion to issue joint checks, direct payment to third parties, or payment directly to the Subcontractor's subcontractors or suppliers on account of and in lieu of payment directly to the Subcontractor for sums due under the Subcontract.

25. The Subcontractor agrees to pay for all materials and labor used for, or in connection with, the performance of the Subcontract through the periods covered by previous payment from Wehr. Subcontractor further agrees to furnish Wehr periodically, on request by Wehr, all affidavits, partial lien releases or other satisfactory evidence of compliance with the above. When applicable, Subcontractor is to provide Wehr with information regarding any amounts owed for labor or materials which are or might become liens against the work or property. The Subcontractor further agrees to provide sworn statements of all parties who furnish labor or materials to the Subcontractor, and the Subcontractor will require the Subcontractor's subcontractors to similarly furnish said affidavits granting partial lien releases or statements on request. Receipt of payment constitutes a partial release of lien for work performed to date.

26. The Subcontractor agrees to furnish Wehr with written releases and waivers of liens and claims from all persons, firms and corporations that may have furnished the Subcontractor any services, equipment, material, or may have in any way had dealings and agreements in connection with the Subcontractor's work under the Subcontract. Subcontractor further agrees to provide said releases and waivers in a form acceptable to Wehr and with every application for payment, but not less frequently than monthly.

27. (a) The Subcontractor agrees to turn the work over to Wehr in good condition for the final approval of the Architect or Engineer and in compliance with all applicable Contract

Documents. All work is to be free and clear of all claims, encumbrances, or other liens, and Subcontractor shall indemnify and save harmless Wehr and the Owner from all claims, encumbrances or liens growing out of the performance of the Subcontract. The Subcontractor will, at the Subcontractor's cost and expense, including attorney fees, defend all suits to establish such claims using counsel satisfactory to Wehr and will pay any judgment, claim or lien so established.

(b) If at any time there shall be evidence of a lien or claim for which, if established, Wehr or the Owner might become liable, and which is chargeable to the Subcontractor, Wehr shall have the right to retain out of any payment due, or to become due under the Subcontract or any other agreement between Wehr and the Subcontractor, an amount sufficient to indemnify Wehr and the Owner against such lien or claim, and charge or deduct all costs of defense with respect thereto, including reasonable attorney fees. Should any claim or lien develop after all payments are made, the Subcontractor shall refund to Wehr all monies that Wehr may be compelled to pay in discharging such claims or liens, or incurred in collecting said monies from the Subcontractor.

28. Final payment to the Subcontractor is contingent on Wehr's receipt of final payment by the Owner. Subcontractor agrees that final payment by the Owner is a condition precedent to the Subcontractor's right of final payment. Final payment is further subject to issuance of a certificate from the Architect or Engineer that the work has been done in a satisfactory manner and that the project has attained substantial completion. Final payment is further subject to Wehr's receipt from the Subcontractor of all written guarantees, warranties and bonds relating to the work, final waivers of liens or possible liens, and complete releases from the Subcontractor and any subcontractors of the Subcontractor, as well as any material supplier or other suppliers of labor, materials or other items relating to the work under the Subcontract. Wehr also requires an affidavit from the Subcontractor certifying payment in full for all items relating to the work. The Subcontractor covenants and agrees not to make any claim against Wehr's surety on any payment bond provided by Wehr if Wehr has not been paid by the Owner for the work provided by the Subcontractor.

29. The Subcontractor agrees to fully indemnify the Owner and Wehr for any loss, damages, cost, expense, including, but not limited to, cost to complete the work, losses relating to liens or claims of laborers or material suppliers of the Subcontractor or other subcontractors, litigation costs, including reasonable attorneys fees, and any other loss or expense resulting from the Subcontractor's failure to fully, timely, and completely prosecute the work assigned to it through the Subcontract.

30. (a) IT IS THE INTENT OF THIS PROVISION, THAT THE SUBCONTRACTOR BE BOUND TO WEHR AT NO LESS THAN THE SAME LEVEL OF INDEMNIFICATION AS WEHR IS BOUND TO THE OWNER. Therefore, to the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Insurance required by the Subcontract to be purchased by the Subcontractor, the Subcontractor shall provide a defense for, indemnify and hold harmless the Owner, Wehr and agents and employees of each against any claims, damages, losses and expenses, including but not limited to attorneys fees, arising out of or resulting from performance of the work. The Subcontractor's indemnification includes any claim, damage, loss or expense attributable to bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, (other than the work itself), but only to the extent caused by the negligent acts or omissions of the Subcontractor, or anyone directly or indirectly employed by the Subcontractor or anyone for whose acts the Subcontractor may be liable. Such obligation shall not be construed to negate, abridge or reduce other rights of indemnity which would otherwise exist as to a party or person described in this paragraph. To the extent that the contract between the Owner and Wehr requires the indemnification of the Architect, Engineer or their consultants, agents, or employees by Wehr, then those same parties shall be included in the indemnification provided to Wehr from the Subcontractor herein.

(b) In claims against any person or entity indemnified under this paragraph by an employee of the Subcontractor or anyone directly or indirectly employed by the Subcontractor or anyone for whose acts they may be liable, the indemnification obligation under the paragraph above shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.

31. (a) The Subcontractor expressly agrees to perform all the work and/or furnish all materials required by the Subcontract in conformity and compliance with all applicable laws, rules, regulations, codes and permits of state, federal and local governments having jurisdiction.

(b) If substances covered by the Clean Water Act, Comprehensive Environmental Response, Compensation, and Liability Act, (CERCLA), or the Clean Air Act, or any other federal, state, or local laws concerning hazardous and other chemical materials are to be used, handled or relate to the work by the Subcontractor, the Subcontractor's subcontractors or anyone directly or indirectly employed by them, then the Subcontractor, prior to delivery to the job site, shall give written notice of the material to Wehr and the Subcontractor shall furnish any other safety data sheets required, and shall properly train and advise the Subcontractor's employees, subcontractors, sub-subcontractors, agents and invitees as to handling of and compliance with all federal, state, and local laws and regulations with regard to such hazardous substances. The Subcontractor shall provide Wehr with copies of all permits, licenses, and insurance policies for the handling of such substances as may be required by any and all relevant jurisdictions. The Subcontractor agrees to indemnify, hold harmless and defend Wehr and the Owner from any and all claims, losses, fines, or any other expense, including but not limited to remedial costs, investigative costs, defense costs and/or attorneys fees, incurred as a result of said materials and/or their use or disposal.

32. The Subcontractor shall be deemed to represent that the goods to be furnished hereunder were or will be produced in compliance with the applicable requirements of federal and state law, including, but not limited to, the Fair Labor Standards Act of 1938, as amended, including the requirements as to records, and, if requested, shall insert a certificate to that effect on all invoices submitted in connection with this contract.

33. It is the Subcontractor's responsibility to ensure that only the work assigned in the Subcontract and specifications are performed and that all quantities of materials are to exact specifications. No extra or additional work will be compensated and no variation in quantities will be permitted without prior written consent in the form of change orders or amendments to the scope or specifications of the Subcontract. Excess shipments of materials without prior approval may be returned by Wehr with costs for any returns being the responsibility of the Subcontractor.

34. Wehr may at times request the Subcontractor make changes in the work as specified. In the event the change falls within the scope of the Subcontractor's work, Wehr may do so by designated change orders (including "no-cost" change orders) at any time. If, however, in Wehr's opinion the change would modify or alter the scope of the Subcontractor's work, Wehr will submit the proposal in writing to the Subcontractor with estimates as to the extent of the proposed change in terms of cost, time, and/or scope. The Subcontractor shall respond within seven days thereafter, or such other reasonable amount of time as Wehr may provide, and state the Subcontractor's estimates of the change in scope, time and/or cost. Failure of the Subcontractor to timely respond will be deemed an acceptance of the submitted estimates and a conforming change order will be issued.

35. To facilitate change orders, upon returning an executed copy of the Subcontract Agreement, the Subcontractor shall provide a written schedule of values pertaining to the

trade or work to be undertaken in this Subcontract. The schedule of values should contain itemization of costs for labor, material, equipment and any other cost items included in the Subcontractor's work.

36. Either the Owner or Wehr, at its option, may elect to cancel all or any portion of the Subcontract. In the event that occurs, the Subcontractor will be entitled to its reasonable costs in commencing the work and the reasonable value of the work completed (including proportionate profit earned by Subcontractor only on its completed work), less set-offs, if any, due to Owner and/or Wehr under the Subcontract to remedy or complete Subcontractor's defective and/or incomplete work. The Subcontractor waives and shall not be entitled to make any other claim against the work or to make any other claim or recovery against Wehr or the Owner, including but not limited to, any claim for lost profits, attorneys fees, special, incidental, consequential or other damages of any nature.

37. (a) No work which the Subcontractor deems to be a modification, change or extra work shall proceed without written authority from Wehr. Should Wehr and the Subcontractor be unable to agree as to the value of such work to be added or omitted, Wehr may, at Wehr's option, order the Subcontractor to proceed by written order as set forth above omitting the value of such work to be added or omitted. Wehr reserves the right, at Wehr's option, to submit to the Architect, Engineer or Owner the issue to determine the value of the work. The decision of the Owner, Architect or Engineer shall be binding final, subject only to any dispute resolution procedures contained within the contract between Wehr and the Owner which are expressly made applicable to this subcontract.

(b) Should the Subcontractor be required to perform additional work for which the amount of compensation has not been previously agreed upon, the Subcontractor shall, prior to performing such work, submit to Wehr a detailed proposal describing the estimated materials, quantities, labor, and costs involved. During the work, the Subcontractor shall keep accurate, detailed and itemized records of the costs of any such change, reporting said information to Wehr, if requested by Wehr, as often as each day. The Subcontractor shall furnish certified copies of all time sheets, payrolls, invoices, vouchers, receiving and inspection reports and other documentation evidencing and specifically segregating those costs which evidence the Subcontractor's expenditures which are the direct result of the change. Receipt and acknowledgment of the above by Wehr or the Owner shall not be construed or deemed as acceptance of the accuracy and validity of any portion thereof by Wehr or the Owner.

38. In addition to any requirements of this Supplement, The Subcontractor shall make all claims for extension of time, delays, extras, or damages of any nature for which the Owner may be responsible in the method and amount as provided in the Contract Documents for like claims by Wehr on the Owner and within the time set forth in this Supplement. In any event, the Subcontractor shall make such claims in sufficient time for Wehr to comply with the Contract Documents for making such claim to the Owner. Wehr shall only be liable to the Subcontractor to the extent the Owner is liable to Wehr for each claim or extra.

39. (a) Except as otherwise provided in the Subcontract, any dispute concerning any matters arising under the Subcontract which is not otherwise resolved shall be decided by Wehr. On the Subcontractor's request, the decision will be reduced to writing and furnished to the Subcontractor. Wehr's decision shall be final and conclusive unless within 20 days from the date of receipt of such writing, the Subcontractor makes written demand for relief to the Owner, Architect, or Engineer. The decision of the Owner, Architect, or Engineer shall be final, subject only to any dispute resolution procedures contained within the contract between Wehr and the Owner which are expressly made applicable to this subcontract.

(b) Should the Subcontractor desire to pursue legal action regarding an adverse final decision rendered by the Owner, Architect or Engineer, the Subcontractor agrees to bear the

full cost and sole responsibility for prosecuting such an action, including but not limited to sole responsibility for its attorneys fees.

(c) The Subcontractor shall continue its work and maintain the progress schedule during any dispute or legal proceedings unless otherwise agreed in writing by the parties hereto.

40. If any federal, state or local governments having jurisdiction shall direct Wehr to undertake or refrain from undertaking work or certain types of work and, as a result thereof, the merchandise or services ordered herewith shall become unnecessary, it is expressly agreed that Wehr may, without liability, cancel the Subcontract in whole or in part by written notice to the Subcontractor. Payment for any approved deliveries of material or performance of work prior to such termination notice will be made on same basis as settlement of the Prime Contract in connection with which the Subcontract was issued.

41. Should the Subcontractor cease to conduct operations in the normal course of business (including inability to meet the Subcontractor's obligations as they mature) or if any proceeding under the Bankruptcy or Insolvency Laws is brought by or against the Subcontractor, or a receiver for the Subcontractor is appointed, or application for an assignment for the benefit of creditors is made by the Subcontractor, the Subcontract may be terminated without liability except for deliveries previously made or work previously performed.

42. All sums which the Subcontractor are obligated to pay to Wehr shall accrue interest on the unpaid principal balance at the rate of twelve percent per year compounded daily, or the maximum rate permitted by law.

43. This Supplement is severable. If any part should be declared unlawful or void or otherwise found to offend any provision of law (including any provision of a state or federal statute applicable to the project), then it may be struck from the Supplement by a court of competent jurisdiction and the remainder shall be fully enforceable as if the offending provision was never included. Any provision which is partially invalid or illegal, or which is invalid or illegal only as regards its extent or scope but not to its subject matter, shall be enforced to maximum extent permitted by law.

44. In the event of conflicts between the terms of this Supplement and any other document, then in the event the conflicting language is found in the Prime Contract, the Prime Contract will control. If the conflict is with another document which forms part of the Subcontract or a document which is outside the Subcontract, then the terms of this Supplement will prevail.

45. This Supplement shall be available for review and printing by Subcontractor at www.wehrconstructors.com and shall be binding on the parties and incorporated within the Subcontract, by reference, as if set-forth in full within the Subcontract, except as amended in writing signed by both parties.

46. Any claim, dispute or other matter in question between Wehr Constructors and the Subcontractor relating to the Agreement shall be governed by §4.6 of the Prime Contract as well as the laws of Kentucky, and to the extent permitted by Kentucky law shall be venued in Jefferson County, Kentucky. If §4.6 of the Prime Contract referred to is not applicable, the attached provision concerning arbitration and mediation (Exhibit A) shall govern.

EXHIBIT A

§4.6.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5, shall

after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitrations. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Section 4.5

§4.6.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. Arbitration shall take place in the Commonwealth of Kentucky and the Courts of the Commonwealth shall have jurisdiction over the matter. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

§4.6.3 A demand for arbitration shall be made within the time limits specified in Sections 4.4.6 and

4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Section 13.7.

§4.6.4 Limitation or Consolidation or Joinder. No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question or fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction hereof.

§4.6.5 Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§4.6.6 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.