PARTIAL WAIVER OF LIENS AND RELEASE OF CLAIMS OF SUBCONTRACTOR’S

“SUB-SUBCONTRACTOR” OR “SUPPLIER” OR “FURNISHER” (“WAIVER”)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_hereinafter referred to as “Sub-subcontractor” or “Supplier” or “Furnisher”, of labor, materials, services, supplies, tools and/or equipment to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(insert name of Subcontractor here) hereinafter referred to as “Subcontractor”, in connection with the construction project known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(the “Project”) in which Merit Construction, Inc. (“Merit”) served as the Prime Contractor or Construction Manager.

1. In receipt of, as PARTIAL payment, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

if paid in full the Sub-subcontractor, or Supplier, or Furnisher makes an oath as follows:

1. The partial payment constitutes adequate consideration for this Waiver relating to Sub-subcontractor’s, or Supplier’s, or Furnisher’s obligations relating to the Project that have been performed through \_\_\_\_\_\_\_\_\_ (date). Sub-subcontractor, or Supplier, or Furnisher, individually and on behalf of its shareholders, officers, employees, agents, successors and assigns, does hereby waive, release, and discharge any and all liens, claims and/or causes of action for labor, materials, equipment or services, including, but not limited to, claims for the performance of extra work, extended or additional job costs or overhead, lost profits, impact costs, delay costs, disruptions, changes, and/or changed conditions, retainage, known or unknown, direct, indirect or consequential, legal fees and expenses, arising out of or relating to the Project, including but not limited to, claims and/or causes of action against the Owner, Merit, and Merit’s surety, including their successors, assigns, and representative relating to this Project with the exception of lien claims for amounts being held as contract retainage and any claims expressly described in writing herein.
2. That all labor, materials, services, supplies, tools and/or equipment furnished or leased in connection with the Project have been provided and the work completed as required by any and all Subcontract Agreements or Purchase Orders, including all change orders, and in compliance with the applicable contract documents including, but not limited to, all plans, specifications and addendums.
3. That the Sub-subcontractor, or Supplier, or Furnisher has been paid in full for invoice(s) through \_\_\_\_\_\_\_\_\_\_\_(date) for the value of work performed and the labor, materials, services, supplies, tools, and/or equipment furnished by the Sub-subcontractor, or Supplier, or Furnisher on account of all Sub-subcontractor, or Supplier, or Furnisher’s requisitions, invoices and claims in connection with the Project to the date hereof except as provided in Section 2(a).
4. That the Sub-subcontractor, or Supplier, or Furnisher has made payment in full to its own subcontractors, suppliers, furnishers, and/or lessors of the materials, services, supplies, tools and/or equipment in connection with the Project and that there are no unsatisfied rights, claims, liens, demands, or debts against the Owner, Merit, or Subcontractor or addressed to the Owner, Merit, or Subcontractor, directly or indirectly, in connection with the Project as of the date of this Waiver. Additionally, Sub-subcontractor, or Supplier, or Furnisher represents that this payment shall be used only for payment of labor, material, and services relating to this Project which are the subject of this Waiver. The Sub-subcontractor, or Supplier, or Furnisher, individually and on behalf of its successors and assigns, agrees, to defend, indemnify, and hold harmless Merit, its successors and assigns, and the Owner, its successors and assigns, from all liability, loss, cost, damage, liens, suits, claims reasonable attorney fees and expenses, court costs, and all other expenses incurred in connection with or arising from or relating to any claim for payment by any party who provided labor, material, equipment or services to Sub-subcontractor, or Supplier, or Furnisher or its request relating to the Project, and the Sub-subcontractor, or Supplier, or Furnisher shall, upon written demand from the Owner or Merit, assume and defend at the Sub-subcontractor’s, or Supplier’s, or Furnisher’s sole cost and expense all such suits, arbitrations, and/or defense of claims relating to the Project.
5. That there are no rights, claims, liens, demands, debts, or notices of the same in connection with the Project as against Merit, Merit’s surety, the Owner, the Project Architect, or the property on which the Project is located, either independently of or claiming through the Claimant or based upon any mechanic’s lien law, surety law (including Miller Act), or any other act, statute, ordinance or provision of law or equity, or based upon any surety bond given by Merit as principal in connection with the Project.
   1. The Sub-subcontractor, or Supplier, or Furnisher acknowledges that were it not for the execution and delivery of this Waiver to Merit, then the Owner and/or Merit would withhold payment otherwise due the Subcontractor in connection with the Project.
   2. The word “Sub-subcontractor” or “Supplier” or “Furnisher”, includes the singular and plural of individuals, partnerships, associations, joint ventures, and corporations.

I DO SOLEMNLY AND VOLUNTARILY declare and affirm under penalty of perjury that I am authorized and competent to execute this Waiver and that the matters and facts set forth herein are true and accurate.

Sub-subcontractor or Supplier or Furnisher:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My Commission Expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_