

NOTICE: THIS CONTRACT CONTAINS PROVISIONS RELATING TO INDEMNITY, RELEASE OF LIABILITY, AND ALLOCATION OF RISK.

**MASTER SERVICE CONTRACT**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and between the parties herein designated as "Contractor" and "Sub-Contractor".

Contractor: **Berry Bros. General Contractors, Inc.**

Address: **P.O. Box 253**  
**1414 River Rd.**  
**Berwick, LA 70342**

Sub-Contractor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSETH THAT,**

**WHEREAS,** Contractor customarily enters into contracts with independent Sub-Contractors for performance of service and

**WHEREAS,** Contractor desires, as a matter of contractor policy, to establish and maintain an approved list of Sub-Contractors and to offer work or contracts only to those Sub-Contractors who are included on such approved lists; and

**WHEREAS,** Sub-Contractor represents that it has adequate equipment in good working order and fully trained personnel capable of efficiently operating such equipment and performing services for Contractor.

**NOW THEREFORE IN CONSIDERATION** of the mutual promises, conditions and agreements herein contained, the sufficiency of which is hereby acknowledged, and the specifications and special provisions set forth in the exhibits attached hereto and made a part hereof, the parties hereto mutually agree as follows.

In the performance of any work by Sub-Contractor for Contractor, Sub-Contractor shall be deemed to be an independent Sub-Contractor, with the authority and right to direct and control all the details of the

work, Contractor being interested only in the results obtained. However, all work contemplated shall meet the approval of Contractor and shall be subjected to the general right of inspection. Contractor shall not have the right or authority to supervise or give instructions to the employees, agents, or representatives of Sub-Contractor, but such employees, agents, or representatives at all times shall be under the direct and sole supervision and control of Sub-Contractor. Any suggestions or directions given by Contractor or its employees shall be given only to the superintendent or other person in charge of the Sub-Contractor's crew; provided however, that in the event any employee of Contractor should give any order or instructions to the employees of Sub-Contractor (which employee of Contractor shall not in any event be authorized to do) and such order is not countermanded by Sub-Contractor's Superintendent or other person in charge of Sub-Contractor's employees or crew, it shall be deemed that such orders or instructions are the orders of the Sub-Contractor. It is the understanding and intention of the parties hereto that no relationship as master and servant or principal and agent shall exist between Contractor and the employees agents or representatives of Sub-Contractor, and that all work or services covered hereby shall be performed at the sole risk of Sub-Contractor.

## 2.0 **INSURANCE**

2.1 Without affecting the indemnity obligations or liabilities of Sub-Contractor or its insurer(s), at any and all times during the term of this Contract, Sub-Contractor party shall at Sub-Contractor's expense maintain, with an insurance company or companies authorized to do business in the state where the work is to be performed or through a self-insurance program, insurance coverage's of the kind and in minimum amounts as follows:

- a.) Adequate Workers Compensation Insurance and Employers Liability Insurance complying with applicable state laws with limits of \$1,000,000.00 covering all Sub-Contractors' employees working under this agreement.
- b.) Commercial General Liability Insurance with Bodily Injury and Property Damage limits of \$1,000,000.00 for each accident and \$1,000,000.00 aggregate per policy, specifically including Sub-Contractor's Contractual liability.
- c.) Automobile Liability Insurance with Bodily Injury and Property Damage limits of \$1,000,000.00 for each accident.
- d.) Physical Damage Insurance on Sub-Contractor's property to the extent of its fair market value with any deductible to be for the account of the Sub-Contractor.

2.2 Without affecting the indemnity obligations or liabilities of Contractor or its insurer(s), at any and all times during the term of this contract, Contractor shall at Contractor's expense maintain, with insurance Company or companies authorized to do business in the state where the work is to be performed or through a self-insurance program, insurance Coverage's of a kind and in minimum amounts equal to that required of Sub-Contractor under Section 2.1.

2.3 Prior to commencing work for Contractor, Sub-Contractor shall obtain from its insurers a waiver of subrogation against Contractor and any Company or Owner for whom Contractor is performing operations or services in all of the insurance policies set forth in this Section, to include all insurance carried by Sub-Contractor protecting against loss

or damage to its property and equipment employed in the performance of this contract whether the same be set forth in this Section or not.

- 2.4 All such insurance shall be carried in a company or companies acceptable to Contractor and shall be maintained in full force and effect during the term of this Contract, and shall not be cancelled, altered, or amended without thirty (30) days prior written notice having first been furnished Contractor. Additionally, to the extent Sub-Contractor assumes liability hereunder and agrees to indemnify Contractor, Contractor shall be named an additional insured in all such insurance policies (with exception of Workers Compensation Coverage) with all such insurance being primary to any insurance of Contractor that may apply to any such occurrence, accident, or claim. No "other insurance" provision shall be applicable to Contractor and its affiliated, subsidiary and/or interrelated companies, by virtue of having been named an additional insured or loss payee under any policy of insurance. Sub-Contractor agrees to have its insurance carrier furnish Contractor a certificate or certificates evidencing coverage in accordance with the above requirement and when requested by Contractor to furnish certified copies of all said insurance policies. These requirements shall be conditions precedent to the payment of any sums that may be due Sub-Contractor.
- 2.5 In the event Sub-Contractor is a self-insurer and Contractor has consented to Sub-Contractor being a self-insurer as to any one or more of the risks as to which coverage is herein required, evidence of such consent must be in writing and approved by a representative of Contractor authorized to enter into such consent agreement.

### 3.0 **INDEMNITY**

- 3.1 In order to allocate respective responsibilities of Contractor and Sub-Contractor for liabilities arising out of personal injury or property damage, it is agreed between Contractor and Sub-Contractor that certain responsibilities and liabilities for personal injuries and property damage arising out of the performance of this Contract should be allocated between them in order to avoid protracted litigation between Contractor and Sub-Contractor along with the associated legal expenses and so that insurance or self-insurance may be arranged by each party as necessary to protect them against exposure to loss, the following sets out the specifics of the agreements between Contractor and Sub-Contractor as to the allocation of the responsibilities and liabilities.
- 3.2 Sub-Contractor agrees to protect, defend, indemnify, and hold harmless Contractor, its officers, directors, employees, or their invitees, and any Customer for whom Contractor is performing services, from and against all claims, demands, and causes of action of every kind and character without limit and without regard to the causes thereof or the negligence or fault (active or passive) of any party or parties including the sole, joint or concurrent negligence of Contractor, any theory of strict liability and defect of premises, or the unseaworthiness of any vessel (whether or not preexisting the date of this contract), arising in connection herewith in favor of Sub-Contractor's employees, Sub-Contractor's Sub-Contractors or their employees, or Sub-Contractor's invitees on account of bodily injury, death, or damage to property.
- 3.3 Contractor agrees to protect, defend, indemnify, and hold harmless Sub-Contractor, its officers, directors, employees, or their invitees, from and against all claims, demands,

and causes of action of every kind and character without limit and without regard to the cause or causes thereof or the negligence or fault (active or passive) of any party or parties including the sole joint or concurrent negligence of Sub-Contractor, any theory of strict liability and defect of premises, or the unseaworthiness of any vessel (whether or not preexisting the date of this Contract), arising in connection herewith in favor of Contractor's employees, Contractor's sub-contractors (other than Sub-Contractor herein) or their employees, or Contractor's invitees on account of bodily injury, death, or property damage.

- 3.4 With respect to the mutual indemnity obligations of Section 3.2 and 3.3 above, Contractor and Sub-Contractor shall at each party's own expense maintain, with an insurance company authorized to do business in the state where the work is to be performed or through a qualified self-insurance program, coverage in dollar limits of insurance or qualified self-insurance to which each party, as indemnitor, has agreed to maintain in equal amounts / limits \$1,000,000.00
- 3.5 Each party shall notify the other party immediately of any claim, demand, or suit that may be presented to or served upon it by any party arising out of or as a result of work performed pursuant hereto, affording such other party full opportunity to assume the defense of such claim, demand, or suit and to protect itself under the obligation of this Section.
- 3.6 If it is judicially determined that the monetary limits of insurance required hereunder or of the indemnity voluntarily assumed under this Article which Sub-Contractor agrees to will be supported either by available liability insurance or voluntarily self-insured, in part or in whole, exceeds the maximum limits permitted under applicable law, it is agreed that said insurance requirements or indemnity shall automatically be amended to confirm to the maximum monetary limits permitted under such law.

#### 4.0 **LAWS, RULES, and REGULATIONS**

- 4.1 Contractor and Sub-Contractor respectively agree to comply with all laws, rules, and regulations, which are new or may become applicable to the operations covered by this Contract or arising out of the performance of such operations. If either party is required to pay any fine or penalty resulting from the other party's failure to comply with such laws, rules, or regulations, the party failing to comply shall immediately reimburse the other for any such payment.
- 4.2 In the event that any provision of this Contract is inconsistent with or contrary to any applicable law, rule, or regulation, said provision shall be deemed to be modified to the extent required to comply with said law, rule, or regulation, and this Contract as so modified shall remain in full force and effect.
- 4.3 This Contract shall be governed, construed and interpreted in Accordance with the laws of the State in which the work is done or The General Maritime laws of the United States of America.

5.0 **ACCEPTANCE of CONTRACT**

IN WITNESS WHEREOF, the parties hereto have executed this Contract upon the date shown in several counterparts, each of which shall be considered as an original.

Witness: \_\_\_\_\_

**SUB-CONTRACTOR**

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

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

Witness: \_\_\_\_\_

**CONTRACTOR**

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

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