



Subcontractor Agreement Number: _____

Contractor/Subcontractor Agreement

This Contractor/Subcontractor Agreement (the "Agreement") is entered into this _____ day of _____, 20__ by and between **Lee Machinery Movers, Inc.**, (hereinafter referred to as the "Contractor"), whose address is 675 Cesar E. Chavez Ave, Pontiac, MI 48340, and _____ (hereinafter referred to as the "Subcontractor"), whose address is _____.

Contractor and Subcontractor are sometimes collectively referred to as the "Parties" and may be individually referred to as a "Party".

Recitals

- (A) Contractor is in the business of providing certain contract services for Projects, including services to persons and entities (the "Owner," "Project Owner," or "Prime Contractor") that need to move large machinery and construct or remodel industrial facilities;
- (B) Contractor provides its services throughout the United States of America and on occasion, in other countries;
- (C) Subcontractor desires to perform Work for the Contractor in connection with the services that Contractor is performing on Projects;
- (D) Contractor desires to utilize the services of Subcontractor on one or more Projects to provide certain services in connection with the work that Contractor is performing.

WHEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

Definitions

- (E) The "Agreement" refers to the entire agreement, including this Agreement, the Subcontract Order, the Prime Contract, any nondisclosure agreements, and any work orders, change orders, plans and specifications, or other written descriptions of the work to be performed on a particular Project.
- (F) "Carrier" or "motor carrier" refers to any third-party motor carrier that contracts or subcontracts with Contractor to transport any cargo via motor carriage.
- (G) "Change Order" means a written document signed by Contractor and Subcontractor to change the work, the Agreement prices, the time for performance, or any other terms of the Agreement.
- (H) "Insurance Requirements" broadly refers to any insurance required by the Agreement or federal, state, or local statutes and ordinances, and includes insurance required by any governing regulatory organization or agency.
- (I) "Owner" means the party with whom Contractor has entered into the Prime Contract with respect to a Project, even if such party does not own the Project.
- (J) "Prime Contract" means the contract between Contractor and Owner to perform work on one or more Projects.
- (K) "Project" means the project identified in the Subcontract Order for which the Subcontractor is to perform Work as described in the Agreement.

- (L) "Subcontract Order" refers to a description of the Work to be performed by Subcontractor in relation to a Project.
- (M) "Work," refers to the services performed or to be performed by subcontractors and carriers, and the entire process of supplying goods. The terms of the Work shall be as outlined in the Agreement as defined in Paragraph E above, including but not limited to Subcontract Orders, the Prime Contract, and all applicable blueprints, plans, or specifications relating to the Project.

General Terms

1. Based upon the nature of the services to be provided by Subcontractor, it is impractical to enter into a separate agreement for services each time Contractor desires to use Subcontractor. Thus, Contractor and Subcontractor agree that this Agreement shall apply to all Work that Subcontractor performs for Contractor on various Projects.
2. Contractor requires that Subcontractor meet certain terms and conditions before Contractor utilizes Subcontractor's services. These terms and conditions are set forth in this Agreement.
3. In order to expedite the use of Subcontractor's services each time such services are needed, the Parties agree to enter into and comply with this Agreement prior to any actual services being performed. It is the intent of the Parties that this Agreement applies to any provision of services by Subcontractor regardless of whether these terms and conditions are referenced in any Subcontract Order, Work Order, purchase order, subsequent contract memo, etc.
4. This Agreement shall remain in full force and effect from the date of its signing, unless canceled in writing by either Party. Any cancellation of this Agreement by Subcontractor shall require thirty days' written notice before the cancellation shall take effect. The cancellation of this Agreement shall not negate any term or condition, including but not limited to the anti-disparagement, indemnity, or insurance requirements.
5. This Agreement shall not obligate either Contractor or Subcontractor to agree to any subsequent request for services or to any volume of business during the term of this Agreement. However, once Subcontractor agrees to or begins to provide goods or services pursuant to a particular Project, Subcontractor is contractually bound to provide those goods and services until completion of Subcontractor's obligations on that Project.
6. If any terms and conditions on any preprinted written form from Contractor conflict with this Agreement, the terms of this Agreement supersede any terms to the contrary.
7. Subcontractor acknowledges that the only means by which any of Contractor's employees or agents are authorized to procure services from the Subcontractor is in writing (Subcontract Order, purchase order, contract, memo, etc.). Any oral request for services is expressly not authorized by Contractor's corporate officers and Subcontractor may not rely upon any oral representation by any of Contractor's employees or agents to the contrary. No Change Order work shall be performed by Subcontractor without prior written authorization from Contractor.
8. No request for payment by any Subcontractor will be approved by Contractor unless all terms and conditions of this Agreement are fulfilled.

Subcontractor Representations and Warranties

9. Subcontractor is a corporation, limited liability company, or other business entity organized, validly existing, and in good standing under the laws of the state where the Project is being undertaken or is permitted as a foreign entity to conduct business in the state where the Project is being undertaken.
10. Subcontractor is qualified to do business and is in good standing in every jurisdiction in which that qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, could not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.
11. Subcontractor has the full right, power, and authority to enter into this Agreement and to perform its obligations under it.
12. The execution and the delivery of this Agreement have been authorized by all necessary action on the part of Subcontractor.
13. The execution, delivery, and performance of this Agreement by Subcontractor will not violate, conflict with, require consent under, or result in any breach or default under (1) any of Subcontractor's organizational documents (including its certificate of incorporation, articles of organization, operating agreement and by-laws), (2) any

applicable law or regulation, or (3) the provisions of any material contract to which Subcontractor or any of its material assets are bound.

14. Subcontractor has obtained all material licenses, authorizations, approvals, consents, or permits required by applicable laws and regulations to conduct its business generally and to perform its obligations under this Agreement.
15. When executed and delivered by each of the parties, this Agreement will constitute the legal, valid, and binding obligation of Subcontractor, enforceable against Subcontractor in accordance with its terms.

Terms and Conditions

16. RELATIONSHIP OF THE PARTIES. Subcontractor is an independent contractor and is not an agent, servant, employee, legal representative, partner, or joint venturer of Contractor. Nothing in any Agreement shall be deemed to create a joint venture or partnership between Subcontractor and Contractor or any of Contractor's affiliates. Subcontractor has the sole right and obligation to supervise, manage, and direct all work to be performed by Subcontractor personnel under the Agreement. Subcontractor has no authority to represent or bind Contractor, Owner, other Subcontractors, or any affiliate of Contractor, Owner or other Subcontractor. Contractor shall not be responsible for withholding taxes with respect to the subcontractor's compensation. Subcontractor shall have no claim against the Contractor hereunder or otherwise for retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
17. CONTRACT PRICE: Contractor agrees to pay Subcontractor under the Agreement from funds actually received by Contractor from or on behalf of Owner for proper performance of the Work.
18. INVOICE: Subcontractor shall provide an accurate and properly prepared invoice within 30 days of completion of the Work. All invoices must reference the Subcontract Order Number, where one exists. Any invoice sent after 30 days without prior approval from Contractor may not be accepted for payment. Subcontractor shall submit one invoice for the entire Subcontract, unless progressive payments are mutually agreed upon prior to the start of the Project. No invoice will be processed for payment until the Purchaser has received goods or services, inspected them, and has determined they are satisfactory. Fines and removal charges not caused by Contractor will be back-charged to Subcontractor.
19. PAYMENT: Payment will be processed per the agreed upon payment terms, as outlined in this Agreement and the Subcontract Order. With respect to invoices covering goods that cannot immediately be put into operation, Contractor reserves the right to withhold payment of such invoice pending the Owner/end-user's approval of the operation of such goods. All correspondence on matters of payment shall be directed to Contractor's Accounts Payable Department.
20. PAY WHEN PAID. Subcontractor understands that receipt of payment from the Owner to Contractor is a condition precedent to payment of invoices by Contractor to Subcontractor. Prior to any payment by Contractor to Subcontractor, Subcontractor must submit its applicable invoice to Contractor with reference to the Subcontract Order Number clearly visible on the first page. Contractor/Purchaser will pay Subcontractor for its Work within seventy-five (75) days of Contractor's receipt of: (a) an appropriate invoice from Subcontractor; (b) any lien waivers from the Subcontractor's vendors, if required by Contractor; and (c) payment from the applicable project Owner(s) for Subcontractor's Work.
21. TAXES:
 - a. Subcontractor's tax exemption certificate shall be supplied to Contractor upon request.
 - b. Except as otherwise provided in the Agreement, each Party remains solely responsible for taxes of any type imposed or assessed on such Party and its Affiliates, including but not limited to (i) property, franchise, income, and business and occupational taxes, and (ii) employer-related taxes with respect to its personnel (e.g., employee and payroll taxes, workers compensation, and unemployment insurance). Each Party agrees to reasonably cooperate with the other to enable each to more accurately determine its own tax liability and to minimize such liability to the extent legally permissible.
 - c. The only taxes Contractor shall be responsible for paying to Subcontractor are those sales taxes associated with the purchase of supplies and any applicable taxes imposed by a governmental tax authority on services. Governmental taxes on sales and services shall be paid by Contractor on a pass-through expense basis, at Subcontractor's actual cost, without any markup.

- d. All taxes for which Contractor is liable shall be included in the invoices from Subcontractor, with separate identification of taxable and non-taxable charges and shall include the tax rate at which the taxes are assessed. If Subcontractor is responsible for failing to invoice Contractor for any tax on sales or services or fails to pay such taxes to the applicable taxing authorities in a timely manner, Subcontractor shall be fully responsible for the uncharged or unpaid taxes and any associated penalties and interest.
22. **TIME OF PERFORMANCE/DELAYS:** Subcontractor shall schedule and perform its work so that the entire project may be completed in accordance with the Agreement. The Subcontractor agrees to carry on its work with diligence and without delaying or unreasonably interfering with other aspects of the project to be performed by Contractor or by its other Subcontractors, and further agrees at all times to schedule and supply the required materials and skilled labor in sufficient quantities and numbers and with sufficient tools and equipment to perform Subcontractor's work efficiently and expeditiously. Subcontractor shall promptly notify Contractor in writing immediately upon becoming aware of any circumstances that may jeopardize the timely completion of Work or provision of supplies. Subcontractor shall use commercially reasonable efforts to avoid and minimize delays and will inform Contractor of (a) the steps taken or to be taken to avoid and minimize delays and (b) the projected completion time. The Subcontractor shall commence the several parts of the work at such times and shall proceed therewith at such places and in such order as Contractor may direct and in accordance with the schedule of work, if any, provided by the Contractor. Time is of the essence with respect to the performance of Work and provision of supplies.
23. **DAMAGES FOR DELAYS CAUSED BY SUBCONTRACTOR:** In the event of delay in Project completion that is caused by or attributable to Subcontractor's failure to properly perform the Work in a timely manner, Subcontractor agrees to be liable for damages to Contractor in the amount of actual damages caused by the delay. Contractor retains all rights to assert claims for damages caused by delay, breach of contract, or other cause of action arising under this Agreement. Delays caused by Force Majeure events or by actions of Contractor, Owner, or other Subcontractor shall not constitute a delay resulting in liability for damages caused by delays.
24. **PERSONNEL.** Subcontractor shall assign an adequate number of its personnel to perform the Work. All personnel shall be properly educated, trained, familiar with, and fully qualified for the Work they are assigned to perform (including, without limitation, being licensed in the relevant regions to provide Work that requires a license). Subcontractor will assign sufficient supervisory personnel to provide adequate liaison with Contractor. Subcontractor will manage, supervise, and provide direction to its personnel and cause them to comply with the obligations and restrictions applicable to Subcontractor under the Agreement. Subcontractor is responsible for the acts and omissions of its personnel.
25. **SUBCONTRACTING.** Subcontractor may not subcontract or delegate the performance of any part of the Work without Contractor's prior written consent, which Contractor may withhold in its sole discretion.
26. **CHANGE ORDERS:** No changes to the work, the Contract Price, the schedule, or other terms of the Agreement are authorized unless approved in a Subcontract Order, Change Order, or Notice to Proceed signed by an authorized representative of Contractor. No course of dealing or course of performance between the parties shall be the basis for an increase in the Contract Price or extension of the Schedule.
27. **TERM DURATION AND TERMINATION.** This Agreement shall be effective when signed by both Parties and shall remain in effect until terminated pursuant to the terms of the Agreement or by mutual written agreement of the parties. Contractor/Purchaser reserves the right to cancel in whole or in part, without liability, the Agreement if the Subcontractor/Supplier becomes insolvent; files a voluntary petition in bankruptcy, or an involuntary petition is filed to have Subcontractor/Supplier declared bankrupt and is not vacated within 30 days from the date of filing; Subcontractor/Supplier executes an assignment for benefit or creditors; or if Subcontractor/Supplier breaches any of the terms of the Agreement including the warranties of Subcontractor/Supplier.
28. **DEFAULT.** If Subcontractor/Supplier: (i) fails to perform the Work or any part thereof with promptness and diligence; (ii) delays the progress of any applicable project; (iii) becomes bankrupt or insolvent; (iv) fails to sufficiently supply properly skilled labor or materials of proper quality; (v) fails to pay its subcontractors, suppliers or employees the amounts properly due said persons or entities; (vi) fails to pay workers' compensation or other employee benefits; (vii) fails to comply with any applicable safety provisions, including but not limited to its own safety plan or any safety plan of Contractor, or with any safety order, regulation or requirement of any governing authority having jurisdiction over a project; (viii) files a voluntary petition in bankruptcy or be adjudicated insolvent, obtains an order for relief under Section 301 of the Bankruptcy Code, files any petition or fails to contest any petition filed seeking any reorganization or similar relief under any laws relating to bankruptcy, insolvency or other relief or debtors, or seeks

or consents to or acquiesces in the appointment of any trustees, receiver or liquidator of any of its assets or property, makes an assignment for the benefit of creditors; or makes an admission in writing of its inability to pay its debts as they become due; (ix) defaults on any other contract with Contractor/Purchaser, or (x) fails in any other respect to comply with this Agreement, then Subcontractor shall be in default of this Agreement. In the event that Subcontractor is in default of this Agreement, then the Contractor may, in addition to any other remedies available to Contractor at law or in equity:

- a. Require that Subcontractor utilize, at its own expense, additional labor, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome the consequences of any delay attributable to Subcontractor's default; and/or
- b. After forty-eight (48) hours' written (or oral, confirmed in writing) notice to Subcontractor, remedy Subcontractor's default by whatever means Contractor may deem necessary or appropriate, including, without limitation, providing such labor and materials as may be necessary to properly complete the Work, whereupon Contractor may deduct the cost and expense thereof from any money then due or thereafter to become due Subcontractor under the Agreement. Subcontractor acknowledges that it shall be commercially reasonable for Contractor to engage a completion contractor on a cost-plus or time-and-material basis; and/or
- c. After giving Subcontractor forty-eight (48) hours' written (or oral, confirmed in writing) notice, terminate the Agreement, without waiving or releasing any rights or remedies against Subcontractor or its sureties; and/or
- d. Recover from Subcontractor all costs incurred by Contractor to complete the Work and further recover from Subcontractor all losses, damages, penalties, and fines, whether actual or liquidated, direct or consequential, and all reasonable attorneys' fees suffered or incurred by Contractor as a result of said default(s); and/or
- e. Bar Subcontractor from the job site and take possession for the purpose of completing the Work, all materials, tools, scaffolding, apparatus, machinery, and equipment thereon, and to employ or contract with any other person or persons to finish the Work.
- f. Subcontractor shall not be entitled to receive any further payment under this Subcontract until the Work shall be wholly finished, at which time if the unpaid balance of the amount to be paid on this Subcontract shall exceed the expense incurred by Contractor in finishing the Work, then such unpaid balance, after deducting any loss, damage or expense, by reason of Subcontractor's failure to adequately perform, including damages for delays, and expense for attorney's fees, shall be paid by Subcontractor to Contractor. If the costs, expenses, losses and damage of such work exceeds the unpaid balance, Subcontractor shall immediately pay the amount of such excess to Contractor.
- g. If, as a matter of law, the Contractor does not have the right, due to a bankruptcy proceeding involving the Subcontractor, to exercise the remedies provided for in the Agreement, then if Subcontractor, as debtor or its trustee, wishes to assume the applicable Subcontract, in addition to curing or adequately assuring the cure of all the Subcontractor's defaults existing under the Agreement on the date of filing of the proceedings and thereafter, Subcontractor, as debtor, or its trustee, must also furnish adequate assurances of future performance under the Agreement.

29. WARRANTIES:

- a. In addition to all other warranties set forth in the Agreement or imposed by applicable law, Subcontractor warrants to Owner and Contractor that the Work will be free from defects and performed in strict conformity with the requirements of the Agreement and any applicable code requirements. This warranty survives the termination of the Agreement and the completion of the work specified in the Agreement, shall only be extinguished by limitation periods imposed by applicable law, and shall not be limited by any other provisions contained in the Agreement.
- b. Subcontractor shall promptly correct work that is defective or fails to conform to the Agreement, whether it receives notice before the effective date of the certificate of substantial completion, or within a period of one year thereafter, or within the time period that Contractor is obligated to correct work under the Prime Contract, whichever is longer. Nothing in this section establishes a period of limitation or otherwise restricts obligations, which Subcontractor may have under other provisions of the Agreement or applicable law.

30. INSURANCE: Subcontractor shall comply with all Insurance Requirements at its own expense. Upon execution of

this Agreement, and prior to Subcontractor commencing the Work for Contractor, the Subcontractor shall maintain and provide Contractor with insurance certificates upon request reflecting the following types of coverages in amounts not less than stated:

- a. **Worker's Compensation Insurance** covering Subcontractor's statutory obligation in the state(s) which the Work is to be performed and Employer's Liability Insurance with limits no less than \$1,000,000.00, Each Accident, \$ 1,000,000.00 Bodily Injury by Disease – Policy Limit, and Disease – Each Employee \$ 1,000,000.00.
 - b. **Automobile Liability Insurance** with a combined single limit for bodily Injury and Property Damage Liability of \$2,000,000.00 per accident covering Subcontractor's owned, non-owned, leased, and hired automobiles.
 - c. **Motor Carrier Subcontractors**. All subcontractors who are motor carriers must carry the minimum insurance mandated by the Federal Motor Carrier Safety Act in addition to all insurance required by state or federal law or regulation.
 - d. **Commercial General Liability Insurance** written on an ISO occurrence form CG 00 01 (edition 10/01 or later) which includes coverage for Subcontractor's operations, personal injury, XCU (explosion, collapse and underground), personal/advertising injury, Independent contractors, contractual and products/completed operations with the following limits of liability; PER JOB SITE AGGREGATE.
 - i. General Aggregate \$2,000,000.00
 - ii. Products/Completed Operations \$2,000,000.00
 - iii. Personal and Advertising Injury \$2,000,000.00
 - iv. Each Occurrence \$1,000,000.00
 - v. Products/Completed Operations Liability must be maintained for not less than three (3) years after acceptance of your work.
 - e. **Excess of Umbrella Liability Insurance** with occurrence/aggregate limit of \$5,000,000.00 occurrence/aggregate excess/umbrella.
 - f. PROFESSIONAL LIABILITY INSURANCE WITH LIMITS OF \$1,000,000.00 PER CLAIM AND AGGREGATE WHEN PROVIDING PROFESSIONAL DESIGN SERVICES ASSOCIATED WITH THE AGREEMENT.
 - g. The Subcontractor's insurance carriers must be "A" rated or better.
 - h. The Subcontractor shall provide a certificate of insurance coverage, listing Lee Machinery Movers, Inc. as additional insured (as well as the Owner, and all other parties, as required by contract) for ongoing and completed operations (for GL/Umbrella), on a primary and non-contributory basis. The Subcontractor shall also provide a Waiver of Subrogation in Contractor's favor for Automobile Liability and Worker's Compensation. Subcontractor's Umbrella/Excess Liability should follow form and Subcontractor shall provide at least a 30-day notice of cancellation of such coverage.
31. SAFETY STANDARDS. Subcontractor agrees that the Subcontractor and all employees of the Subcontractor are required to fully comply with and implement all government laws, including any OSHA or MIOSHA requirements pertaining to safety standards. Subcontractor agrees that there is a Safety Program in place that defines the safety policies and practices all employees, and any other Subordinate Parties are to abide by along with Contractor/Owner policies per contract, and takes responsibility for same. Subcontractor agrees that any fines, assessments, or penalties imposed upon the Contractor by failure of the Subcontractor or its employees/agents to comply with the applicable standards will be fully charged back to and paid for by the Subcontractor.
32. CONFIDENTIALITY OF PROPRIETARY INFORMATION RECEIVED FROM THE OTHER PARTY. Subcontractor agrees to treat Contractor's Confidential Information as strictly confidential and shall not disclose the Confidential Information that Subcontractor may obtain or learn as a result of this Agreement. In addition, Subcontractor shall not disclose any of the terms or conditions of this Agreement to a third party without the express written consent of Contractor, except to financial advisers, attorneys, and successors in interest who are bound to confidentiality obligations no less protective of the Confidential Information than the terms contained in this Agreement or as may be required by law. As used in this Agreement, the term Confidential Information shall mean all nonpublic, proprietary, or confidential information of or obtained from Contractor or Owner, including, without limitation, blueprints and specifications, proprietary methods used by Contractor or Owner, trade secrets, business plans, research, work in progress, codes, marketing and sales programs, financial projections, cost summaries, rates, pricing formulas, projections, customer lists, and all other confidential concepts, methods of doing business, ideas,

materials, or information prepared or performed for, by, or on behalf of Contractor, Owner, and their respective employees, officers, directors, agents, representatives, or consultants. Confidential Information shall not include information that, at the time of disclosure, (1) is or becomes generally available to and known by the public; (2) was known by or was in the possession of the receiving party before being disclosed by or on behalf of the disclosing party; (3) was or is independently developed by the receiving party without reference to or use of, in whole or in part, any of the disclosing party's Confidential Information; or (4) is required to be disclosed under applicable federal, state, or local law or regulation or a valid order issued by a court or governmental agency of competent jurisdiction. On the termination of this Agreement, Subcontractor shall return to Contractor or destroy all Confidential Information in its possession and in the possession of any of its representatives and, at the request of the other party, certify in writing as to the destruction of the Confidential Information.

33. **ENTIRE AGREEMENT.** The Agreement constitutes the entire understanding of the parties and supersedes any prior proposal or agreement. It shall not be modified, amended, or revoked except in writing executed by an authorized representative of Contractor. By accepting the Agreement, Subcontractor agrees it has not relied on any promises or representations unless stated herein. Should any portion of the Agreement be held invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall be valid and enforceable to the fullest extent permitted by law. The failure of Contractor to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver, nor in any way to affect the validity of the Agreement or any part thereof or the right of Contractor to enforce each and every provision.
34. **INDEMNIFICATION:** To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold harmless Contractor and its agents, employees, shareholders, officers, directors, partners, affiliates, and successors from and against any and all liabilities, claims, causes of action, lawsuits, or expenses arising from (a) Subcontractor's breach or failure to comply with this Subcontract, including any Default or breach of any warranty, or (b) personal injury or death to any person (including employees of Subcontractor or Subordinate Parties) or property damage (including claims for loss of use), which arise out of or result from the Work or the operations or acts of commission or omission of Subcontractor, including those of its Subordinate Parties, unless the injuries or damages are caused by the sole negligence of the party seeking to be indemnified. All indemnification, payment, warranty, lien waiver, title, and remedies provisions shall survive the termination or expiration of this Purchase Order.
35. **RIGHT OF INSPECTION - GOODS:** On occasion, the procurement of goods necessary to complete the Work will be included as part of Subcontractor's duties under the Agreement. Payment for the goods furnished hereunder shall not constitute acceptance thereof. Contractor will have 30 days from delivery of the goods as set forth in the Subcontract Order to inspect for visual defects. Contractor will have additional reasonable time to inspect and to reject the goods for latent defects. If all or any part of the goods are found to be non-conforming, Contractor may reject such non-conforming goods, whereupon such rejected goods will be promptly removed by Subcontractor at Subcontractor's cost, and the Purchase Price with respect to such rejected Goods will be refunded by Subcontractor if already paid, or shall be deducted from payment if still owing. In either case, if Contractor so elects, Subcontractor will promptly replace such non-conforming goods with goods conforming to the Specifications. All direct and incidental costs of rejecting and removing such non-conforming goods will be the responsibility of Subcontractor, including reasonable shipping and storage costs and fees.
36. **RIGHT TO AUDIT:** Subcontractor will provide Contractor/Purchaser reasonable access to its books, documents, and records as necessary to ensure Subcontractor's compliance with the provisions of the Agreement.
37. **REGULATORY COMPLIANCE AND NONDISCRIMINATION:** Subcontractor will comply with all applicable laws, ordinances, rules, regulations, and orders ("Laws") of any public authority having jurisdiction, including, but not limited to, all applicable Laws dealing with labor and wages, worker's compensation, employer liability, unemployment compensation, safety, antitrust and anti-collusion, fair trade, the environment, equal employment opportunity and discrimination on the basis of any characteristics that may be protected by law. Subcontractor will indemnify and defend Contractor from and against any and all claims arising out of Subcontractor's alleged or actual breach of Laws.
38. **FORCE MAJEURE:** Contractor will not be liable for any failure or delay in performing an obligation under the Agreement that includes but is not limited to any of the following causes: acts of God, hurricanes, earthquakes and other natural disasters, explosions, epidemics/pandemics, terrorism, government acts, embargoes, labor strikes & disputes lockouts, and such other industrial action by workers related to or in response to the terms and conditions of employment of those workers or others with whom they are affiliated except, when such event is directly related

to, or in direct response to any employment policy or practice (with respect to wages or otherwise) of the party whose workers resort to such action; breakage of plant equipment, structural collapse, chemical contamination, and other events beyond the control of the parties; or anything that materially affects the performance of any of the Subcontractor's obligations under this agreement that could not reasonably have been foreseen or prepared against. The Subcontractor shall take all reasonable actions to minimize the delay caused by any of the above factors.

39. NO DAMAGES FOR DELAY: Contractor shall not be liable to the Subcontractor for any damages or increased compensation of any kind caused by any delay or disruption to Subcontractor's performance of work regardless of whether such delay is caused by Contractor, other parties under Contractor's control, Force Majeure, or by any other cause, unless the Contractor has first recovered increased compensation on behalf of the Subcontractor from the Owner.
40. GOVERNING LAW AND JURISDICTION: This Agreement shall be governed by and construed under the laws of the state of Michigan. Each Party irrevocably submits to the exclusive jurisdiction of the Oakland County, Michigan Courts and/or the United States District Court for the Eastern District of Michigan, for the purposes of any suit, action or other proceeding arising out of this Agreement. Each Party agrees to commence any such action, suit or proceeding in the Oakland County, Michigan Courts and/or the United States District Court for the Eastern District of Michigan. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement in the Oakland County, Michigan Courts and/or the United States District Court for the Eastern District of Michigan, and hereby and thereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.
41. MUTUAL NONDISPARAGEMENT: Subcontractor agrees not to disparage Contractor, its respective officers, directors, employees, stockholders, agents and affiliates, in any manner likely to be harmful to them or their business, business reputation or personal reputation. Similarly, Contractor agrees to instruct its officers and directors not to disparage Subcontractor in any manner likely to be harmful to Subcontractor or its business or personal reputation. Notwithstanding the foregoing in this paragraph, Subcontractor and Contractor (including their respective officers and directors) may respond accurately and fully to any question, inquiry or request for information when required by legal process or in connection with a government investigation. In addition, nothing in this provision is intended to prohibit or restrain any party in any manner from reporting possible violations of federal law or regulation to any governmental agency or entity, including but not limited to the Department of Justice and the Securities and Exchange Commission ("SEC"), or making other disclosures that are protected under the whistleblower provisions of federal law or regulation.
42. MEDIATION: Ad hoc mediation. Any controversy or claim arising out of or relating to this Agreement or any related agreement or any of the transactions contemplated by this Agreement will be settled in the following manner: (1) senior executives representing each of the parties will meet to discuss and attempt to resolve the controversy or claim; (2) if the controversy or claim is not resolved as contemplated by clause (1), each party will, by mutual consent, select an independent third party to mediate such controversy or claim, provided that this mediation will not be binding on any of the parties; and (3) if the controversy or claim is not resolved as contemplated by clauses (1) or (2), the parties will have such rights and remedies as are available under this Agreement or, if and to the extent not provided for in this Agreement, are otherwise available.
43. ARBITRATION: At Contractor's sole discretion, any dispute between Contractor and Subcontractor in any way relating to this Agreement may be submitted to arbitration pursuant to the Construction Industry Rules of the American Arbitration Association then in effect. Such Mediation/Arbitration shall take place in Oakland County, Michigan, unless Contractor and Subcontractor mutually agree in writing to an alternative location. Any decision of any arbitrator rendered pursuant to an arbitration initiated or consented to by the Contractor may be enforced by a court of competent jurisdiction. In the event that the dispute between Contractor and Subcontractor in any way involves the Owner(s), Subcontractor shall submit to the jurisdiction of, and participate in all applicable proceedings between Owner and Contractor, should Contractor so demand.
44. ATTORNEY FEES: In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs, and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include without limitation all fees,

costs, and expenses of appeals.

- 45. LIMITATIONS PERIOD: Subcontractor agrees that any claim or lawsuit by Subcontractor arising out of this Agreement must be filed no more than 180 days after the claim accrues, unless the applicable statute of limitations period is shorter than 180 days in which case Subcontractor agrees to be bound by that shorter limitations period.
- 46. COUNTERPARTS: It is understood that each Authorized Person be, and each hereby is, authorized and directed, in the name and on behalf of the Corporation to take any and all such further actions, to execute, deliver and perform any and all such further agreements, amendments, documents, certificates, instruments, affidavits, approvals and consents, if any, or undertakings of any kind in connection with the Subcontract, or any other necessary company action, and any Authorized Person is authorized from time to time to execute modifications, renewals, extensions and/or amendments, respectively, of the foregoing resolutions, if and as applicable, and to make any and all such filings, to see any and all such approvals and to pay any and all such costs and expenses as in his or her judgment may be necessary, appropriate or advisable in order to carry out the purpose and intent of any or all of the foregoing, and to effectuate the transactions authorized thereby. This Subcontract may be executed in counterparts, all such executed counterparts together shall constitute one instrument, and each executed counterpart shall be deemed an original copy of this written consent and may be transmitted by facsimile machine, portable document format (.pdf), or any other electronic means and shall be treated in all manners and respects as an original document and an original signature.
- 47. MISCELLANEOUS: If an Employee of the Contractor is hired by Subcontractor at any time during the relationship, or within 1 year of the end of the relationship between Contractor and Subcontractor, then Subcontractor will be billed a normal contingency placement fee of 40% of that employee's first year salary with Subcontractor. This placement fee will be paid by Subcontractor to Contractor. This fee is necessary to recoup a portion of Contractor's training costs, and the cost to recruit and train a replacement.

Contractor:
 Lee Machinery Movers, Inc.

Subcontractor:

 By:
 Its:

 By:
 Its:

Date: _____

Date: _____