

SUBCONTRACT

Subcontract #:

This SUBCONTRACT, Made this **Month, day, year** by and between L & L BUILDERS CO., 2205 4th ST, Sioux City, IA 51101, hereinafter called the Contractor and **Sub Company** hereinafter called the subcontractor.

Whereas, the Contractor has entered into an agreement dated **Month, day, year** with **Name of Owner** hereinafter called the Owner, to perform certain labor and furnish certain material at **Project Name** hereinafter called the Project, pursuant to Plans, drawings and specifications by Architect or Engineer **Name of Arch or Engr** which contract consisting of the contract, the plans, Drawings and specifications, the general conditions, the special conditions, the bond, if any, and any addenda or amendments No.'s **List addenda** and

invitation to bidders the instruction to bidders are hereinafter collectively referred to as the General Contract.

The Contractor has made available to the subcontractor all the above documents, the Subcontractor shall be responsible for obtaining copies pertinent to its Work.

The above has been carefully examined by the Subcontractor.

THE SUBCONTRACTOR AGREES AS FOLLOWS:

1. To furnish all labor, materials, skill and equipment necessary or required and to perform all work necessary for: The General Conditions, the condition of the Contract, and all other Conditions as contained in Division 0 and Division 1 of the specifications are part of this contract including the attached Exhibits "A, **any special exhibits**"

2. To pay for all materials, skills, labor and equipment used in or in connection with the performance of this subcontract, when and as bills or claims therefore become due, and to save and protect the Project, the Owner, and the Contractor from all claims and mechanics' liens on account thereof, and to furnish satisfactory evidence to the Contractor when and if requested, that it has complied with the above requirements. This provision shall not be construed as a waiver of the right of the Subcontractor to file and enforce a lien claim against the Owner in the event the Contractor fails to pay the Subcontractor.

3. Schedule: To begin the work of this subcontract as soon as the Project is ready for such work or, within **five (5)** calendar days after being notified in writing by the Contractor. To complete the work on this subcontract as required by job progress or within the following time limits:

All in accordance with the Job Progress Schedule which may be modified by L & L Builders Co., and/or the Project Superintendent as conditions warrant. The schedule is available for inspections at L & L Builders Co. job site trailer.

- A. ALL REQUIRED SHOP DRAWINGS AND SUBMITTALS DELIVERED TO L & L BUILDERS CO. NO LATER THAN **Date**
- B. SUBCONTRACTORS START DATE **Date**
- C. SUBCONTRACTORS END DATE **Date**
- D. COMPLETION AND TURNOVER TO OWNER IS **Date**

4. Other Contract stipulations:

- A. BUILDERS RISK: PER THE GENERAL AND SPECIAL CONDITIONS, TO BE PROVIDED BY THE **Owner or GC**
- B. BOND TYPE IF REQUIRED OF THE SUBCONTRACTOR - **None or type**
- C. PAY REQUESTS TO BE PAID SEVEN (7) DAYS AFTER RECEIPT FROM OWNER FOR PAYMENT REQUESTS RECEIVED BY THE **number (i.e. 25th)** DAY IN ACCORDANCE WITH EXHIBIT A, SECTION C1.
- D. RETAINAGE % **enter %**

Total for Subcontract : Contract Amount

Scope of Work:

L & L Builders Job #

Dated: _____
SUBCONTRACTOR

Dated: _____
CONTRACTOR
L & L Builders Co.

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

SUBCONTRACT AGREEMENT

EXHIBIT A

Subcontractor agrees to:

1. To proceed with the work in an orderly and reasonable sequence directed by the Contractor. To abide by the Contractor's decision as to the allotment of all storage and working space on the Project.

2. That no extension of time of performance of this Subcontract shall be recognized by the Contractor without the written consent of the Contractor. If, however Subcontractor is delayed in the performance or completion of the Subcontract work for reasons beyond its control, then with timely notice the time of the performance or completion of said work shall be extended accordingly, provided the cause of the delay is of a type set forth in the General Contract which justifies an extension of time for completion of the General Contract, and Contractor receives from the Owner a time extension for same.

3. To save harmless the Contractor and all other subcontractors from any and all losses or damage occasioned by the failure of the Subcontractor to carry out the provisions of this Subcontract, unless such failure results from causes beyond the control of the Subcontractor. Loss or damage shall include, without limiting the generality of the foregoing, legal fees and disbursements paid or incurred by the Contractor as part of the loss or damage or to enforce the provisions of this paragraph unless such failure results from causes beyond the control of the Subcontractor.

3.1. To obtain, maintain and pay for such insurance as may be required by the General Contract or by law, to include without limitation, workers' compensation, commercial general liability insurance, comprehensive automobile liability insurance, and if specified below, builders risk insurance, protecting the Subcontractor against claims for bodily injury or death or for damage to property occurring upon, in or about the Project arising out of the Subcontractor's work, with limits in amounts at least equal to those specified below, or if none is specified below, those specified in the General Contract:

TYPE OF INSURANCE/LIMITS OF LIABILITY

a) Commercial General Liability: to include, without limitation, comprehensive form; premises-operations; underground, explosion & collapse hazard; products-completed operations; contractual; independent contractors; broad form property damage; and personal injury.

	Each Occurrence	Aggregate
Bodily Injury & Property Damage Combined	\$ <u>1,000,000</u>	\$ <u>2,000,000</u>
Personal Injury	\$ <u>1,000,000</u>	\$ <u>XXXXXXXXXX</u>

b) Automobile Liability: to include all owned autos (private passenger & other than private passenger), hired & non-owned auto.

	Each Occurrence	Aggregate
Bodily Injury & Property Damage Combined	\$ <u>1,000,000</u>	\$ <u>XXXXXXXX</u>

c) Workers' Compensation: to include coverage A-statutory (which may be satisfied by self-insurance program meeting the requirements of State Law).

Coverage B	\$ <u>100,000</u>	Each Accident
	\$ <u>500,000</u>	Disease-Policy Limit
	\$ <u>100,000</u>	Disease-Each Employee

d) Builders Risk: per the general and special conditions, to be provided by (check one):

e) Other

Additional Insured, by endorsement, at least as broad as ISO CG 2010, 1185 or a combination of CG 2010 and CG 2037

This insurance to be issued by a financially responsible company or companies and which has an A.M. Best Rating of A-or better, and Contractor may waive this requirement in case a Subcontractor is self-insured. Before beginning any work under this Subcontract, Subcontractor will provide insurance certificates and endorsements showing compliance with these insurance requirements and indicating the coverage's and limits cannot be materially changed or cancelled without at least thirty (30) days prior written notice to the Contractor.

3.2. The Subcontractor agrees to assume entire responsibility and liability, to the fullest extent permitted by law, for all claims for damages arising out of, resulting from or in any manner connected with the execution of the work provided for in this Subcontract or occurring or resulting from the use by the Subcontractor, its agents or employees, of materials, equipment, instrumentalities or other property, whether the same be owned by the Contractor, the Subcontractor or third parties. Further the Subcontractor, to the fullest extent permitted by law, agrees to indemnify and save harmless the Contractor, its agents and employees from all such claims including, without limiting the generality of the foregoing, claims for which the Contractor may be or may be claimed to be liable, and attorney fees, costs and disbursements paid or incurred, either to defend against any such claims or to enforce the provisions of this paragraph. The Subcontractor further agrees to obtain, maintain and pay for such Commercial General Liability insurance coverage and endorsement as will insure the provisions of this paragraph.

4. To accept responsibility for all damage caused by the Subcontractor, to clean all surfaces soiled by the Subcontractor, and to protect the work performed by the Subcontractor, it being understood that the standards of protection shall not be less than those specified in the General Contract or required by law, and to be responsible for any defective or improper work or material caused by its failure to do so. If any dispute arises between the Subcontractor and another Subcontractor as to which is responsible for any item of damage, the dispute shall be submitted to the Contractor for decision and its determination as to responsibility.

5. The Subcontractor and its subcontractors shall take all safety precautions with respect to its work, shall comply with all safety measures required by the General Contract and with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority for the safety of persons or property.

6. Not to assign or sub-let this Subcontract or any part thereof, and not to assign any money due or to become due hereunder, without first obtaining the written consent of the Contractor.

7. To be bound to the Contractor by the terms of the General Contract, to conform to and to comply with the provisions of the General Contract, and to assume toward the Contractor all the obligations and responsibilities that the Contractor assumes in and by the General Contract toward the Owner, insofar as they are applicable to this Subcontract. Where any provision of the General Contract between the Owner and the Contractor is inconsistent with any provision of this Subcontract, this Subcontract shall govern.

8. To employ no person whose employment on or in connection with this Subcontract may be objectionable to the Contractor and to remove any such person when objected to by the Contractor, all upon reasonable grounds.

8.1. That the Contractor or its authorized representative shall have the right to order in writing changes to this Subcontract as made to the General Contract by the Architect and/or Owner; that fair adjustments shall be made in the Subcontract price for such change; and that no change shall be allowed or made by the Subcontractor, or paid for by the Contractor, unless and until authorized by the Contractor or its authorized representative in writing before the change has begun.

8.2. To give written notice to the Contractor of all claims for extras, for extensions of time and for damage for delays or otherwise in accordance with the General Contract, allowing the Contractor to give timely notice to the Owner. Timely notice shall mean three (3) working days prior to the expiration of the relevant notice period in the General Contract.

9. To obtain and furnish to the Contractor and maintain in effect during the life of this Subcontract, if requested so to do on cover page, a surety bond in form and with sureties acceptable to the Contractor, in an amount equal to the Subcontract price, conditioned upon and covering the faithful performance of and compliance with all the terms, provisions and conditions of this Subcontract, the premium therefore to be paid by the Subcontractor. Unless the General Contract requires it, nothing herein shall give the Contractor the right to designate that the Bond be executed by a specific surety or procured from a specific agent.

10. To guarantee the Subcontractor to the same extent that the Contractor is obligated to guarantee its work under the General Contract, but in any event to guarantee its work against all defects in material or workmanship for a

period of one (1) year from the date of acceptance of the Project, or a portion of the Subcontractors' work, by the Owner.

11. That in case the Subcontractor shall fail when and if required by the Contractor, to correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this Subcontract, or repeatedly and persistently to complete or proceed with this Subcontract within the schedule agreed to by the parties or the time herein provided for, or make payment when due to subcontractors or suppliers for labor or materials in accordance with the respective agreements between the Subcontractor and its subcontractors and suppliers or to comply with any substantial term of this Subcontract, then the Contractor may give the Subcontractor a written notice to cure the Subcontractor's default. If the Subcontractor fails within three (3) working days after receipt of the notice of default to commence and continue satisfactory correction of such default with diligence and promptness, then the Subcontractor shall be in default of this Subcontract and the Contractor upon an additional twenty four (24) hours notice in writing to the Subcontractor shall have the right to terminate this subcontract and finish the Subcontractor's work, replace and/or re-execute such faulty or defective work, or materials, either through its own employees or through a contractor or subcontractor of its choice, and to charge the cost thereof to the Subcontractor, together with any liquidated or actual damages caused by a delay in the performance of this Subcontract.

12. That in case of default on the part of the Subcontractor under the terms of this Subcontract, the material, supplies, tools and construction equipment of the Subcontractor shall be left on the job for the use of the Contractor in completing the work covered by this Subcontract.

13. To comply with all Federal and State laws, codes, and regulations and all municipal ordinances and regulations effective where the work under this Subcontract is to be performed, and to pay all costs and expenses connected with such compliance, to pay all fees and taxes, including sales and use taxes, and also pay all taxes imposed by any State or Federal law for any employment insurance, pensions, old age retirement funds or any similar purpose and to furnish all necessary reports and information to the appropriate federal, state and municipal agencies, with respect to all of the foregoing the same as though the Subcontractor was in fact the Contractor, and to hold the Contractor, each other subcontractor and the Owner harmless from any and all losses or damage occasioned by the failure of the Subcontractor to comply with the terms of this paragraph.

14. To pay all royalties and license fees; to defend all suits or claims for infringement of any patent rights involved in the work of the Subcontractor under this Subcontract; and to save the Contractor and other subcontractors harmless from loss, cost or expense on account of such use or infringement by the Subcontractor.

15. If any part of the Subcontractor's work depends for proper execution or results upon the work of the Contractor, any other subcontractor or any other separate contractor on the Project, the Subcontractor shall inspect and promptly report to the Contractor any apparent discrepancies or defects in such work that renders it unsuitable for such proper execution and results. Failure of the Subcontractor to so inspect and report shall constitute an acceptance of the work of the Contractor, other subcontractors or other separate contractors as fit and proper to receive its work.

16. The clean up and removal of all debris left on jobsite due to the completion of this Subcontract is the responsibility of the Subcontractor, and will be completed within three (3) working days of written notification by the Contractor, after which the clean up will be done by the Contractor, with the cost of the cleanup charged to the Subcontractor.

THE CONTRACTOR AGREES AS FOLLOWS:

A. To employ, and does hereby employ the Subcontractor to do the work described in paragraph 1 hereof, subject to the provisions of this Subcontract.

B. To pay the Subcontractor for the full and prompt performance of this Subcontract, subject to the terms and conditions hereof, as recorded on the cover page of this agreement.

C.1. To include in Contractor's monthly estimate to the Owner, the value of all work, labor and materials of the Subcontractor properly incorporated into the Project, in accordance with the provisions of this Subcontract for which estimates have been furnished by the Subcontractor and approved by the Contractor. Upon learning that the amount certified due for the Subcontractor is different from the amount requested by the Subcontractor, the Contractor shall immediately so advise the Subcontractor and furnish such information as the Contractor may have for the difference, and so long as the Subcontractor is not in default hereunder, to pay the Subcontractor, within seven (7) calendar days upon receipt thereof from the Owner, the amount received by the Contractor on account of the Subcontractor's work. Subcontractor expressly agrees that it retains the risk of the Owner's insolvency or inability to pay for Subcontractors work and such risk is not transferred to Contractor under the Subcontract. Receipt of payment by Contractor from the Owner is a condition precedent to Contractor's obligation to pay Subcontractor.

C.2. That if allowed by the General Contract, payment shall be made on account of inventory, materials, or equipment not incorporated in the Project but delivered and suitably stored at the site or at some other location agreed upon in writing, such payments to be made in accordance with the terms and conditions of the General Contract.

D. Final payment of the balance due of the Subcontract Price shall be made to the Subcontractor within seven (7) calendar days after the receipt by the Contractor of final payment from the Owner for such Subcontract work. Receipt of payment by Contractor from the Owner is a condition precedent to Contractor's obligation to pay Subcontractor.

E. If alternative dispute resolution, including, without limitation, arbitration or mediation, is provided for in the General Contract, any dispute arising between the Contractor and the Subcontractor under this Subcontract, including the breach thereof, shall be settled by such alternative dispute resolution procedures in the manner provided for in the General Contract.

If such language is not included in the General Contract, this agreement and the rights of the parties shall be governed only by and construed in accordance with the laws of the State of Iowa without exception.

Any and all disputes or suits for any and every breach of this Subcontract, for construction or enforcement of this Subcontract, or seeking declaratory relief with respect to this Subcontract may be maintained only in the state or federal courts in Woodbury County, Iowa. Subcontractor expressly consents to the jurisdiction of the Iowa District Court for Woodbury County and to the Jurisdiction of the United States District Court for the Northern District of Iowa and waive trial by jury in any and all action or proceeding brought by either against the other on any matter arising out of or connected with this Subcontract or its subject matter.

F. If notification of any claims have been made against the Subcontractor or the Contractor arising out of labor or materials furnished the project, or otherwise on account of any actions or failures to act by the Subcontractor in the performance of this Subcontract, the Contractor may, at its discretion, withhold from such amounts otherwise due or to become due hereunder a sum adequate to cover said claims and any costs or expenses arising or to arise in connection therewith, but not to exceed two hundred (200) percent of the sum of the claims, costs of expenses, pending legal settlement thereof. This right of the Contractor shall not be exclusive of any other rights of the Contractor herein or by law provided.

G. The failure of the Contractor to make payments as and when herein provided shall, in addition to all other rights, entitle the Subcontractor to suspend all work and shipments during the continuance of such default on the part of the Contractor, and shall further entitle the Subcontractor to an extension of time for the performance of the work covered by this Subcontract.

H. Except in an emergency or to enforce safety requirements, not to issue or give any instructions, orders or directions to any employee or worker of the Subcontractor, other than the people the Subcontractor has designated as having supervisory responsibility for the Subcontract work. However, neither this authority of the Contractor nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Contractor to the Subcontractor, its material and equipment suppliers, its agents or employees, or other persons performing portions of the Subcontractor's work.

I. To give written notice to the Subcontractor of all known claims within a reasonable period, but not more than thirty (30) calendar days, after knowledge of the claim.

J. A retainage % (Indicated on the cover page of this contract) will be withheld until the completion of the General Contract and the acceptance of the Work by the Owner and/or Architect and/or Engineer and/or Contractor.

K. Contractor shall have the right of setoff for monies owed on this Project against Subcontractor on any other project on which Contractor has a subcontract with Subcontractor.

L. At any time Contractor determines that it is in contractor's best interest, Contractor may, at its sole discretion, require Subcontractor and any of its subcontractors or suppliers to enter into a joint check agreement to ensure payment to such subcontractors and suppliers. Subcontractor shall include such a provision in its agreements with such subcontractors and suppliers.