

Company Name: _____

TRADE CONTRACTOR AGREEMENT

Prepared by PM _____

Project Name _____ Date _____

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Trade Contractor _____

COST CODE #

Project Address _____

_____ as described below:

I. TRADE CONTRACTOR AGREES TO SUPPLY TO XENOPHON CONSTRUCTION, INC. THE FOLLOWING, ACCORDING TO PLANS, DATED _____ AND AS DESCRIBED HEREIN BELOW ("THE WORK"):

- Labor Only Materials Only Labor & Materials –

Further Described on the following documents: _____

II. FOR THE FOLLOWING AMOUNT:

The cost of this work is

Materials \$ _____

Labor \$ _____

Total \$ _____

This is a CHANGE to a previous agreement

Total this Change \$ _____

Previous Total \$ _____

Net Total \$ _____

III. ON THE FOLLOWING PAYMENT SCHEDULE:

See Attachment

Payment #1 \$ _____ at _____

Milestone Completion

Payment #2 \$ _____ at _____

Milestone Completion

Payment #3 \$ _____ at _____

Milestone Completion

IV. WITHIN THE FOLLOWING TIME TABLE:

Work will commence on or before: _____

And be completed no later than: _____

Phase I

Phase II

With a crew of at least _____ workers Completing with in _____ days

V. SUBJECT TO THE FOLLOWING:

A. Xenophon Construction will provide ONLY the following towards the completion of Trade Contractor's Scope of Work as set out in I, above: _____ See Attachment

B. This work excludes the following: _____ See Attachment

C. THE SPECIFIC TERMS AND CONDITIONS OF THIS TRADE CONTRACTOR AGREEMENT AS SET FORTH ON THE REVERSE SIDE HEREOF AND THE GENERAL TERMS AND CONDITIONS BETWEEN XENOPHON CONSTRUCTION AND THE TRADE CONTRACTOR ARE INCORPORATED HEREIN BY REFERENCE AND MADE A PART OF THIS AGREEMENT. NOTE: THE SPECIFIC TERMS AND CONDITIONS CONTAIN AN ARBITRATION AGREEMENT THAT THE PARTIES INTEND TO BE BINDING BETWEEN THEM. PLEASE READ ALL OF THE GOVERNING TERMS CAREFULLY BEFORE SIGNING.

Signed: _____ Trade Contractor Date _____

Signed: _____ Xenophon Construction, Inc. Date _____

ORIGINAL is returned to the office as soon as agreement is executed
YELLOW COPY is delivered to TRADE CONTRACTOR
PINK COPY is to be placed in the Job Book

By signing this agreement, you acknowledge that you have received and have had the opportunity to review the General Terms and Conditions between Xenophon Construction, Inc., and Trade Contractor.

SPECIFIC TERMS AND CONDITIONS OF TRADE CONTRACTOR AGREEMENT

IN ADDITION TO THE GENERAL TERMS AND CONDITIONS BETWEEN TRADE CONTRACTOR AND XENOPHON CONSTRUCTION, THE RECEIPT OF ALL OF WHICH TRADE CONTRACTOR ACKNOWLEDGES AND ALL OF WHICH ARE INCORPORATED HEREIN BY REFERENCE, THE PARTIES FURTHER AGREE AS FOLLOWS:

1. The Work shall be preformed in accordance with the Plans and Specifications of the Project related to The Work, copies of said Plans and Specifications related to The Work shall be provided to the Trade Contractor for review prior to the Date of Commencement, as that term is set forth in IV., above. Said Plans and Specifications are incorporated herein by reference, and are to be considered to be a material part of this Agreement.

2. The Trade Contractor shall provide the Xenophon Construction with notice orally or in writing not less than three (3) days before commencing The Work in the event that the Trade Contractor wishes to begin The Work prior to the date of commencement set forth in IV., above. The Work shall be substantially completed no later than the date of completion set forth in IV., above, subject to adjustments provided by Change Orders approved by Xenophon Construction. Trade Contractor=s failure to complete The Work by this date will result in liquidated damages to Xenophon Construction, which shall be deducted from the Final Payment, in the amount of \$_____ per day or any part thereof. **Time is of the essence in the performance of this subcontract.**

3. Xenophon Construction shall pay the Trade Contractor in current funds for the performance of the Work in the amount provided in II., above, subject to the schedule as provided in III., above, subject to any addition s and deductions as provided herein (APayment@).

3.1 Payment shall be made to the Trade Contractor as follows:

(A) Trade Contractor shall submit an Invoice for payment pursuant to the Payment Schedule set forth in III., above, for work preformed during each scheduled period ("Payment Invoice").

(B) The Payment Invoice shall be paid in full, less 10% withheld as retainage, within 15 days of submission of the Payment Invoice, subject to the work related to the Payment Invoice being approved by Xenophon Construction, within that time ("Accepted Work"), with such approval not being unreasonably withheld.

(C) All retainage amounts withheld shall be paid to the Trade Contractor upon final acceptance of The Work by the Xenophon Construction, pursuant to the terms of Section 3.2 below, which such acceptance shall not be unreasonably withheld.

(D) Trade Contractor shall be responsible for paying all sales and use taxes associated with The Work.

(E) Trade Contractor is entitled to interest on all amounts for Accepted Work, past due and owing for more than thirty (30) days at the rate of one and one half percent (1.5%) per month, until all said amounts past due and owing, including all interest accrued thereon, are paid in full.

(F) Any work related to any Payment Invoice deemed by Xenophon Construction, not to be preformed in conformity with the Plans and Specifications for The Work, shall be Rejected by the Xenophon Construction ("Rejected Work"). No payments related to said Rejected Work on any Payment Invoice shall be due until such Rejected Work is first brought into conformity with the Plans and Specifications for The Work by the Trade Contractor. The cost and expense of bringing non-conforming work into conformity with the Plans and Specifications for The Work shall be borne solely by the Trade Contractor .

3.2 Acceptance shall occur when The Work is substantially complete and preformed in accordance with the Plans and Specifications for the Project that relate to The Work, as determined by Xenophon Construction. As a precondition of tender of the Final Payment, the Trade Contractor shall issue an Unconditional Release of Lien for the benefit of Xenophon Construction.

4. ALL DISPUTES, CONTROVERSIES OR CLAIMS, OF WHATEVER KIND OR CHARACTER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, SHALL BE SETTLED AND DETERMINED BY BINDING ARBITRATION IN ACCORDANCE WITH WEST=S A.M.C. ' ' 11-15-101, *ET SEQ.* SAID ARBITRATION SHALL BE CONDUCTED BY ONE (1) ARBITRATOR UNLESS THE PARTIES MUTUALLY AGREE THAT THE NATURE OF THE DISPUTE REQUIRES MORE THAN ONE (1) ARBITRATOR. THE ARBITRATION SHALL BE GOVERNED BY MISSISSIPPI LAW AND SHALL BE CARRIED OUT IN MADISON COUNTY, MISSISSIPPI OR SUCH OTHER LOCATION AS THE PARTIES MAY AGREE. XENOPHON CONSTRUCTION, INC., AND TRADE CONTRACTOR SHALL SHARE EQUALLY ALL ADMINISTRATIVE FEES AND EXPENSES RELATED TO THE ARBITRATION, INCLUDING ANY ARBITRATOR'S FEES. THE AWARD OF THE ARBITRATOR(S) SHALL BE ENFORCEABLE IN A COURT OF COMPETENT JURISDICTION, SHALL BE FINAL, BINDING AND NOT APPEALABLE.

5. No waiver by a party of any provision of this Agreement shall be deemed to have been made unless in writing and signed by such party.