

**TRADE PARTNERS AGREEMENT**

THIS TRADE PARTNERS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ ("Contractor") whose address is set forth below and \_\_\_\_\_ ("Subcontractor") whose address is set forth below for work to be performed (in each case, a "Project").

1. Subcontract Price. For each Project, Subcontractor shall be paid (the "Contract Price") for the Work performed by Subcontractor for each Project, which sum is the complete price, including, but not limited to, all, labor, rental of equipment, tools, permits, licenses, insurance, taxes, bonds, transportation, meals, lodging, overtime, profit, overhead, electric and water meters and supply lines. No other or additional amount shall be paid without a written change order signed by Contractor and Subcontractor. Change orders, signed by both parties, may also reduce the Contract Price. For the Contract Price and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Subcontractor and the Contractor hereby agree as follows:

2. Scope of Work. The Subcontract shall furnish, at its own expense, all tools, machinery, equipment, labor, management, and Project supervision for each Project for the proper and timely completion of the agreed upon work ("the Work"). Contractor and Subcontractor hereby agree that additional terms and conditions for a particular Project may be incorporated herein as an Exhibit and/ or Addendum to this Agreement, signed by both parties.

3. Workmanship. Subcontractor shall perform the Work in a thorough, efficient, and professional manner, promptly and with due diligence and care, and in accordance with the best practices of the profession, utilizing qualified personnel, equipment, and materials.

4. Warranty. Subcontractor warrants its Work for a period of \_\_\_\_\_ year(s) against all defects in materials or workmanship.

5. Time of Commencement; Completion. Subcontractor shall, unless otherwise advised in writing by Contractor, commence its Work on each Project as agreed ("Commencement Date"), and complete the Work, including final inspection by agents of governing authorities, within an agreed upon period ("Completion Date").

6. Independent Contractor. Subcontractor is an independent contractor and not an employee of Contractor.

7. Insurance. The Subcontractor, at its own expense, shall obtain and maintain in full force and effect, without interruption during the term of the Agreement, the following minimum levels of insurance:

- A. *Workers' Compensation* insurance covering the legal liability of the Contractor and its Subcontractors under the applicable workers' compensation or occupational disease laws for claims for personal injuries and death resulting therefrom to the Contractor and its Subcontractor's employees. The Subcontractor shall also obtain a minimum of \$500,000 of Employers' Liability insurance. Certificates of insurance must include a waiver of subrogation in favor of Contractor.
- B. *Commercial General Liability* insurance covering the legal liability (including liability assumed contractually, whether incidental or not) of the Subcontractor who may be engaged in the services, for claims for personal injuries (including death) and property damage resulting therefrom arising out of the services to be performed by the Subcontractor, in an amount not less than \$1,000,000 for any one occurrence, \$2,000,000 general aggregate (subject to a per project general aggregate provision), \$2,000,000 Products/Completed Operations aggregate limit. Commercial General Liability insurance shall be obtained and shall include broad form contractual liability coverage, products/completed operations, cross liability, severability of interest and broad form and property damage (if required), and Contractor as well as its directors, officers and employees shall be named as an additional insured on such Commercial General Liability policy regarding liability arising out of operations performed under this Agreement. Form CG 20 37 must be shown on the certificate of insurance or its equivalent.
- C. *Automobile Liability* insurance covering the legal liability (including liability assumed contractually, whether incidental or not) of the Subcontractor who may be engaged in the services, for claims for personal injuries and death resulting therefrom and for property belonging to other than the Subcontractor caused by vehicles licensed for public road use used by the Subcontractor in an amount not less than: \$300,000 combined single limit. Automobile Liability insurance shall provide coverage for owned, hired or non-owned automobile or other automotive equipment and Contractor shall be named as an additional insured on such policy.
- The Subcontractor's insurance coverage shall be primary and non-contributory --as respects work on this project for Contractor, its directors, officers, and employees.
  - With respect to each Project, Subcontractor shall maintain general liability insurance which includes products completed operation coverage for a minimum of two (2) years following issuance of a certificate of occupancy for each such Project.
  - Any insurance or self-insurance maintained by Contractor shall be excess of the Subcontractor's insurance.
  - All certificates of insurance must be provided by Subcontractor to Contractor prior to Subcontractor work begins.

- The Subcontractor, in its agreements with subcontractors, shall require subcontractors to obtain insurance meeting the minimum limits and incorporating the contractual requirements prescribed by this Section.
- The Subcontractor hereby waives and relinquishes any right of subrogation against Contractor and its agents, representatives, employees, and affiliates they might possess for any policy of insurance provided under this Section or under any State or Federal Workers' Compensation or Employer's Liability Act.
- Subcontractor shall require its insurer to notify Contractor thirty (30) days prior to the effective date of any cancellation or material change in any of the required policies.
- To the extent that the Subcontractor utilizes deductibles in conjunction with the insurance required by this Agreement, all deductible expenses shall be assumed by the Subcontractor. Insurance shall be placed with insurers with a Best rating of not less than A-.

8. Termination of Agreement. Contractor may also terminate this Agreement and dismiss Subcontractor from the job site at any time, in Contractor's sole discretion, without cause, by providing Subcontractor with written notice of such termination. Such termination shall be effective as of the time and date stated in such written notice.

9. Indemnification for Subcontractor's Actions. To the extent permitted by law, Subcontractor shall indemnify, defend and hold the Contractor and its shareholders, directors, officers, employees, and agents harmless against all losses or claims and costs incidental thereto (including costs of defense, settlement, and reasonable attorney's fees) which any and all of them may incur as a result of bodily injuries (including death) to any person, damage (including loss of use) to any property (public or private), which arise out of or are in any way connected with: (i) the performance of the Subcontractor Agreement; (ii) the negligent acts or omissions of Subcontractor, Subcontractor's employees, agents and contractors; (iii) Subcontractor's breach of this Agreement; or (iv) or Subcontractor's failure to comply with applicable laws, ordinances, and regulations.

10. Venue. The exclusive venue relating to this Agreement shall be in the State where each Project is located. Any claim and/or cause of action between the Parties shall only be initiated and maintained in this exclusive venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of \_\_\_\_\_.

11. Attorneys' Fees. In the event of any dispute between Contractor and Subcontractor, the prevailing party in any litigation related thereto shall be entitled to recover its attorneys' fees and costs, whether incurred before trial, at trial and upon all appellate levels and in any administrative or bankruptcy proceedings.

12. Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in CITY, STATE, before one arbitrator. At the option of the first to commence an arbitration, the arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

Allocation of Fees and Costs: The arbitrator may, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

13. Severability. Should any part or parts of this Agreement be invalid, it is mutually agreed that such parts or part of this Agreement shall not invalidate the remaining part or parts thereof.

14. Headings. Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

15. Entire Agreement. This Agreement has been fully negotiated between the parties at arm's length and neither party has been coerced to execute it. This Agreement constitutes the entire agreement between the parties relating to the provision of the Work and supersedes any and all prior agreements, whether written or oral, that may exist between the parties. This Agreement may be amended only by a written instrument signed by each party.

SUBCONTRACTOR

CONTRACTOR

Company: \_\_\_\_\_

Company: \_\_\_\_\_

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

By \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

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SAMPLE

DO NOT USE WITHOUT REVIEW BY LEGAL COUNSEL

**This sample agreement is for informational purposes only and should not be considered legal advice. Builders Insurance (A Mutual Captive Company), Vinings Insurance Company and Association Insurance Company accept no responsibility for the correctness or completeness of this material.**

**We recommend that you consult with your legal counsel and agent regarding your individual circumstances.**