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2001-05-03 15:05:30
Cook County Recorder 23.50

THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING SHOULD BE
RETURNED TO:

Timothy R. Conway
Edward B. Keidan
Conway & Mrowiec
300 South Wacker Drive
Suite 601
Chicago, Illinois 60606



ORIGINAL CONTRACTOR'S CLAIM FOR MECHANICS LIEN

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The Claimant, H.B. Barnard Company ("Barnard"), with an address at 53 West Jackson Blvd., Suite 815, Chicago, Illinois, hereby files its Original Contractor's Claim for Mechanics Lien and claims a mechanics lien against the Real Estate (as hereinafter described) and all improvements constructed on the Real Estate and against the interest of the Owner of the Real Estate, 105 West Adams Building, L.L.C., a Delaware limited liability company with an address at 220 East 42nd Street, New York, New York, against the leasehold interest in a portion of the Real Estate held by Tenant, Worldwide Xceed Group, Inc. (formerly known as Xceed, Inc.), with an address at 105 West Adams Street, Chicago, Illinois ("Xceed"), and against the interest of any person claiming an interest in the Real Estate by, through, or under the Owner or Tenant, all as more fully stated below.

Barnard states as follows:

1. On or about October 20, 2000 and subsequently, Owner owned fee simple title to the real estate (including all land and improvements thereon (the "Real Estate")) in Cook County, Illinois commonly known as 105 West Adams Street, Chicago, Illinois and legally described as follows:

Lots 1 through 7, in the subdivision of Block 116 in the School Section Addition to the original Town of Chicago in Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN Nos.: 17-16-222-003, 17-16-222-004, 17-16-222-005

Street Address: 105 West Adams Street, Chicago, Illinois

The permanent real estate tax numbers for the Real Estate are: 17-16-222-003, 17-16-222-004, and 17-16-222-005.

At all times from October 20, 2000, and subsequently, Tenant had a leasehold interest in a portion of the Real Estate pursuant to a Lease with Owner.

2. Barnard was the general contractor on a project commonly known as the 16th and 17th floor buildout at 105 West Adams Street, Chicago, Illinois (the "Project").

3. Barnard entered into a written contract (the "Contract") dated as of December 19, 2000, with Xceed. Pursuant to the Contract, Barnard agreed to perform certain interior buildout work and related work and furnish materials in connection with the Project for the original contract amount of \$1,207,998. A copy of a portion of the contract is attached hereto as Exhibit A.

4. Barnard performed additive and deductive changed work at the special instance and request of Xceed, resulting in a total credit in the contract amount of \$56,645.

5. The Contract was entered into by Xceed as Tenant or as an authorized agent of Tenant and an entity knowingly permitted by Tenant to enter into contracts for the improvement of the Property, and as Owner's agent, and the work and additional work was performed by Barnard with the knowledge, authorization and consent of Owner and Tenant. Alternatively, Owner and Tenant authorized Xceed to enter into the Contract. Alternatively, Owner and Tenant knowingly permitted Xceed to enter into the Contract with Barnard and the additional work requested of Barnard for the improvement of the Real Estate, and Owner and Tenant knowingly permitted Barnard to perform its work and the additional work.

6. Barnard substantially completed all work on the Project on March 16, 2001.

7. As of the date hereof, there is due, unpaid, and owing to Barnard, after allowing all credits, the principal sum of \$688,533.45, which principal amount bears interest at the statutory rate of 10 percent per annum. Barnard claims a lien on the Real Estate (including all land and improvements thereon) in the total principal amount of \$688,533.45, together with interest at the statutory rate of 10 percent per annum.

PIN Nos.: 17-16-222-003, 17-16-222-004, 17-16-222-005

Street Address: 105 West Adams Street, Chicago, Illinois

Dated: May 3, 2001.

H.B. BARNARD COMPANY

By: James B. Barnard

Name: James B. Barnard
Title: President

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Edward B. Keidan
Conway & Mrowiec
300 South Wacker Drive
Suite 601
Chicago, Illinois 60606

PIN Nos.: 17-16-222-003, 17-16-222-004, 17-16-222-005

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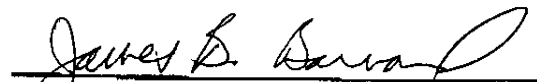
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VERIFICATION

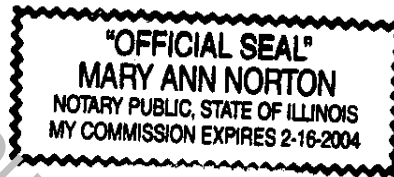
STATE OF ILLINOIS)
)
COUNTY OF COOK)

James B. Barnard, being first duly sworn on oath, deposes and states that he is the President of H.B. Barnard Company, that he is authorized to sign this verification to the foregoing Original Contractor's Claim for Mechanics Lien on its behalf, and that he has read the Original Contractor's Claim for Mechanics Lien, knows the contents thereof and the statements contained therein are true.


James B. Barnard

SUBSCRIBED and Sworn To Before Me
This 3rd day of May, 2001.


Notary Public



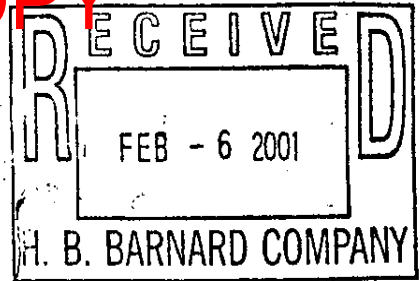
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AIA Document A101

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a
STIPULATED SUM

1987 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

AGREEMENT

made as of the 19th day of December in the year of

~~Nineteen Hundred and~~

Two Thousand Worldwide Xceed Group, Inc. (formerly known as Xceed Inc.)

BETWEEN the Owner:
(Name and address)

55 West Monroe Street
Chicago, IL 60603

and the Contractor:
(Name and address)

H.B. Barnard Company
53 West Jackson Boulevard, Suite 315
Chicago, IL 60604

The Project is:
(Name and location)

Xceed Inc.
105 West Adams Street
16th & 17th Floors
Chicago, IL

The Architect is:
(Name and address)

Hancock + Hancock
320 West Ohio Street
Chicago, IL 60610

The Owner and Contractor agree as set forth below.

Copyright 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, ©1987 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006. Reproduction of the material herein or substantial quotation of its provisions without written permission of the AIA violates the copyright laws of the United States and will be subject to legal prosecution.

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ARTICLE 1

THE CONTRACT DOCUMENTS

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The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents other than Modifications, appears in Article 9.

ARTICLE 2

THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3

DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

~~(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)~~

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

November 10, 2000

3.2 The Contractor shall achieve Substantial Completion of the ~~entire Work not later than~~ as follows:

(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

January 5, 2001

Server Room

February 16, 2001

Balance of Space

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

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ARTICLE 4

CONTRACT SUM

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4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of One Million, Two Hundred and Seven Thousand, Nine Hundred and Ninety-Eight Dollars (\$ 1,207,998.00-----), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

4.3 ~~Unit prices, if any, are as follows.~~

Unit prices, if any, are as follows:

Install Task Lighting: \$72 each

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ARTICLE 5 PROGRESS PAYMENTS

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5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month ~~as follows~~

5.3 Provided an Application for Payment is received by the Architect not later than the ~~day of a month~~, the Owner shall make payment to the Contractor not later than ~~the day of the month~~ if an Application for Payment is received by the Architect after the application date listed above, payment shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment, and approved by Owner and Architect

5.4 Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor ~~in accordance with the Contract Documents~~. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This Schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of Ten percent (10 %). Pending final determination of cost to the Owner or changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 ~~Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored on the site at a location agreed upon in writing), less retainage of percent (%).~~

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

** 5.7.1 Add, upon Substantial Completion of the ^{entire} Work, a sum sufficient to increase the total payments to Ninety-five percent (95 %) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 ~~Reduction or limitation of retainage, if any, shall be as follows:~~

~~(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)~~

** 5.7.1 Upon issuance of Certificate of Substantial Completion, retainage may be lowered to 5% at the Owner/Architect's discretion. Retainage will not be lowered below 5% prior to receipt of all building sign-offs.

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ARTICLE 6 FINAL PAYMENT

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Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

- 3) The Contractor submits a Final Lien Waiver for itself, all its subcontractors and material suppliers.

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Lower of one (1) point above the rate announced from time to time as the "Base Rate" by Citibank NA or the legal rate prevailing from time to time where the project is located.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Other provisions:

ARTICLE 8 TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

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ARTICLE 9

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ENUMERATION OF CONTRACT DOCUMENTS

- 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:
- 9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.
- 9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.
- 9.1.3 The Supplementary and other Conditions of the Contract ~~are those contained in the Project Manual dated~~ and are as follows:

Document	Title	Pages
Supplement to General Conditions		1-25

- 9.1.4 The Specifications are ~~those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows.~~
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
---------	-------	-------

9.1.5 The Drawings are as follows, and are dated
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

unless a different date is shown below:

Number	Title	Date
--------	-------	------

See Exhibit D - LIST OF DRAWINGS - August 21, 2000

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9.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
Addendum #1	August 24, 2000	
Addendum #2	September 1, 2000	
Addendum #3	September 8, 2000	
Addendum #4	September 12, 2000	
Addendum #5	October 5, 2000	

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisements or invitations to bid, instructions to bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

<u>DOCUMENT</u>	<u>DATED</u>	<u>EXHIBIT</u>
General Contractor Partial Lien Waiver	N/A	A-1
Subcontractor Partial Lien Waiver	N/A	A-2
General Contractor Final Lien Waiver	N/A	B-1
Subcontractor Final Lien Waiver	N/A	B-2
Building Rules & Regulations	N/A	C
Drawing List	8-21-00	D
Letter of Intent	10-20-00	E *
Notice to Proceed	N/A	F *
* HBB Bid Clarifications	11-8-2000	G AM

• These letters are drafts which originals were issued by Xceed Inc.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER WORLDWIDE XCEED GROUP, INC.

CONTRACTOR

By: 

(Signature)

Richard R. Dennerline,
Chief Legal Officer

(Printed name and title)


(Signature)

J. B. Berman President

(Printed name and title)