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AIA Provider #: S003



**Construction Law Update:
New AIA contracts and their impact on defects,
disputes and insurance.**

CM-17238

Presented by:

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#ChiCSI



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Course Description

This presentation is a general overview of the changes to the new AIA Documents issued in 2017. Specifically covered will be the following:

- AIA Document A201-2017 – The General Conditions of the Contract for Construction
- AIA Document A101-2017 – Standard Form of Agreement Between Owner and Contractor
- AIA Document A101-2017 Exhibit A – Insurance and Bonds
- AIA Document B101-2017 – Standard Form of Agreement Between Owner and Architect

Such documents will be reviewed in comparison to their predecessor 2007 versions, which are being phased out by the AIA over an 18-month period.

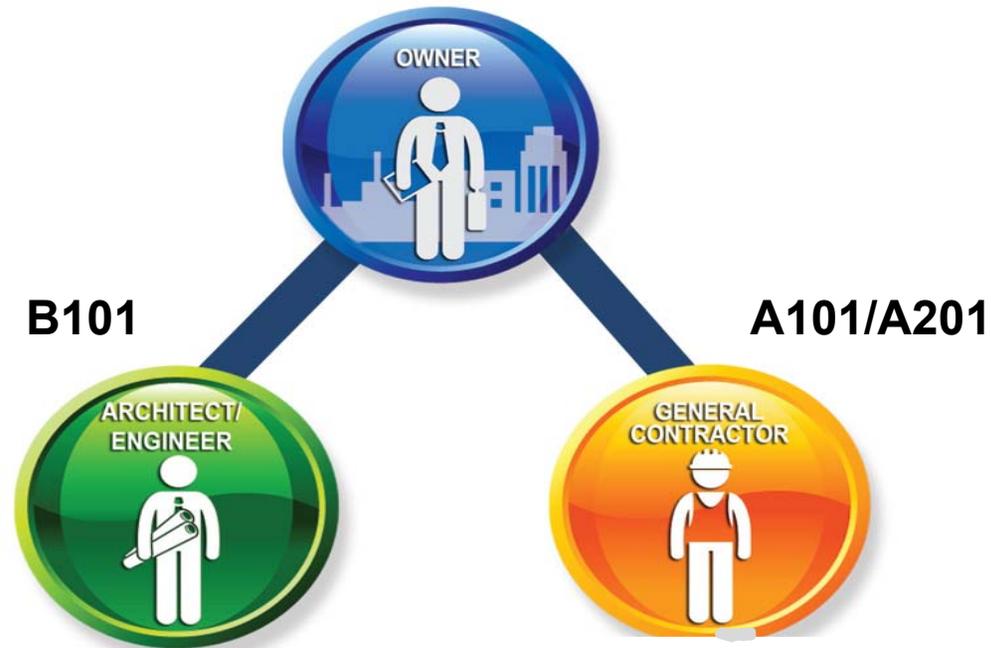
Learning Objectives

1. Understand the history & background of AIA contracts and their importance to the construction industry. Gain familiarity with the new structure of the A201 General Conditions of the Contract for Construction and the B101 Standard Form of Agreement Between Owner and Architect.
2. Learn about the A201's significant changes to the Owner-Contractor communications protocols, Contractor's new authority to refuse performance of minor changes, payment provisions and the Contractor's construction schedule.
3. Be introduced to the new Insurance & Bonds Exhibit A to the A100 series (A101, A102, A103), and discuss its how it works differently than the 2007 insurance sections.
4. Learn about key substantive changes to the B101 Owner-Architect Agreement, including to insurance provisions, sustainable project charges, redesign for out-of-budget Cost of the Work, and several other provisions.

The AIA Documents – a Brief History

- **First publication in 1888 – Continuously updated for the past 129 years.**
- **Standardization of terms and conditions on a nationwide basis, thus bringing stability and order to design and construction legal transactions and the resolution of disputes.**
- **Balanced and fair – Drafted with input from Architects, Contractors, Owners and Trades.**
- **Generates consistency in terms and concepts across all platforms – design, construction, supply, procurement, payment and protections.**

GENERAL CONTRACTING

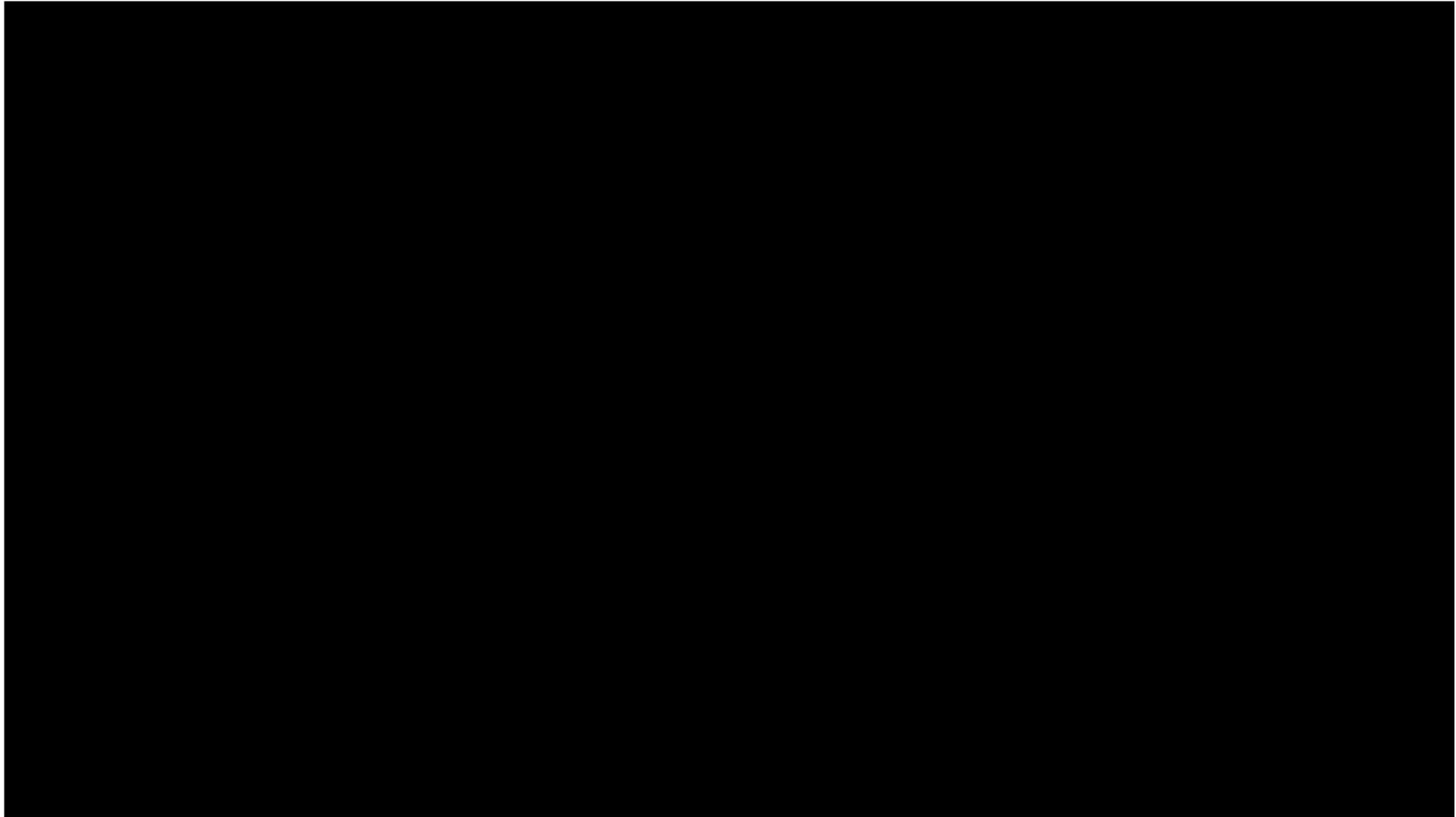


Owner – The Party in the First Part

Contractor – The Party in the Second Part

Architect/Engineer – The Party in the Second Part

The Party in What Part?



AIA Document A201-2017

**General Conditions of the
Contract for Construction**

A201 (General Conditions to Contract)

- **Notice Requirements**

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, *where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing* to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

~~§ 13.3 WRITTEN NOTICE~~

~~Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.~~

A201 (General Conditions to Contract)

- **Digital Data and BIM Protocols**

§ 1.7 Digital Data Use and Transmission

The parties ~~intend to transmit~~ shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form, ~~they shall endeavor~~. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, ~~to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents~~ the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

A201 (General Conditions to Contract)

- Evidence of Financial Arrangement

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor ~~may request in writing that~~, the Owner ~~provide~~ shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. ~~Thereafter, the~~ The Contractor ~~may only request~~ ***shall have no obligation to commence the Work until the Owner provides*** such evidence. ***If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.***

- Additional language in Section 2.2 provides for keeping such information confidential and for updating the financial information if necessary based on a material change in scope of the Project.

A201 (General Conditions to Contract)

- **Owner's Right to Carry Out Work**

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of ~~written~~ notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such ~~deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor~~ default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure.

~~Such action by the Owner~~ If ~~current~~ and ~~amounts charged to the Contractor are both subject to prior approval of the Architect. If future~~ payments ~~then or thereafter due the Contractor~~ are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

A201 (General Conditions to Contract)

- **Supervision and Construction Procedures**

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, ~~unless the Contract Documents give other specific instructions concerning these matters~~. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and, ~~except as stated below~~, shall be ~~fully and~~ solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely ~~written~~ notice to the Owner and Architect, and shall ~~not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required~~ propose alternative means, methods, techniques, sequences, or procedures ~~without acceptance of changes~~. ~~The Architect shall evaluate the proposed by the Contractor, the Owner shall be alternative~~ solely responsible for ~~any loss or damage arising solely from those Owner required~~ conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

A201 (General Conditions to Contract)

- **Notice for Differing Site Conditions**

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than ~~21~~14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend ~~that~~ an equitable adjustment ~~be made~~ in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor ~~in writing~~, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may ~~proceed~~ submit a Claim as provided in Article 15.

A201 (General Conditions to Contract)

- Contractor's Scheduling Requirements

~~§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES~~

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall ~~prepare and~~ submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall ~~contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project,~~ ~~shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.~~

A201 (General Conditions to Contract)

- **Communications Between Parties**

~~§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION~~

~~Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the~~

§ 4.2.4 Communications

The Owner and Contractor shall ~~endeavor to communicate with each other through~~ include the Architect ~~about matters arising out in~~ all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of ~~or the~~ substance of any direct communications between the Owner and the Contractor otherwise relating to the ~~Contract.~~ Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and ~~material~~ suppliers shall be through the Contractor. Communications by and with ~~separate contractors~~ Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

A201 (General Conditions to Contract)

- **Indemnification for Liens**

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

A201 (General Conditions to Contract)

- **Insurance and Bonds (see also, new Exhibit A)**

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

A201 (General Conditions to Contract)

- Insurance – Notices of Cancellation

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) ***the Contractor***, upon receipt of notice from the Owner, ***shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor***, (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) ***the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled***. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

A201 (General Conditions to Contract)

- **Claim for Profit on Work Not Performed**
 - Termination by Contractor for Owner's Breach

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' ~~written~~ notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, ~~including as well as~~ reasonable overhead and profit, ~~on Work not executed, and~~ costs incurred by reason of such termination, ~~and damages~~.

A201 (General Conditions to Contract)

- **Claim for Profit on Work Not Performed**
 - Termination by Owner for its Convenience

§ 14.4.3 In case of such termination for the Owner's convenience, ***the Owner shall pay*** the Contractor ~~shall be entitled to receive payment~~ for Work properly executed, ~~and~~; costs incurred by reason of ~~such the~~ termination, ~~along with reasonable overhead and profit on the Work not executed~~ ***including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.***

AIA Document A101-2017

**Standard Form of
Agreement Between
Owner and Contractor**

A101 (Owner/Contractor Agreement)

• Commencement and Substantial Completion Dates

§ 3.1 The date of commencement of the Work shall ~~be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed be:~~

(Check one of the following boxes.)

The date of this Agreement.

A date set forth 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.)~~

Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

~~If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:~~

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than () calendar days from the date of commencement of the Work.

By the following date:

A101 (Owner/Contractor Agreement)

- **Liquidated Damages**

~~*(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)*~~

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

§ 4.5 Liquidated damages, if any:

~~*(Insert terms and conditions for liquidated damages, if any.)*~~

A101 (Owner/Contractor Agreement)

• Progress Payment Procedure

§ 5.1.6 ~~Subject~~ In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be completed as follows:

~~.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 Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent (-%).~~

~~Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for Construction;~~

~~.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 off the site at a location agreed upon in writing), less retainage of percent (-%);~~

~~.3 Subtract the aggregate of previous payments made by the Owner; and~~

~~.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.~~

A101 (Owner/Contractor Agreement)

• Progress Payment Procedure (continued)

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 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 off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

A101 (Owner/Contractor Agreement)

- **Termination Fee for Termination for Convenience**

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

A101 (Owner/Contractor Agreement)

- **Insurance and Bonds**

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents

AIA Document A101-2017

Exhibit A

Insurance and Bonds

Insurance Exhibit

- **Owner and Contractor Insurance Requirements**
 - Distinguishes between required and optional coverage.
 - Modular as an exhibit for transmittal to carriers and other parties.
 - Section A2 identifies the Owner's Insurance Requirements.
 - Generally outlines the Property Insurance the Owner is to carry.
 - Additional provisions to protect the Contractor and Subcontractors if the Owner fails to carry the specified insurance.
 - *Special and additional considerations are further outlined below.*
 - Section A3 identifies the Contractor's Insurance Requirements.
 - Outlines the standard policy types, including Commercial General Liability, Automobile, Workers' Compensation, Employers' Liability
 - Also includes options for coverages such as Jones Act, Professional Liability if there is any design work being performed by the Contractor, Pollution Liability, and others.
 - Various different types of property insurance is also outlined for the Contractor – Railroad, Asbestos, etc.
 - *Special and additional considerations are further outlined below.*

Insurance Exhibit

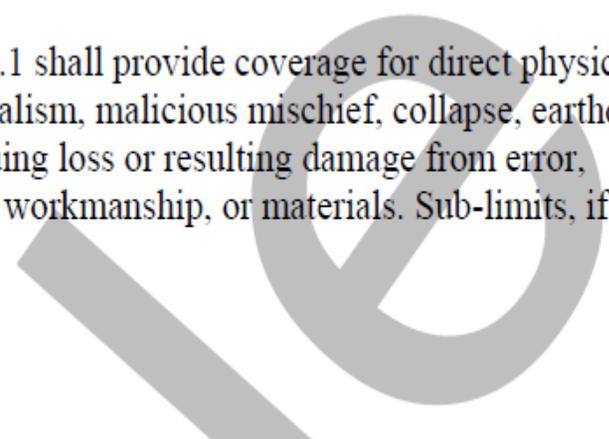
- **Builder's Risk Coverage - Owner**

§ A.2.3.1.1 **Causes of Loss.** The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss

Sub-Limit



Insurance Exhibit

- **Self-Insured Retention - Owner**

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

Insurance Exhibit

- **Insurance for Existing Structures - Owner**

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, “all-risks” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

Insurance Exhibit

• Check-the-Box for Optional Insurance - Owner

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below:

(Select the types of insurance the Owner is required to purchase and maintain by placing an X on the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- § A.2.4.1 **Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

- § A.2.4.2 **Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

- § A.2.4.3 **Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

- § A.2.4.4 **Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

Insurance Exhibit

• Check-the-Box for Optional Insurance (continued)

- § A.2.4.5 **Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

- § A.2.4.6 **Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

- § A.2.4.7 **Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

Insurance Exhibit

- **Time Limit for Insurance Coverage - Contractor**

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

Insurance Exhibit

• Limitation of Exclusions in Coverage - Contractor

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the work involves such hazards.
- .11 Claims related to explosion, collapse, and underground hazards, where the Work involves such hazards.

Insurance Exhibit

• New Coverage Requirements - Contractor

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than _____ (\$__) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than _____ (\$__) each accident, _____ (\$__) each employee, and _____ (\$__) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than _____ (\$__) per claim and _____ (\$__) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than _____ (\$__) per claim and _____ (\$__) in the aggregate.

Insurance Exhibit

- **New Coverage Requirements (continued)**

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than _____ (\$__) per claim and _____ (\$__) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than _____ (\$__) per claim and _____ (\$__) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than _____ (\$__) per claim and _____ (\$__) in the aggregate.

AIA B101-2017

**Standard Form of
Agreement Between
Owner and Architect**

B101 (Owner – Architect Agreement)

- **Elimination of Exhibit for Initial Information**

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1. ~~Article 1 and in optional Exhibit A, Initial Information:~~

~~(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)~~ (For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

- **The remainder of Section 1.1 identified the necessary Project information including, but not limited to, (i) the Project description, (ii) Owner's budget; (iii) anticipated design and construction milestone dates; (iv) delivery method (lump sum, GMP, etc.); (v) sustainable objectives; (vi) other consultants; etc.**

B101 (Owner – Architect Agreement)

- **Sustainable Projects**

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

B101 (Owner – Architect Agreement)

- **Digital Data and BIM Protocols**

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 ***Any use of, or reliance on, all or a portion of a building information model without agreement to protocols*** governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, ***shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.***

B101 (Owner – Architect Agreement)

- **Insurance Obligations**
 - **Section 2.5 now covers the Architect's insurance obligations in greater detail than previously set forth in the 2007 B101 Agreement. While there is new language, the changes are not as great as in the Contractor's Insurance Exhibit A, and the requirements here are found within the body of the Agreement and not as a separate exhibit.**

B101 (Owner – Architect Agreement)

- **Owner's Acceptance of Non-Conforming Work**

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, *or for the Owner's acceptance of non-conforming Work*, made *or given* without the Architect's *written* approval.

B101 (Owner – Architect Agreement)

- **Supplemental Service v. Additional Services**

§ 4.1 **Additional Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed **Additional Supplemental Services** only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the **Additional Architect's Supplemental Services** and the **Owner's Supplemental Services** required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement ~~provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.~~)*

- **See the chart under 4.1.1 that outlines a laundry list of potential Supplemental Services. This is similar to the 2007 list with certain clarifications.**

B101 (Owner – Architect Agreement)

- **Supplemental v. Additional Services (continued)**

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 ~~Insert a~~ A description of each ~~Additional~~ Supplemental Service designated identified in Section 4.1.1 as the Architect's responsibility, ~~if not further described in an exhibit attached to this document~~ is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

B101 (Owner – Architect Agreement)

- **Supplemental v. Additional Services (continued)**

§ 4.23 Architect's Additional Services

The Architect may provide Additional Services ~~may be provided~~ after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.32 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.32.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following ~~services~~ Additional Services until the Architect receives the Owner's written authorization:

- **This is followed by a list of specified Additional Services, again, similar to that found in the 2007 version with minimal revisions.**

B101 (Owner – Architect Agreement)

- **Supplemental v. Additional Services (continued)**

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, ***Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement*** between the Owner and Contractor, whichever is earlier, ***shall be compensated as Additional Services to the extent the Architect incurs additional cost*** in providing those Construction Phase Services.

B101 (Owner – Architect Agreement)

- **Communications Between Parties**

§ 5.1012 ~~Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate~~ The Owner shall include the Architect in all communications with the Contractor ~~and that relate to or affect the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents~~ services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications ~~that may affect the Architect's services~~ between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

B101 (Owner – Architect Agreement)

- “Cost of Work” includes Owner-Supplied Work

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, *donated to, or otherwise furnished by, the Owner*. The Cost of the Work does not include the compensation of the ~~Architect~~, Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the ~~Work~~ Work; or other costs that are the responsibility of the Owner.

B101 (Owner – Architect Agreement)

- **Liability for Incorrect Estimates**

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the ~~Architect, without additional compensation,~~ Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. ~~The~~ If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

B101 (Owner – Architect Agreement)

• Termination Fee for Termination for Convenience

§ 9.6 ~~In the event of termination not the fault of the Architect, the Architect shall be compensated~~ If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, **the Owner shall compensate the Architect** for services performed prior to termination, ~~together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.~~ Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 ~~Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~ In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, **the Owner shall pay to the Architect the following fees:**

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:



This Concludes The American Institute of Architects
Continuing Education Systems Course

Questions and Comments

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