

Note: This guide cuts out a lot of what I felt was useless-cover-every-base repetition in the A201 document. For example, where contractor is listed, in most cases, it also means the subcontractor, sub-subcontractor, material suppliers or anyone else the contractor is responsible for. I recommend this be used after reading the real deal for study purposes. Happy studying!

-Laz

## AIA Document A201 – Cliffs Notes Version.

### 1. General Provisions

- 1.1.1 Contract documents are the contract between Owner and Contractor; conditions of the contract; general and supplementary and other conditions; drawings; specifications; addenda; modifications. Bid documents are NOT contract documents.
- 1.1.2 Contract is only between the owner and the contractor.
- 1.1.3 Work is the construction and services for this contract.
- 1.1.4 Project contains Work and possibly work of other contractors.
- 1.1.5 Drawings are graphic portion of contract.
- 1.1.6 Specifications are written descriptions and requirements of materials, systems, standards, etc.
- 1.1.7 Project Manual a binder assembled of contract documents in book form. Does not include drawings. May include bid forms.
- 1.2.1 Intent of Contract Documents:  
Include all items necessary for the Work.  
Complimentary, if something is required by one document it is binding as if required by all.  
Contractor's performance required only to the extent consistent with the contract documents and reasonably inferable as being necessary.
- 1.2.2 Organization of contract drawings in divisions, sections, etc. shall not control contractor in dividing work.
- 1.2.3 Words with industry-understood terms shall have those meanings in the contract.
- 1.3.1 Capitalized terms have special meanings, are titles of numbered articles in the contract or titles of other documents published by the AIA.
- 1.4.1 Modifying words such as "an", "all", "the", "any" may be omitted for brevity.
- 1.5.1 Contract Documents are to be signed by owner and contractor. Architect may identify unsigned sheets upon request.
- 1.5.2 Contractor signing contract documents represents contractor visited site and became familiar with local conditions.
- 1.6.1 Drawings and specs to remain property of architect and architect's consultants.  
Contractor may retain 1 record set.  
Drawings only for this project.  
Contractor may copy drawings appropriate to execute work.

### 2. Owner

- 2.1.1 Owner shall designate a representative in writing. The representative has authority to bind owner in all matters.
- 2.1.2 Owner shall give contractor information for project so contractor (or subs) can file a lien. 15 day limit upon request.
- 2.2.1 Owner shall provide evidence to the contractor that the owner can pay for the Work, upon request. Owner shall not materially change such arrangements without notifying the contractor.
- 2.2.2 Owner shall pay for approvals, easements, assessments and charges. Except as in section 3.7.1
- 2.2.3 Owner provides surveys of project site. Contractor can rely on such information.
- 2.2.4 Owner will provide information with reasonable promptness.
- 2.2.5 Owner will provide reasonable amounts of drawings to contractor to perform the work at no cost.
- 2.3.1 Owner can order contractor to stop work for:
  - Failure to correct work not in accordance with contract documents.
  - Persistent failure to carry out work.
  - Owner does not have to stop work to benefit contractor.
- 2.4.1 Owner has a right to carry out work:
  - contractor defaults, owner gives written notice to commence. Contractor has 7 days to comply – if not, owner gives second written warning to commence within 3 days. Change order shall deduct the reasonable cost of correcting deficiencies.
  - Architect shall approve owners actions and amounts charged to the contractor.
- 3. Contractor
  - 3.1.1 Contractor is the contractor's authorized representative.
  - 3.1.2 Contractor shall perform work according to the contract documents.
  - 3.1.3 Contractor shall not be relieved of any obligation by the architect or inspections by others.
  - 3.2.1 Contractor shall carefully study contract drawings, take field measurements, etc. Contractor not obligated to search for errors.
  - 3.2.2 Errors found in drawings by contractor shall be reported to the architect promptly. Contractor not responsible to verify drawings compliance with laws, codes, etc. Any non-conformity found shall be reported to the architect promptly.
  - 3.2.3 If contractor believes additional cost or time due to RFI, contractor to make claim per 4.3.6 or 4.3.7. If contractor does not do 3.2.1 or 3.2.2, the contractor shall pay costs and damages to others.
  - 3.3.1 Contractor shall supervise the work.
    - Contractor solely responsible for means, materials, techniques, sequencing, and procedures.
    - Contractor responsible for safety.
    - If conditions are unsafe – contractor notifies architect and owner and does not proceed with work. If owner orders contractor to proceed and contractor does not agree site is safe, owner is liable for consequences and damages.
  - 3.3.2 Contractor is responsible to owner for actions of employees, subs and consultants performing work.

- 3.3.3 Contractor shall inspect portions of the work to determine if more work can be done.
- 3.4.1 Contractor to pay for labor, tools, equipment, transportation, utilities, etc.
- 3.4.2 Contractor can make substitutions only with consent of owner and architect by change owner.
- 3.5.1 Contractor warrants to the owner and architect that the materials and equipment are new and work is free from defect and in accordance with the construction documents. Contractor not on the hook for damages due to abuse, improper maintenance or normal wear and tear.
- 3.6.1 Contractor pays sales, consumer and usage taxes.
- 3.7.1 Contractor pays for permits secured after execution of the contract.
- 3.7.2 Contractor shall comply with laws while performing work.
- 3.7.3 Contractor not responsible to ascertain contract drawings comply with laws (codes). If contractor observes portions of contract drawings violate codes or laws, notify architect and owner.
- 3.7.4 If contractor knowingly breaks laws performing work, contractor assumes appropriate responsibility for work and bears the costs.
- 3.8.1 Contractor shall include in the contract sum all allowances in contract documents.
  - 3.8.2.1 Allowances shall cover cost of materials and equipment
  - 3.8.2.2 Allowances do not include labor, profit, handling, and other expenses.
  - 3.8.2.3 When costs are more than allowances, contract sum shall be adjusted by change order.
- 3.8.3 Materials and equipment under an allowance shall be selected by the owner in time to avoid a delay in the project.
- 3.9.1 The contractor shall employ a competent superintendent who will be in attendance at the site while work is done. The superintendent shall represent the contractor and instruction to the superintendent is binding to the contractor.
- 3.10.1 The contractor shall promptly submit to the owner and architect a schedule for the work.
- 3.10.2 The contractor shall provide a schedule of submittals that allows the architect reasonable review time.
- 3.10.3 The contractor shall perform work in accordance to most recent schedule submitted to the architect and owner.
- 3.11.1 The contractor shall maintain 1 record copy of drawings marked to show field changes. Deliver to the architect for submittal to owner when work is done.
- 3.12.1 Shop drawings are drawings, diagrams, schedules, etc. specially prepared for the work by contractor or consultants.
- 3.12.2 Product data are illustrations, schedules, performance charts furnished by contractor for some portion of the work.
- 3.12.3 Samples are physical examples of materials, equipment or workmanship.
- 3.12.4 Shop drawings, product data and samples are not contract documents. To be reviewed by architect subject to 4.2.7. Submittals not required by contract documents may be returned to the architect without action.
- 3.12.5 Contractor shall review for compliance with the contract and approve and submit shop drawings, product data and samples to the architect with promptness and in

- sequence to not cause delay to the work. Submittals not marked as reviewed by the contractor may be returned without action.
- 3.12.6 By approving shop drawings, submittals etc. the contractor represents the contractor has verified materials, field measured and checked or coordinated information contained in such submittals meet requirements of the work.
  - 3.12.7 Contractor will not do that part of the work until shop drawings are reviewed and approved by the architect.
  - 3.12.8 Contractor is not relieved of responsibility for deviations to the contract documents by approval of shop drawings. Contractor shall not be relieved of errors in shop drawings by approval thereof.
  - 3.12.9 The contractor shall direct specific attention in writing to revisions to shop drawings other than what the architect requested. Otherwise those portions are not approved.
  - 3.12.10 The contractor shall not be required to provide professional services unless required to carry out contractor's responsibilities for means and methods. Contractor shall not be required to perform professional services in violation of law. If professional design service is required, owner and architect shall provide the performance data and design criteria such service must satisfy. Work shall bear such professional's written approval when submitted to architect. Owner and architect may rely on this information.
  - 3.13.1 Contractor shall confine operations to areas allowed by law and not unreasonably encumber site.
  - 3.14.1 Contractor required to cut and patch to make work fit together.
  - 3.14.2 The contractor shall not endanger or damage another portion of the work or other contractor's work. Contractor shall not alter other contractor's work except by written authorization by the owner and such contractor. Contractor shall not unreasonably withhold consent from other contractors cutting or altering the work.
  - 3.15.1 The contractor shall keep premises and area clean.
  - 3.15.2 If contractor fails to clean area, owner may do so and charge cost to the contractor.
  - 3.16.1 Contractor shall provide owner and architect access to the work wherever located.
  - 3.17.1 Contractor shall pay all royalties and license fees. Contractor shall indemnify owner and architect for infringement of copyrights. Not responsible when a design process or contract documents require such copyrighted/patented item. If contractor believes such design or process is copyrighted, contractor must notify architect or bear responsibility.
  - 3.18.1 Contractor indemnifies owner and architect (and agents or employees of) from negligent acts of contractor or subs to the fullest extent of the law.
  - 3.18.2 Indemnification shall not be limited on amount or by type of damages.
4. Architect
- 4.1.1 Architect is Entity licensed to practice architecture. Also architects authorized representative.
  - 4.1.2 Duties of architect shall not change except by written approval of owner and contractor and architect.

- 4.2.1 The architect will administer the contract during construction, until final payment and at times during the 1 year warranty period. Architect acts on behalf of owner only to the extent of the contract documents.
- 4.2.2 The architect will visit the site at intervals appropriate to the stages of construction:
  - To become familiar with progress and quality of the work.
  - Guard the owner against defects in the work.
  - Determine in general that work is according to contract documents.
  - The architect is not responsible for means and methods of the work.
- 4.2.3 Architect not responsible for the contractor's failure to perform the work.
- 4.2.4 Owner and contractor to communicate through architect. Subs communicate through contractor. Architect's consultants communicate through architect.
- 4.2.5 Architect will review and certify amounts due to contractor for payment.
- 4.2.6 Architect can reject work not in compliance with contract documents.
  - Architect can require testing or inspection of parts of the work.
  - Architect shall not have a duty to those performing the work.
- 4.2.7 Architect reviews shop drawings for conformance with the design intent of contract documents.
  - Review will be reasonably prompt while allowing sufficient time for a adequate review.
  - Architect's review shall not relieve contractor of contractor's responsibilities.
  - Architects review shall not constitute approval of means and methods.
  - Architects approval of a component does not constitute approval of an assembly.
- 4.2.8 Architect will prepare change orders and construction change directives.
- 4.2.9 Architect will INSPECT work at substantial completion and at final completion.
- 4.2.10 Architect may have project representative at site to assist in architect's duties at the site. Duty limits set forth in an exhibit to the contract.
- 4.2.11 Architect will decide matters concerning performance and requirements of the contract documents. Architect has 15 days to respond.
- 4.2.12 Architects decisions to be consistent and reasonably inferable from the contract documents. Architect shall be impartial and not liable for decisions made in good faith.
- 4.2.13 Architects decision regarding aesthetics shall be final.
- 4.3.1 Claims must be initiated by written notice.
- 4.3.2 Claims must be initiated within 21 days of occurrence. Written notice to architect and other party.
- 4.3.3 Contractor shall diligently perform work and owner shall continue to pay in accordance to contract documents.
- 4.3.4 If conditions are concealed or subsurface or unknown physical conditions that differ materially than those normally found to exist. The observing party has 21 days to report conditions to other party. The architect will investigate such conditions and recommend an equitable change in contract time or sum or both.
- 4.3.5 If contractor wishes to make a claim for increased contract sum or time, contractor will do so in writing before performing work except in emergency situations.
- 4.3.6 (Incomplete in AIA 201 with commentary)

- 4.3.7.1 Contractors claim for additional contract sum or time shall provide an estimate of cost and probable effect of delays on the work.
- 4.3.7.2 If weather is cause for a claim, data substantiation weather was abnormal, unusual and not reasonably anticipated and adverse to the schedule.
- 4.3.8 If either party to the contract causes damage to the other, written notice shall be given to te other party within 21 days of discovery. Notice shall provide sufficient detail for investigation by other party.
- 4.3.9 If unit prices are specified and a change order or construction change directive that is inequitable to either owner or contractor, those unit prices shall be equitably adjusted.
- 4.3.10 Owner and contractor waive claims for consequential damages arising from this contract.
- 4.4.1 Claims shall initially be referred to the architect for decision except those stated in 10.3 thru 10.5. Architects decision a prerequisite of mediation or arbitration unless 30 days have passed without a decision. Architect will not decide disputes with the contractor and anyone else other than the owner.
- 4.4.2 Architect will review claims and within 10 days:
  - Request additional supporting information
  - Reject claim in whole or part
  - Approve claim
  - Suggest a compromise
  - Advise parties that architect cannot resolve claim if there is insufficient information or it would be inappropriate for architect to decide claim.
- 4.4.3 Architect may (but is not obligated to) seek information from either party or persons with special knowledge. Architect may request retention of such persons at owner's expense.
- 4.4.4 If architect requests addition information or response in a claim, such party must respond within 10 days.
- 4.4.5 Architect will notify parties in writing of decision and change in contract time or sum or both. Architects decision is final and binding, but subject to mediation and arbitration.
- 4.4.6 Party of architects decision must demand arbitration or mediation within 30 days or architects decision becomes final and binding.
- 4.4.7 Upon receipt of a claim against the contractor, owner and architect may (but not obligated to) notify surety.
- 4.4.8 If claim relates to a lien, party may proceed in accordance with applicable law to comply with lien notice or filing deadlines.
- 4.5.1 Any claim except those in 4.3.10, 9.10.4, 9.10.5 or aesthetic shall be subject to mediation precedent to arbitration within 30 days of architects initial decision
- 4.5.2 Filing of arbitration may be made concurrently with mediation, but mediation shall occur first.
- 4.5.3 Parties shall share mediation fees equally. Mediation occurs where project is unless agreed otherwise. Agreements made in mediation enforceable as if in court of law.

- 4.6.1 Any claim except those in 4.3.10, 9.10.4, 9.10.5 or aesthetic shall be subject to arbitration within 30 days of architect's initial decision. Parties shall endeavor to resolve dispute by mediation prior to arbitration.
  - 4.6.2 Claims not resolved by mediation shall be decided by arbitration. Demand for arbitration shall be filed in writing to other party, copy to architect.
  - 4.6.3 Claim for arbitration shall not be made after statute of limitations expires.
  - 4.6.4 Arbitration decision shall only be between owner and contractor and not involve any other parties.
  - 4.6.5 Party filing arbitration must assert in the demand all claims then known to the party on which arbitration is demanded.
  - 4.6.6 Judgment rendered by arbitrator is final and binding in court of law.
- 5 Subcontractors.
- 5.1.1 A subcontractor is an entity having direct or indirect contact with the contractor to perform a portion of the work.
  - 5.1.2 A sub-subcontractor is an entity having direct or indirect contact with a subcontractor to perform a portion of the work.
  - 5.2.1 Contractor shall provide a list of subcontractors to the owner through the architect as promptly as reasonably practical. Architect will notify the contractor of any reasonable objections. Failure to respond promptly shall constitute no objection.
  - 5.2.2 The contractor shall not contract with a sub the owner has reasonably objected to.
  - 5.2.3 If a sub is replaced, the contract sum and time shall be increased or decreased by the difference if any. No increase in contract sum or time shall be permitted if contractor did not submit list of subcontractors promptly as required.
  - 5.2.4 Contractor shall not change subcontractor previously selected if owner or architect make reasonable objections.
  - 5.3.1 Contractor shall require all subs are bound to the contractor in the same way the contractor is bound to the owner. Each subcontractor contract shall preserve rights of owner and architect. Contractor shall require subcontractors and sub-subcontractors to enter into similar agreements where appropriate.
  - 5.4.1 Each subcontractor agreement for a portion of the work is assigned by the contractor to the owner provided that:  
Assignment is effective only after termination of the contract by owner per 14.2  
Assignment is subject to prior rights of surety obligated under bond relating to the contract.
  - 5.4.2 Upon such assignment, if work stopped for more than 30 days, subcontractors compensation shall be equitably adjusted.
6. Construction by owner or separate contractor.
- 6.1.1 Owner reserves right to have other contractors or own forces perform construction related to the project.
  - 6.1.2 When separate contractors work on a project, "contractor" in the contract documents refers to the contractor performing that work.
  - 6.1.3 The owner shall coordinate between separate contractors. Separate contractors shall participate in reviewing schedules when directed to do so. Contractor shall revise construction schedule after joint review and mutual agreement.

- 6.1.4 When owner uses own forces, owner shall be subject to the same rights and obligations that apply to the contractor.
- 6.2.1 Contractor shall afford to owner and subcontractors reasonable opportunity to store materials and do work.
- 6.2.2 If contractor relies on others' work to perform own work, the contractor shall notify the architect of any defects in such work before proceeding
- 6.2.3 Owner shall be reimbursed by contractor for costs incurred by owner to pay a separate contractor because of delays, improperly timed activities or defective construction by the contractor.
- 6.2.4 Contractor shall promptly remedy damage caused by contractor to partially completed construction or property of the owner.
- 6.2.5 The owner and each separate contractor shall have same responsibilities regarding cutting and patching per 3.14
- 6.3.1 If contractors disagree who is responsible for cleanup, owner may clean up and architect distribute the cost to those responsible.
- 7. General
  - 7.1.1 Changes to the contract by change order, construction change directive and minor change to work shall not invalidate contract.
  - 7.1.2 A change order is a written order agreed upon by the architect, owner and contractor; a construction change directive is agreed upon by the owner and architect; and a minor change in the work may be issued by the architect alone.
  - 7.1.3 Changes in the work shall be performed under applicable provisions of the contract documents and shall proceed promptly.
  - 7.2.1 A change order is a written order agreed upon by architect, owner and contractor for a change of work, change of contract time and/or change of contract sum .
  - 7.2.2 Methods determining contract sum may include those listed in 7.3.3
  - 7.3.1 A construction change directive is a written order signed by the owner and architect, directing a change in work prior to the agreement of the contractor. The construction change directive does not invalidate the contract if it is within the general scope of the contract.
  - 7.3.2 A construction change directive shall be used in absence of total agreement on the terms of a change order.
  - 7.3.3 If the Construction change directive changes the contract sum, The adjustment shall be based on one of the following:
    - 1. Mutual acceptance of a lump sum.
    - 2. Unit prices stated in contract documents.
    - 3. Cost determined by a manner mutually agreed upon by parties plus a percentage fee
    - 4. As provided in paragraph 7.3.6.
  - 7.3.4 Contractor shall proceed with work in construction change directive and notify architect with agreement or disagreement of method provided in the construction change directive.
  - 7.3.5 No such article in AIA Document A201 with commentary.
  - 7.3.6 If contractor does not respond promptly, or disagrees with method of adjustment of contract sum, the architect shall determine change in sum based on reasonable expenditures, overhead and profit. Contractor shall provide evidence supporting:

1. Cost of labor including benefits and worker's comp.
2. Cost of materials including transportation
3. Rental costs of machinery.
4. Costs of premiums for bonds and insurance.
5. Additional costs of supervision attributable to the change.
- 7.3.7 Credit to the owner from a change that results in a decrease in contract sum shall be actual NET costs.
- 7.3.8 Pending final determination of total cost of a construction change directive, Work not subject to dispute shall be included in application for payment. That work in dispute will be decided by the architect for certificate of payment and contract sum determined as if a change order
- 7.3.9 When owner and contractor agree, the agreement takes place immediately and a change order is issued.
- 7.4.1 Architect has authority to issue a minor change in work that does not affect contract sum or time. Such changes shall be a written order and binding on the owner and contractor.

## 8. Time

- 8.1.1 Contract time is time required for substantial completion of work.
- 8.1.2 Date of commencement of work is date established by contract.
- 8.1.3 Date of substantial completion is date certified by the architect per 9.8.
- 8.1.4 Term day means a calendar day.
- 8.2.1 Time limits are of the essence. By executing the agreement, contractor confirms contract time is reasonable to perform work.
- 8.2.2 Contractor shall not knowingly prematurely commence operations on the site prior to the issuance of insurance required by article 11. Unless date of commencement is in the contract documents, owner shall provide notice to proceed.
- 8.2.3 The contractor shall proceed expeditiously with adequate forces and achieve substantial completion within contract time.
- 8.3.1 If work is delayed due to an act or negligence of the owner, architect or separate contractor employed by the owner, by changes in the work or by labor disputes, fire, unusual delays in deliveries or other causes beyond the contractor's control, then the contract time will be extended by change order.
- 8.3.2 Claims relating to time shall be made per 4.3.
- 8.3.3 Section 8.3 does not preclude recovery for damages due to delay by either party.

## 9. Payments and completion.

- 9.1.1 Contract sum is total amount owner pays contractor for work.
- 9.2.1 Contractor shall submit to the architect a schedule of values.
- 9.3.1 Contractor shall submit to architect an application for payment 10 prior to date on schedule of values.
  - 9.3.1.1 Applications may include request for payment for changes in the work per 7.8
  - 9.3.1.2 Such applications shall not include portions of work not done that contractor does not intend to pay a supplier or subcontractor with.

- 9.3.2 Payments shall be made for materials stored on site. If approved in advance, also for materials stored off site with owner's interests protected.
- 9.3.3 Title to all work will pass to owner no later than time of payment. That work shall be free of liens, claims, security interests and encumbrances.
- 9.4.1 Architect will issue certificate for payment within 7 days of application for payment or notify contractor and owner in writing reasons for withholding certification in whole or part.
- 9.4.2 Issuance of certification represents by the architect to the owner that the work has progressed to the point indicated and to the best of the architect's knowledge, quality of work is in accordance with the contract documents. Foregoing representations are subject to evaluation of work for conformance upon substantial completion, results of subsequent tests or inspections, to correction of minor deficiencies in the work. Certificate of payment does NOT mean architect has made an exhaustive on-site inspection, reviewed means and methods or reviewed copies of requisitions from subcontractors and other data requested by owner to substantiate right to payment or to ascertain how contractor is using money previously paid.
- 9.5.1 Architect may withhold certificate for payment in part or whole if the representations in 9.4.2 cannot be made. If architect cannot certify payment, the architect will notify the contractor and owner per 9.4.1. If architect and contractor can not agree on an amount, the architect shall promptly issue a certificate for what the architect can represent. Architect may withhold because evidence nullifies a previously issued certificate for payment to protect the owner from loss.
  - 9.5.1.1 Defective work not remedied.
  - 9.5.1.2 Third party claims or reasonable evidence of such filing unless proper security is issued.
  - 9.5.1.3 Failure of the contractor to pay subcontractors or for labor, materials or equipment.
  - 9.5.1.4 Reasonable evidence work cannot be completed with remaining contract sum.
  - 9.5.1.5 Damage to the owner or other contractor
  - 9.5.1.6 Reasonable evidence work cannot be completed in remaining contract time and unpaid balance would not cover liquidated damages.
  - 9.5.1.7 Persistent failure to carry out work in accordance with contract documents.
- 9.6.1 After owner has issued certificate for payment, owner shall make payment in the manner and within the time provided in the contract documents and shall notify the architect.
- 9.6.2 Contractor shall promptly pay each subcontractor upon receipt of payment from the owner. Similar agreement for subcontractors to pay sub-subcontractors.
- 9.6.3 Architect will furnish (upon request) to subcontractor information regarding percentages of completion or amounts applied for by the contractor and actions by architect and owner taken on such portions of the work done by subcontractor
- 9.6.4 Owner and Architect are not obligated to make sure subcontractor is paid unless required by law.
- 9.6.5 Payment to material suppliers similar to 9.6.2 thru 9.6.4.
- 9.6.6 A certificate of payment does not construe an acceptance of the work.

- 9.6.7 Unless bonded for full contract sum, contractor is to withhold payment from the owner for payment to subcontractors. Nothing herein shall require a separate account, create a fiduciary liability or tort liability on the part of the contractor for breach of trust or entitle an award of punitive damages.
- 9.7.1 If architect does not issue certificate for payment through no fault of contractor, then contractor may stop work after 7 days written notice until payment is made. Contractor is entitled to start-up, shutdown costs and interest on the unpaid sum in accordance to contract documents.
- 9.8.1 Substantial completion is when work is sufficiently complete for owner to occupy or utilize.
- 9.8.2 When the contractor considers the work substantially complete, the contractor shall submit a list to the architect of items to be completed. Failure to include an item on this list does not release contractor's obligation to complete work in accordance to contract documents.
- 9.8.3 Architect will make an INSPECTION of the work to determine if work is substantially complete. If the architect's inspection discloses any item that prevents substantial completion, the contractor will remedy prior to substantial completion being certified. Contractor shall submit for another inspection by the architect.
- 9.8.4 When the work is substantially complete, the architect will issue a certificate of substantial completion, which shall establish responsibilities of the owner for security, utilities, heat, insurance maintenance and damage to the work. Shall fix the time for contractor to finish remaining items on the punch list and commence the warranty period.
- 9.8.5 Upon completion of the certificate of substantial completion and consent of surety, the owner shall release that portion of retainage for that portion thereof.
- 9.9.1 owner may occupy any portion of the work at any stage with approval of the contractor and consent of the insurer per article 11.4.1.5. Consent of contractor to partial occupancy shall not be unreasonably withheld.
- 9.9.2 Immediately prior to such partial occupancy; owner, contractor and architect shall inspect area to be occupied to determine condition of work.
- 9.9.3 Partial occupancy shall not constitute acceptance of work.
- 9.10.1 After receipt of notice work is ready for final inspection, architect shall promptly perform final INSPECTION. When architect finds work acceptable, architect will issue a certificate of final completion.
- 9.10.2 Before final payment or release of retainage, the contractor is to submit an affidavit that payrolls, bills for materials are satisfied, a certificate for insurance for 30 days notice to owner and will be renewable to the owner and consent of surety, and other data establishing waivers of lien.
- 9.10.3 If final payment is delayed through no fault of the contractor, shall make payment for balance of work completed unless work remaining is more than remaining payment.
- 9.10.4 Issuance of final payment by owner constitutes a waiver of claims except from:
1. Liens, claims, encumbrances arising out of the contract and unsettled.
  2. Failure of work to comply with contract documents.
  3. Terms of special warranties.

9.10.5 Acceptance of final payment by the contractor shall constitute a waiver of claims except for those previously made in writing and identified as unsettled.

## 10 Protection of persons and property

10.1.1 Contractor responsible for site safety.

10.2.1 Contractor shall take reasonable precautions to protect and prevent injury or damage to:

.1 Employees on the work and other persons nearby.

.2 The work and materials and equipment to be incorporated.

.3 Other property at the site or adjacent to.

10.2.2 The contractor shall give notice and apply with applicable laws.

10.2.3 The contractor shall erect and maintain safeguards for safety and protection.

10.2.4 Contractor shall exercise UTMOST CARE when handling or storing explosives or hazardous materials.

10.2.5 Contractor shall promptly remedy damage and loss other than covered by property insurance in whole or in part caused by a subcontractor or anyone contractor is responsible for.

10.2.6 Contractor shall designate a representative whose duty it is to prevent accidents. This shall be the superintendent unless noted otherwise.

10.2.7 Contractor shall not permit any part of the site to be loaded in a way that endangers safety.

10.3.1 If reasonable precautions will be inadequate to prevent death or bodily harm by hazardous materials encountered on site, contractor shall stop work in affected area immediately and notify architect and owner in writing.

10.3.2 Owner must retain a laboratory to verify such material is present and arrange for its removal. Owner cannot require contractor to perform this service.

10.3.3 The owner shall indemnify the contractor, subcontractor, and architect, against claims, damages and expenses arising from the performance of the work in the affected area if in fact the material poses a risk of bodily harm or death per 10.3.1.

10.3.4 The owner shall not be responsible under paragraph 10.3.1 for materials the contractor has brought on site unless required by the contract documents.

10.3.5 If contractor is held liable of costs for remediation of hazardous material solely by reason of performing the work, the owner shall indemnify the contractor for all expenses incurred.

10.3.6 In an emergency affecting safety, the contractor shall act to prevent threatened damage or injury or loss. Additional compensation shall be determined as provided in 4.3.

## 11 Contractor's liability insurance

11.1.1 The contractor shall purchase insurance to protect contractor from claims for which the contractor or subcontractor may be legally liable.

.1 Workers compensation.

.2 Damages from bodily injury, sickness or death of contractor's employees.

.3 Damages from bodily injury, sickness or death of anyone other than contractor's employees.

.4 Claims for damages insured by usual personal injury liability coverage.

- .5 Claims for damages to property other than the work.
- .6 Claims for damages due to a motor vehicle.
- .7 Claims for bodily injury or property damage arising out of completed operations.
- .8 Claims involving contractual liability insurance applicable to 3.18
- 11.1.2 Insurance shall not be less than required by the contract documents or required by law whichever is greater.
- 11.1.3 Contractor shall give owner copy of certificate of insurance. Insurance shall not terminate without 30 days notice to owner.
- 11.2.1 Owner responsible for owners usual liability insurance.
- 11.3.1 Owner may require contractor to purchase project management protective liability insurance to protect owner, architect and contractor. Owner shall reimburse contractor by change in contract sum.
- 11.3.2 Owner, contractor and architect waive all rights against each other except for proceeds of such insurance.
- 11.3.3 Owner shall not require the contractor to name owner or architect as additional insured under contractor's liability insurance under paragraph 11.1.
- 11.4.1 Owner shall purchase property insurance as builder's risk "all risk" policy. This policy shall include the interest of the owner, contractor and subcontractors.
  - 11.4.1.1 Property insurance shall be "all risk" or equivalent.
  - 11.4.1.2 If owner does not intend to purchase property insurance, the owner must notify the contractor in writing. The contractor may purchase the cost of insurance to protect the interests of the contractor and subcontractors and charge cost to the owner.
  - 11.4.1.3 The owner shall pay deductibles.
  - 11.4.1.4 Property insurance shall cover materials off-site and in transit.
  - 11.4.1.5 Partial occupancy per 9.9 shall not commence until insurance companies consent.
- 11.4.2 The owner shall purchase boiler and machinery insurance which covers such objects until final acceptance by the owner.
- 11.4.3 The owner may purchase loss of use insurance. Owner waives right against contractor for loss of use of property, however caused.
- 11.4.4 If contractor requests additional coverage or other insurance, owner shall provide and charge the cost to the contractor.
- 11.4.5 If during the project construction period, if the owner insures property separate from these policies, the owner waives all rights in accordance with 11.4.7 for damages covered by such policies.
- 11.4.6 Before exposure to loss may occur, owner must file a copy of each policy with the contractor. Each policy may not be cancelled without 30 days notice to the contractor.
- 11.4.7 Contractor and owner waive all rights against (1) each other and subcontractors, employees, etc. (2) the architect and architects consultants against loss to the extent covered by property insurance except such rights as they have to proceeds of such insurance held by owner as fiduciary.
- 11.4.8 A loss insured by the owner is payable to the owner as fiduciary. Contractor must pay subcontractors their just share.

- 11.4.9 If required, the owner will secure a bond for proper performance of the owner's duties as fiduciary. Charge of such bond shall be charged against proceeds received as fiduciary.
- 11.4.10 Owner as fiduciary shall have the power to settle a loss with insurance unless one of the parties in interest objects to the owner's exercise of this power.
- 11.5.1 Owner shall have right to require the contractor furnish bonds covering faithful performance of the contract and payment of obligations.
- 11.5.2 Upon request of any entity appearing to be beneficiary, contractor shall promptly furnish a copy of the bond.

## 12 Uncovering of work

- 12.1.1 If work is covered contrary to the architect's request or requirements of the contract documents, contractor must pay to uncover and replace work with no addition to contract time.
- 12.1.2 If work is covered which the architect has not specifically requested to examine, architect may request to see such work and if work does not conform to the contract documents, correction shall be at contractor's expense. If work is in accordance with contract documents, costs of such uncovering and replacing work shall be done by change order.
- 12.2.1 Contractor must promptly repair work rejected by the architect or failing to conform to the requirements of the contract documents. Costs of correcting such work including additional testing and inspections will be done at contractor's expense.
  - 12.2.2.1 During one-year period after substantial completion, contractor must promptly correct work found not in accordance with contract documents. If owner fails to give written notice within one-year period and give contractor opportunity to make correction, owner waives right to require correction by contractor and to make a claim for breach of warranty. If contractor fails to correct work in a reasonable time, owner may correct it in accordance with 2.4
  - 12.2.2.2 The one-year period for correction of work shall be extended for work first performed after substantial completion.
  - 12.2.2.3 The one year period shall not be extended by corrective work performed by the contractor.
- 12.2.3 The contractor shall remove from the site any work not in accordance with the contract documents not accepted by the owner.
- 12.2.4 The contractor shall bear the cost of correcting damaged or destroyed property caused by correction or removal of work not in conformance with contract documents.
- 12.2.5 Nothing established in 12.2 shall be construed as a limitation to obligations contractor might have under contract documents. One-year period is only for specific obligation of contractor to correct work.
- 12.3.1 Owner may accept non-conforming work and reduce contract sum accordingly. This may be done after final payment.

## 13 Miscellaneous provisions

- 13.1.1 Contract shall be governed by law of place where project is located.

- 13.2.1 Owner and contractor bind themselves, partners, successors, assigns and legal representation to each other. Except as in 13.2.2, neither party shall assign the contract without written consent of the other party. If either party attempt assignment without such consent, that party is still responsible for all obligations of the contract.
  - 13.2.2 Owner may assign without consent the contract to an institutional lender providing financing for the project.
  - 13.3.1 Written notice shall be deemed to have been served if delivered in person, or by registered or certified mail to the last known business address known to the sender.
  - 13.4.1 Duties and obligations in the contract documents are in addition to those rights and obligations required under law.
  - 13.4.2 No action or failure to act by the architect, owner or contractor shall constitute a waiver of right or duty afforded to them under contract, nor constitute an approval or acquiescence in a breach, except as specifically agreed in writing.
  - 13.5.1 Tests, inspections and approvals of portions of the work shall be made at the appropriate time. Contractor shall make arrangements with an independent testing entity acceptable to owner or with public authority and shall bear all related costs. The contractor shall give the architect timely notice of test or inspection. The owner shall bear the cost of tests and inspections which do not become requirements until after the bids or negotiations are concluded.
  - 13.5.2 If architect, owner or public authority require Additional testing not required in 13.5.1, the contractor shall arrange such testing and the owner shall bear such costs.
  - 13.5.3 If such tests reveal failures of portions of the work to comply with the contract documents, all costs of testing including architect's compensation shall be at contractor's expense.
  - 13.5.4 Required certificates of testing shall be secured by the contractor and promptly delivered to the architect.
  - 13.5.5 If architect is to observe testing, architect will do so promptly at the normal place of testing.
  - 13.5.6 Testing shall be made to avoid unreasonable delay in the work.
  - 13.6.1 Payments due and unpaid shall bear interest from the date payment is due at the legal prevailing rate from time to time or the rate as agreed in writing.
  - 13.7.1 As between owner and contractor:
    - 1. For acts or failure to act before substantial completion, statute of limitation shall commence to run no later than date of substantial completion.
    - 2. For acts or failure to act between substantial completion and final completion, statute of limitation shall commence to run no later than date of Final Certificate for Payment.For acts or failure to act after Final Certificate for Payment, statute of limitation shall commence to run no later than date of act or failure to act by the contractor.
- 14 Termination or suspension of the contract.
- 14.1.1 The contractor may terminate the contract if work is stopped for more than 30 consecutive days through no fault of the contractor, for any of the following

reasons:

1. Issuance of a court order to have all work to be stopped
  2. An act of government or declaration of national emergency that requires work to be stopped.
  3. Because architect has not issued a certificate for payment without notifying contractor for reason of withholding payment or the owner has not made a payment within time stated in the contract documents.
  4. Owner has failed to supply to the contractor reasonable evidence per paragraph 2.2.1.
- 14.1.2 The contractor may terminate the contract if, through no fault of the contractor, repeated delays or work stoppages equal 120 days in a one-year period or 100% of the scheduled project time, whichever is less.
- 14.1.3 If for one of the reasons in 14.1.1 or 14.1.2, the contractor may, upon 7 days notice, terminate the contract and receive payment for work performed and proven loss including reasonable overhead and profit.
- 14.1.4 If work is stopped, through no fault of the contractor, for 60 consecutive days or because the owner persistently failed to fulfill the owner's obligations, the contractor may upon 7 days notice terminate the contract and recover costs per 14.1.4.
- 14.2.1 The owner may terminate the contract if the contractor:
- .1 Persistently or repeatedly fails to supply enough materials or properly skilled workers.
  - .2 Fails to make payment to subcontractors.
  - .3 Persistently disregards laws, ordinances, rules or regulations.
  - .4 Otherwise is guilty of substantial breach of contract.
- 14.2.2 When any of the above reasons exist, the owner, upon certification from the architect that sufficient cause exists, may terminate the contract upon 7 days written notice to the contractor and contractor's surety, and subject to any rights of the surety:
- .1 Take possession of the site and all materials, equipment, tools and construction equipment and machinery thereon owned by contractor.
  - .2 Accept assignments of contracts pursuant to 5.4 and
  - .3 Finish work by whatever reasonable method the owner deems expedient. Upon request, the owner shall furnish a detailed accounting of costs incurred by the owner to finish the work.
- 14.2.3 When the contract is terminated for reasons stated in 14.2.1, the contractor shall not receive further payment until the work is finished.
- 14.2.4 If unpaid balance of the contract sum exceeds cost of finishing the work, such excess shall be paid to the contractor. If such costs exceed the balance of the contract sum, the contractor shall pay the owner that amount. The architect shall certify payment to either the contractor or owner and this obligation shall survive the contract.
- 14.3.1 The owner, without cause, may order the contractor to delay, interrupt or suspend the work in whole or part.
- 14.3.2 The contract time and sum shall be adjusted for delay per 14.3.1. Adjustment in contract sum or time shall be made if:

- .1 That performance is, was, or would have been delayed by another cause for which the contractor was at fault.
  - .2 That an equitable adjustment is made or denied in another provision of the contract.
- 14.4.1 Owner may at any time terminate the contract without cause.
- 14.4.2 Upon receipt written notice from he owner of termination without cause, the contractor shall:
- .1 cease all operations at the site;
  - .2 take actions to preserve or protect the work as directed by the owner.
  - .3 Except for Work directed to be performed prior to the effective date of termination, terminate all subcontracts and purchase orders.
- 14.4.3 In case of such termination for owners convenience, the contractor shall be entitled to receive payment for work performed along with reasonable overhead and profit on work not executed.