

# ARTICLE 1 – GENERAL PROVISIONS

## § 1.1 BASIC DEFINITIONS

- § 1.1.1 **OWNER & CONTRACTORS** are the parties to the Contract Documents enumerated in the Agreement between Owner and Contractor.
- § 1.1.2 **EACH PARTY** will have privity only with the other party to the contract.
- § 1.1.2 **CONTRACTORS's relationship** to the Contract Documents are not to be construed as to create a contractual relationship of any kind:
1. Between the Contractor And The Architect's Consultants
- § 1.1.2 **OWNER's relationship to the Contract Documents** are not to be construed as to create a contractual relationship of any kind:
1. Between the Owner and a Subcontractor or a Sub-subcontractor.
  2. Between the Owner and the Architect, or the Architect's Consultants
- § 1.1.2 **EACH PARTY's relationship** to the Contract Documents are not to be construed as to create a contractual relationship of any kind:
1. Between any persons or entities
- § 1.1.2 **OWNER & CONTRACTOR** are the two parties privy to the contract documents.
- § 1.1.2 **ARCHITECT** is entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.
- § 1.1.3 **CONTRACTOR's** is obligated to fulfill *The Work* in whole or in part of the project.
- § 1.1.4 **OWNER** may provide construction in whole or in part for *The Project*
- § 1.1.7 **ARCHITECT** is the provider of Instruments of Service
- § 1.1.8 **INITIAL DECISION MAKER** is that person identified in the agreement
- § 1.1.8 **INITIAL DECISION MAKER** provides initial decisions on claims between the owner and contractor as a precedent (prior) to mediation.
- § 1.1.8 **INITIAL DECISION MAKER** is the certifier of *terminations of agreement*.

## § 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS:

- § 1.2.1 **CONTRACTOR** to complete all work intended by the Contract Documents to the extent consistent with the Contract Documents.
- § 1.2.1 **CONTRACTOR** is to make reasonable inferences from the contract documents.
- § 1.2.2 **CONTRACTOR** is responsible for allocating portions of the work to the subcontractors Birrespective of the organization of the specifications.
- § 1.2.3 **EACH PARTY** accepts well-known construction industry terms will carry the recognized meanings that are common within the industry.

**§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE:**

- § 1.5.1 ARCHITECT is the **owner of his Instruments of Service.**
- § 1.5.1 ARCHITECT'S CONSULTANTS are the **owners of their Instruments of Service**
- § 1.5.2 CONTRACTOR, SUBCONTRACTORS, SUB-SUBCONTRACTORS, MATERIAL & EQUIPMENT SUPPLIERS are all **allowed to use and reproduce the Instruments of Service** for execution of the work
- § 1.6 ALL PARTIES must **establish protocols for the transmission** of digital data.

## ARTICLE 2 – OWNER

### § 2.1 GENERAL:

- § 2.1.1 OWNER is the **party that is contracting** with the construction contractor.
- § 2.1.1 OWNER will **designate** in writing a representative.
- § 2.1.1 OWNER'S REPRESENTATIVE has the **express Authority** to bind the Owner
- § 2.1.1 ARCHITECT **does not** have Authority to bind the Owner
- § 2.1.2 ARCHITECT **will serve** as Owner's Representative under Article 4, but **does not** serve as the Owner's Designated Representative.
- § 2.1.2 OWNER will **furnish information**, within 15 days, to the Contractor necessary to evaluate, give notice of, or enforce Mechanics Lien Rights.

### § 2.2 INFORMATION AND SERVICES REQUIRED BY THE OWNER:

- § 2.2.1 CONTRACTOR can **request evidence** of Owner's Financial Arrangements. Owner must furnish, or no work commences.
- § 2.2.2 OWNER **pays** for necessary approvals, easements, assessments, and charges required for construction, use or occupancy. (see 3.7.1 for Contractor Responsibilities)
- § 2.2.3 OWNER will **furnish** surveys.
- § 2.2.4 OWNER will cooperate and **furnish all other** information required from owner with reasonable promptness.
- § 2.2.5 OWNER will **furnish one copy** of the Contract Documents to the Contractor for purposes of reproduction.
- § 2.3 OWNER's **right to stop the work** when Contractor fails to Correct Work or repeatedly fails to carry out work in accordance with Contract Documents.
- § 2.4 OWNER's **right to carry out the work**, if contractor defaults or neglects the work.
  1. OWNER must **give written notice** to Contractor demanding correction of the problem.
  2. OWNER must **give 10 day** written notice of intent to Carry Out Work
  3. OWNER must **issue Change Order** or Construction Change Directive deducting pay from the Contractor.

## ARTICLE 3 – CONTRACTOR

### § 3.1 GENERAL

- § 3.1.1 CONTRACTOR **must be Licensed**, if required in jurisdiction where Project is located.
- § 3.1.1 CONTRACTOR **must designate a representative** (if applicable) in writing under AIA A101.
- § 3.1.2 CONTRACTOR **will perform The Work** in accordance with the Contract Documents
- § 3.1.3 CONTRACTOR **cannot claim release from obligations** to perform the work in conformance because Architect has not specifically rejected or approved payment of that portion of work.

### § 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY THE CONTRACTOR:

- § 3.2.1 CONTRACTOR's execution assumes that he **has visited the site** and become generally familiar.
- § 3.2.2 CONTRACTOR's requirements in **reviewing the Contract Documents**:
1. CONTRACTOR will carefully **study Contract Documents** prior each portion of the work.
  2. CONTRACTOR will **take field measurements** and verify any conditions of the site that affect the work.
  3. CONTRACTOR is **not obligated for discovering errors**, omissions, or inconsistencies in the Contract Documents, under this clause.
  4. CONTRACTOR is **obligated to report discovered errors**, omissions or inconsistencies promptly to the architect. (no sandbagging)
  5. CONTRACTOR is **not expected to review the documents** in any capacity as a licensed professional, unless specifically provided in the contract documents.
- § 3.2.3 CONTRACTOR's requirements in ascertaining applicable laws, statutes and codes:
1. CONTRACTOR is not required to ascertain whether Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities.
  2. CONTRACTOR is required to report discovered non-conformity promptly to the Architect.
  3. CONTRACTOR is liable for not reporting discoveries directly to the architect.
- § 3.2.4 CONTRACTOR'S entitlements for discovery of errors & omissions and non-conformance with applicable laws, statutes and codes:
1. CONTRACTOR is entitled to make claim, under Article 15, for additional time and cost if such discoveries require it.
  2. CONTRACTOR is not liable to the owner or architect for promptly reporting such discoveries.
  3. CONTRACTOR is not entitled for more time or cost if failure to promptly report discoveries
  4. CONTRACTOR must pay for costs and damages if failure to report promptly any discoveries.

### § 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

#### § 3.3.1 CONTRACTOR'S role in Supervising The Work

1. **CONTRACTOR** will supervise and direct the work
2. **CONTRACTOR** has sole responsibility & control over construction means & methods.
3. **CONTRACTOR** is still responsible for review & execution of jobsite safety, if anywhere, the contract documents specify instructions concerning means and methods
4. **CONTRACTOR** will give written notice to Owner & Architect if determined that specified means & methods are unsafe.
5. **CONTRACTOR** is held harmless if instructed to proceed by Owner without change in specified means & methods determined by contractor to be unsafe.
6. **OWNER** is solely responsible for any loss or damage arising from Owner's required means & methods.

§ 3.3.2 **CONTRACTOR** is responsible to the Owner for acts and omissions of the Contractor's employees, sub-contractors, and their agents.

§ 3.3.3 **CONTRACTOR** is responsible for inspection of portions of work already performed to determine if proper conditions exist to move forward with subsequent work.

### § 3.4 LABOR AND MATERIALS

#### § 3.4.1 **CONTRACTOR** responsible to provide and pay for:

1. Labor
2. Materials
3. Equipment
4. Tools
5. Construction Equipment and Machinery
6. Water
7. Heat
8. Utilities
9. Transportation
10. Other Facilities & Services necessary for property execution of the work.

#### § 3.4.2 **CONTRACTOR**'s ability to make substitutions:

1. **CONTRACTOR** must have Architect evaluate it
2. **CONTRACTOR** must have consent of the Owner
3. **CONTRACTOR** will proceed with appropriate Change Order or Construction Change Directive.

§ 3.4.2 **CONTRACTOR** cannot make substitutions in the case of Minor Changes In The Work authorized by the Architect.

§ 3.4.3 **CONTRACTOR** must enforce strict discipline and good order among his employees

- § 3.4.3 **CONTRACTOR** will employ fit persons who are properly skilled in tasks assigned.
- § 3.5 **CONTRACTOR** warrants to the Owner and Architect that Materials and equipment furnished under the Contract **will be of good quality and new** for the time period of the applicable **statute of limitations** or **repose**, whichever is shorter.
- § 3.5 **CONTRACTOR warrants that work will conform to the Contract Documents and will be free from defects**, except for those inherent in the quality of work the contract documents require or permit.
- § 3.6 **CONTRACTOR** will pay for sales, consumer, use and similar taxes for the work provided.

**§ 3.7 PERMITS, FEES, NOTICEDS, AND COMPLIANCE WITH LAWS**

- § 3.7.1 **CONTRACTOR pays for building permits** and other permits, fees, license, and inspections by government agencies.
- § 3.7.2 **CONTRACTOR** will comply with and give notices, as required by law, to authorities having jurisdiction for the purpose of scheduling inspections.
- § 3.7.3 **CONTRACTOR** is liable for knowingly proceeding with work on contract documents that do not comply with laws, statutes, ordinances, codes, rules & regulations.
- § 3.7.4 **DISCOVERY BY CONTRACTOR OF DIFFERING PHYSICAL CONDITIONS**
1. **CONTRACTOR** will **promptly, and within 21 days, notify** Owner & Architect if following conditions at the site are encountered:
    1. Physical conditions not specifically addressed in the Contract Documents
    2. Physical conditions that differ materially from conditions that might reasonably be assumed to exist at the site.
  2. **ARCHITECT** will promptly investigate such differing conditions as reported by the contractor
  3. **ARCHITECT** will determine whether those physical conditions differ materially and cause an increase in cost & time, and recommend equitable adjustment in the Contract Sum or Contract Time or Both.
  4. **ARCHITECT** will notify the Owner and Contractor if he determines that the conditions at the site are not materially different from those indicated in Contract Documents.
- § 3.7.4 **EITHER PARTY** may proceed as provided in Article 15 if disputing the ARCHITECT's determination.
- § 3.7.5 **DISCOVERY OF BY CONTRACTOR OF HUMAN REMAINS**
1. **CONTRACTOR** will immediately suspend any operations that would affect them.
  2. **CONTRACTOR** will immediately notify Owner and Architect
  3. **OWNER** will promptly take any action necessary to obtain govern mental authorization required to resume the operations
  4. **CONTRACTOR** will continue to suspend such operations unless otherwise instructed by the owner
  5. **CONTRACTOR** will continue with all other operations that do not affect those remains or features.

6. **CONTRACTOR** will request for adjustments of time & cost via article 15

**§ 3.8 ALLOWANCES**

**§ 3.8.1 ALLOWANCES ROLES & RESPONSIBILITIES**

1. **CONTRACTOR** will include in the Contract Sum all allowances stated in the Contract Documents.
2. **CONTRACTOR** will supply items covered by allowances for such amounts stated in Contract Documents.
3. **OWNER** reserves right to determine persons or entities supplying items covered by allowances.
4. **CONTRACTOR** is not required to employ persons or entities he objects to.

**§ 3.8.2 HANDLING RULES FOR ALLOWANCES**

1. **CONTRACTOR** will use allowances to cover costs of:
  1. material and equipment delivered at the site,
  2. +plus required taxes,
  3. -minus(less) any applicable trade discounts.
2. **CONTRACTOR** will not use allowances to cover costs for (Will Include In Contract Sum):
  1. Unloading and Handling at the Site
  2. Labor
  3. Installation costs
  4. Overhead
  5. Profit
  6. Other Expenses contemplated for stated allowance amounts.
3. **CONTRACTOR** will adjust Contract Sum with Change Order whenever costs are more than or less than allowances. The Amount of Change Order will Reflect:
  1. Difference between actual costs and the allowance under Section 3.8.2.1
  2. Changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** **OWNER** obligated to select Materials & Equipment under Allowances with reasonable promptness.

**§ 3.9 SUPERINTENDANT**

**§ 3.9.1** **CONTRACTOR** will employ a competent Superintendent.

**§ 3.9.1** **SUPERINTENDENT** will represent and bind the **CONTRACTOR** in all matters arising out of the work.

**§ 3.9.2** **CONTRACTOR** will furnish to the **OWNER**, through the **ARCHITECT** the name and qualifications of the a proposed superintendent, as soon as practicable after contract award.

**§ 3.9.2** **ARCHITECT** must reply within 14 days to state:

1. Whether OWNER or the ARCHITECT has reasonable objections to the proposed Superintendent .
2. That the ARCHITECT requires additional time to review.
3. Failure of Architect to reply within 14 days constitutes a **Notice Of No Reasonable Objection**

§ 3.9.3 **CONTRACTOR** will not employ a proposed superintendent to whom the OWNER or ARCHITECT has a reasonable objection to.

§ 3.9.3 **CONTRACTOR** will not change the superintendent without the OWNER's consent.

§ 3.9.3 **OWNER** will not unreasonably delay in consenting to CONTRACTOR's request to Change/move his Superintendent.

### § 3.10 **CONTRACTOR'S CONSTRUCTION SCHEDULE**

§ 3.10.1 **CONTRACTOR** will prepare and submit, promptly after award of contract, a **Contractor's Construction** Schedule. The Schedule:

1. Will not exceed time limits current under Contract
2. Will be revised at appropriate intervals as required by the conditions of the Work and Project.
3. Will be related to the entire project to the extent require day the Contract Documents.
4. Will provide for expeditions and practicable execution of the Work.

§ 3.10.1 **OWNER & ARCHITECT** are not required to approve the CONTRACTOR's Construction Schedule (Consistent with Contractor's Means & Methods). Schedule is merely informational.

### § 3.10.2 **SUBMITTAL SCHEDULE ROLES & RESPONSIBILITIES**

1. **CONTRACTOR** will prepare a **Submittal Schedule** promptly after award of Contract.
2. **CONTRACTOR** will submit the Submittal Schedule to ARCHITECT for approval.
3. **ARCHITECT** will not unreasonably delay the approval the CONTRACTOR's Submittal Schedule.
4. **CONTRACTOR** will coordinate the Submittal Schedule with the Construction Schedule
5. **CONTRACTOR** will allow reasonable time for ARCHITECT to review Submittal Schedule.
6. **CONTRACTOR** will lose entitlement of increase in (1) Contract Sum or (2) Extension of Contract Time based on Time to Review Submittals, if contractor FAILS to submit a submittal schedule.

§ 3.10.3 **CONTRACTOR** must perform the work in general accordance with most recent schedules submitted to owner and architect.

### § 3.11 **DOCUMENTS AND SAMPLES AT SITE**

1. **CONTRACTOR** will maintain documents at the site for the Owner. Documents will include one copy of the:
  1. Drawings,
  2. Specifications



3. Addenda
  4. Change Orders
  5. Modifications
2. **CONTRACTOR** will mark documents at site with all field changes and selections made during construction, and will maintain at site one copy of:
1. Approved Shop Drawings
  2. Product Data
  3. Samples and similar required submittals

**§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- § 3.12.1 **CONTRACTOR, SUBCONTRACTORS, MANUFACTURERS, SUPPLIERS, or DISTRIBUTERS** will specially prepare *Shop Drawings* that illustrate portions of the work, and shall not be generic or preprinted manufacturer's diagrams.
- § 3.12.2 **CONTRACTOR** will furnish *Product Data* that are not specially prepared, but illustrate materials or equipment for some portion of the work. **CONTRACTOR** may provide these from catalogs or other materials supplied by manufacturers that highlight a specific model or style for their standard products. These include illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information.
- § 3.12.3 **ALL PARTIES** will procure and examine physical *Product Samples*, so as to illustrate and determine whether materials, equipment or workmanship will be suitable for the project.
- § 3.12.4 **SHOP DRAWINGS, PRODUCT DATA, SAMPLES, and SIMILAR SUBMITTALS** are not Contract Documents.
1. **CONTRACTOR** will utilize such submittals so as to demonstrate the way by which the Contractor proposes to conform to portions of the work requiring submittals.
  2. **ARCHITECT** will review submittals that are identified in the Contract Documents as requiring review.
  3. **ARCHITECT** is allowed to return submittals, that are not required by the Contract Documents, with No Actions.
- § 3.12.5 **CONTRACTOR** shall review submittals for compliance with the Contract Documents, approve and submit to the Architect:
1. Shop Drawings
  2. Product Data
  3. Samples
  4. Similar Submittals
- § 3.12.5 **CONTRACTOR** shall submit all submittals in accordance with the submittal schedule approved by the Architect, or in the absence of a submittal schedule, with reasonable promptness, and in such sequence so as to not delay the work.
- § 3.12.6 **CONTRACTOR** represents to the Owner and Architect that by reviewing Shop Drawings, Product Data, and Similar Submittals that:
1. **CONTRACTOR** has Reviewed and Approved

2. **CONTRACTOR** has determined and verified:
  1. Materials
  2. Field measurements
  3. Field Construction Criteria related thereto, or Will Do so.
3. **CONTRACTOR** has Checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 **CONTRACTOR** shall not perform no portion of the work until required submittals are approved by Architect.

§ 3.12.8 **CONTRACTOR** is not relieved of responsibility from deviations from the requirements of the Contract Documents by the architect's approval of submittals.

**EXCEPTION:**

1. **CONTRACTOR** has specifically informed Architect in writing of such deviation at the time of submittal:

AND

1. **ARCHITECT** has approved in writing to specific deviation as a **minor change in work**.

OR

2. **ARCHITECT, OWNER, CONTRACTOR** agree to issue a Change Order.
3. **ARCHITECT, OWNER** agree to issue a Construction Change Directive.

§ 3.12.8 **CONTRACTOR** is not relieved of responsibility for Errors and Omissions in Submittals he provides that are approved by the ARCHITECT.

§ 3.12.9 **CONTRACTOR** shall direct specific attention on resubmitted submittals if other revisions are present than those requested by the Architect previously.

\*\*Architect is likely to check only noted items on previous submittals returned. So, it's good for the contractor to bring it up if there's additional revisions that the Architect didn't ask for.

1. **ARCHITECT'S** approval of a resubmission shall not apply in the absence notice.

§ 3.12.10 **CONTRACTOR PROVIDING PROFESSIONAL DESIGN SERVICES:**

1. **CONTRACTOR** will not provide professional services that constitute the practice of architecture or engineering, unless otherwise allocated in the Contract documents.
  2. **CONTRACTOR** will provide professional services of architecture or engineering if:
    1. Those services are specifically required in contract Documents for portion of Work
- OR
2. Unless Contractor needs to under construction means, methods, techniques, sequences, and procedures.
  3. **CONTRACTOR** is not required to provide professional services in violation of the law.

4. **ARCHITECT & OWNER** will specify all performance and design criteria in the event that professional design services, or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents
5. **CONTRACTOR** will hire only property licensed design professionals,
6. **CONTRACTOR'S DESIGN PROFESSIONAL** will have their signature and seal appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other Submittals related to the work.
7. **OWNER & ARCHITECT** are entitled to rely on the accuracy and completeness of Services performed by the Contractor's Design Professionals.
8. **ARCHITECT** will review, approve, or take action on submittals for the limited purpose of checking for conformance with information given and the design concept expressed in Contract Documents.
9. **CONTRACTOR** is not responsible for inadequacies of performance and design criteria specified in Contract Documents for Contractor's Design Professional.

**§ 3.12.11 CONTRACTOR'S USE OF SITE:**

1. **CONTRACTOR** will confine operations at the site to areas permitted by laws, statutes, ordinances, codes, rules and regulations.
2. **CONTRACTOR** will not encumber the site with Materials or Equipment.

**§ 3.14 CUTTING AND PATCHING**

- § 3.14.1 CONTRACTOR** is responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
- § 3.14.1 CONTRACTOR** will restore all areas requiring cutting and patching to condition existing prior, unless otherwise required by the Contract Documents.
- § 3.14.2 CONTRACTOR** shall not damage or endanger a portion of the work or fully/partially completed construction by the Owner or separate Contractors by cutting, patching, altering, or excavation.
- § 3.14.2 CONTRACTOR** shall not cut or alter construction by Owner or Other Contractor without written consent of the Owner and of such separate contractor.
- § 3.14.2 OWNER, and OTHER CONTRACTOR** shall not withhold unreasonably a cut & patch consent to the CONTRACTOR.
- § 3.14.2 CONTRACTOR** shall not withhold unreasonably cut & patch consent to OWNER or OTHER CONTRACTOR.

**§ 3.15. CLEANING UP**

- § 3.15.1 CONTRACTOR** will keep the premises free from accumulations of waste, rubbish caused by operations under the Contract.
- § 3.15.1 CONTRACTOR** will remove, at completion, all waste, rubbish, tools, and equipment from and about the project.
- § 3.15.2 OWNER** is entitled to reimbursement if CONTRACTOR fails to clean up, and owner accomplishes.

§ 3.16 **CONTRACTOR** will provide the Owner and Architect **Access To The work** in prep or progress wherever located.

§ 3.17 **ROYALTIES, PATENTS AND COPYRIGHTS**

1. **CONTRACTOR** shall pay for all royalties and license fees
2. **CONTRACTOR** shall defend suits or claims for infringement of copyrights and patent rights
3. **CONTRACTOR** shall hold the Owner and Architect harmless from loss on account thereof
4. **CONTRACTOR** shall not be responsible for such defense or loss when:
  1. The design, process, or product is required by the Contract Documents.
  - OR
  2. Where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect.
5. **CONTRACTOR** is responsible for defense if he does not furnish information to Architect of a required design, process, or product that is in infringement of copy right or patent.

**§ 3.18 INDEMNIFICATION**

§ 3.18.1 **CONTRACTOR** indemnifies the Owner and Architect against claims arising out of or resulting from the performance of the work, for bodily injury, sickness, disease or death or to injury to or destruction of tangible property caused by acts or omissions of the Contractor. Provision does not cover injury or damage to the work itself nor does it cover claim by the owner that he contractor has failed to construct the building in accordance with Contract Documents.

§ 3.18.2 **CONTRACTOR** is not limited in indemnity obligation to the payment of statutory worker's compensations benefits in the event the owner or architect is found liable for accidents due to the contractor's negligence.

## ARTICLE 4 – ARCHITECT

### § 4.1 GENERAL

- § 4.1.1 OWNER will **retain an architect lawfully licensed** to practice architecture in the jurisdiction where project is located.
- § 4.1.2 OWNER will **not modify or restrict the duties**, responsibilities and limitations of the ARCHITECT without written consent.
1. ARCHITECT will not **unreasonably withhold Consent** to the OWNER to modify or restrict his duties and responsibilities.
- § 4.1.3 OWNER will **employ a successor architect** in the event he terminates current architect.
1. CONTRACTOR reserves **right to object** to successor architect proposed by OWNER
  2. SUCCESSOR ARCHITECT will **gain status** of “architect” under the Contract Documents.

### § 4.2 ADMINISTRATION OF THE CONTRACT

- § 4.2.1 ARCHITECT will **provide administration of the contract** as described in the Contract Documents.
1. ARCHITECT will **be OWNER’s representative** during construction until the final Certificate For Payment, unless the owner chooses to retain the architect’s services during the one-year correction period.
  2. ARCHITECT will have **authority to act on behalf of the OWNER** only to extent provided in Contract Documents.
  3. ARCHITECT is not the general agent of the owner, and his powers are enumerated in the contract documents.
  4. CONTRACTOR will not rely on the ARCHITECT’s actions beyond the scope of those powers enumerated to the architect in the contract documents.
- § 4.2.2 ARCHITECT will **visit the site at intervals appropriate to the stage of construction**, or as otherwise agreed to by OWNER, so as to **become generally familiar** with the progress and quality of the portion of work completed, and to determine in general if the Work observed is **being performed in a manner** indicating that the Work, when fully completed, **will be in accordance with the Contract** Documents.
1. ARCHITECT is not bound by any definite time interval for site visits, and site visits are determined by the architect’s professional judgement.
  2. ARCHITECT is not required to be at the site full time or to make exhaustive detailed inspections.
  3. ARCHITECT will not direct the CONTRACTOR’s workers or subcontractors.
  4. ARCHITECT will not have control over the contractor’s construction means & methods.

§

§

§ 4.2.3 **ARCHITECT** will utilize Site Visits as a basis for reporting to the OWNER on progress and quality of the project.

1. **ARCHITECT** will report to the owner:
  1. Known deviations from the Contract documents from the most recent construction schedule submitted by the Contractor.
  2. Defects and deficiencies observed in the Work.
2. **ARCHITECT** is not responsible for the CONTRACTOR's failure to perform work in accordance with requirements.
3. **ARCHITECT** will not have control over or charge or responsible for Acts & Omissions of the Contractor.

§ 4.2.4 **COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION:**

1. **OWNER and CONTRACTOR** will endeavor to communicate with each other through the ARCHITECT.
2. **ALL PARTIES** will communicate with ARCHITECTS CONSULTANTS through the Architect only.
3. **ALL PARTIES** will communicate with CONTRACTOR's subs and material suppliers through the Contractor only.
4. **ALL PARTIES** will communicate with SEPARATE CONTRACTORS through the Owner only.

§ 4.2.5 **ARCHITECT** will review and certify amounts due the contractor and will issue a *Certificate of Payment* for work that conforms to the requirements of the Contract Documents.

§ 4.2.6 **ARCHITECT** has the authority to reject work.

1. **ARCHITECT** has the authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3.
2. **ARCHITECT's** authorities to reject work, and require inspection does not give rise to a duty of the Architect to the Contractor for any portion of Work in question.

§ 4.2.7 **ARCHITECT** will review and approve or take appropriate action on the Contractor's Submittals.

1. ARCHITECT's review is for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents
2. ARCHITECT's action will be taken:
  1. In accordance with the submittal schedule approved by the Architect.
  - OR
  2. In the absence of a Submittal Schedule, with reasonable promptness
3. ARCHITECT's review of submittals is not conducted for purpose of determining accuracy and completeness of details of dimensions or quantities. These details remain the responsibility of the Contractor.
4. ARCHITECT's review of submittals does not relieve Contractor of obligations under 3.3. and 3.5.

5. ARCHITECT's review does not constitute approval of Safety Precautions, Construction Means-Methods-Techniques.
  6. ARCHITECT's approval of a specific item does not indicate approval of an assembly of which the item is a component.
- § 4.2.8 ARCHITECT is responsible for preparing **Change Orders**, and **Construction Change Directives**, and **Authorize Minor Changes in the Work**.
1. ARCHITECT will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in 3.7.4
  2. ARCHITECT's duty to prepare these documents is not altered by the designation of a 3<sup>rd</sup>
- § 4.2.9 ARCHITECT will conduct two distinct and required inspections to determine the date or dates of **Substantial Completion** and the date of **Final Completion**.
1. ARCHITECT will issue **Certificates of Substantial Completion** pursuant to 9.8
  2. ARCHITECT will **receive and forward to OWNER all warranties** and related documents required by the Contract and assembled by the Contractor.
  3. ARCHITECT will issue a Certificate of **Final Inspection**
- § 4.2.10 ARCHITECT will agree with OWNER prior to providing one or more project representatives to assist the Architect's responsibilities at the Site.
1. ARCHITECT's **REPRESENTATIVE AT SITE** will have duties, responsibilities and limitations of authority set forth in an **Exhibit** (AIA B352-2000) to be incorporated in the Contract Documents.
- § 4.2.11 ARCHITECT will **interpret and decide on matters concerning performance** upon request of the Owner, within an agreeable timeframe, and in writing. This is what's called an **Request For Information (RFI)**
- § 4.2.12 ARCHITECT's interpretations will be **consistent** and **inferable** with the intent of the Contract Documents.
1. ARCHITECT will remain impartial in such decision and interpretations.
  2. ARCHITECT will not be held liable in any way for results of interpretations and decisions.
- § 4.2.13 ARCHITECT will have final word in all **Aesthetic Matters** consistent with the Contract Documents.
- § 4.2.14 ARCHITECT will review and respond to **Requests for Information** about the Contract Documents.
1. ARCHITECTS response to RFI requests will be within an agreeable timeframe or with reasonable promptness.
  2. ARCHITECT will prepare and issue supplemental drawings and specifications in response to RFIs.

## ARTICLE 5 – SUBCONTRACTORS

### § 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 **CONTRACTOR** will furnish in writing to the **OWNER** through the **ARCHITECT** the names of all persons or entities proposed for each portion of the Work (Subs, Suppliers, etc.) as soon as practicable after award of Contract.

1. **ARCHITECT** may reply within 14 days to the Contractor stating:
  1. Whether Owner or Architect has reasonable objection to any such proposed person or entity
  2. OR
  3. That the Architect requires additional time for review
2. **ARCHITECT**'s failure to reply within 14 days will constitute a notice of no reasonable objection.

§ 5.2.2 **CONTRACTOR** will not contract with a proposed person or entity to whom the Owner or Architect have objection to.

1. **CONTRACTOR** is not required to contract with someone he has objection to.

§ 5.2.3 **CONTRACTOR** will propose another person or entity if **OWNER** or **ARCHITECT** have reasonable objection to Contractor's previously proposed person or entity.

1. **CONTRACTOR** may submit a claim in disagreement of Owner or Architect's rejection under Article 15 to increase Contract time or Contract Sum, provided that Contractor has submitted all names promptly and responsively.

§ 5.2.4 **CONTRACTOR** will not substitute a Subcontractor, person, or entity if Owner or Architect have already made reasonable objection to such.

### § 5.3 SUBCONTRACTUAL RELATIONS

1. **SUBCONTRACTORS** agreement with **CONTRACTOR** will not prejudice against rights of the Owner and Architect.
2. SUB-SUBCONTRACTORS may be required by the **CONTRACTOR** to enter into similar agreements with **SUBCONTRACTORS**.
3. **CONTRACTOR** will make available to **SUBCONTRACTORS** prior to execution of agreement, copies of the Contract Documents to which the Subcontractor will be bound.

### § 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 **OWNER** receives the benefit of *Contingent Assignment of the Subcontracts*, thus being able to continue the work, at the same price, with original **SUBCONTRACTORS** in the event the Contractor defaults.

1. **OWNER**'s assignment to **SUBCONTRACTORS** is pursuant only after termination of the **CONTRACTOR** with cause.
2. **OWNER** will consult with the **CONTRACTOR**'s Surety prior to exercising right to assignment.



3. **OWNER** accepts the rights and obligations of the CONTRACTOR when accepting Assignment of the Subcontracts (i.e. payments, safety, etc.)
- § 5.4.2 **OWNER** must equitably adjust SUBCONTRACTORS compensation for increases in costs resulting from a suspension of the Work for more than 30 days.
- § 5.4.3 **OWNER** is not required to be the Contractor upon Contingent Assignment, and may provide a New Contractor (further assign the Subcontract) to a **Successor Contractor** or other entity of Owner's Choosing.
1. **OWNER** remains legally responsible for all of Successor Contractor's obligations under the subcontract.

## ARTICLE 6 – CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND AWARD SEPARATE CONTRACTS

**OWNER** may retain multiple contractors that will perform a separate scope of work.

1. **OWNER** must coordinate separate contractors in much the same way as the contractor is responsible for coordinating the work of separate subcontractors.

§ 6.1.1 **OWNER** may retain own forces, under multiple contracts, that will perform a separate scope of work.

1. **CONTRACTOR** may make claim under Article 15 if **OWNER's** forces are causing delay in the Contractor's Work.

§ 6.1.3 **OWNER** is responsible for coordinating the activities of the owner's forces and of all separate contractors with those of the Contractor.

1. **CONTRACTOR** is required to cooperate with the owner and separate contractors in coordination construction schedules, making revisions, and following revised schedules.

§ 6.1.4 **OWNER** assumes same responsibilities as Contractor for work performed by Owner's own forces.

§ 6.3 **OWNER** reserves right to clean up the premises in the event a dispute arises between **OWNER** and **CONTRACTOR** as to who is responsible for cleanup.

1. **ARCHITECT** will allocate costs among those responsible.

## ARTICLE 7 – CHANGES IN THE WORK

### § 7.3 CONSTRUCTION CHANGE DIRECTIVES

- § 7.2.1 **OWNER, CONTRACTOR & ARCHITECT** will agree upon the following in a *Change Order*:
1. Change in the Work
  2. Change in Contract Sum
  3. Change in Contract Time
- § 7.3.1 **ARCHITECT** prepares a written Construction Changed Directive.
1. **ARCHITECT** **proposes** the Adjustments in Time and Sum.
- § 7.3.1 **OWNER** signs a Construction Change Directive.
1. **OWNER** must consent with Surety, prior to any material alterations of the scope of the contract when issuing a Construction Change Directive, so as to ensure that the Surety doesn't release obligations to the project due to such changes.
- § 7.3.2 **OWNER** will use a Construction Change Directive in the absence of a total agreement on the terms of a Change Order.
- § 7.3.3 **CONTRACTOR** will mandatorily adjust contract Sum, if any, using the following methods:
1. Lump Sum, properly itemized, and backed with substantiating data.
  2. Unit Prices, stated in the Contract Documents or agreed upon.
  3. Mutually acceptable Fixed or Percentage Fee
  4. As provided in section 7.3.7
- § 7.3.5 **CONTRACTOR** will promptly proceed upon receipt of a Construction Change Directive
1. **CONTRACTOR** will promptly provide Agreements/Disagreements to Architect with the Method Architect used to determine proposed Adjustment to **Sum and Time**.
- § 7.3.6 **CONTRACTOR's** signature on an Construction Change Directive constitute agreement, and shall be recorded as a Change Order
- § 7.3.7 **ARCHITECT** determines the Adjustments in Sum if **CONTRACTOR** fails to respond promptly or disagrees with Architect's method for adjusting the Contract Sum.
1. **ARCHITECT** will identify the basis for all accounting methods utilized in determining adjustment of Contract Sum.
- § 7.3.8 **CONTRACTOR** will credit the **OWNER** net costs if a change results in a credit (deductive)
1. **CONTRACTOR** is still entitled to Overhead and Profit of that change.
- § 7.3.9 **ARCHITECT** will determine amounts payable to Contractor for CCDs that span several pay periods.
1. **CONTRACTOR** may make claim under Article 15 if disagrees with Architect's determination.

§ 7.3.10 **ARCHITECT** will convert a Construction Change Directive to a Change Order, as soon as all parties agree on the Cost and Time after the CCD event.

§ 7.4 **MINOR CHANGES IN THE WORK**

1. **ARCHITECT** has authority to order minor changes (AIA G710) in the work not involving adjustment in:
  1. Contract Time Extension
  2. Contract Sum
2. **ARCHITECT** should verify with Contractor on whether he agrees that proposed change is indeed a Minor Change.

## ARTICLE 8 – TIME

§ 8.2.2 **CONTRACTOR** will not commence operations prior to the effective date of insurance required by Article 11 to be furnished by the Contractor to the Owner.

### § 8.3 DELAYS AND EXTENSION OF TIME

§ 8.3.1 **CONTRACTOR** is entitled to an extension of Contract Time for *excusable events* outside of the Contractor's control (i.e. fires, state of emergencies, disasters)

## ARTICLE 9 – PAYMENTS AND COMPLETION

### § 9.2 SCHEDULE OF VALUES

1. CONTRACTOR will **submit a Schedule of Values**, to the ARCHITECT, before the 1<sup>st</sup> Application for Payment, allocating the entire Contract Sum to the various portions of the Work, provided that the Contract is based on:
  1. Stipulated Sum
  2. Guaranteed Maximum Price.
2. ARCHITECT will **utilize the Schedule of Values** as the basis for:
  1. Reviewing and approving the Contractor's Application for payment
  2. Preventin **Front Loading** abuse by the Contractor

### § 9.3 APPLICATIONS FOR PAYMENT

- § 9.3.1 CONTRACTOR warrants that **title to all Work** covered by an Application for Payment will pass to the OWNER no later than the time of payment.

### § 9.4 CERTIFICATES OF PAYMENT

- § 9.4.1 ARCHITECT must determine 1 of 3 things within 7 days of receipt of an Application for Paymnt
1. Certify the amount the contractor has applied for and forward the certificate to the owner
  2. Certify a lesser amount and forward the certificate to the owner
  3. Reject the Contractor's application.
- § 9.4.2 ARCHITECT does not warrant that a Certificate of Payment constitutes a representation of:
1. Exhaustive or continuous on-site inspections to check the quality or quantity of the Work.
  2. Reviewed construction means, methods, techniques, and sequence or procedures.
  3. Reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment.
  4. Made examinations to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contractor's sum.

### § 9.5 DECISIONS TO WITHHOLD CERTIFICATION

- § 9.5.3 ARCHITECT may **withhold a Certificate for Payment** to the extent reasonably necessary.

- § 9.5.3 ARCHITECT may **certify a different amount than applied for**.

1. ARCHITECT must **notify Owner and Contractor** as provided in section 9.4.1 for certifying different amounts than applied for.
2. ARCHITECT will issue a Certificate of Payment only for the amount he is able to make representation of, in the event Contractor disagrees with the differing amount certified.

§ 9.5.1 ARCHITECT may **withhold a certificate of payment** or nullify whole.....

OR

ARCHITECT may **nullify whole or part of a Certificate of Payment** due to subsequently discovered evidence.....

....to such extent as may be necessary to protect the Owner from loss for which the Contractor is responsible resulting in Acts or Omissions resulting from:

1. Defective work not remedied
2. Third party claims filed, unless security is provided to Owner by Contractor indemnifying owner from such claims.
3. Failure of contractor to make payments
4. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract Sum.
5. Damage to the Owner or Separate Contractor
6. Reasonable evidence that the work will not be completed with Contract Time, and that unpaid balance is not enough to cover actual or liquidated damages for anticipated delay.
7. Repeated Failure to carry out work in accordance with Contract Documents.

§ 9.5.2 ARCHITECT will certify amounts previously withheld, when Contractor corrects acts or omissions listed in 9.5.1.

§ 9.5.3 OWNER may, at sole discretion, in order to prevent Mechanics Liens, pay the contractor or Subcontractors by way of **Joint Check** in the event that Architect has withheld certification, and contractor has failed to pay his subcontractors.

## § 9.6 PROGRESSPAYMENTS

§ 9.6.1 OWNER may have as little as 3 days to pay the contractor upon receipt of a Certificate of payment -- Given that Contractor submits an Application for payment 10 days prior, and Architect has 7 days to review. Additional time for payments must be stipulated in Supplementary Conditions & Owner-Contractor Agreement.

§ 9.6.2 CONTRACTOR will pay each SUBCONTRACTOR no later than 7 days after receipt of payment.

§ 9.6.3 ARCHITECT will provide payment information to subcontractors (upon request) indicating owner & architect's payment activity to contractor. Used to verify if contractor is paying subs. One of the few times an architect has contact with a subcontractor.

§ 9.6.4 CONTRACTOR will furnish within 7 days, all informational evidence requested by OWNER regarding payment of his Subcontractors.

1. OWNER has the right to contact the SUBCONTRACTORS to ascertain whether they have been paid.

§ 9.6.5 CONTRACTOR will pay suppliers in the same rules and manner as paying Subcontractors.

§ 9.6.6 **ARCHITECT** may adjust the next Certificate of Payment based on subsequent findings of work not in accordance with Contract, but mistakenly accepted.

§ 9.7 **FAILURE OF PAYMENT**

1. **CONTRACTOR** may stop the work upon 7 days written notice, and not resume until paid; may charge interest, and request extension of time and Contract Sum if:
  1. **ARCHITECT** does not issue a Certificate of Payment through no fault of the Contractor within 7 days.
  2. **OWNER** does not pay the Contractor within 7 days after the date established in the Contract Documents.

§ 9.8 **SUBSTANTIAL COMPLETION**

§ 9.8.5 **ARCHITECT** will submit the Certificate of Substantial Completion to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

1. **OWNER** will fully release retainage withheld upon acceptance of Substantial Completion and Consent of Surety (if any).
2. **OWNER** is not required to release all of the Retainage if:
  1. There is incomplete work  
OR
  2. Work is not in accordance with the Contract Documents.  
OR
  3. Damages due to any delay on the part of the Contractor.

§ 9.9 **PARTIAL OCCUPANCY OR USE**

§ 9.9.1 **OWNER** can occupy or use any completed or partially completed portion of the Work at any stage when such portion is designate by separate agreement with the Contractor.

1. **OWNER & CONTRACTOR** require a separate agreement for partial occupancy.
2. **INSURANCE (Property)** must consent to partial occupancy.
3. **PUBLIC AUTHORITIES** must authorize such partial occupancy.

§ 9.9.2 **OWNER and ARCHITECT and CONTRACTOR** shall jointly inspect the work immediately prior partial occupancy by the Owner to determine and record the condition of the Work at such time.

§ 9.10.2 **CONTRACTOR** will receive *final payment + remaining retained percentage* upon Contractors submission to the ARCHITECT:

1. **Affidavit** (G706-1994, G706A-1994) that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered.
2. **Certificate** evidencing that that insurance required by the Contract Documkents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days prior written notice is given to Owner



3. **Written Statement** that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents.
4. **Consent of Surety** if any
5. **Other Data** required by Owner to establish satisfaction of Contractor's obligations.
6. **Lien Bond** Given by Contractor to Owner, if the Subcontractors refuse to furnish a release or waiver required by the Owner to indemnify Owner from such Lien by Subcontractors.

§ 9.10.3 **CONTRACTOR** is entitled to payment and release of retainage for work completed and accepted, in the event final completion is delayed by causes beyond the Contractor's control.

§ 9.10.4 **OWNER** waives claims against the Contractor upon final payment, but will retain the following rights to claim:

1. Liens, claims, security interests or encumbrances arising out of the Contract and unsettled
2. Failure of the work to comply with the requirements of the Contract Documents.
3. Terms of special warranties required by the Contract Documents.

# ARTICLE 10 – PROTECTION OF PERSONS AND PROPERTY

## § 10.3 HAZARDOUS MATERIALS

- § 10.3.1 **CONTRACTOR** must *stop the work* upon discovery of Hazardous Materials.
- § 10.3.2 **OWNER** will obtain services of a licensed laboratory for HazMat verification.
- § 10.3.3 **CONTRACTOR** is held harmless by the **OWNER** for discovery of such Hazardous Materials.
- § 10.3.4 **OWNER** is not responsible for HazMat required by the Contract Documents that are brought onto the site by the Contractor that and **negligently handled**.
- § 10.3.5 **CONTRACTOR** indemnifies **OWNER** for expenses Owner incurs for:
1. Remediations of a material or substance the Contractor brings to the site and negligently handles
  2. Where the Contractor fails stop the Work under 10.3.1 upon discovery of Hazmat.
- § 10.3.6 **CONTRACTOR** is indemnified by owner, and entitled to be made whole on all costs associated with remediation of HazMat, in the event without negligence by the Contractor, a government agency (EPA) holds the Contractor liable for the cost of remediation.
- § 10.4 **EMERGENCIES**
1. **CONTRACTOR** will exercise authority to act at own discretion in the event of an emergency, without prior authorization to protect the safety of persons or property.

## ARTICLE 11 – INSURANCE & BONDS

### § 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 **CONTRACTOR** will purchase liability insurance that covers the following claims by his workers:

1. Workers Compensation, disability benefit, and other applicable to Work performed.
2. Bodily Injury, Occupational Sickness or Disease or death of Contractor's Employees.
3. Bodily Injury, Occupational Sickness or Disease or death of any person other than the Contractor's Employees.
4. Personal Injury (libel, slander, and false arrest)
5. Claims for damages due to injury or destruction of tangible property including loss of use.
6. Automobile Insurance
7. Bodily Injury or Property Damage arising out of *completed operations*.
8. Contractual Liability Insurance.

§ 11.1.2 **CONTRACTOR'S SURETY** will provide not less than *Limits of Liability* specified in the Contract Documents or Required by Law. Whichever is greater.

§ 11.1.3 **CONTRACTOR** will provide certificates of Insurance to the Owner prior to the commencement of work.

1. **SURETY** will provide provisions in certificates that Coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days prior written notice to the Owner.
2. **CONTRACTOR** will submit an additional certificate with Application for Final Payment, evidencing continuation of liability coverage and completed operations coverage

§ 11.2 **OWNER** is responsible for purchasing and maintaining own liability Insurance

### § 11.3 PROPERTY INSURANCE

§ 11.3.1 **OWNER** will purchase and maintain property insurance written on a "*Builder's Risk All-Risk*" policy for the project in the amount of the Initial Contract Sum + value of subsequent Contract Modifications + cost of materials supplied or installed by others, comprising total value for the entire project at the site on a replacement cost basis.

§ 11.3.1.1 **BUILDER'S ALL-RISK or EQUIVALENT POLICY** will cover without limitations, insurance against the perils of fire, physical loss or damage including theft, vandalism, malicious mischief, collapse, earthquake, flood windstorm, falsework, testing and startup, debris removal.

§ 11.3.1.2 **OWNER** will inform the **CONTRACTOR** of intent to not purchase property insurance.

1. **CONTRACTOR** may effect own insurance to protect self and subcontractors.

2. **OWNER** will become the property insurer, and bear all costs to the **CONTRACTOR** for damages resulting from:
    1. Owner's failure or neglect to purchase property insurance,
    2. AND
    3. Failure to notify the contractor.
- § 11.3.1.3 **OWNER** pays the deductibles resulting from the Property Insurance he procured.
- § 11.3.1.4 **PROPERTY INSURANCE** will cover portions of the work stored off site and also portions of the work in transit.
- § 11.3.1.5 **OWNER** will **not partially occupy** the completed portions of work, **until the Property Insurance Consents**.
- § 11.3.2 **OWNER** will purchase and maintain **Boiler and Machinery Insurance**.
- § 11.3.3 **OWNER** may purchase Loss of Use Insurance that will insure the Owner against loss of use of the Owner's property due to fire or other hazards.
- § 11.3.4 **CONTRACTOR** may request to have additional coverages convenient to the Contractor's Work added to the **OWNER's** property insurance.
1. **CONTRACTOR** will bear all costs for such requests of additional coverages under Owner's property insurance.
- § 11.3.5 **OWNER** will provide waiver of subrogation when multiple property insurances exist for a site.
- § 11.3.7 **WAIVER OF SUBROGATIONS**
1. **OWNER & CONTRACTOR** waive all rights for damages caused by fire or other causes loss to the extent covered by property insurance against:
    1. Each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other.
    2. The Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees.
- § 11.4.1 **OWNER's** right to require the **CONTRACTOR** to furnish **bonds**
1. **Types of Bonds**
    1. **Bid Bond** – Bid Security for the owner that a contractor will bid appropriately for a project.
    2. **Performance Bond** – Project Security that will pay the owner to complete the work on his/her own should contractor fly away.
    3. **Payment Bond** – security owner that contractor will pay his subcontractors and suppliers.

§

## ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK

- § 12.1.1 **ARCHITECT's** authority to request **CONTRACTOR** to uncover work that was covered by the **CONTRACTOR** contrary to **ARCHITECT'S** expressed request to that work remain uncovered for examination.
- § 12.1.2 **ARCHITECT's** authority to request work be uncovered and examined at any time so as to determine if work is accordance with contract documents. Payment of uncovering relies on whether work uncovered is compliant or non-compliant.
- § 12.2.1.1 **CONTRACTOR's** requirement to return and fix a problem within 1 year of *substantial completion*.
- § 12.2.2.2 **CONTRACTOR's** requirement to return and correct work is extended for areas affected by corrective work – coming back and fixing something extends the requirement to fix within another year for that area
- § 12.2.2.3 **OWNER** does not need to notify the contractor, if corrected deficiency fails again within another 1-year period (see §12.2.2.2). **OWNER** may use a different contractor to perform the work to correct deficiency. **OWNER** may file Binding Dispute Resolution to in such case to recover costs.
- § 12.2.5 **CONTRACTOR's** obligation to warrant the work for the life of the project NOT TO BE CONFUSED with this contractor's obligation to return and correct deficiencies within 1-year.
- § 12.3 **OWNER's** right to accept non-conforming work. Requires Change Order only.

## ARTICLE 13– MISCELLANEOUS PROVISIONS

§ 13.7 **CONTRACTOR & OWNER** must commence claims *within time period specified by applicable law*, or in any case *not more than 10 years*.

## ARTICLE 14 – TERMINATION OR SUSPENSION OF THE CONTRACT

- § 14.1.1 **30-DAY TERMINATION RULES:** CONTRACTOR's ability terminate the contract if he stops work for a period of 30 consecutive days for the following reasons:
1. Court Orders Issued by Public Authorities to Stop The work
  2. Acts of Government in National Emergencies
  3. Architect's withholding of a Certificate of Payment and no notification to contractor for reason why.
  4. Owner's withholding of payment on a Certificate for Payment within time
  5. Owner's failure to furnish contractor's request for evidence.
  6. Contractor cannot stop work and terminate because he wants to. Applies when contractor is responsible for the work stoppage, and even when contractor is blameless. The 4 reasons above must apply to allow contractor to be able to terminate.
- § 14.1.3 CONTRACTOR's requirement to give 7-day's written notice to owner prior to termination – gives the owner one last chance to get their act together.
- § 14.1.4 **60 DAY TERMINATION RULES:** CONTRACTOR's ability to terminate a contract if work is stopped for 60 days due to owner's failure to fulfill owner's obligations under the contract documents with respect to matter's important to the progress of work. CONTRACTOR must give 7 day notice in addition to 60 days for termination.
- § 14.2.1 OWNER's ability to terminate the contract if CONTRACTOR:
1. Fails to provide skilled workers or proper materials
  2. Fails to make payments to subcontractors.
  3. Repeatedly disregards applicable laws, statutes, ordinances and codes.
  4. Otherwise is guilty of substantial breach of contract documents
- § 14.2.2 OWNER'S TERMINATION RULES:
1. Must have certification by Initial Decision Maker
  2. Must give 7 day notice of termination to contractor and contractor's surety
- § 14.3 OWNER's right to **suspend a project without cause and for convenience**. Usually due to financing problems. For a time determined by owner.

### § 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

- § 14.4.1 OWNER's right to **terminate the contract for convenience** and without cause.
- § 14.4.3 CONTRACTOR'S entitlement to receive Overhead and Profit on work not executed if terminated for Owner's Convenience.. One of the rare occasions when a contractor is entitled to O&P for work not performed. Clauses intent is to make contractor whole in all work performed, and lost profits.

## ARTICLE 15– CLAIMS AND DISPUTES

- § 15.1.2     **21 DAYS NOTICE OF CLAIMS** for EITHER PARTY
- § 15.1.6     **WAIVER OF CONSEQUENTIAL DAMAGES** as mandatory by EITHER PARTY
- § 15.2        **INITIAL DECISIONS** are a condition precedent to mediation. All claims must be referred to the Initial Decision Maker make initial decisions on claims and disputes prior to engaging in mediation.
- § 15.2.5     **INITIAL DECISION MAKER’S** roles & responsibilities
- § 15.2.6     **INITIAL DECISIONS** are not binding to either party, and can be filed for the next level of dispute resolution, which is mediation.
- § 15.2.6.1   **30 DAYS** to file for *Mediation* to after an Initial Decision is made.
- § 15.2.7     **OWNER** is may, but is not required to notify surety of claim against the contractor.
- § 15.4.2     **ARBITRATOR’S** award shall be deemed final and judgement may be entered upon it in any court of law.