AIA® Document A101™ - 2007

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a Stipulated Sum

Editing Template

CAUTION: Take care not to remove or otherwise edit
Project Data fill-point areas (Basic Information,
Contract Details and Project Team) when making edits
to this document.

AGREEMENT made as of the ___ day of __ in the year __
(Indicate, indicate day, month and year)

BETWEEN the Owner:
(Name, legal status, address and other information)

Len T. Frey, Ph.D. 
Vice Chancellor for Finance & Administration
Arkansas State University-Jonesboro
P.O. Box 2100
State University AR 72467

and the Contractor:
(Name, legal status, address and other information)

for the following Project:
(Name, location and detailed description)

The Architect:
(Name, legal status, address and other information)

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information
needed for its completion. The author may also have
revised the text of the original AIA standard form.
An Additions and Deletions Report that notes added
information as well as revisions to the standard
form text is available from the author and should be
reviewed.

This document has important legal consequences.
Consultation with an
attorney is encouraged with
respect to its completion
or modification.

AIA Document A101™-2007,
General Conditions of the
Contract for Construction,
is adopted in this document
by reference. Do not use
with other general
conditions unless this
document is modified.

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ARTICLE 1  THE CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire integrated agreement between the parties hereon and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2  THE WORK OF THIS CONTRACT
The Construction Manager/Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

The Construction Manager/Contractor understands that the work must comply with accessibility laws, including but not limited to the Fair Housing Act and the Americans with Disabilities Act, and will ensure that the work is built in strict conformance with the Contract Documents including all Drawings, Plans, and Specifications.

“This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination on the basis of race, color, religion, sex, or national origin, against qualified protected veterans on the basis of veteran status, and against qualified individuals on the basis of disability; and require affirmative action by covered prime contractors and subcontractors to ensure equality of opportunity in all aspects of employment, and to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.”

ARTICLE 3  DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)
If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ⚪ ( ⚪ ⚪) days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

<table>
<thead>
<tr>
<th>Portion of Work</th>
<th>Substantial Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

subject to adjustments of this Contract Time as provided in the Contract Documents,
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

«The Construction Manager/Contractor understands that the work must be completed by the stated deadline. Should the property not be ready for occupancy at the time set in the contract, the parties agree that Owner will incur substantial damages for [insert reason: e.g., paying to place student in alternate housing; leasing alternate space; cancelling classes] and will suffer damage to reputation which will impact the ability to recruit and retain students and/or faculty when their promised [insert facility: e.g., housing, offices, recreational facility] is not available. Because the damages to Owner resulting from a delay in completion of the work are not capable of exact calculation, the parties have bargained for and agree that, if the Construction Manager/Contractor shall fail to complete the work within the contracted time, or extension of time granted by the Owner, then the Construction Manager/Contractor will pay to the Owner the amount of $___ per day for liquidated damage for each calendar day that the contract be in default after the time stipulated in the contract documents. The parties expressly agree that these liquidated damages are a fair and reasonable amount of compensation to Owner for loss of access to the [insert building name] and do not constitute a penalty.»

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be $___, subject to additions and deductions as provided in the Contract Documents,

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.3 Unit prices, if any:
(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price Per Unit ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

§ 4.4 Allowances included in the Contract Sum, if any:

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
</table>

ARTICLE 5 PAYMENTS
§ 5.1 PROGRESS PAYMENTS
§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 10th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 10th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than twenty-one days after the Architect receives the Application for Payment. (Federal, state or local laws may require payment within a certain period of time.)

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

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%) pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off-site at a location agreed upon in writing), less retainage of zero percent (0%) - no retainage is withheld on stored materials.

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

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

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

1. Add upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (Section 9.8.5 of AIA Document A201–2007 requires release of applicable retainage upon Substantial Completion of Work with consent of owner, if any.)

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT
§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect; and

.3 Release of Liens, Consent of Surety, detailed “As Built” documents, warranties, Operation & Maintenance manuals, and commissioning documents have been delivered to Owner.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 INITIAL DECISION MAKER
The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties manually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 BINDING DISPUTE RESOLUTION
For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Choose the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2007

[ ] Litigation in a court of competent jurisdiction

[ ] Other (Specify)
ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

(Insert rate of interest agreed upon, if any.) Payments due and unpaid under the Contract shall bear interest from sixty (60) days following the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. (Insert rate of interest agreed upon, if any.) Late payment penalties may be assessed pursuant to Arkansas Code annotated §§19–4–1411 and §§22–9–205.

§ 8.3 The Owner’s representative:

(Name, address and other information)

«Len T. Frey, Ph.D.»
«Arkansas State University–Jonesboro»
«P.O. Box 2100»
«State University AR 72467»

§ 8.4 The Contractor’s representative:

(Name, address and other information)

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS
§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

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§ 9.1.3 The Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Attached Exhibit “A”

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Attached Exhibit “B”

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>

§ 9.1.6 The Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

1. AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

2. Other documents, if any, listed below:

   (List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, instructions to bidders, requirements for contract documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

   

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

<table>
<thead>
<tr>
<th>Type of insurance or bond</th>
<th>Limit of liability or bond amount ($0.00)</th>
</tr>
</thead>
</table>
This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Len T. Frey, Ph.D., Vice Chancellor for Finance & Administration

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)