

| Issue | Contract Document |
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| I n d e m n i f i c a t i o n | AIA A201 (2007) |
| | 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. |
| | ConsensusDocs 200 (Rev. 2014) |
| | 10.1.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, the Owner's officers, directors, members, consultants, agents and employees, the Architect/Engineer and Others (the Indemnitees) from all claims for bodily injury and property damage, other than to the Work itself and other property insured under Subparagraph 10.3.1, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of the Work, but only to the extent caused by the negligent acts or omissions of the Contractor Subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. The Contractor shall be entitled to reimbursement of any defense costs paid above Contractor's percentage of liability for the underlying claim to the extent provided for under Subparagraph 10.1.2. |
| | 10.1.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor its officers, directors, members, consultants, agents, and employees, Subcontractors or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured under Subparagraph 10.3.1, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of work by Owner, Architect or Others, but only to the extent caused by the negligent acts or omissions of the Owner, Architect/Engineer or Others. The Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for under Subparagraph 10.1.1. |
| H a z a r d o u s M a t e r i a l s | EJCDC C700 (2013) |
| | 7.18 A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. |
| | B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts. |
| | C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of: 1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage. |
| | AIA A201 (2007) |
| D e l a y | § 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1, and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity. |
| | § 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. |
| | § 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. |
| | ConsensusDocs 200 (Rev. 2014) |
| | 3.13.6 To the extent permitted by section 6.6 and to the extent not caused by the negligent acts or omissions of the Contractor, its Subcontractors, and the agents, officers, directors, and employees of each of them, the Owner shall defend, indemnify, and hold harmless the Contractor, its Subcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material. |
| | EJCDC C700 (2013) |
| | 5.06 I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence. |
| | J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence. |
| | AIA A201 (2007) |
| | 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. |
| | ConsensusDocs 200 (Rev. 2014) |
| | 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15. |
| | 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents. |
| | 4.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary. |
| | 4.3.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction. |
| | EJCDC C700 (2013) |
| | 6.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of the Contractor, the Contractor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of the Contractor include, but are not limited to, the following: (a) acts or omissions of the Owner, the Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by the Owner, or arising from decisions of the Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by the Owner pending dispute resolution or suspension by the Owner under section 11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving the Contractor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. The Contractor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8. |
| | 6.3.2 In addition, if the Contractor incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, the Contractor shall be entitled to an equitable adjustment in the Contract Price subject to section 6.6. |
| | 6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, the Contractor shall provide prompt written notice to the Owner of the cause of such delays after a the Contractor first recognizes the delay. The Owner and the Contractor agree to take reasonable steps to mitigate the effect of such delays. |
| | 6.4 NOTICE OF DELAY CLAIMS If the Contractor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in the section above, the Contractor shall give the Owner written notice of the claim in accordance with section 8.4. If the Contractor causes delay in the completion of the Work, the Owner shall be entitled to recover its additional costs subject to section 6.6. The Owner shall process any such claim against the Contractor in accordance with ARTICLE 8. |
| | EJCDC C700 (2013) |
| | 4.05 A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. |
| | B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor. |
| | C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in the Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following: 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes; 2. abnormal weather conditions; 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and 4. acts of war or terrorism. |
| | D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5. |
| | AIA A201 (2007) |
| | 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. |
| | 3.7.4 If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15. |

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| D i f f e r e n c e S i t e C o n d i t i o n s | ConsensusDocs 200 (Rev. 2014) 3.16.1 WORKSITE VISIT The Constructor acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work. 3.16.2 CONCEALED OR UNKNOWN SITE CONDITIONS If the conditions encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, the Constructor shall stop affected Work after the condition is first observed and give prompt written notice of the condition to the Owner and the Design Professional. The Constructor shall not be required to perform any Work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or the Contract Time as a result of the unknown condition shall be determined as provided in ARTICLE 8. |
| | EJCDC C700 (2013) 5.03 A. Reports and Drawings: The Supplementary Conditions identify: 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site; 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and 3. Technical Data contained in such reports and drawings. B. Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to: 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information. 5.04 Differing Subsurface or Physical Conditions A. Notice by Contractor: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either: 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or 2. is of such a nature as to require a change in the Drawings or Specifications; or 3. differs materially from that shown or indicated in the Contract Documents; or 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents; then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so. B. Engineer's Review: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. C. Owner's Statement to Contractor Regarding Site Condition: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part. D. Possible Price and Times Adjustments: 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following: a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A; b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and, adjustment being essential to Contractor's ability to complete the Work within the Contract Times. 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if: a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or c. Contractor failed to give the written notice as required by Paragraph 5.04.A. |
| C l a i m s | AIA A201 (2007) 15.1.2 Notice of Claims. Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. ConsensusDocs 200 (Rev. 2014) 6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, the Constructor shall provide prompt written notice to the Owner of the cause of such delays after a the Constructor first recognizes the delay. The Owner and the Constructor agree to take reasonable steps to mitigate the effect of such delays. 6.4 NOTICE OF DELAY CLAIMS If the Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in the section above, the Constructor shall give the Owner written notice of the claim in accordance with section 8.4. If the Constructor causes delay in the completion of the Work, the Owner shall be entitled to recover its additional costs subject to section 6.6. The Owner shall process any such claim against the Constructor in accordance with ARTICLE 8. 8.4 CLAIMS FOR ADDITIONAL COST OR TIME Except as provided in subsection 6.3.2 and section 6.4 for any claim for an increase in the Contract Price or the Contract Time, the Constructor shall give the Owner written notice of the claim within fourteen (14) Days after the occurrence giving rise to the claim or within fourteen (14) Days after the Constructor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, the Constructor shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. The Owner shall respond in writing denying or approving the Constructor's claim no later than fourteen (14) Days after receipt of the Constructor's claim. Owner's failure to so respond shall be deemed a denial of the claim. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order. |
| | EJCDC C700 (2013) 12.01 Claims A. Claims Process: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article: 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals; 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters. |
| I n i t i a l C l a i m s | AIA A201 (2007) 15.2 INITIAL DECISION 15.2.1 Claims, excluding those arising under Section 10.3, 10.4, 11.3.9 and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner. 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party; (2) reject the Claim in whole or in part; (3) approve the Claim; (4) suggest a compromise; or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim. 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense. 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution. 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1. 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision. |
| | ConsensusDocs 200 (Rev. 2014) |

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| i m R e s o l u t i o n | <p>12.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.</p> <p>12.3 MITIGATION If the Parties select one of the dispute mitigation procedures below, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in section 12.5. The Parties agree that the dispute mitigation procedure shall be:</p> <p>[] Project Neutral;</p> <p>or</p> <p>[] Dispute Review Board.</p> <p>12.3.1 MITIGATION PROCEDURES The Project Neutral/Dispute Review Board ("Neutral/Board") shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of the Neutral Board's responsibilities. The costs and expenses of the Neutral Board shall be shared equally by the Parties. The Neutral Board shall be available to either Party, upon request, throughout the course of the Project, and shall make regular visits to the Project so as to maintain an up-to-date understanding of the Project progress and issues and to enable the Neutral Board to address matters in dispute between the Parties promptly and knowledgeably. The Neutral Board shall issue nonbinding findings within five (5) Business Days of referral of the matter to the Neutral/Board, unless good cause is shown.</p> <p>12.3.2 If the matter remains unresolved following the issuance of the nonbinding finding by the mitigation procedure or if the Neutral Review Board fails to issue nonbinding findings within five (5) Business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in section 12.5.</p> |
| | EJCDC C700 (2013) |
| | <p>12.01 8 Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.</p> <p>C. Review and Resolution: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.</p> |
| | AIA A201 (2007) |
| M e d i a t i o n | <p>15.3 MEDIATION</p> <p>15.3.1 Claims, disputes or other matters in controversy arising out of or related to the Contract, except those waived as provided in Sections 9.10.4, 9.10.5, and 15.1.6 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.</p> <p>15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Rules of the American Arbitration Association effecting effect on the date of the Agreement. Request for mediation shall be made in writing, delivered to the other party to the Contract and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.</p> <p>15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.</p> |
| | ConsensusDocs 200 (Rev. 2014) |
| | <p>12.4 MEDIATION If direct discussions pursuant to section 12.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under section 12.3, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), or the Parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.</p> |
| | EJCDC C700 (2013) |
| | <p>D. Mediation:</p> <p>1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.</p> <p>2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.</p> <p>3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.</p> |
| e q u i t m e n t D a m a g e s | AIA A201 (2007) |
| | <p>15.1.6 The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes</p> <p>1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and</p> <p>2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.</p> <p>This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.</p> |
| | ConsensusDocs 200 (Rev. 2014) |
| | <p>6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in section 6.5 and excluding losses covered by insurance required by the Contract Documents, the Owner and the Contractor agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. The Owner agrees to waive damages, including but not limited to the Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. The Contractor agrees to waive damages, including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are excluded from this mutual waiver: [].</p> |
| W a r r a n t y | EJCDC C700 (2013) |
| | <p>18.04 Limitation of Damages</p> <p>A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.</p> |
| | AIA A201 (2007) |
| | <p>3.5 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.</p> <p>§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.</p> |
| W a r r a n t y | ConsensusDocs 200 (Rev. 2014) |
| | <p>3.8.1 The Contractor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At the Owner's request, the Contractor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. The Contractor further warrants that the Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. The Contractor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the Owner or Others, or abuse. The Contractor's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.</p> |
| | <p>3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the Owner; they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty.</p> |
| | <p>3.8.3 The Contractor shall obtain from its Subcontractors and Material Suppliers any special or extended warranties required by the Contract Documents. All such warranties shall be listed in an attached exhibit to this Agreement. The Contractor's liability for such warranties shall be limited to the one-year correction period as provided in the section below. After that period, the Contractor shall provide reasonable assistance to the Owner in enforcing the obligations of Subcontractors or Material Suppliers for such extended warranties.</p> |
| W a r r a n t y | 3.9 CORRECTION OF WORK WITHIN ONE YEAR |
| | <p>3.9.1.1, prior to Substantial Completion and within one year after the date of Substantial Completion of the Work, any Defective Work is found, the Owner shall promptly notify the Contractor in writing. Unless the Owner provides written acceptance of the condition, the Contractor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period the Owner discovers and does not promptly notify the Contractor or give the Contractor an opportunity to test or correct Defective Work as reasonably requested by the Contractor, the Owner waives the Contractor's obligation to correct that Defective Work as well as the Owner's right to claim a breach of the warranty with respect to that Defective Work.</p> |
| | <p>3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall be extended by the period of time between Substantial Completion and the actual performance of the later Work. Correction periods shall not be extended by corrective work performed by the Contractor.</p> |
| | EJCDC C700 (2013) |

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| | <p>7.17 Contractor's General Warranty and Guarantee</p> <p>A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.</p> <p>B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:</p> <ol style="list-style-type: none"> 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or 2. normal wear and tear under normal usage. <p>15.08 Correction Period</p> <p>A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:</p> <ol style="list-style-type: none"> 1. correct the defective repairs to the Site or such other adjacent areas; 2. correct such defective Work; 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom. |
| | <p style="text-align: center;">AIA A201 (2007)</p> <p>14.4 TERMINATION BY THE OWNER FOR CONVENIENCE</p> <p>14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.</p> <p>14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:</p> <ol style="list-style-type: none"> 1. cease operations as directed by the Owner in the notice; 2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and 3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders. <p>14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.</p> <p style="text-align: center;">ConsensusDocs 200 (Rev. 2014)</p> <p>11.4 TERMINATION BY OWNER FOR CONVENIENCE</p> <p>11.4.1 Upon written notice to the Contractor, the Owner may, without cause, terminate this Agreement. The Contractor shall immediately stop the Work, follow the Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.</p> <p>11.4.2 If the Owner terminates this Agreement for Convenience, the Contractor shall be paid: (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred as a result of the termination but not including Overhead or profit on Work not performed; and (c) a premium set forth in a schedule below [_____].</p> <p>11.4.3 If the Owner terminates this Agreement, the Contractor shall:</p> <ol style="list-style-type: none"> (a) execute and deliver to the Owner all papers and take all action required to assign, transfer, and vest in the Owner the rights of the Contractor to all materials, supplies and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders and commitments which have been made in accordance with the Contract Documents; (b) exert reasonable effort to reduce to a minimum the Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination; (c) cancel any subcontracts, orders, and commitments as the Owner directs; and (d) sell at prices approved by the Owner any materials, supplies, and equipment as the Owner directs, with all proceeds paid or credited to the Owner. <p style="text-align: center;">EJCDC C700 (2013)</p> <p>16.03 Owner May Terminate For Convenience</p> <p>A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):</p> <ol style="list-style-type: none"> a. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work; b. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and c. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal. <p>B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.</p> |
| | <p style="text-align: center;">AIA A201 (2007)</p> <p>3.10 CONTRACTORS' CONSTRUCTION SCHEDULES</p> <p>3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.</p> <p>3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.</p> <p style="text-align: center;">ConsensusDocs 200 (Rev. 2014)</p> <p>6.2 SCHEDULE OF THE WORK</p> <p>6.2.1 Before submitting the first application for payment, the Contractor shall submit to the Owner, and if directed, to the Design Professional, a Schedule of the Work showing the dates on which the Contractor plans to commence and complete various parts of the Work, including dates on which information and approvals are required from the Owner. The Contractor shall comply with the approved Schedule of the Work, unless directed by the Owner to do otherwise or the Contractor is otherwise entitled to an adjustment in the Contract Time. The Contractor shall update the Schedule of the Work on a monthly basis or at appropriate intervals as required by the conditions of the Work and the Project.</p> <p>6.2.2 The Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. The Owner may require the Contractor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by the Owner or Others. To the extent such changes increase the Contractor's costs or time, the Contract Price and Contract Time shall be equitably adjusted.</p> <p style="text-align: center;">EJCDC C700 (2013)</p> <p>2.03 A. Preliminary Schedules: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:</p> <ol style="list-style-type: none"> 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract; 2. a preliminary Schedule of Submittals; and 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work. <p>2.05 A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03 A.</p> <p>Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.</p> <ol style="list-style-type: none"> 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor. 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals. 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work. |
| | <p style="text-align: center;">AIA A201 (2007)</p> <p>3.12.10 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work, or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If 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, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria specified in the Contract Documents.</p> <p style="text-align: center;">ConsensusDocs 200 (Rev. 2014)</p> <p>3.15 DESIGN DELEGATION If the Contract Documents specifically require the Contractor to procure design services, the Owner shall specify all required performance and design criteria. The Contractor shall not be responsible for the adequacy of such performance and design criteria. As permitted by the laws, rules, and regulations in the jurisdiction where the Project is located, the Contractor shall procure such services and any certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of the Contractor's design professional shall appear on all drawings, calculations, specifications, certifications, shop drawings, and other submittals related to the Work designed or certified by Contractor's design professional.</p> <p style="text-align: center;">EJCDC C700 (2013)</p> |

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| o f D e s i g n | <p>7.19 Delegation of Professional Design Services</p> <p>A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.</p> <p>B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.</p> <p>C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.</p> <p>D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.</p> <p>E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.</p> |
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| P a y A p S u b m i s i o n | <p style="text-align: center;">AIA A201 (2007)</p> <p>9.3 APPLICATIONS FOR PAYMENT</p> <p>9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.</p> <p>9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that has been properly authorized by Construction Change Directives, or by interim determination of the Architect, but not yet included in the Change Orders. 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by other whom the Contractor intends to pay.</p> <p>9.4 CERTIFICATES FOR PAYMENT</p> <p>9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.</p> <p style="text-align: center;">ConsensusDocs 200 (Rev. 2014)</p> <p>9.2.1 APPLICATIONS The Contractor shall submit to the Owner and the Design Professional a monthly application for payment no later than the _____ Day of the calendar month for the preceding thirty (30) Days. Constructor's applications for payment shall be itemized and supported by the Contractor's schedule of values and any other substantiating data as required by this Agreement. Application for payment shall include payment requests on account of properly authorized Change Orders or Interim Directed Changes. The Owner shall pay the amount otherwise due on any payment application, as certified by the Design Professional, no later than twenty (20) Days after the Constructor has submitted a complete and accurate payment application, or such shorter time period as required by applicable state statute. The Owner may deduct from any progress payment amounts that may be retained pursuant to subsection 9.2.4.</p> <p style="text-align: center;">EJCDC C700 (2013)</p> <p>15.01 Progress Payments</p> <p>A. Basis for Progress Payments: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.</p> <p>B. Applications for Payments:</p> <p>1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.</p> <p>2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.</p> |
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| A d j u s t m e n o f P a y A m o u n t | <p style="text-align: center;">AIA A201 (2007)</p> <p>9.5 DECISIONS TO WITHHOLD CERTIFICATION</p> <p>9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:</p> <p>1 defective Work not remedied;</p> <p>2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;</p> <p>3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;</p> <p>4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;</p> <p>5 damage to the Owner or another contractor;</p> <p>6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or</p> <p>7 repeated failure to carry out the Work in accordance with the Contract Documents.</p> <p>9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.</p> <p style="text-align: center;">ConsensusDocs 200 (Rev. 2014)</p> <p>9.3 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION The Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect the Owner from loss or damage based upon the following, to the extent that the Constructor is responsible under this Agreement:</p> <p>9.3.1 the Constructor's repeated failure to perform the Work as required by the Contract Documents;</p> <p>9.3.2 except as accepted by the insurer providing builders risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by the Constructor to the Owner or to Others to whom the Owner may be liable;</p> <p>9.3.3 the Constructor's failure to properly pay Subcontractors and Material Suppliers following receipt of such payment from the Owner;</p> <p>9.3.4 rejected, nonconforming or Defective Work not corrected in a timely fashion;</p> <p>9.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed within the Contract Time;</p> <p>9.3.6 reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work; and</p> <p>9.3.7 uninsured third-party claims involving the Constructor, or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the Constructor furnishes the Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.</p> <p>No later than seven (7) Days after receipt of an application for payment, the Owner shall give written notice to the Constructor, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by the Constructor in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.</p> <p style="text-align: center;">EJCDC C700 (2013)</p> <p>15.01 E. Reductions in Payment by Owner:</p> <p>1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:</p> <p>a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;</p> <p>b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;</p> <p>c. Contractor has failed to provide and maintain required bonds or insurance;</p> <p>d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;</p> <p>e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;</p> <p>f. the Work is defective, requiring correction or replacement;</p> <p>g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;</p> <p>h. the Contract Price has been reduced by Change Orders;</p> <p>i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;</p> <p>j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;</p> <p>k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;</p> <p>l. there are other items entitling Owner to a set off against the amount recommended.</p> <p>2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.</p> <p>3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.</p> |
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| | | AIA A201 (2007) |
| S u b - C o m - | 9.8 SUBSTANTIAL COMPLETION | |
| | 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. | |
| | | ConsensusDocs 200 (Rev. 2014) |
| | 2.4.24 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unscheduled disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond the Constructor's control. This date shall be confirmed by a Certificate of Substantial Completion signed by the Owner and Constructor. | |
| | | EJCDC C700 (2013) |
| | 1.01 40. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof. | |
| | | AIA A201 (2007) |
| R e t e n i n g e | 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2., for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. | |
| | | ConsensusDocs 200 (Rev. 2014) |
| | 9.2.4 RETAINAGE From each progress payment made prior to Substantial Completion, the Owner may retain () percent ()% of the amount otherwise due after deduction of any amounts as provided in section 9.3, and in no event shall such percentage exceed any applicable statutory requirements. If the Owner chooses to use this retainage provision: | |
| | 9.2.4.1 after the Work is fifty percent (50%) complete, the Owner shall withhold no additional retainage and shall pay the Constructor the full amount due on account of subsequent progress payments; | |
| | 9.2.4.2 the Owner may, in its sole discretion, reduce the amount to be retained at any time; | |
| | 9.2.4.3 the Owner may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which the Owner has accepted. In lieu of retainage, the Constructor may furnish a retention bond or other security interest, acceptable to the Owner, to be held by the Owner | |
| | | EJCDC C700 (2013) |
| 15.01.8. 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement | | |