

DRAFT AIA® Document A105™ – 2007

Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project

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.

State or local law may impose requirements on contracts for home improvements. If this document will be used for Work on the Owner's residence, the Owner should consult local authorities or an attorney to verify requirements applicable to this Agreement.

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DRAFT AIA® Document A105™ - 2007

Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

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

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

«DU Standard Contract Documents»

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

The Owner and Contractor agree as follows.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION DATE
- 3 CONTRACT SUM
- 4 PAYMENT
- 5 INSURANCE
- 6 GENERAL PROVISIONS
- 7 OWNER
- 8 CONTRACTOR
- 9 ARCHITECT
- 10 CHANGES IN THE WORK
- 11 TIME
- 12 PAYMENTS AND COMPLETION
- 13 PROTECTION OF PERSONS AND PROPERTY
- 14 CORRECTION OF WORK
- 15 MISCELLANEOUS PROVISIONS
- 16 TERMINATION OF THE CONTRACT
- 17 OTHER TERMS AND CONDITIONS



ARTICLE 1 THE CONTRACT DOCUMENTS

§ 1.1 The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated <>>, and enumerated as follows:

Drawings:

Number	Title	Date
[REDACTED]	[REDACTED]	[REDACTED]

Specifications:

Section	Title	Pages
[REDACTED]	[REDACTED]	[REDACTED]

- .3 addenda prepared by the Architect as follows:

Number	Date	Pages
[REDACTED]	[REDACTED]	[REDACTED]

- .4 written orders for changes in the Work issued after execution of this Agreement; and

5 other documents, if any, identified as follows:

« Supplementary Conditions for Construction Projects, approved November 7, 2008 »

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The number of calendar days available to the Contractor to substantially complete the Work is the Contract Time. The date of commencement of the Work shall be the date of this Agreement unless otherwise indicated below. The Contractor shall substantially complete the Work, no later than <> (<>) calendar days from the date of commencement, subject to adjustment as provided in Article 10 and Article 11. (Insert the date of commencement, if it differs from the date of this Agreement.)

<>

ARTICLE 3 CONTRACT SUM

§ 3.1 Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

<> (\$ <>)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work: (Itemize the Contract Sum among the major portions of the Work.)

Portion of Work	Value

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

Item	Units and Limitations	Price per Unit (\$ 0.00)

§ 3.4 Allowances included in the Contract Sum, if any, are as follows: (Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price

§ 3.5 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and 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.)

<>

§ 3.6 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 4 PAYMENT

§ 4.1 Based on Contractor's Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows: (Insert below timing for payments and provisions for withholding retainage, if any.)

7th day of the month next following 10 days after issuance of Certificate of Payment as described in Article 12 below.

Deleted: ¶

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall provide Contractor’s general liability and other insurance as follows:
(Insert specific insurance requirements and limits.)

Type of insurance	Limit of liability (\$ 0.00)
<u>Workers’ Compensation and Employers’ Liability</u>	<u>Statutory limits mandated by State and Federal laws.</u>
<u>Commercial General Liability Insurance including coverage for Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage, including coverage for explosion, collapse and underground hazards</u>	<u>\$1,000,000 for each Occurrence, \$2,000,000 for General Aggregate, \$1,000,000 for Personal and Advertising Injury, Sub-limits included \$300,000 Fire Legal Liability</u>
<u>Automobile Liability Insurance, for owned, non-owned and hired vehicles, for bodily injury and property damage</u>	<u>\$1,000,000 combined single limit for each accident</u>

§ 5.2 The Owner shall provide property insurance to cover the value of the Owner’s property, including any Work provided under this Agreement. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner’s property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its general liability insurance policy to cover the Contractor’s obligations under Section 8.12. Commercial General Liability insurance shall be written on an occurrence form and shall not be written as a claims-made form. Colorado Seminary, which owns and operates the University of Denver, shall be named as additional insured with respect to Owner’s interest on the commercial general liability insurance. The insurance require shall be maintained without interruption from the date of commencement of the Work until the later to occur final payment or the termination of any warranty.

Deleted: ¶

§ 5.4 Each party shall provide certificates of insurance showing their respective coverages prior to commencement of the Work. Prior to execution of the Agreement the contractor shall fax a copy of the Certificate of Insurance for all required coverages to 303-871-4455, addressed to Ellen Shew Holland, Director of Risk management.

§ 5.5 Unless specifically precluded by the Owner’s property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents and employees, each of the other; and (2) the Architect, Architect’s consultants and any of their agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance or other insurance applicable to the Work.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 THE CONTRACT

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 THE WORK

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment and services provided, or to be provided, by the Contractor to fulfill the Contractor’s obligations.

§ 6.3 INTENT

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Owner shall retain all common law, statutory and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and material or equipment suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

Deleted: Architect

Deleted: Architect.

ARTICLE 7 OWNER

§ 7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site that are reasonably necessary for the Contractor's performance of the Work.

Deleted: site.

§ 7.1.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.

§ 7.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Contract Sum shall be adjusted to deduct the cost of correction from payments due the Contractor.

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

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

§ 7.4.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

ARTICLE 8 CONTRACTOR

§ 8.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents

Deleted: Documents.¶

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Architect

Deleted: Architect.¶

§ 8.2 CONTRACTOR'S CONSTRUCTION SCHEDULE

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information and approval a Contractor's construction schedule for the Work. The Contractor shall perform the Work in general accordance with the most recent schedules submitted and accepted by the Owner and Architect.

The Contractor shall prepare and keep current, for the Architect's and Owner's approval, a schedule of submittals which is coordinated with the Contractors' construction schedule and allows the Architect and Owner reasonable time to review submittals.

The Contractor shall prepare and keep current, for the Architect's and Owner's approval, a material procurement schedule, which identifies the lead time required to procure and receive all materials. This material procurement schedule will be coordinated with the Contractors' construction schedule and submittal schedule.

§ 8.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 8.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 LABOR AND MATERIALS

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work. The Contractor may make substitutions only with the consent of the Owner in accordance with a Change Order.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 WARRANTY

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. During the one year period following the date of Architect's final Certificate of Payment, Contractor shall repair or correct any aspect or portion of Work identified to the Contractor by the Owner as not in accordance with the Contract Documents.

§ 8.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.

§ 8.7 PERMITS, FEES AND NOTICES

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity between the Contract Documents and applicable laws, statutes, ordinances, building codes, and rules and regulations discovered by or made known to the Contractor shall be reported promptly to the Owner and Architect in writing, and necessary changes shall be accomplished by appropriate Contract Modification. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Owner and Architect, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction; unless after giving notice of such conflict or apparent conflict, the Contractor is directed by the Owner in writing to perform the work.

Deleted: codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full

Deleted: attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.

§ 8.8 SUBMITTALS

The Contractor shall promptly review, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 8.9 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.

§ 8.10 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery and surplus material; and shall properly dispose of waste materials.

§ 8.12 INDEMNIFICATION

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 or intentional 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.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 § 9.8

§ 9.9 The Architect's duties, responsibilities and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor and Architect.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly in writing. If the Owner and Contractor can not agree to a change in the Contract Sum, the Owner shall pay the Contractor the actual cost attributable to each change plus reasonable overhead and profit. Unless otherwise approved by the Owner, "reasonable overhead and profit" shall mean a total of fifteen percent (15%) of the actual cost of the change order work as applied to the net additive increases in the reasonable cost or cost incurred directly by the Contractor, Subcontractor, Sub-subcontractor(s) and supplier(s). The intent is that the sum total of all

Deleted: The Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request from either the Owner or Contractor.¶

Deleted: Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

Deleted: Consent shall not be unreasonably withheld.¶

Deleted: its actual cost plus reasonable overhead and profit.¶

Contractor's, Subcontractors', Sub-subcontractors' and Suppliers' overhead and profit will not exceed fifteen percent (15%) of the cost of the change order work.

The cost of the change order work is the total of reasonable labor, material, equipment rental, shipping, bond, insurance and warranty costs actually incurred in performance of the change order work. Contractors', Sub-contractors' and Sub-subcontractors' labor, and rental rates for all change order work will be actual and auditable. Contractor, Sub-contractor, and all Sub-subcontractors shall provide a detailed list of all field and non-field labor and equipment rental rates for change order work in the Owner's required format at the Owner's request.

§ 10.2 The Architect will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents upon prior notice to the Owner. Such orders shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall carry out such orders promptly.

Deleted: Documents.

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§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work 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, the Contract Time shall be subject to equitable adjustment.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 CONTRACT SUM

The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contract Sum shall reflect bid alternates submitted by Contractor as part of Contractor's bid which are selected by Owner within seven (7) days of execution of this Agreement

Deleted: ¶

§ 12.2 APPLICATIONS FOR PAYMENT

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in the Agreement. Such Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that clear, unencumbered title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 12.3 CERTIFICATES FOR PAYMENT

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.

§ 12.4 PROGRESS PAYMENTS

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents and provided that all direct and secondary payees of each payment have submitted appropriate lien waivers (in form acceptable to Owner) for work on which payment is being made.

Deleted: Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders. The Contractor shall, by appropriate agreement with each subcontractor, require each subcontractor to make payments to sub-subcontractors in a similar manner. Unless Owner approves, in writing, a larger retainage, payments by Contractor to subcontractors may be reduced by no more than a 10% retainage and shall be paid within thirty (30) days after the Owner receives the Application for Payment.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.4.5 Subject to 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 percent completion of each portion of the Work by the share of Contract Sum allocated that portion of the Work in the schedule of values, less retainage of Ten percent (10%).
2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site or subsequent incorporation in the completed construction (or, is approved in advanced by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent (10%).
3. Subtract the aggregate of previous payments made by the Owner.
4. Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as follows:
 1. The Architect may withhold a Certificate for Payment in whole or in part, if in the Architect's opinion the Work and the data comprising the Application for Payment has not progressed to the point indicated or if the quality of the Work is not in accordance with the Contract Documents to the best of the Architect's knowledge. If Architect is unable to certify payment in the amount of Application, the Architect will notify the Contractor and Owner in writing. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify whole or a part of 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 or omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors because of: Defective Work not remedied;
 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;
 3. Failure of the Contractor to make payment properly to Subcontractors or for labor, materials or equipment;
 4. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 5. Damage to the Owner or another contractor;
 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 liquid damages for the anticipated delay;
 7. Persistent failure to carry out the Work in accordance with the Contract Documents.

§ 12.5 SUBSTANTIAL COMPLETION

§ 12.5.1 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 the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Work or designated portion thereof is substantially complete, the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish the responsibilities of the Owner and Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.

Deleted: Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.¶

§ 12.6 FINAL COMPLETION AND FINAL PAYMENT

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract.

§ 12.6.3 ~~There is no section 12.6.3.~~

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising compliance with all safety precautions and programs, including all those required by law in connection with performance of the Contract. As used herein, 'safety precautions and programs, including all those required by law' include, but are not limited to, the provisions of Colorado's Excavation Requirement statute as amended, and the provisions of Colorado's High Voltage Power Line Safety Requirement statute, as amended, respectively codified at C.R.S. §9-1.5-101 et seq. and C.R.S. §9-2.5-101 et seq. The Contractor shall take reasonable precautions to prevent damage, injury or loss to employees on the Work, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

Deleted: Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.¶

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Final Completion, correct work not conforming to the requirements of the Contract Documents.

Deleted: Substantial

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract in whole or in part without written consent of the other.

Deleted: as a whole

§ 15.2 TESTS AND INSPECTIONS

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections or approvals required by laws, statutes, ordinance, codes, rules and regulations enacted after the Contract is executed.

Deleted: that do not become requirements until

§ 15.3 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 TERMINATION BY THE CONTRACTOR

If the Architect fails to certify payment as provided in Section 12.3 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 12.4.1 for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 TERMINATION BY THE OWNER FOR CAUSE

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work actually completed as of the date of termination, and costs incurred by reason of such termination.

Deleted: executed,

Deleted: termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

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This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

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OWNER (Signature)

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(Printed name, title and address)

CONTRACTOR (Signature)

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(Printed name, title and address)

LICENSE NO.:

JURISDICTION: