

*AIA Document A101
(as revised by Owner 1987 Edition)*

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

*where the basis of payment is a
STIPULATED SUM*

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES: CONSULTATION
WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO
ITS COMPLETION OR MODIFICATION*

AGREEMENT

BETWEEN the Owner:

and the Contractor:
(name and address)

The Project is:
(name and location)

The Architect is:
(name and address)

The Owner and Contractor agree as set forth below.

ARTICLE 1 **THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, as revised by owner, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contracts as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2 **THE WORK OF THIS CONTRACT**

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3 **DATES OF COMMENCEMENT, SUBSTANTIAL COMPLETION, AND FINAL COMPLETION**

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than
(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

3.3 Substantial Completion occurs when the Work is sufficiently completed in accordance with the Contract so the Owner can occupy or utilize the Work for its intended use. This does not mean that the building is in fact completed and finished.

3.4 The Contractor shall achieve Final Completion of the entire Work, not later than _____ . Final Completion of the Work is the date by which the Work must be completed in accordance with the plans and specifications.

ARTICLE 4 **CONTRACT SUM**

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of _____ Dollars (\$_____), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner.

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date which that amount is valid.)

4.3 Unit prices, if any, are as follows:

ARTICLE 5 **PROGRESS PAYMENTS**

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

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

5.3 Provided an Application for Payment is received by the Architect not later than the _____ day of a month, the Owner shall make payment to the Contractor not later than the _____ day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than _____ days after the Architect receives the Application for Payment.

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

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage in accordance with Sec. 66.29(9)(b), Wis. Stats. (91-92).

5.6.2 The Owner may add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Subparagraph 5.6.1.

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Left Blank Intentionally

5.7.2 Add, if Final Completion of the Work is thereafter materially delayed through no fault of the Contractor, as determined by the Architect, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 *(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Paragraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

ARTICLE 6 **FINAL PAYMENT**

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when the Contract has been fully performed by the Contractor. Final payment does not relieve Contractor's responsibility of correcting non-conforming Work and to satisfy other requirements, if any, which survive final payment; and a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 7 **MISCELLANEOUS PROVISIONS**

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the legal rate prevailing from time to time at the place where the Project is located.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Other provisions:

7.3.1 The Contractor agrees that it will keep in force and effect insurance policies as outlined below and as required in Article 11 of the General Conditions:

(a) Workers' Compensation and Employer's Liability Insurance - Statutory Workers' Compensation and Employer's Liability insurance with a limit of liability not less than \$500,000 each employee and accident. Contractor shall require subcontractors not protected under its insurance to take out and maintain such insurance.

Owner shall not be liable to Contractor or its employees for any injuries to Contractor's employees arising out of the performance of work under this agreement. Contractor and its workers' compensation insurance carrier agree to waive any and all rights of recovery from Owner for workers' compensation claims made by its employees. Contractor agrees that the indemnification and hold harmless provisions within Paragraph 3.18 of the General Conditions extends to any claims brought by or on behalf of any employee of the Contractor.

(b) Commercial General Liability Insurance - Policy shall be written to provide coverage for, but not limited to, premises and operations, products and completed operations, personal injury, blanket contractual, broad form property damage, independent contractors, XCU-explosion, collapse, underground coverage. Limits of liability shall not be less than \$1,000,000 each occurrence, \$1,000,000 aggregate. Policy shall be endorsed to provide for the per project application of limits (ISO endorsement CG2503 or equivalent) or general aggregate must be waived in entirety. The Owner, its boards, commissions, agencies, officers, employees and representatives shall be named as additional insureds on a primary basis and so stated on the Certificate of Insurance.

(c) Automobile Liability Insurance - Business automobile policy covering all owned, hired and nonowned private passenger and commercial vehicles. Limit of liability not less than \$500,000 combined single limit.

(d) Umbrella Liability Insurance - Coverage to be in excess of employer's liability, commercial general liability, and automobile liability insurance. Limits of liability not less than \$_____ each occurrence, \$_____ aggregate.

7.3.2 In connection with the performance of work under this agreement, Contractor agrees not to discriminate against any employee, applicant for employment, or actual or potential recipients of services

because of age, race, religion, color, marital status, sexual orientation, sex, handicap as defined in Section 504 of the Americans with Disabilities Act (ADA), developmental disability, or nation origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

ARTICLE 8 **TERMINATION OR SUSPENSION**

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

ARTICLE 9 **ENUMERATION OF CONTRACT DOCUMENTS**

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, as modified by Owner.

9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, as modified by Owner.

9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Title	Pages
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9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:

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

Section	Title	Pages
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9.1.5 The Drawings are as follows, and are dated unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
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9.1.6 The addenda, if any, are as follows:

Number	Date	Pages
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Portions of addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article.

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisements or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OUTAGAMIE COUNTY:

Thomas Nelson
County Executive

Judith Schuette
Board Chair

Lori O'Bright
County Clerk

CONTRACTOR:

(Signature)

(Printed name and title)

Approved as to Form:

Joseph P. Guidote, Jr.
Corporation Counsel, Outagamie County