



# AIA<sup>®</sup> Document A107<sup>™</sup> – 2007 Instructions

## *Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope*

### GENERAL INFORMATION

**Purpose.** AIA Document A107<sup>™</sup>–2007 establishes the agreement between an Owner and Contractor for construction projects of a limited scope. A107–2007 is a stand-alone agreement because it contains its own internal general conditions and does not require the addition of a separate general conditions document. This agreement was formerly written for use only where the basis of payment is a stipulated sum. In 2007, the AIA revised the agreement to accommodate two additional payment methods: cost of the work plus a fee, with or without a guaranteed maximum price. The Owner and Contractor are asked to select the payment method in the agreement using a check box. If either of the two cost-plus payment methods is selected, then the parties will complete, and incorporate into the agreement, Exhibit A, which provides the detail for the Cost of the Work.

For more complex projects, parties should consider using one of the following other owner-contractor agreements: AIA Documents A101<sup>™</sup>–2007, A102<sup>™</sup>–2007 or A103<sup>™</sup>–2007. These agreements are written for a stipulated sum, cost of the work with a guaranteed maximum price, and cost of the work without a guaranteed maximum price, respectively. Each of them incorporates by reference AIA Document A201<sup>™</sup>–2007, General Conditions of the Contract for Construction.

For single family residential projects, or smaller and less complex commercial projects, parties may wish to consider AIA Document A105<sup>™</sup>–2007, Agreement Between Owner and Contractor for a Residential or Small Commercial Project.

**Related Documents.** AIA Document B104<sup>™</sup>–2007 Standard Form of Agreement Between Owner and Architect for a Project of Limited Scope coordinates with A107–2007 and incorporates it by reference. If another owner/architect agreement is paired with A107–2007, the architect's duties set forth in A107–2007 may require revision.

A107–2007 is used as one part of the Contract Documents that record the Contract for Construction between the Owner and Contractor. The other Contract Documents are Supplementary Conditions, Drawings, Specifications and Modifications. Although the AIA does not produce standard documents for Supplementary Conditions, Drawings or Specifications, a variety of model and guide documents are available, including AIA's MASTERSPEC and AIA Document A503<sup>™</sup>–2007, Guide for Supplementary Conditions.

If AIA Document A107–2007 is to be used on a project with AIA Document A401<sup>™</sup>–2007, Agreement Between Contractor and Subcontractor, appropriate modifications should be made with the assistance of legal and insurance counsel. Such modifications will be needed because A401–2007 incorporates by reference AIA Document A201–2007, General Conditions of the Contract for Construction, while A107–2007 contains its own general conditions.

**Dispute Resolution—Mediation and Arbitration.** This document contains provisions for mediation and arbitration of claims and disputes. Mediation is a non-binding process, but is mandatory under the terms of this agreement. Arbitration may be mandatory under the terms of this agreement and binding in most states and under the Federal Arbitration Act. In a minority of states, arbitration provisions relating to future disputes are not enforceable but the parties may agree to arbitrate after the dispute arises. Even in those states, under certain circumstances (for example, in a transaction involving interstate commerce), arbitration provisions may be enforceable under the Federal Arbitration Act.

The AIA does not administer dispute resolution processes. To submit disputes to mediation or arbitration or to obtain copies of the applicable mediation or arbitration rules, call the American Arbitration Association at (800) 778-7879, or visit their Web site at [www.adr.org](http://www.adr.org).

**Why Use AIA Contract Documents.** AIA Contract Documents are the product of a consensus-building process aimed at balancing the interests of all parties on the construction project. The documents reflect actual industry practices, not theory. They are state-of-the-art legal documents, regularly revised to keep up with changes in law and

the industry—yet they are written, as far as possible, in everyday language. Finally, AIA Contract Documents are flexible: they are intended to be modified to fit individual projects, but in such a way that modifications are easily distinguished from the original, printed language.

**Use of Non-AIA Forms.** If a combination of AIA documents and non-AIA documents is to be used, particular care must be taken to achieve consistency of language and intent among documents.

**Letter Forms of Agreement.** Letter forms of agreement are generally discouraged by the AIA, as is the performance of a part or the whole of the Work based on oral agreements or understandings. The standard AIA agreement forms have been developed through more than 100 years of experience and have been tested repeatedly in the courts. In addition, the standard forms have been carefully coordinated with other AIA documents.

**Standard Forms.** Most AIA documents published since 1906 have contained in their titles the words “Standard Form.” The term “standard” is not meant to imply that a uniform set of contractual requirements is mandatory for AIA members or others in the construction industry. Rather, the AIA standard documents are intended to be used as fair and balanced baselines from which the parties can negotiate their bargains. As such, the documents have won general acceptance within the construction industry and have been uniformly interpreted by the courts. Within an industry spanning 50 states—each free to adopt different, and perhaps contradictory, laws affecting that industry—AIA documents form the basis for a generally consistent body of construction law.

**Use of Current Documents.** Prior to using any AIA Contract Document, users should consult [www.aia.org](http://www.aia.org) or a local AIA component to verify the most recent edition.

**Reproductions.** This document is a copyrighted work and may not be reproduced or excerpted from without the express written permission of the AIA. There is no implied permission to reproduce this document, nor does membership in The American Institute of Architects confer any further rights to reproduce this document.

This document is intended for use as a consumable—that is, the original document purchased is to be consumed in the course of its use. This document may not be reproduced for project manuals. If a user wishes to include a sample or samples of this document in a project manual, the normal practice is to purchase a quantity of the preprinted forms, binding one in each of the manuals.

The AIA hereby grants the purchaser a limited license to reproduce a maximum of ten copies of a completed A107–2007, but only for use in connection with a particular project. The AIA will not permit reproduction outside of the limited license for reproduction granted above, except upon written request and receipt of written permission from the AIA.

Rights to reproduce the document may vary for users of AIA software. Licensed AIA software users should consult the End User License Agreement (EULA).

To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects’ legal counsel, [copyright@aia.org](mailto:copyright@aia.org).

## CHANGES FROM THE PREVIOUS EDITION

A107–2007 revises the 1997 edition of A107 to parallel 2007 revisions made in the following AIA Documents: A101–2007, Standard Form of Agreement Between Owner and Contractor where the Basis of Payment is a Stipulated Sum, A102–2007, Standard Form of Agreement Between Owner and Contractor where the Basis of Payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, A103–2007, Standard Form of Agreement Between Owner and Contractor where the Basis of Payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price, and A201–2007, General Conditions of the Contract for Construction. It incorporates alterations proposed by architects, contractors, owners and professional consultants. Some of the significant differences in content between this edition and the 1997 edition of A107 are listed below.

**Title.** The title of this document is revised for brevity and to focus on its use for projects that do not rise to the level of complexity that would require a more detailed agreement paired with A201–2007, General Conditions of the Contract for Construction.

**Format.** A table of articles is added and sections are re-ordered to correspond to the sequence of sections in other AIA owner-contractor agreements, and in A201–2007. Exhibit A supplements the base agreement by providing additional information related to the Cost of the Work. Exhibit A is required only if the parties choose one of the cost-plus payment methods.

**Article 3.** A checkbox is added where the parties may select the Contract Sum and the associated method of payment. The Stipulated Sum now makes provision for allowance prices; the new Cost of the Work with a Guaranteed Maximum Price may include “unit prices,” “allowances,” and “alternates.”

**Article 4.** Section 4.1.4 now includes a fill point where the parties may indicate whether retainage will be withheld, and if so, under what terms.

**Article 5.** As in AIA Document A107™–1997, an initial decision is a condition precedent to mediation, and mediation is a condition precedent to any binding form of dispute resolution. However, arbitration is not mandatory under A107–2007 so the parties must select the binding method of dispute resolution from three choices: arbitration, litigation or another method that the parties must identify. New Section 5.1 provides a checkbox for selecting, or stating, the method of binding dispute resolution to be followed for any dispute not settled through mediation.

**Article 9.** Section 9.7 adds an Allowances section which explains which costs may be included in them. Section 9.8, adds a new requirement for the Contractor to submit a construction schedule.

**Article 13.** Section 13.2 adds provisions for the Contractor to obtain interim payments in the event the Owner and Architect issue a Construction Change Directive.

**Article 14.** New provisions are added to address payment procedures that are unique to stipulated sum and guaranteed maximum price contracts.

**Article 15.** New Section 15.4.2 requires the Contractor to prepare a “punch” list prior to Substantial Completion. New text in Section 15.4.3 requires the Architect to conduct an inspection for the purposes of determining Substantial Completion.

**Article 17.** The insurance provisions now require the Contractor to obtain general liability insurance for completed operations and to include the Owner and Architect as addition insured during the Contractor’s operations, and the Owner as an additional insured during completed operations. These changes reflect industry practices. New Section 17.4 permits the Owner to require performance and payment bonds, and to stipulate their requirements in bidding documents.

**Article 20.** This article now permits the Owner to terminate the Contract for its convenience, and sets forth the Owner’s financial duties to the Contractor in that event.

**Article 21.** This is a new article that consolidates claims and disputes procedures. Section 21.5 allows for consolidation of arbitrations and joinder of parties in arbitrations, if the parties have selected arbitration as the method of binding dispute resolution.

## USING A107–2007

**Notices.** Prospective bidders should be informed of any additional provisions which may be included in A107–2007, such as liquidated damages or payment for stored materials, by an appropriate notice in the Bidding Documents and the Supplementary Conditions.

**Modifications.** Particularly with respect to professional or contractor licensing laws, building codes, taxes, monetary and interest charges, arbitration, indemnification, format and font size, AIA Contract Documents may require modification to comply with state or local laws. Users are encouraged to consult an attorney before completing or modifying a document.

In a purchased paper AIA Contract Document, necessary modifications may be accomplished by writing or typing the appropriate terms in the blank spaces provided on the document, or by attaching Supplementary Conditions, special conditions or referenced amendments. Modifications directly to purchased paper AIA Contract Documents may also be achieved by striking out language. However, care must be taken in making these kinds of deletions.

Under NO circumstances should standard language be struck out to render it illegible. For example, users should not apply blocking tape, correction fluid or Xs that would completely obscure text. Such practices may raise suspicion of fraudulent concealment, or suggest that the completed and signed document has been tampered with. Both parties should initial handwritten changes.

Using AIA software, modifications to insert information and revise the standard AIA text may be made as the software permits.

By reviewing properly made modifications to a standard AIA Contract Document, parties familiar with that document can quickly understand the essence of the proposed relationship. Commercial exchanges are greatly simplified and expedited, good faith dealing is encouraged, and otherwise latent clauses are exposed for scrutiny.

AIA Contract Documents may not be retyped or electronically scanned. Retyping can introduce typographic errors and cloud legal interpretation given to a standard clause. Furthermore, retyping and electronic scanning are not permitted under the user's limited license for use of the document, constitute the creation of a derivative work and violate the AIA's copyright.

### **Cover Page**

**Date.** The date represents the date the Agreement becomes effective. It may be the date an original oral agreement was reached, the date the Agreement was originally submitted to the Owner, the date authorizing action was taken or the date of actual execution. It will be the date from which the Contract Time is measured unless a different date is inserted under Section 2.1.

**Parties.** Parties to the Agreement should be identified using the full address and legal name under which the Agreement is to be executed, including a designation of the legal status of both parties (sole proprietorship, partnership, joint venture, unincorporated association, limited partnership or corporation [general, limited liability, closed or professional], etc.). Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached. Other information may be added, such as telephone numbers and electronic addresses.

**Project.** The proposed Project should be described in sufficient detail to identify (1) the official name or title of the facility; (2) the location of the site; and (3) a brief description of the Project, including the proposed building usage, size, and capacity or scope of the Project.

**Architect.** The Architect's full legal or corporate title should be used.

## **Article 2 Date of Commencement and Substantial Completion**

The following items should be included as appropriate:

**§ 2.1** The date of commencement of the Work should be inserted if it is different from the date of the Agreement. It should not be earlier than the date of execution (signing) of the Agreement. After the first sentence, enter either the specific date of commencement of the Work, or if a notice to proceed is to be used, enter the sentence, "The date of commencement shall be stipulated by the notice to proceed." When time of performance is to be strictly enforced, the statement of starting time should be carefully weighed.

**§ 2.3** The time within which Substantial Completion of the Work is to be achieved may be expressed as a number of days (preferably calendar days) or as a specified date. If a specified date is used and the date of commencement is to be given in a notice to proceed, these dates must be carefully coordinated to allow sufficient time for completion of the Work.

Any requirements for earlier Substantial Completion of portions of the Work should be entered here if not specified elsewhere in the Contract Documents.

Optionally, insert any provisions for liquidated damages relating to failure to complete on time, or for bonus payments for early completion. Liquidated damages are not a penalty to be inflicted on the Contractor, but must bear an actual and reasonably estimable relationship to the Owner's loss if construction is not completed on time. There is little or no legal precedent to support the proposition of linking a bonus with a penalty. If liquidated damages are to be assessed



because delayed construction will result in actual loss to the Owner, the amount of damages due for each day lost should be entered in the Supplementary Conditions or the Agreement. Factors such as confidentiality or the need to inform subcontractors about the amount of liquidated damages will help determine the placement of such language.

If a provision for liquidated damages is included, it should be carefully drafted by the Owner's attorney. Such a provision may be based on the following sample language:

"The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially complete: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)."

For further information on liquidated damages, penalties and bonus provisions, see AIA Document A503™–2007, Guide for Supplementary Conditions, at [www.aia.org](http://www.aia.org).

### **Article 3 Contract Sum**

§ 3.1 Check the box next to the method used for determining the Contractor Sum (lump sum, percentage of Cost of the Work with a Guaranteed Maximum Price, or percentage of Cost of the Work without a Guaranteed Maximum Price). Based upon the selection, complete either Section 3.2, or 3.3, or 3.4.

§ 3.2 Enter the Contract Sum payable to the Contractor if using a Stipulated Sum.

§ 3.2.1 If using a Stipulated Sum, identify any alternates described in the Contract Documents and accepted by the Owner. If decisions on alternates are to be made subsequent to execution of A107–2007, attach a schedule showing the amount of each alternate and the date it expires.

§ 3.2.2 Identify unit prices, and state quantity limitations, if any, to which the unit price will be applicable.

§ 3.2.3 Identify and state the amounts of any allowances.

§ 3.3.2 Enter the method used for determining the Contractor's Fee (lump sum, percentage of Cost of the Work or other method) and explain how the Contractor's Fee will be adjusted for changes in the Work.

§ 3.4.2 Enter the method used for determining the Contractor's Fee (lump sum, percentage of Cost of the Work or other method) and explain how the Contractor's Fee will be adjusted for changes in the Work.

§ 3.4.3.1 Insert a Guaranteed Maximum Price for the Cost of the Work and the Contractor's Fee. Insert specific provisions if the Contractor is to participate in any savings when the final Contract Sum is below the Guaranteed Maximum Price.

§ 3.4.3.2 Identify any alternates described in the Contract Documents and accepted by the Owner. If decisions on alternates are to be made subsequent to execution of A107–2007, attach a schedule showing the amount of each alternate and the date it expires.

§ 3.4.3.3 Identify unit prices and state quantity limitations, if any, to which the unit price will be applicable.

§ 3.4.3.4 Identify and state the amounts of any allowances.

### **Article 4 Payments**

§ 4.1.2 Insert the time period covered by each Application for Payment if it differs from the one given.

§ 4.1.3 Insert the time schedule for presenting Applications for Payment, and indicate due dates for making progress payments.

The last day upon which Work may be included in an Application should normally be no less than 14 days prior to the payment date, in consideration of the seven days required for the Architect's evaluation of an Application and issuance of a Certificate for Payment and the time subsequently accorded the Owner to make payment. The Contractor may prefer a few additional days to prepare the Application.

Due dates for payment should be acceptable to both the Owner and Contractor. They should allow sufficient time for the Contractor to prepare an Application for Payment, for the Architect to certify payment, and for the Owner to make payment.

§ 4.1.4 Indicate the percent of retainage, if any, to be withheld when computing the amount of each progress payment.

The Owner frequently pays the Contractor the bulk of the earned sum when payments fall due, retaining a percentage to ensure faithful performance. These percentages may vary with circumstances and localities. The AIA endorses the practice of reducing retainage as rapidly as possible, consistent with the continued protection of all affected parties. See AIA Document A503–2007, Guide for Supplementary Conditions, for a complete discussion.

§ 4.1.5 Enter any agreed-upon interest rate for overdue payments.

§ 4.2.2 Insert the date by which Owner shall make final payment, if it differs from the one stated.

### **Article 5 Dispute Resolution**

Select from three choices of binding dispute resolution: (1) arbitration, (2) litigation or (3) another method that the parties must identify. Other types of dispute resolution include a dispute resolution board or a mini-trial. For additional information about other methods of dispute resolution, refer to The Construction Industry's Guide to Dispute Avoidance and Resolution, free online at [www.adr.org](http://www.adr.org).

### **Article 6 Enumeration of Contract Documents**

A detailed enumeration of all Contract Documents must be made in this article.

### **Exhibit A Determination of the Cost of the Work**

Exhibit A provides the definition for the Cost of the Work and a detailed listing of the costs to be reimbursed and those costs not to be reimbursed. If the Contract Sum is a Stipulated Sum, in accordance with Section 3.2 of the Agreement, Exhibit A is not applicable.

### **EXECUTING THE AGREEMENT**

The persons executing the Agreement should indicate the capacity in which they are acting (i.e., president, secretary, partner, etc.) and the authority under which they are executing the Agreement. Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached.