



AIA[®] Document A101[™] – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

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)

Thomas Jefferson University Hospitals, Inc.
111 South 11th Street
Philadelphia, Pennsylvania 19107-5098

and the Contractor:
(Paragraph deleted)

for the following Project:

The Architect:
(Paragraphs deleted)

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS
10	INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire 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 a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Paragraph deleted)

Date of notice to proceed after execution of Contract by Owner

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

N/A

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

§ 3.3 *The Contractor shall achieve Substantial Completion of the entire Work not later than forty-five (45) days from the date of commencement.*

N/A

Portion of Work

Substantial Completion Date

N/A

, subject to adjustments of this Contract Time as provided in the Contract Documents.

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User Notes:

(1499017071)

N/A

ARTICLE 4 CONTRACT SUM

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

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

N/A

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

Item	Units and Limitations	Price Per Unit (\$0.00)
N/A		

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

Item	Price
N/A	

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

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

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

N/A

§ 5.1.3 *Provided that an Application for Payment is received as stated in the Article 5, Owner shall make payment of the Certified Amount to the Contractor not later than the forty-fifth (45th) day after the date of the invoice*

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

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

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

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction as modified by the parties;

Init.

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

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

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201–2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007 as modified by the parties.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

N/A

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

§ 5.1.10 With each Application for Payment, Contractor shall provide a partial release of liens, in the form of Exhibit A, attached hereto and made a part hereof, for all completed work. If at any time there shall be evidence of any mechanic’s lien having been filed by or through Contractor for which, if established, Owner or any party having interest in the property or any interest therein, might be made liable, Owner in addition to all rights it has under applicable laws to remove such liens, shall have the right to retain out of any payment then due, or thereafter becoming due, and amount sufficient to indemnify Owner for any such mechanic’s lien until it has been effectively terminated and discharged or bonded, as hereinafter set forth. Contractor shall, within ten (10) days of notice of such lien, cause to be discharged and terminated any lien filed by any of its subcontractors or subcontractors, material men, suppliers, or laborers, or shall bond against the same by a bond satisfactory to Owner.

§ 5.1.11 No subcontractors, material men, or suppliers are intended third-party beneficiaries of this Contract. No subcontractors, material men or suppliers have the right to assert an equitable lien claim against the Owner. The Owner has the right, but not the obligation, to make payments to subcontractors, material men, or suppliers following a payment default by the Contractor. The sole remedy available to subcontractors, material men or suppliers against Owner is through a properly perfected mechanics’ lien claim. All agreements between the Contractor and its subcontractors, material men, or suppliers shall include the precise language in this paragraph.

§ 5.1.12 Certification. At the completion of the Contractor Work, Contractor shall provide Owner with a certificate for the benefit of Owner and such other parties designated by Owner attesting that the General Contractor and all Subcontractors have been paid in full and that no lien or claim has been filed by any Subcontractor and the Contractor has not received any notice of any Subcontractor intending to file such lien or claim in the form of Exhibit B, attached hereto and made a part hereof.

§ 5.2 FINAL PAYMENT

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

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

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

N/A

(Paragraphs deleted)

ARTICLE 6 DISPUTE MITIGATION AND RESOLUTION

1. **WORK CONTINUANCE AND PAYMENT.** Unless otherwise agreed in writing, Contractor shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution discussions or proceedings. If Contractor continues to perform, Owner shall continue to make payments in accordance with the Agreement.
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 discussion between the Parties representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussion. If the Parties representatives are not able to resolve such matter within seven (7) Days of 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, senior executives of the Parties shall meet within seven (7) Days to endeavor to reach resolution. If the dispute remains unresolved after fourteen (14) Days from the date of first discussions, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.
3. **BINDING DISPUTE RESOLUTION.** If the matter remains unresolved following the discussions referenced in Subparagraph 2 above, the parties shall refer the matter to binding arbitration using the current Construction industry Arbitration rules of the American Arbitration Association("AAA Rules"), except as revised below:
 - a. The venue of the binding dispute resolution procedure shall be the location of the Project, unless the parties agree otherwise.
 - b. All parties necessary to resolve the matter shall be parties to the same dispute resolution procedure. All contracts with Contractors, Subcontractors, Material Suppliers, designers and consultants shall incorporate by reference the binding dispute resolution provisions in this Agreement.
 - c. There shall be a single arbitrator, selected in accordance with the AAA Rules, and the costs shall be shared equally by the parties.
 - d. All documents relating to the dispute shall be voluntarily exchanged at the initial scheduling conference with the case manager of AAA.
 - e. There shall be no written discovery or motions, except by further agreement of the parties.
 - f. There shall be a maximum of three depositions on each side, and a limit of 6, for any proceeding.
 - g. Arbitration hearings shall be conducted on an expedited basis. The parties are invited to submit direct testimony by deposition transcript or affidavit. Arbitration hearing time shall be limited to 10 hours for each side of the dispute, except by further agreement of the parties.
 - h. The arbitrator shall be required to issue a report of award within 30 days of the closing of the arbitration hearing and shall explain the reasons for the result.
 - i. The award of the arbitrator shall be unappeasable and final for all purposes
4. **COSTS.** Each Party shall bear its own costs and fees incurred in connection with the binding arbitration procedures including, without limitation, the fees and costs of its own attorneys and experts except that the cost of the arbitrators and any other costs relating to the arbitration benefiting both Parties shall be split equally between the Parties.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007 as modified by the parties.

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

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ARTICLE 8 MISCELLANEOUS PROVISIONS

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

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

6 % per annum

§ 8.3 The Owner’s representative:

Ronald E. Bowlan
Sr. Vice President
Facilities and Campus Planning
Thomas Jefferson University

Kim Dengler
Director, Facilities Design & Construction
Thomas Jefferson University

§ 8.4 The Contractor’s representative:

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

§ 8.6 **Independent Contractors.** Contractor certifies that its workers classified as independent contractors meet the requirements for such classifications under the Pennsylvania Construction Workplace Misclassification Act (2010) and agrees to indemnify Owner for any liabilities, claims, damages, penalties, fines, costs or expenses (including but not limited to attorneys’ fees) arising out of or resulting from a breach of this certification.

§ 8.7 Other provisions:

NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Agreement, Contractor agrees as follows:

1. In the hiring of any employee(s) for the manufacture of supplies, performing of work, or any other activity required under the contract or any subcontract, the Contractor, Subcontractor, or any person acting on behalf of the Contractor or Subcontractor shall not by reason of gender, race, creed, or color, discriminate against any citizen of the Commonwealth who is notified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any Subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture or supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. Contractors and Subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of this policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. Contractors shall not discriminate by reason of gender, race, creed, or color against an Subcontractor or Supplier who is qualified to perform the work to which the contracts related.
5. The Contractor or each Subcontractor shall furnish all necessary employment documents and records, and to permit access to their books, records, and accounts by the Contracting Agency and the Bureau of Contract Administration and Business Development, for purpose of investigation, to ascertain compliance with provisions of the Nondiscrimination/Sexual Harassment Clause. If the Contractor or any Subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or Subcontractor shall furnish such information or reports forms supplied by the Contracting Agency or the Bureau of Contract Administration Business Development.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every Subcontract so that such provisions will be binding upon each Subcontractor
7. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In additions, the Agency may proceed with debarment or suspension and may place the Contract in the Contractor Responsibility files.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement are enumerated in the sections below.

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

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

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Thomas Jefferson University/Hospital’s, Inc.	Project Manual	September 1, 2000; rev. 1, February 6, 2001; rev. 2, November 21, 2003.	

§ 9.1.4 The Specifications:
(Paragraph deleted)
 Title of Specifications exhibit: N/A

Section	Title	Date	Pages
N/A			

§ 9.1.5 The Drawings:

Number	Title	Date
--------	-------	------

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§ 9.1.6 The Addenda, if any:

Number	Date	Pages
N/A		

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

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

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

N/A

- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, 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.)

Thomas Jefferson University/Hospital’s, Inc. Project Manual dated September 1, 2000, Revision 1, February 6, 2001; Revision 2, November 21, 2003

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

OWNER *(Signature)*

David P. McQuaid, FACHE
President
Thomas Jefferson University Hospitals, Inc.

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)



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**EXHIBIT A
CONTRACTOR
CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

PROPERTY:

PROJECT: _____

Upon receipt by the undersigned of the sum of \$ _____, this instrument shall become effective and shall constitute a partial release of all rights, claims, mechanic's lien, stop notice, bond and/or demands that the undersigned may now have or may hereafter acquire against the _____ [Owner], _____ [Lender], and their successors and/or assigns, the Property listed above, and/or the project of

_____, located at _____, Pennsylvania for payments on account of all labor, services, equipment and/or materials furnished to the Project up to and including _____ (the "Specified Date") arising out of or pertaining to the above referenced project. However, this partial release shall not apply to release any rights to retention held on the Project; nor shall this release apply to labor services, equipment and/or materials furnished after the Specified Date.

The undersigned represents and warrants that (a) no assignment of claims for payments or rights to perfect a lien against the Premises have been made, (b) the undersigned has the authority to execute this Conditional Lien Waiver and Release and (c) the undersigned had performed the labor, services and/or supplied the materials required of the undersigned. The undersigned has personal knowledge that the statements made herein are true and correct.

Duly authorized, executed and delivered by the undersigned on this ____ day of _____, 20__.

(SEAL) _____
(Company Name)

By: _____
(Signature)

(Print or type name and title)

(Address)

Note: If this instrument is executed by a Corporation, it must be signed by an officer, and if Executed by a partnership, it must be signed by a Partner.

EXHIBIT B

Init.

Final Release and Certificate of Final Payment

**CONTRACTOR'S CERTIFICATE,
FINAL WAIVER AND RELEASE OF LIENS**

OWNER: _____

CONTRACTOR: _____

PROPERTY: _____

County, Pennsylvania, described in the metes and bounds description
Contained in Exhibit A attached thereto and made a part hereof.

The undersigned hereby certifies to Owner and [_____] as follows:

1. All sums due to material men, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of Contractor's activities pursuant or ancillary to the performance of its contract with the Owner.
2. There are no unsatisfied claims for damages resulting from injury or death to any employees, subcontractors, or the public at large arising out of any of Contractor's activities pursuant or ancillary to the performance of its contract with the Owner.
3. There are no claims of lien or any suits or claims for payment, loss or damage of any kind, nature or description that might constitute a lien upon the Property as of the date of this Final Waiver and Release of Liens.
4. Upon the receipt of the sum of \$ _____, as good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor waives, quitclaims, and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner and lien or right to file a lien on or against the Property on account of work or materials furnished by, or through, the Contractor for the improvement of the Property. The Contractor warrants and represents that it has not previously assigned or transferred its lien rights to any other person or party.
5. This Final Waiver and Release of Liens constitutes a representation by the Undersigned, for and on behalf of the Contractor, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, on related to the Property. The Contractor warrants and represents that it has not assigned or transferred any of its rights or claims concerning its contract with the Owner, or concerning the Property, to any other person or party.

IN WITNESS WHEREOF, The Contractor acting by its duly authorized officer, and intending to be legally bound, had [caused this Final Waiver and Release of Liens to be executed] [hereunto set its hand and deal] as of the day and year first above written.

CONTRACTOR:

By: _____
Name:
Title:

(SEAL)

Contractor's Address:

Exhibit(s):
A _____ Legal Description of Land

| *(Table deleted)(Paragraphs deleted)(Paragraphs deleted)*

Additions and Deletions Report for AIA[®] Document A101[™] – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:49:51 on 04/30/2013.

PAGE 1

Thomas Jefferson University Hospitals, Inc.
111 South 11th Street
Philadelphia, Pennsylvania 19107-5098

...

(Name, legal status, address and other information)

...

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

...

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

PAGE 2

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

Date of notice to proceed after execution of Contract by Owner

...

N/A

...

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than (—) days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.) forty-five (45) days from the date of commencement.

N/A

...

N/A

PAGE 3

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

N/A

...

(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.)

N/A

...

N/A

...

(Identify allowance and state exclusions, if any, from the allowance price.)

...

N/A

...

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

N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the ~~day of a month, the as stated in the Article 5,~~ Owner shall make payment of the ~~certified amount~~ Certified Amount to the Contractor not later than the day of the ~~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.~~

(Federal, state or local laws may require payment within a certain period of time.) forty-fifth (45th) day after the date of the invoice

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for ~~Construction~~; Construction as modified by the parties;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5 %);

- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007-A201-2007 as modified by the parties.

...

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

N/A

...

§ 5.1.10 With each Application for Payment, Contractor shall provide a partial release of liens, in the form of Exhibit A, attached hereto and made a part hereof, for all completed work. If at any time there shall be evidence of any mechanic's lien having been filed by or through Contractor for which, if established, Owner or any party having interest in the property or any interest therein, might be made liable, Owner in addition to all rights it has under applicable laws to remove such liens, shall have the right to retain out of any payment then due, or thereafter becoming due, and amount sufficient to indemnify Owner for any such mechanic's lien until it has been effectively terminated and discharged or bonded, as hereinafter set forth. Contractor shall, within ten (10) days of notice of such lien, cause to be discharged and terminated any lien filed by any of its subcontractors or subcontractors, material men, suppliers, or laborers, or shall bond against the same by a bond satisfactory to Owner.

§ 5.1.11 No subcontractors, material men, or suppliers are intended third-party beneficiaries of this Contract. No subcontractors, material men or suppliers have the right to assert an equitable lien claim against the Owner. The Owner has the right, but not the obligation, to make payments to subcontractors, material men, or suppliers following a payment default by the Contractor. The sole remedy available to subcontractors, material men or suppliers against Owner is through a properly perfected mechanics' lien claim. All agreements between the Contractor and its subcontractors, material men, or suppliers shall include the precise language in this paragraph.

§ 5.1.12 Certification. At the completion of the Contractor Work, Contractor shall provide Owner with a certificate for the benefit of Owner and such other parties designated by Owner attesting that the General Contractor and all Subcontractors have been paid in full and that no lien or claim has been filed by any Subcontractor and the Contractor has not received any notice of any Subcontractor intending to file such lien or claim in the form of Exhibit B, attached hereto and made a part hereof.

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

N/A

ARTICLE 6 — DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 BINDING DISPUTE RESOLUTION

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

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

— Arbitration pursuant to Section 15.4 of AIA Document A201-2007

— Litigation in a court of competent jurisdiction

— Other (Specify)

ARTICLE 6 DISPUTE MITIGATION AND RESOLUTION

1. **WORK CONTINUANCE AND PAYMENT.** Unless otherwise agreed in writing, Contractor shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution discussions or proceedings. If Contractor continues to perform, Owner shall continue to make payments in accordance with the Agreement.
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 discussion between the Parties representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussion. If the Parties representatives are not able to resolve such matter within seven (7) Days of 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, senior executives of the Parties shall meet within seven (7) Days to endeavor to reach resolution. If the dispute remains unresolved after fourteen (14) Days from the date of first discussions, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.
3. **BINDING DISPUTE RESOLUTION.** If the matter remains unresolved following the discussions referenced in Subparagraph 2 above, the parties shall refer the matter to binding arbitration using the current Construction industry Arbitration rules of the American Arbitration Association("AAA Rules"), except as revised below:
 - a. The venue of the binding dispute resolution procedure shall be the location of the Project, unless the parties agree otherwise.
 - b. All parties necessary to resolve the matter shall be parties to the same dispute resolution procedure. All contracts with Contractors, Subcontractors, Material Suppliers, designers and consultants shall incorporate by reference the binding dispute resolution provisions in this Agreement.
 - c. There shall be a single arbitrator, selected in accordance with the AAA Rules, and the costs shall be shared equally by the parties.
 - d. All documents relating to the dispute shall be voluntarily exchanged at the initial scheduling conference with the case manager of AAA.
 - e. There shall be no written discovery or motions, except by further agreement of the parties.
 - f. There shall be a maximum of three depositions on each side, and a limit of 6, for any proceeding.
 - g. Arbitration hearings shall be conducted on an expedited basis. The parties are invited to submit direct testimony by deposition transcript or affidavit. Arbitration hearing time shall be limited to 10 hours for each side of the dispute, except by further agreement of the parties.
 - h. The arbitrator shall be required to issue a report of award within 30 days of the closing of the arbitration hearing and shall explain the reasons for the result.
 - i. The award of the arbitrator shall be unappeasable and final for all purposes
4. **COSTS.** Each Party shall bear its own costs and fees incurred in connection with the binding arbitration procedures including, without limitation, the fees and costs of its own attorneys and experts except that the cost of the arbitrators and any other costs relating to the arbitration benefiting both Parties shall be split equally between the Parties.

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007, A201-2007 as modified by the parties.

PAGE 6

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

...

(Insert rate of interest agreed upon, if any.)

6 % per annum

...

(Name, address and other information)

Ronald E. Bowlan
Sr. Vice President
Facilities and Campus Planning
Thomas Jefferson University

Kim Dengler
Director, Facilities Design & Construction
Thomas Jefferson University

...

(Name, address and other information)

...

§ 8.6 ~~Other provisions:~~ **Independent Contractors.** Contractor certifies that its workers classified as independent contractors meet the requirements for such classifications under the Pennsylvania Construction Workplace Misclassification Act (2010) and agrees to indemnify Owner for any liabilities, claims, damages, penalties, fines, costs or expenses (including but not limited to attorneys' fees) arising out of or resulting from a breach of this certification.

§ 8.7 Other provisions:

NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Agreement, Contractor agrees as follows:

1. In the hiring of any employee(s) for the manufacture of supplies, performing of work, or any other activity required under the contract or any subcontract, the Contractor, Subcontractor, or any person acting on behalf of the Contractor or Subcontractor shall not by reason of gender, race, creed, or color, discriminate against any citizen of the Commonwealth who is notified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any Subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture or supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

3. Contractors and Subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of this policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. Contractors shall not discriminate by reason of gender, race creed, or color against an Subcontractor or Supplier who is qualified to perform the work to which the contracts related.
5. The Contractor or each Subcontractor shall furnish all necessary employment documents and records, and to permit access to their books, records, and accounts by the Contracting Agency and the Bureau of Contract Administration and Business Development, for purpose of investigation, to ascertain compliance with provisions of the Nondiscrimination/Sexual Harassment Clause. If the Contractor or any Subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or Subcontractor shall furnish such information or reports forms supplied by the Contracting Agency or the Bureau of Contract Administration Business Development.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every Subcontract so that such provisions will be binding upon each Subcontractor
7. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In additions, the Agency may proceed with debarment or suspension and may place the Contract in the Contractor Responsibility files.

PAGE 7

§ 9.1 The Contract Documents, except for Modifications issued after execution of this ~~Agreement~~, Agreement are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document ~~A101-2007~~, A101-2007 as modified by the parties, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for ~~Construction~~.Construction, as modified by the parties.

...

Thomas Jefferson
University/Hospital's,
Inc.

Project Manual

September 1, 2000; rev.
1, February 6, 2001; rev.
2, November 21, 2003.

...

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

Title of Specifications exhibit: N/A

...

N/A

...

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

PAGE 8

N/A

...

N/A

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, 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.)

Thomas Jefferson University/Hospital’s, Inc. Project Manual dated September 1, 2000, Revision 1, February 6, 2001; Revision 2, November 21, 2003

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

OWNER (Signature)

David P. McQuaid, FACHE
President
Thomas Jefferson University Hospitals, Inc.
(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)



EXHIBIT A
CONTRACTOR
CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

PROPERTY:

PROJECT:

Upon receipt by the undersigned of the sum of \$ _____, this instrument shall become effective and shall constitute a partial release of all rights, claims, mechanic's lien, stop notice, bond and/or demands that the undersigned may now have or may hereafter acquire against the _____ [Owner], _____ [Lender], and their successors and/or assigns, the Property listed above, and/or the project of _____, located at _____, Pennsylvania for payments on account of all labor, services, equipment and/or materials furnished to the Project up to and including _____ (the "Specified Date") arising out of or pertaining to the above referenced project. However, this partial release shall not apply to release any rights to retention held on the Project; nor shall this release apply to labor services, equipment and/or materials furnished after the Specified Date.

The undersigned represents and warrants that (a) no assignment of claims for payments or rights to perfect a lien against the Premises have been made, (b) the undersigned has the authority to execute this Conditional Lien Waiver and Release and (c) the undersigned had performed the labor, services and/or supplied the materials required of the undersigned. The undersigned has personal knowledge that the statements made herein are true and correct.

Duly authorized, executed and delivered by the undersigned on this _____ day of _____, 20____.

(SEAL)

(Company Name)

By: _____

(Signature)

(Print or type name and title)

(Address)

Note: If this instrument is executed by a Corporation, it must be signed by an officer, and if Executed by a partnership, it must be signed by a Partner.

EXHIBIT B
Final Release and Certificate of Final Payment

CONTRACTOR'S CERTIFICATE,
FINAL WAIVER AND RELEASE OF LIENS

OWNER: _____

CONTRACTOR: _____

PROPERTY: _____
County, Pennsylvania, described in the metes and bounds description
Contained in Exhibit A attached thereto and made a part hereof.

The undersigned hereby certifies to Owner and [_____] as follows:

1. All sums due to material men, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of Contractor's activities pursuant or ancillary to the performance of its contract with the Owner.
2. There are no unsatisfied claims for damages resulting from injury or death to any employees, subcontractors, or the public at large arising out of any of Contractor's activities pursuant or ancillary to the performance of its contract with the Owner.
3. There are no claims of lien or any suits or claims for payment, loss or damage of any kind, nature or description that might constitute a lien upon the Property as of the date of this Final Waiver and Release of Liens.
4. Upon the receipt of the sum of \$ _____, as good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor waives, quitclaims, and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner and lien or right to file a lien on or against the Property on account of work or materials furnished by, or through, the Contractor for the improvement of the Property. The Contractor warrants and represents that it has not previously assigned or transferred its lien rights to any other person or party.
5. This Final Waiver and Release of Liens constitutes a representation by the Undersigned, for and on behalf of the Contractor, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, on related to the Property. The Contractor warrants and represents that it has not assigned or transferred any of its rights or claims concerning its contract with the Owner, or concerning the Property, to any other person or party.

IN WITNESS WHEREOF, The Contractor acting by its duly authorized officer, and intending to be legally bound, had [caused this Final Waiver and Release of Liens to be executed] [hereunto set its hand and deal] as of the day and year first above written.

CONTRACTOR:

By:

Name:

Title:

(SEAL)

Contractor's Address:

Exhibit(s):

A Legal Description of Land

ARTICLE 10 — INSURANCE AND BONDS

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

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

Type of insurance or bond

Limit of liability or bond amount (\$0.00)

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

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:49:51 on 04/30/2013 under Order No. 9875627340_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)