

HANDOUTS

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(Source: Comptroller's Handbook, Safety and Soundness, Commercial Real Estate Lending, version 1.1, January 27, 2017)
Visit www.OCC.gov for more information
10. AIA – Sample Document A105 – 2017
(Standard Short Form of Agreement between Owner and Contractor)

HANDOUT #1

Owner's sworn statement

SWORN OWNER'S STATEMENT				Page ____ of ____.	
TO ABC TITLE INSURANCE COMPANY					
STATE OF _____		ss. _____	Escrow No. _____		
COUNTY OF _____			Guarantee No. _____		

The affiant, GHI Development (Name), being first duly sworn, on oath deposes and says that he/she is/are the owner(s) of the following described premises in the County of Cook, State of Illinois, commonly known as 123 First Street, Anytown, IL 98765 (Street Address)

1. That the affiant is thoroughly familiar with all the facts and circumstances concerning the premises described above;

2. That with respect to improvements on the premises, all contracts let for work done or material furnished to date or for the furnishing of future work or materials relative to the contemplated improvements are listed below;

3. That this statement is a full, true and complete statement of all such contracts, previous payments and balances due, if any.

NAME AND ADDRESS	KIND OF WORK OR MATERIAL	ADJUSTED TOTAL CONTRACT (INC. EXTRAS & CREDITS)	AMOUNT PREVIOUSLY PAID	AMOUNT OF THIS PAYMENT	BALANCE TO BECOME DUE
LMN Construction	General Contractor	\$2,250,000.00	\$300,000.00	\$125,000.00	\$1,825,000.00
Live Local Architects, Ltd.	Architect	\$75,000.00	\$75,000.00	\$0.00	\$0.00
City of Anytown, IL	Permits	\$50,000.00	\$50,000.00	\$0.00	\$0.00
Development Insurance Carrier	Builders Risk Insurance	\$10,000.00	\$10,000.00	\$0.00	\$0.00
Anytown Surveyors, Inc.	Survey	\$2,500.00	\$2,500.00	\$0.00	\$0.00
Cook County	Real Estate Taxes	\$50,000.00	\$25,000.00	\$0.00	\$25,000.00
XYZ Land company	Land purchase	\$1,000,000.00	\$1,000,000.00	\$0.00	\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
TOTAL		\$3,437,500.00	\$1,462,500.00	\$125,000.00	\$1,850,000.00

THE UNDERSIGNED HEREBY APPROVES THE ABOVE AMOUNTS FOR PAYMENT.			
SIGNED: _____		Subscribed and sworn to before me this _____ day of _____, 20__	

ADDRESS: _____			

HANDOUT #2

General Contractor's sworn statement

SWORN STATEMENT OF CONTRACTOR AND SUBCONTRACTOR TO OWNER AND TO CHICAGO TITLE INSURANCE COMPANY				Page ____ of ____.
STATE OF ILLINOIS	SS.		Escrow No.	<u>Sample</u>
COUNTY OF			Guarantee No.	<u>Sample</u>

The affiant, Dan Harrington (Name), being first duly sworn, on oath deposes and says that he/she is **OWNER** of LMN Construction Co. (Company Name) that he/she has a contract with GHI Development the owner(s) for General Contracting (type of work) on the following described premises in the County of Cook State of **ILLINOIS** commonly known as 123 First Street, Anytown, IL 98765 (Street Address)

That, for the purposes of said contract, the following persons have been contracted with, and have furnished, or are furnishing and preparing material for, and have done or are doing labor on said improvement. That there is due and to become due them, respectively, the amounts set opposite their names for materials or labor as stated. That this statement is a full, true and complete statement of all such persons, the amounts paid and the amounts due or to become due to each.

NAME AND ADDRESS	KIND OF WORK OR MATERIAL	ADJUSTED TOTAL CONTRACT (INC. EXTRAS & CREDITS)	AMOUNT PREVIOUSLY PAID	AMOUNT OF THIS PAYMENT	BALANCE TO BECOME DUE
ABC Demolition	Demolition & Excavating	\$80,000.00	\$10,000.00	\$20,000.00	\$50,000.00
ComEd	Utility Disconnect Reconnect	\$10,000.00	\$5,000.00	\$0.00	\$5,000.00
XYZ Concrete	Concrete	\$100,000.00	\$10,000.00	\$20,000.00	\$70,000.00
DEF Sewer	Sewer/Water	\$15,000.00	\$10,000.00	\$5,000.00	\$0.00
UVW Masonry	Masonry	\$200,000.00	\$20,000.00	\$20,000.00	\$160,000.00
GHI Lumber	Lumber	\$100,000.00	\$10,000.00	\$20,000.00	\$70,000.00
RST Framing	Rough Carpentry	\$50,000.00	\$10,000.00	\$0.00	\$40,000.00
JKL Finish Carpentry	Trim Carpentry	\$50,000.00	\$0.00	\$0.00	\$50,000.00
OPQ Windows	Windows	\$80,000.00	\$20,000.00	\$20,000.00	\$40,000.00
MNO Trim Materials	Millwork	\$40,000.00	\$10,000.00	\$0.00	\$30,000.00
LMN Plumbing Supplies	Plumbing Fixtures	\$100,000.00	\$30,000.00	\$0.00	\$70,000.00
PQR Plumbing	Plumbing Labor	\$200,000.00	\$50,000.00	\$0.00	\$150,000.00
IJK Electric Supplies	Electrical Fixtures	\$150,000.00	\$25,000.00	\$0.00	\$125,000.00
STU Electricians	Electric Labor	\$200,000.00	\$30,000.00	\$0.00	\$170,000.00
FGH Heating & Cooling	HVAC	\$150,000.00	\$50,000.00	\$0.00	\$100,000.00
TBD	Painting	\$50,000.00	\$0.00	\$0.00	\$50,000.00

TBD		Drywall (Material)	\$100,000.00	\$0.00	\$0.00	\$100,000.00
TBD		Drywall Install	\$50,000.00	\$0.00	\$0.00	\$50,000.00
TBD		Low Voltage	\$40,000.00	\$0.00	\$0.00	\$40,000.00
TBD		Doors	\$40,000.00	\$0.00	\$0.00	\$40,000.00
TBD		Landscaping	\$80,000.00	\$0.00	\$0.00	\$80,000.00
ABC Demolition		Cleanup	\$25,000.00	\$0.00	\$0.00	\$25,000.00
LMN Construction Co.		G/C	\$250,000.00	\$10,000.00	\$20,000.00	\$220,000.00
TBD		Contingency	\$90,000.00	\$0.00	\$0.00	\$90,000.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
TOTAL			\$2,250,000.00	\$300,000.00	\$125,000.00	\$1,825,000.00
	I agree to furnish Waivers of Lien for all materials under my contract when demanded.					
SIGNED:						
ADDRESS:			Subscribed and sworn to before me this			
			day of _____, 20__			
			Nortary Public			

HANDOUT #3

Partial lien waiver – Chicago Title example



COUNTY OF

Gtv

Escrow #

WHEREAS the undersigned has been employed by _____
to furnish _____
for the premises known as _____
of which _____ is the owner

DATE _____ COMPANY NAME _____
ADDRESS _____

SIGNATURE AND TITLE

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT

STATE OF ILLINOIS

COUNTY OF _____

THE UNDERSIGNED, (NAME) _____ BEING DULY SWORN, DEPOSES
AND SAYS THAT HE OR SHE IS (POSITION) _____ OF
(COMPANY NAME) _____ WHO IS THE
CONTRACTOR FURNISHING _____ WORK ON THE BUILDING
LOCATED AT _____
OWNED BY _____

That the total amount of the contract including extras* is \$ [redacted] on which he or she has received payment of \$ [redacted] prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications:

NAME AND ADDRESS	WHAT FOR	CONTRACT PRICE INCLD. EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE					

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE _____ SIGNATURE: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____,

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT.

NOTARY PUBLIC

HANDOUT #4

Final lien waiver– Chicago Title example



COUNTY OF _____

Gty

Escrow#

WHEREAS the undersigned has been employed by _____
to furnish _____
for the premises known as _____
of which _____ is the owner

DATE	COMPANY NAME
	ADDRESS

SIGNATURE AND TITLE

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT

STATE OF ILLINOIS

COUNTY OF _____

THE UNDERSIGNED, (NAME) _____ BEING DULY SWORN, DEPOSES
AND SAYS THAT HE OR SHE IS (POSITION) _____ OF
(COMPANY NAME) _____ WHO IS THE
CONTRACTOR FURNISHING _____ WORK ON THE BUILDING
LOCATED AT _____
OWNED BY _____

That the total amount of the contract including extras* is \$ _____ on which he or she has received payment of \$ _____ prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications:

NAME AND ADDRESS	WHAT FOR	CONTRACT PRICE INCLUDING EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE					

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE _____ SIGNATURE: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, _____.

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN TO THE CONTRACT

NOTARY PUBLIC

HANDOUT #5

Reimbursement affidavit

XYZ TITLE INSURANCE COMPANY

123 Maple Road

Anytown, USA

DATE: _____

ESCROW # _____

PROJECT ADDRESS: _____

THIS IS TO CERTIFY THAT _____ ON
(sub-contractor/material supplier name)

THE ABOVE MENTIONED PROJECT HAS A CONTRACT WITH

_____ AND HAS RECEIVED THE SUM OF

\$ _____ AS A PARTIAL OR PAYMENT IN FULL AND

HEREBY REQUEST AND AUTHORIZE XYZ TITLE COMPANY

TO MAKE PAYMENT DIRECTLY TO _____

AS REIMBURSEMENT OF FUNDS RECEIVED.

(company name)

(print name)

(signature)

(title)

HANDOUT #6

Owner's certificate as to completion

IRREVOCABLE OWNERS PAYMENT AUTHORIZATION

To: ABC Title Insurance Company

RE: Escrow No: TBD

Property Address: 123 First Street, Anytown, IL 98765

To ABC Title Insurance Company:

The undersigned hereby knowingly and irrevocably directs ABC Title Insurance Company to disburse the sum of \$125,000.00 as requested on the Sworn Statement dated _____ pursuant to all of the terms in the above captioned construction escrow agreement.

Dated:

(Owner) _____

HANDOUT #7

Bank's certificate as to completion

LENDERS CERTIFICATE OF COMPLETION AND PAYMENT AUTHORIZATION

To: ABC Title Insurance Company

RE: Escrow No: TBD Draw # 1

Property Address: 123 First Street, Anytown, IL 98765

Gentlemen:

The undersigned hereby certifies that all work for which payment is requested by the General Contractor on the Contractor's Sworn Statement and/or by the Owner/Borrower on the Owners Sworn Statement has been satisfactorily completed and all materials are in place.

The undersigned also authorizes and directs ABC Title Insurance Company to disburse the sum of \$125,000 as requested on the aforesaid statements in accordance with the above captioned construction escrow project.

Total Amount of Loan Funds Disbursed To Date including the current draw: \$1,587,500

Dated: _____

(Name) _____

(Title) _____

HANDOUT #8

**Commercial loan checklist with
Construction loan specifics**

LOAN OPERATIONS COMMERCIAL LOAN CHECKLIST

Borrower: _____

Assign Loan Number: _____

LO: _____

Loan Type: _____

PRE-DOCUMENTATION

Y N NA Initial

☐ ☐ ☐ _____ Final Loan Approval with all corrections/changes

Date of Loan Committee Approval _____

☐ ☐ ☐ _____ Board Approval Needed Y N Date of Board Approval _____

☐ ☐ ☐ _____ Proof of Board Approval in file (minutes or emails)

☐ ☐ ☐ _____ Appraisal Notice Disclosure sent - 1st Mortgage on 1 -4 family only

☐ ☐ ☐ _____ Privacy Notice given to Borrower - New Customers

☐ ☐ ☐ _____ Consent to receive items electronically

Individual Borrower/Guarantors

Y N NA Initial

☐ ☐ ☐ _____ PFS signed and on FNBB form

☐ ☐ ☐ _____ Is intent to apply jointly initialed or signed off correctly, if applicable?

☐ ☐ ☐ _____ Demographic Information Addendum completed

☐ ☐ ☐ _____ If HMDA loan, was a HMDA Information Worksheet completed

☐ ☐ ☐ _____ If Personal Trust involved, you need a copy of the trust agreement

☐ ☐ ☐ _____ Three Years of Tax Returns

☐ ☐ ☐ _____ Credit Report Last Date of Credit Report _____

☐ ☐ ☐ _____ Tax Lien and Judgment Search

☐ ☐ ☐ _____ Background Search Troy TLO

☐ ☐ ☐ _____ Account Balance Verification

☐ ☐ ☐ _____ Paystubs/W-2s

☐ ☐ ☐ _____ Driver's License

☐ ☐ ☐ _____ OFAC

☐ ☐ ☐ _____ CIP for Each Borrower and Guarantor Completed

Corporation/LLC as Borrower or Guarantor

Y N NA Initial

☐ ☐ ☐ _____ Three Years of Financial Statements of Entity

☐ ☐ ☐ _____ Three Years of Tax Returns

☐ ☐ ☐ _____ By-laws/Operating Agreement

☐ ☐ ☐ _____ Verification of Entity from SOS of Good Standing

☐ ☐ ☐ _____ Certificate of Good Standing

☐ ☐ ☐ _____ Articles of Incorporation/Organization

☐ ☐ ☐ _____ If a Series, Certificate of Designation

☐ ☐ ☐ _____ EIN Paperwork

☐ ☐ ☐ _____ Tax Lien and Judgment Search

☐ ☐ ☐ _____ OFAC

☐ ☐ ☐ _____ CIP for Each Guarantor

All Real Estate Secured Loans

Y N NA Initial

☐ ☐ ☐ _____ Appraisal

☐ ☐ ☐ _____ Appraisal Review (over \$1M to be reviewed by CCO)

☐ ☐ ☐ _____ Title Commitment (\$100k and over)

☐ ☐ ☐ _____ Title Search

☐ ☐ ☐ _____ Date Down Endorsement

☐ ☐ ☐ _____ Releases based on Title Search

☐ ☐ ☐ _____ Flood Determination

☐ ☐ ☐ _____ Flood Insurance

☐ ☐ ☐ _____ Environmental Report

☐ ☐ ☐ _____ Survey

☐ ☐ ☐ _____ Insurance listing Bank as Mortgagee and Loss Payee (Liability only for vacant land)

☐ ☐ ☐ _____ Payoff requested (if refinancing from another institution)

☐ ☐ ☐ _____ Environmental Questionnaire

Y N NA Initial

If condo:

- ☐ ☐ ☐ _____ Condo Declarations/Bylaws
☐ ☐ ☐ _____ Condo Questionnaire
☐ ☐ ☐ _____ Verification showing assessments are paid to date

If Rental Property

- ☐ ☐ ☐ _____ Copies of Leases
☐ ☐ ☐ _____ Copies of Rent Rolls with Expenses
w/Title

- ☐ ☐ ☐ _____ Plan and Spec Review

If Land Trust:

- ☐ ☐ ☐ _____ Certified Copy of Trust Agreement
☐ ☐ ☐ _____ Release of existing ABI
☐ ☐ ☐ _____ Water Cert necessary in Chicago to lodge ABI

Asset Based Loans

- ☐ ☐ ☐ _____ UCC Search
☐ ☐ ☐ _____ Accounts Receivable/Payable Agings
☐ ☐ ☐ _____ inventory Report
☐ ☐ ☐ _____ Field Audit
☐ ☐ ☐ _____ Borrowing Base Certificates
☐ ☐ ☐ _____ Equipment Invoices/Appraisal
☐ ☐ ☐ _____ Insurance with FNBB as Loss Payee

Titled Vehicle Account

- ☐ ☐ ☐ _____ Title or Copy of Title
☐ ☐ ☐ _____ Certificate of Title with Bank as Lien holder
☐ ☐ ☐ _____ Purchase Invoice (new cars)
☐ ☐ ☐ _____ Proof of Value
☐ ☐ ☐ _____ Insurance with FNBB as Lien holder

Funding Conditions

Y N NA Initial

If Construction

- ☐ ☐ ☐ _____ Budget
☐ ☐ ☐ _____ Builders' Risk Insurance
☐ ☐ ☐ _____ Building Permit
☐ ☐ ☐ _____ Construction Contract
☐ ☐ ☐ _____ Architect Contract
☐ ☐ ☐ _____ Order Construction Escrow

- ☐ ☐ ☐ _____ Plans/Specs

- ☐ ☐ ☐ _____ Signage ordered
☐ ☐ ☐ _____ GC Statement
☐ ☐ ☐ _____ Owners Statement
☐ ☐ ☐ _____ Interest Reserve

Stocks/Bonds

- ☐ ☐ ☐ _____ Stock/Bond Certificate
☐ ☐ ☐ _____ 2 Copies of Collateral Receipt
☐ ☐ ☐ _____ Set up a Beneficiary Account

Life Insurance

- ☐ ☐ ☐ _____ Copy of the Policy
☐ ☐ ☐ _____ Verification of Cash Value

Savings Account/CD/Deposit

- ☐ ☐ ☐ _____ Evidence of funds in account

DOCUMENTATION: Commercial Real Estate Loans Documents Needed

General Loans

Y N NA Initial

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Promissory Note |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Disbursement Authorization |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Resolutions (if Borrower/Guarantor is an Entity) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Business Loan Agreements |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Guarantees (If any) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Privacy Notices |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | CIP Forms for all entities |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | ALTA forms |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Title Clearance Forms |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Negative Information Disclosure (only if Borrower is an individual) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Certification of Beneficial Owners |

Real Estate

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Mortgage |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Assignment of Rents |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Hazardous Substance Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Subordination, Non-Disturbance, & Attornment Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Agreement to Provide Insurance |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Construction Loan Agreement, if Construction |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Initial Escrow Agreement |

Asset Based Loans as Collateral

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Security Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | UCC – 1 Filing |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Agreement to Provide Insurance |

Life Insurance as Collateral

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Assignment of Life Insurance |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Verification of Life Insurance |

Possessory Collateral

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Assignment of Deposit Accounts |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------------|

Construction Loan

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Documents from Title Company |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Set up Balancing Sheets |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Set up all Title Co. Documents with pertinent information |

Booking a Loan: After entering new loan info, tab through the following screens:

Interest and Fees:

Rate Adjuster
Floor
Ceiling
Late Charge Dates
Payoff Charge
Deferral Rate
Prepayment Charges

Escrow, if escrowing:

Escrow Change Frequency
Next Escrow Change Date
Add Escrow Addendas

Payments:

Payment Code (auto debit)
Charge Account (auto debit)
Payment Schedule
Alternate Payment Schedule (HELOC w/escrow)

Relationships:

Check Signers and address
Add Guarantors
Add Past Due Notification

Codes:

Product
Responsibility Code
Purpose
Loan Rating
Credit Score
Review Date
Late Charge Days
HUD/SCRA Notice Option

☐ LO ☐ Interest Rate ☐ Term ☐ Payment
☐ Floor ☐ Ceiling

Codes:

☐ NAISC Code ☐ Census Tract ☐ Purpose Code ☐ Commitment Code
☐ Billing Code ☐ Auto Debit ☐ Loan Risk Code ☐ Loan Interest Reporting Code
☐ Reporting Code ☐ Notification Code

Flex Field Data: ☐ Policy Exceptions(1) ☐ Cml DSC – Loan (2) ☐ Cml DSC – Global (3)
☐ Loan Minutes Date(6) ☐ Board Approval (7) ☐ BOD Approval Received (8)
☐ In Assessment Area (9)

If Participation Bought:

☐ Source Code

Other Screens:

☐ wdsdaw
☐ Add Collateral Addendas Collateral Record Number/s _____
☐ Appraisal Date ☐ Appraisal Amount

Interest/Fees:

☐ Add Interest Reserve if there is one ☐ Add Deferred Fees ☐ Late Charges added ☐ Prepayment Penalty

Misc.

☐ Add Escrow ☐ Review Date
☐ Add Misc. Addendas ☐ Add Release fees

POST CLOSING: Ticklers and Exceptions after Booking

Y N NA Initial

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Loan Booked
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Loan Activated
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Green and Brown File Created
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Electronic File Created
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bills sent for payment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mortgages and AOR sent for recording or e- recorded
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Loan Reviewed on System
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	HMDA Info collected and added to Laser Pro
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	RE Taxes added to Info Pro
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ticklers added to Excel (see below)

Add Exceptions/Ticklers to Excel (See Reporting Requirements)

Y N NA Initial

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PFS per Loan Approval
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tax Returns per Loan Approval
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Leases per Loan Approval
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Recorded Mortgage / AOR
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Title Policy
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mortgage Releases
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Car Title
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	UCC Filed and File Number inputted on Fiserv
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Notes:

- PFS (Commercial Loans)
- Tax Returns – Corporate and Personal (Commercial Loans)
- Leases (date they expire)/Rent Roll (1 year) (include city in address)
- RE taxes
- Insurance (add as mortgagee – tickler as of loan date – comment faxed request)*

(**Condo Insurance** – add as certificate holder as pertaining to unit # -- **Construction loan** – Builders Risk s/b for the term in the presentation (6/12 mons)

- Mortgage/Assignment of Rents/Modifications (60 days from date sent **If sent from title company, tickler date s/b loan date**) (2 weeks if sent to Trust)
- Title policy (90 days) **If sent from title company, tickler date s/b loan date**
- Annual review
- (30 Days) To get car title from original lienholder (refinanced) Car title (45 Days)

*If borrower has two loans, only do one tickler under the loan which is the later maturity date

*If borrower has two loans we must be added as 1st & 2nd Mortgagee

Title Search (junior loan policy) – don't get anything back from Title Company – don't need to tickle for anything

HANDOUT #9

OCC sample construction loan questionnaire

(Source: Comptroller's Handbook, Safety and Soundness, Commercial Real Estate Lending, version 1.1, January 27, 2017)

Visit www.OCC.gov for more information

62. Are appraisal fees the same amount regardless of whether the loan is granted?

Construction Loan Applications

Questions 63 through 100 focus on real estate construction lending. Additional questions concerning other applicable internal controls for real estate lending resume with question 101.

63. Does the bank require

- detailed resumes of the contractor's and major subcontractors' construction experience, as well as other projects under construction?
- current and historical financial statements?
- trade reputation checks?
- credit checks?
- bonding company checks?

64. Do project cost estimates include

- land and construction costs?
- off-site improvement expenses?
- cost of legal services?
- loan interest, supervisory fees, and insurance expenses?

65. Does the bank require a line-item budget or cost breakdown for each construction stage?

66. Does the bank require that cost estimates of more complicated projects be reviewed by qualified personnel, e.g., architect, construction engineer, or independent estimator?

67. Do cost budgets include the amount and source of the builder's or owner's equity contribution?

Loan Agreements and Other Documents

68. Are the loan agreement and other documents reviewed by counsel and other experts to determine that improvement specifications conform to

- building codes?
- subdivision regulations?
- zoning and ordinances?
- title or ground lease restrictions?
- health regulations?
- known or projected environmental protection considerations?
- specifications required under the National Flood Insurance Program?
- provisions in tenant leases?

- specifications approved by the permanent financier when applicable?
 - specifications required by the completion bonding company or guarantors?
69. Does the bank require all change orders to be approved in writing by
- the bank?
 - permanent financier if permanent funding not provided by the bank?
 - architect or supervising engineer?
 - prime tenants bound by firm leases or letters of intent to lease?
 - completion bonding company?
70. Does the loan agreement establish a date for project completion?
71. Does the loan agreement require that
- on-site inspections be permitted?
 - disbursement of funds be made as work progresses?
 - the bank be allowed to withhold disbursements if work is not performed in accordance with approved specifications?
 - a portion of the loan proceeds be retained pending satisfactory completion of the construction?
 - the lender be allowed to assume prompt and complete control of the project in the event of default and an assignment of all development and construction-related contracts and agreements?
 - the contractor carry builder's risk and workmen's compensation insurance?
 - builder's risk insurance be on a nonreporting form or a reporting form that requires periodic increases in the project's value to be reported to the insurance company?
 - the bank authorize individual tract housing starts?
 - periodic sales reports be submitted from tract developers?
 - periodic reports on tract houses occupied under rental or lease purchase option agreements be submitted?
 - periodic reports be submitted on the status of any other projects in which the developer may be involved in?

Collateral

72. Does the bank place primary collateral reliance on first liens on real estate?
73. Does the bank temper the collateral reliance placed on
- ground leases?
 - conditional sales contracts?

74. Does the bank require that construction loans

- be limited to a percent of the completed cost or market value of the project?
- be subject to the bank's own take-out commitment be limited to a percent of the appraised value of the completed project?
- be limited to the floor of a take-out commitment predicated on achievement of rents or lease occupancy?

75. Do construction loan policies preclude the issuance of standby commitments to "gap finance" projects with take-out conditions regarding rentals or occupancy?

76. Are unsecured credit lines to contractors or developers who are also being financed by secured construction loans supervised by

- the construction loan department?
- the officer supervising the construction loan?

Inspections

77. Are inspection requirements noted in

- the loan agreement?
- take-out commitment and tri-party buy and sell agreement, if applicable?

78. Are inspections conducted on an irregular schedule?

79. Are inspection reports sufficiently detailed to support disbursements?

80. Are inspectors independent and competent?

81. Are inspectors rotated?

82. Are spot checks made of the inspectors' work?

83. Do inspectors determine compliance with plans and specifications as well as progress of work?

Disbursements

84. Are disbursements

- advanced on a prearranged disbursement plan?
- made only after reviewing written inspection reports?

- subject to advance, written authorization by the
 - contractor?
 - borrower?
 - inspector?
 - lending officer?
 - reviewed by a bank employee who had no part in granting the loan?
 - compared with original cost estimates?
 - checked against previous disbursements?
 - made directly to subcontractors?
 - supported by receipted bills describing the work performed and the materials furnished?
85. Does the bank update its title policy by obtaining a “date down” endorsement with each draw?
86. Does the bank obtain waivers of subcontractors’ and materialmen’s liens as work is completed and disbursements made?
87. Are periodic reviews made of undisbursed loan proceeds to determine their adequacy to complete the projects?
88. Does the bank confirm that a certificate of occupancy has been obtained before final disbursement?
89. Does the bank obtain sworn and notarized releases of mechanics’ liens at the time construction is completed and before final disbursement?
90. Are independent proofs made at least monthly of undisbursed loan proceeds and contingency or escrow accounts? Are statements on such accounts regularly mailed to customers?

Take-Out Commitments

91. In the event loan repayment is dependent on take-out financing,
- are take-out agreements reviewed for acceptability by counsel?
 - are financial statements obtained and reviewed to determine the financial responsibility of permanent lenders?
 - is a tri-party buy and sell agreement signed before the construction loan is closed?
 - does the bank require take-out agreements to include an “act of God” clause, which provides for an automatic extension of the completion date in the event that construction delays occur for reasons beyond the builder’s control?
 - does the bank accept stand-by commitments for “gap financing” of limited take-out commitments?

Completion Bonding Requirements

- 92. Does the bank require a completion insurance bond for all construction loans?
- 93. Does counsel review completion insurance bonds for acceptability?
- 94. Has the bank established minimum financial standards for borrowers who are not required to obtain completion bonding? Are the standards observed in all cases?

Documentation

- 95. Does the bank require and maintain documentary evidence of

- the contractor's payment of
 - employee withholding taxes?
 - builder's risk insurance?
 - workmen's compensation insurance?
 - public liability insurance?
- the property owner's payment of
 - real estate taxes?
 - hazard insurance premiums?

- 96. Does the bank require that documentation files include

- loan applications, if used?
- loan commitments?
- financial statements for the
 - borrower?
 - builder?
 - proposed prime tenant?
 - take-out lender?
 - guarantors?
- credit and trade checks on the
 - borrower?
 - builder?
 - major sub-contractor?
 - proposed tenants?
- a copy of plans and specifications?
- a copy of the building permit?
- a survey of the property?
- soil report?
- environmental assessment?
- loan commitment?
- loan agreement?

- appraisal or evaluation?
 - mortgage or deed of trust?
 - ground leases?
 - assignment of tenant leases or letters of intent to lease?
 - tenant estoppels?
 - copies of any other legally binding agreements between the borrower and tenants?
 - reports of past due leases, including delinquent expense reimbursements?
 - a copy of take-out commitment, if applicable?
 - a copy of the borrower's application to the take-out lender?
 - a tri-party buy and sell agreement?
 - inspection reports?
 - disbursement authorizations?
 - undisbursed loan proceeds and contingency or escrow account reconcilements?
 - title and hazard insurance policies?
 - evidence of zoning or a zoning endorsement to the title policy?
 - evidence of the availability of utilities to the site?
97. Does the bank employ standardized checklists to control documentation for individual files?
98. Do documentation files note all of the borrower's other loan and deposit account relationships?
99. Does the bank use tickler files that
- control stage advance inspections and disbursements?
 - assure prompt administrative follow-up on items sent for
 - recording?
 - attorney's opinion?
 - expert review?
100. Does the bank maintain tickler files that will provide at least 30 days advance notice before expiration of
- take-out commitment?
 - hazard insurance?
 - workmen's compensation insurance?
 - public liability insurance?

HANDOUT #10

AIA – Sample Document A105 – 2017

(Standard Short Form of Agreement between Owner and Contractor)

HANDOUT #10

AIA – Sample Document A105 – 2017

(Standard Short Form of Agreement between Owner and Contractor)

AIA[®] Document A105[™] – 2017

Standard Short Form of Agreement Between Owner and Contractor

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)

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

and the Contractor:
(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)

The Owner and Contractor agree as follows.

Init.

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ARTICLE 1 THE CONTRACT DOCUMENTS

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

Specifications:
Section

Title

Pages

- .3 addenda prepared by the Architect as follows:

Number

Date

Pages

- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement;
and
- .5 other documents, if any, identified as follows:

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.

(Insert the date of commencement if other than the date of this Agreement.)

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

(Check the appropriate box and complete the necessary information.)

☐ Not later than () calendar days from the date of commencement.

☐ By the following date:

ARTICLE 3 CONTRACT SUM

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

Value

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

(Identify the 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.)

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
------	-------

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

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

ARTICLE 4 PAYMENTS

§ 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.)

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

%

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than (\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. 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 Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 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 those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

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 Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and 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 Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

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.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 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 Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 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.

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.

§ 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.

§ 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 a Contractor's construction schedule for the Work.

§ 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.

§ 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. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 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. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the 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 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 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 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.

§ 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. Consent shall not be unreasonably withheld.

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, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 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.

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

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 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 this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. 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 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 (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 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.

§ 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.

§ 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.

§ 12.5 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 Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and 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, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. 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 Acceptance of final payment by the Contractor, a subcontractor or 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 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, 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.

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 Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 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 as a whole without written consent of the other.

§ 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 that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, 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 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; 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 executed, and costs incurred by reason of such 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.)

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.)

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)

LICENSE NO.:

JURISDICTION: