



# AIA<sup>®</sup> Guide for Bridge Amendments to B151<sup>™</sup> – 1997

*Guide for Amending AIA Document B151–1997 to allow for use with 2007 AIA Contract Documents<sup>®</sup> incorporating the terms of AIA Document A201<sup>™</sup>–2007, General Conditions of the Contract for Construction*

## GENERAL INFORMATION

### Purpose

If the owner and architect are using AIA Document B151–1997, Abbreviated Standard Form of Agreement Between Owner and Architect, for their agreement and now want to utilize a 2007 owner-contractor agreement incorporating A201–2007 as the general conditions, the Bridge Amendments included in this Guide can be used to amend the existing 1997 owner-architect agreement to achieve consistency with A201–2007. The Bridge Amendments can also be used to conform B151–1997 with other new concepts in the 2007 AIA Contract Documents.

### How to Use This Guide

This Guide provides the text for mandatory amendments to B151–1997 necessary to achieve consistency with provisions in A201–2007. This Guide also provides the text for optional amendments to B151–1997 that will conform the terms of B151–1997 with new concepts in the 2007 documents. Utilizing the text of the Bridge Amendments in this Guide makes it easy and convenient to make the relevant changes.

Amendments to an existing agreement may have important legal consequences. Users are encouraged to consult an attorney before implementing the Bridge Amendments.

**Mandatory Amendments.** A201–2007 contains several revisions from A201<sup>™</sup>–1997 that affect the duties of the architect. This Guide provides the text for amendments that must be made to B151–1997 so that the duties of the architect will be consistent with those required by A201–2007, General Conditions of the Contract for Construction. Those mandatory amendments are described in more detail below.

**Optional Amendments.** A201–2007 and related documents, including the 2007 AIA owner-architect agreements, include revisions to, among other things, the binding dispute resolution procedures and the terms for use of the architect’s instruments of service. This Guide provides the text for amendments that will incorporate some of the key conceptual revisions in the 2007 documents into B151–1997. Many of the Bridge Amendments are optional in as much as they are not required to align the duties of the architect with the requirements of A201–2007. However, the AIA recommends that the optional changes be made because many of the optional amendments will provide a desired consistency between key terms in the owner-architect and the owner-contractor agreements. This is particularly true of the optional Bridge Amendments pertaining to the Initial Decision Maker; binding dispute resolution; consolidation of, and joinder in, arbitrations; choice of law; and limitations of actions. The optional amendments are described in more detail below.

**Attach Bridge Amendments to G802<sup>™</sup>–2007.** The language for the amendments to B151–1997 is derived from analogous provisions of AIA Document B101<sup>™</sup>–2007 (formerly B151–1997), Standard Form of Agreement Between Owner and Architect. The second section of this Guide for Bridge Amendments to B151<sup>™</sup>–1997 (Bridge Amendments) is a document that can be attached to an executed AIA Document G802–2007, Amendment to the Professional Services Agreement. The fully executed G802–2007, with the Bridge Amendments attached, will implement the modifications discussed in this Guide.

Complete G802–2007 as follows:

1. Check the box indicating authorization “to proceed with Additional Services.”
2. Consider whether the Bridge Amendments will result in the need for additional Reimbursable Expenses, or other adjustments to compensation or time for performance. If so, check the box for additional Reimbursable Expenses, and insert a description of the additional Reimbursable Expenses and adjustments for compensation or time for performance in the appropriate sections. If the Bridge Amendments will not result

in the need for additional Reimbursable Expenses or other adjustments to compensation or time for performance insert the phrase “Not Applicable” in the space provided for Compensation and Time.

3. In the space after “As Follows,” insert the following text: “In accordance with the amendments to B151–1997 set forth in the attached copy of Bridge Amendments to B151™–1997.”

## EXPLANATION OF SPECIFIC AMENDMENTS TO B151–1997

### Mandatory Amendments

The following items are related to the architect’s duties, as set forth in A201–2007, and must be revised for consistency between B151–1997 and A201–2007. Users are encouraged to review the comparative document showing all of the revisions between A201–1997 and A201–2007, which is available for free download at [www.aiacontractdocuments.org](http://www.aiacontractdocuments.org), to familiarize themselves with the changes made to the architect’s duties and other provisions.

**Sections 2.6.2, 9.2 and 9.4.** B151–1997 incorporates by reference certain terms and provisions of the edition of A201 current as of the date of the agreement. To use B151–1997 with A201–2007 as the General Conditions, these sections should be amended to make specific reference to the 2007 document. **Note: The definition of “Architect” in A201–2007 requires that the owner retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture “in the jurisdiction where the Project is located.”**

**Section 2.6.5.** The text in A201–1997 Section 4.2.2, that the architect “endeavor to guard” the owner against defects and deficiencies in the work as part of the architect’s site visit duties, has been removed from A201–2007. A new provision stating the architect’s reporting duty to the owner based on site visits is included in A201–2007 Section 4.2.3. Corresponding modifications should be made to Section 2.6.5 of B151–1997.

**Section 2.6.9.2.** The text describing the architect’s representation to the owner when certifying payment has been modified in A201–2007. Section 9.4.2 applies the architect’s “knowledge, information and belief” standard to both the progress of the work and the quality of the work. A corresponding modification should be made in Section 2.6.9.2.

**Section 2.6.11.** A201–2007 Section 4.2.7 expressly requires that the architect review and approve the contractor’s submittal schedule, and that the architect’s review of submittals be taken in accordance with the approved submittal schedule. Section 2.6.11 should be modified to reflect those requirements. The Bridge Amendments pertaining to Section 2.6.11 also include a provision requiring the architect to maintain a record of submittals and a copy of submittals supplied by the contractor. This provision is consistent with text added to B101–2007 at Section 3.6.4.5.

**Section 2.6.14.** A201–2007 Section 4.2.9 expressly requires the architect to issue Certificates of Substantial Completion. Section 2.6.14 should be modified to reflect that requirement.

**New Sections 2.6.19 and 3.3.11.** A new provision has been added to A201–2007, Section 4.2.14, specifying the architect’s responsibility for review and response to requests for information about the Contract Documents. A new section, 2.6.19, should be added to B151–1997 to make specific reference to the architect’s responsibility for review and response to requests for information. In addition, B101–2007 Section 4.3.2.2 specifies circumstances under which the Architect will be paid for responding to requests for information as an Additional Service. A corollary provision has been included in the Bridge Amendment as new Section 3.3.11.

### Optional Amendments

The following recommended amendments are optional in as much as they are not required to align the duties of the architect with the requirements of A201–2007. However, many of these amendments will provide for consistency between key terms in the owner-architect and owner-contractor agreements.

**Termination Expenses.** Section 8.1.3 of B101–2007 (formerly Section 7.3 of B151–1997) was revised to expressly state that termination expenses are excluded from the waiver of consequential damages. The Bridge Amendments include a corresponding modification to **Section 7.3** for clarification of that point.

**Architect’s Role as Initial Decision Maker.** One of the significant changes made to A201–2007 involves the role of the Initial Decision Maker (IDM). Under A201–1997, the owner and the contractor are required to submit their disputes to the architect for an initial decision as a condition precedent to mediation and arbitration. In the 2007 owner-contractor agreements, the owner and the contractor have the option of naming a third party IDM to render these decisions. If the owner and contractor do not select a third party, the architect acts as the IDM. This change is incorporated into A201–2007 at Section 15.2.1. Accordingly, **Sections 2.6.16, 2.6.17, 2.6.18, and 3.3.7** of B151–1997, pertaining to interpretations and decisions made by the architect, should be modified to reflect that the architect may be, but is not

necessarily, the IDM. **New Section 3.3.10** should be added. **Note: If the Bridge Amendments pertaining to the IDM are deleted, then, for consistency between all agreements, the owner and contractor should not name an IDM in the owner-contractor agreement.**

**Copyright and Licensing of the Instruments of Service.** In B101–2007, as in B141–1997 and B151–1997, the architect and the architect’s consultants are deemed the authors and owners of their respective Instruments of Service, and they retain all common law and statutory rights, including copyright. In B101–2007, however, the license granted to the owner to use the Instruments of Service has been expanded. Under B101–2007, the owner receives a license to use the Instruments of Service solely and exclusively for constructing, using, maintaining, altering and adding to the project. This license will only terminate if the architect rightfully terminates the agreement for cause due to the owner’s default. In the absence of such a termination by the architect, the owner retains the license to use the Instruments of Service after completion of the project or the owner’s termination of the agreement. If the owner subsequently uses the Instruments of Service without retaining the author of the Instruments of Service, the owner agrees to release and indemnify the architect for such uses. If the owner rightfully terminates the agreement for cause, however, the owner is not required to release and indemnify the architect for its further use of the Instruments of Service. If the owner terminates the agreement for its convenience, or the architect terminates the agreement due to the owner’s suspension of the project, B101–2007 provides for the owner to pay a licensing fee to the architect for the owner’s continued use of the architect’s Instruments of Service. The Bridge Amendments include revisions to **Sections 6.1 through 6.4, and new Sections 6.5, 9.11 and 11.6** to conform the Instruments of Service provisions of B151–1997 to the 2007 provisions.

**Binding Dispute Resolution.** In the A201–2007 family of documents, mediation is a condition precedent to any form of binding dispute resolution, but binding arbitration is not mandatory for disputes that fail to settle in mediation. Instead, the parties are required to select from three choices of binding dispute resolution: (1) arbitration, (2) litigation or (3) another method that they must identify. The Bridge Amendments provide modifications to conform **Sections 7.1 and 7.2** of B151–1997 to the dispute resolution provisions of A201–2007, Article 15.

**Consolidation or Joinder.** When arbitration is the selected method of binding dispute resolution, the 2007 A201 Family of documents is less restrictive regarding consolidation of arbitrations and the joinder of third parties. The Bridge Amendments provide the text for modifications to **Section 7.2.4 and a new Section 7.2.6** to conform B151–1997 to the consolidation and joinder provisions of the 2007 A201 Family of documents.

**Choice of Laws.** The choice of laws provisions were changed in the 2007 documents. Section 9.1 of B151–1997 provides that the agreement will be governed by the law of the principal place of business of the architect unless otherwise provided in the agreement. In the 2007 documents the agreement is governed by the law of the place where the project is located, except that arbitrations are expressly governed by the Federal Arbitration Act. The Bridge Amendments include a revision to **Section 9.1** to conform to the 2007 documents.

**Limitations of Actions.** The 2007 documents were revised to create a uniform limitations period for claims. Under the 2007 documents, claims among the parties must be brought within the period prescribed by the applicable law or within ten years of the date of substantial completion of the work, whichever period is shorter. The Bridge Amendments include revisions to **Section 9.3** of B151–1997, to conform to the new limitations period in the 2007 documents.

**Note:** Consideration was given to including Bridge Amendments addressing certain other new provisions in B101–2007, such as the revised standard of care, the environmentally responsible design requirements, and the architect’s insurance requirements. These amendments were not included. They are not required under A201–2007 and they are not key to consistency between the owner-contractor and owner-architect agreements. Similarly, revisions in B101–2007 addressing the point at which Basic Services end or when Additional Services begin; expressly requiring the architect to maintain a record of the Applications and Certificates for Payment; expressly requiring the architect to review shop drawings prepared by other design professionals; and expressly requiring the architect to maintain records relating to changes in the work, are not addressed by the Bridge Amendments. A comparative document, showing all of the changes between B151–1997 and B101–2007, is available for free download at [www.aiacontractdocuments.org](http://www.aiacontractdocuments.org), if the parties are interested in considering additional amendments to B151–1997 to address any of those provisions.



# AIA<sup>®</sup> Bridge Amendments to B151<sup>™</sup>–1997

The following amendments are made to B151–1997 to allow for use of B151–1997 with AIA Document A201<sup>™</sup>–2007 and 2007 AIA owner-contractor agreements. Strike outs indicate current B151–1997 text to be deleted, and underscores indicate new text added.

## ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

### § 2.6 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

§ 2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in ~~the edition of AIA Document A201<sup>™</sup>–2007, General Conditions of the Contract for Construction, current as of the date of this Agreement,~~ unless otherwise provided in this Agreement. Terms of A201–2007, or Mmodifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

§ 2.6.5 The Architect, ~~as a representative of the Owner,~~ shall visit the site at intervals appropriate to the stage of construction ~~the Contractor's operations,~~ or as otherwise agreed by the Owner and the Architect required in Article 12, ~~(1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.~~ The Architect shall neither have control over or charge of, nor be responsible for, the 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 rights and responsibilities under the Contract Documents.

### § 2.6.9 CERTIFICATES FOR PAYMENT

§ 2.6.9.2 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.5 and on the data comprising the Contractor's Application for Payment, that to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that, ~~to the best of the Architect's knowledge, information and belief,~~ the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.11 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. In accordance with the Architect-approved submittal schedule, ~~the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.~~ Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.14 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall issue Certificates of Substantial Completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 2.6.17 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, ~~t~~The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.18 When acting as the Initial Decision Maker, ~~t~~the Architect's decisions on claims, disputes or other matters in question between the Owner and Contractor, except for those relating to aesthetic effect as provided in Section 2.6.17, shall be subject to mediation and ~~arbitration~~ binding dispute resolution as provided in this Agreement and in the Contract Documents.

§ 2.6.19 Subject to the provisions of Section 3.3.11, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

## ARTICLE 3 ADDITIONAL SERVICES

### § 3.3 CONTINGENT ADDITIONAL SERVICES

§ 3.3.7 Providing services, as the Initial Decision Maker, in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

§ 3.3.10 Providing services to assist the Initial Decision Maker, if other than the Architect.

§ 3.3.11 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

## ARTICLE 6 USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

§ 6.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service ~~for use solely with respect to this Project~~. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

§ 6.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using, altering, adding to and maintaining the Project, provided that the Owner substantially performs its ~~shall comply with all~~ obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. ~~Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and~~

maintaining the Project. If the Architect rightfully terminates this Agreement for cause as provided in Article 8, the license granted in this Section 6.2 shall terminate.

§ 6.3 Except for the licenses granted in Section 6.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 6.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall not use the Instruments of Service for ~~future additions or alterations to this Project or for~~ other projects, unless the Owner obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 6.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 6.5 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Article 6. The terms of this Section 6.5 shall not apply if the Owner rightfully terminates this Agreement for cause under Article 8.

## ARTICLE 7 DISPUTE RESOLUTION

### § 7.1 MEDIATION

§ 7.1.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to ~~arbitration or the institution of legal or equitable proceedings by either party~~ binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by ~~arbitration~~ binding dispute resolution.

§ 7.1.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association ~~currently~~ in effect on the date of this Agreement. Request for mediation shall be filed in writing with the other party to this Agreement and with the ~~American Arbitration Association~~ person or entity administering the mediation. The request may be made concurrently with the filing of a Complaint or other appropriate demand for arbitration binding dispute resolution but, in such event, mediation shall proceed in advance of ~~arbitration or legal or equitable~~ binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 7.1.4 If the parties do not resolve a dispute through mediation pursuant to this Section 7.1, the method of binding dispute resolution shall be the following:  
(Check the appropriate box. If the Owner and Architect 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, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 7.2 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

## **§ 7.2 ARBITRATION**

§ 7.2.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Section 7.1.

§ 7.2.2 Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ~~currently~~ in effect on the date of this Agreement. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the ~~American Arbitration Association~~ person or entity administering the arbitration.

§ 7.2.3 A demand for arbitration shall be made ~~no earlier than concurrently with the filing of a request for mediation, but within a reasonable time after the claim, dispute or other matter in question has arisen.~~ In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 7.2.4 ~~No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein.~~ The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

## **§ 7.2.6 CONSOLIDATION OR JOINDER**

§ 7.2.6.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 7.2.6.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 7.2.6.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 7.2, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

### § 7.3 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination ~~in accordance with Article 8 of this Agreement~~, except as specifically provided in Section 8.7.

### ARTICLE 9 MISCELLANEOUS PROVISIONS

§ 9.1 This Agreement shall be governed by the law of the ~~principal place of business of the Architect, unless otherwise provided in Article 12~~ place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 7.2.

§ 9.2 Terms in this Agreement shall have the same meaning as those in ~~the edition of AIA Document A201-2007, General Conditions of the Contract for Construction, current as of the date of this Agreement.~~

§ 9.3 ~~Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed. The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 9.3.~~

§ 9.4 To the extent damages are covered by property insurance during construction, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in ~~the edition of AIA Document A201-2007, General Conditions of the Contract for Construction, current as of the date of this Agreement.~~ The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 9.11 ~~The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 6 and Section 11.6.~~

### ARTICLE 11 BASIS OF COMPENSATION

#### § 11.6 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 8.5, or the Architect terminates this Agreement under Section 8.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:  
*(Insert agreed upon licensing fee.)*