

AIA[®] Document A201[™] – 2007 Instructions

General Conditions of the Contract for Construction

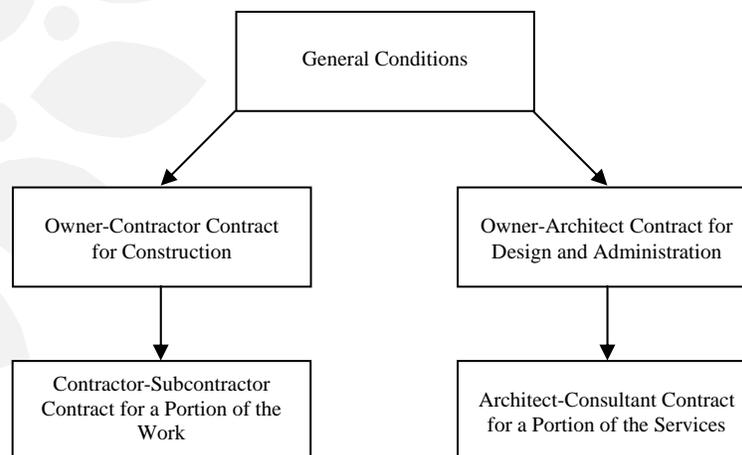
GENERAL INFORMATION

Purpose. AIA Document A201–2007, a general conditions form, is considered the keystone document of the Conventional (A201) Family of Documents because it provides the terms and conditions under which the Owner, Contractor and Architect will work together during the building construction process. When adopted into an Owner-Contractor agreement, A201–2007 provides an essential component of the construction contract. In addition, A201–2007 is incorporated by reference into the Owner-Architect and Contractor-Subcontractor agreements in the A201 Family, thus establishing a common basis for the primary and secondary relationships on the typical medium to large size, or complex (involving fast track scheduling or multiple bid packages) construction project.

For smaller or less complex construction projects, document users should consider using A107[™]–2007, Agreement Between Owner and Contractor for Projects of a Limited Scope. For single family residential projects, or even smaller and less complex commercial projects, users may wish to consider A105[™]–2007, Agreement Between Owner and Contractor for a Residential or Small Commercial Project.

Related Documents. A201–2007 is incorporated by reference into three AIA Owner-Contractor agreements, A101[™]–2007, A102[™]–2007, and A103[™]–2007; into A401[™]–2007, Agreement Between Contractor and Subcontractor; and into two AIA Owner-Architect agreements, B101[™]–2007 and B103[™]–2007. A201–2007 may be adopted by indirect reference into the Architect-Consultant agreement when the prime Agreement between the Owner and Architect adopts A201–2007 and it is in turn adopted into the Architect-Consultant agreement, AIA Document C401[™]–2007. Such incorporation by reference is a valid legal drafting method, and documents so incorporated are generally interpreted as part of the respective contract.

The Contract Documents, including A201–2007, record the Contract for Construction between the Owner and the Contractor. The other Contract Documents are the Owner-Contractor agreement, Supplementary Conditions, Drawings, Specifications, and Modifications. Although the AIA does not produce standard documents for Supplementary Conditions, Drawings or Specifications, a variety of model and guide documents are available, including AIA’s MASTERSPEC and AIA Document A503[™]–2007, Guide for Supplementary Conditions. As mentioned above and diagrammed below, A201–2007 is a vital document used to allocate the proper legal responsibilities of the parties.



On construction projects, contractual relationships are created between owners, architects, architects’ consultants, contractors, subcontractors, sub-subcontractors, and others down through the multiple tiers of participants. If custom-crafted agreements were written in isolation for each of those contractual relationships, the problems of overlaps and gaps in the numerous participants’ responsibilities could lead to mass confusion and chaos. To prevent and solve this problem, the construction industry commonly uses standardized general conditions, such as AIA Document A201–2007, for coordinating those many relationships on the project by its adoption into each contract.

The AIA expends significant time and resources in the development of A201 and its related agreements to provide coordinated linkages in the tiers of legal relationships. AIA documents related to A201 are crafted with common phrasing, uniform definitions and a consistent, logical allocation of responsibilities down through the tiers of relationships. Together these documents are known as the Conventional (A201) Family of Documents, and are listed below:

- A101™–2007, Agreement Between Owner and Contractor (Stipulated Sum)
- A102™–2007, Agreement Between Owner and Contractor (Cost Plus Fee, with GMP)
- A103™–2007, Agreement Between Owner and Contractor (Cost Plus Fee, without GMP)
- A401™–2007, Agreement Between Contractor and Subcontractor
- A503™–2007, Guide for Supplementary Conditions
- A701™–1997, Instructions to Bidders
- B101™–2007, Agreement Between Owner and Architect
- B103™–2007, Agreement Between Owner and Architect for a Large or Complex Project
- B201™–2007, Architect's Services: Design and Construction Contract Administration
- B209™–2007, Architect's Services: Construction Contract Administration
- B503™–2007, Guide for Amendments to AIA Owner-Architect Agreements
- C401™–2007, Agreement Between Architect and Consultant

The A201 Family is augmented by a number of standard contract administration documents (G-series) used generally for processing payments to the Contractor and formalizing changes in the Work.

The AIA publishes two other general conditions documents that parallel A201–2007, one for the Construction Management-Adviser Family of Documents, AIA Document A201™CMa–1992, and the other for the Interiors Family of Documents, AIA Document A251™–2007.

Dispute Resolution—Mediation and Arbitration. This document contains provisions for mediation and arbitration of claims and disputes. Mediation is a non-binding process, but is mandatory under the terms of this document. Arbitration is no longer mandatory under the terms of the 2007 Conventional (A201) Family of Documents but may be selected in the Owner-Contractor agreement. If arbitration is selected as the method of binding dispute resolution, that selection is binding in most states and under the Federal Arbitration Act. In a minority of states, arbitration provisions relating to future disputes are not enforceable but the parties may agree to arbitrate after the dispute arises. Even in those states, under certain circumstances (for example, in a transaction involving interstate commerce), arbitration provisions may be enforceable under the Federal Arbitration Act.

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

Why Use AIA Contract Documents. AIA contract documents are the product of a consensus-building process aimed at balancing the interests of all parties on the construction project. The documents reflect actual industry practices, not theory. They are state-of-the-art legal documents, regularly revised to keep up with changes in law and the industry—yet they are written, as far as possible, in everyday language. Finally, AIA contract documents are flexible: they are intended to be modified to fit individual projects, but in such a way that modifications are easily distinguished from the original, printed language.

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

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

Use of Current Documents. Prior to using any AIA Contract Document, users should consult www.aia.org or a local AIA component to verify the most recent edition.

Reproductions. This document is a copyrighted work and may not be reproduced or excerpted from without the express written permission of the AIA. There is no implied permission to reproduce this document, nor does membership in The American Institute of Architects confer any further rights to reproduce this document. This document is intended for use as a consumable—that is, the original document purchased is to be consumed in the course of its use. This document may not be reproduced for project manuals. If a user wishes to include a sample or samples of this document in a project manual, the normal practice is to purchase a quantity of the preprinted forms, binding one in each of the manuals.

Unlike many other AIA Contract Documents, AIA Document A201–2007 does not include the AIA’s express written permission to reproduce copies of the document. The AIA will not permit reproduction of this document or its language, except upon written request and receipt of written permission from the AIA.

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

To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects’ legal counsel, copyright@aia.org.

CHANGES FROM THE PREVIOUS EDITION

AIA Document A201–2007 revises the 1997 edition of A201 to reflect changes in construction industry practices and the law. Comments and assistance in this revision were received from numerous individuals and organizations, including those representing owners, architects, engineers, specifiers, general contractors, subcontractors, independent insurance agents, sureties, attorneys and arbitrators.

A number of substantial changes have been made to A201–2007. The principal changes are described below:

Article 1. A definition of Instruments of Services is now added and the ownership and use of drawings, specifications and other instruments of services is further clarified. Additionally, the parties are now required to establish necessary protocols to govern the electronic transmission of data. This article also adds Initial Decision Maker as a defined term (refer to Article 15).

Article 2. Following commencement of the Work, the Contractor may only require the Owner to provide reasonable evidence that adequate financial arrangements have been made if certain enumerated conditions (of a type that would cause the Contractor to have concerns about the Owner’s ability to meet its financial obligations) exist.

Article 3. Since 1997, many construction projects have suffered delays due the discovery of burial grounds, archaeological sites, and wetlands. New Section 3.7.5 addresses the Owner’s and Contractor’s responsibilities in the event these are not noted on the Contract Documents, but discovered during construction. Section 3.3.1 now clarifies the extent of the Owner’s responsibility for the costs associated with Owner-required means and methods of construction. Also, new requirements for the Contractor to notify the owner of its proposed superintendent are set out in Section 3.9.

Article 4. This article is revised to coordinate with changes to the 2007 AIA Owner-Architect agreements that incorporate A201–2007 and is now re-titled “Architect.” The process for making, deciding and resolving Claims is substantially revised and is relocated from Article 4 to a new Article 15.

Article 7. Section 7.3.9 is now revised to provide a more efficient process for making payments to the Contractor for changes to the Work completed under Construction Change Directives.

Article 9. New Section 9.5.3 allows the Owner to issue joint checks, if the Architect withholds certification for payment as a result of the Contractor’s failure to make payments properly to the Subcontractors or to lower tier subcontractors and suppliers. Section 9.5.3 now grants the Owner authority to request written evidence from the Contractor that the Contractor has properly paid the Subcontractors, etc.

Article 10. New Section 10.3.5 now adds a reciprocal indemnity provision whereby the Contractor indemnifies the Owner for costs and expenses related to hazardous materials the Contractor brings to the site and negligently handles, except where such costs and expenses are due to the Owner’s fault or negligence.

Article 11. This article deletes the optional Project Management Protective Liability insurance added in 1997 to cover vicarious liability for construction operations. To diminish the costs to the Project team of third-party claims, a new Section 11.1.4 requires the Contractor to add the Owner, Architect and Architect's consultants as additional insureds on its commercial liability coverage for claims caused by the Contractor's negligence during the Contractor's operations. The Contractor is also required to add the Owner as an additional insured on its commercial liability coverage for claims caused by the Contractor's negligence during the Contractor's completed operations.

Article 13. Section 13.5.1 now makes the Owner responsible for the costs of tests when applicable codes, such as the International Building Code, prohibit the Owner from delegating the costs. Section 13.7, establishing the time period in which the Owner and Contractor must bring Claims, is amended to more closely follow state statutes of limitations and repose and to require compliance with state law.

Article 15. New Article 15 consists of revised Claims and Disputes language from Article 4 of A201™–1997. Article 5 introduces the concept of an Initial Decision Maker (IDM). Unlike the 1997 edition, A201–2007 allows for Claims to be decided initially by someone other than the Architect. The Owner and the Contractor have an opportunity to identify an IDM other than the Architect in the Owner-Contractor agreement. If the Owner and Contractor do not select a third party IDM, however, the Architect will serve as the IDM, thus maintaining its traditional role as the initial decider of Claims. For most Claims, a decision by the IDM remains a condition precedent to proceeding to mediation. As in A201–1997, mediation is a condition precedent to the method of binding dispute resolution selected in the Owner-Contractor agreement. While arbitration is no longer mandatory in the 2007 Conventional (A201) Family of Documents, Article 15 sets forth the requirements for arbitration if it is the selected method of binding dispute resolution. Unlike in the 1997 edition, however, A201–2007 allows for consolidation of arbitrations and joinder of necessary third parties.

USING A201–2007

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

In a purchased paper AIA Contract Document, necessary modifications may be accomplished by writing or typing the appropriate terms in the blank spaces provided on the document, or by attaching Supplementary Conditions, special conditions or referenced amendments.

Modifications directly to purchased paper AIA Contract Documents may also be achieved by striking out language. However, care must be taken in making these kinds of deletions. Under NO circumstances should standard language be struck out to render it illegible. For example, users should not apply blocking tape, correction fluid or Xs that would completely obscure text. Such practices may raise suspicion of fraudulent concealment, or suggest that the completed and signed document has been tampered with. Both parties should initial handwritten changes.

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

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

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

Cover Page

Project. The Project should be identified with the same name, and location or address as set forth in the Owner-Contractor agreement.

Owner. The Owner should be identified using the same legal name and the address as set forth in the Owner-Contractor agreement.

Architect. Similarly, the Architect should be identified using the same legal name and the address as set forth in the Owner-Contractor agreement.