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Last Call... On October 31 the AIA Retires the A201-2007 General Conditions – What Does This Mean to You?

In April 2017 the American Institute of Architects released its new A201-2017 General Conditions document. Despite its introduction, the 2007 version has remained in circulation and continues to be used alongside the AIA's suite of agreements. However, on October 31, 2018, the AIA will retire the 2007 General Conditions. After that date, you will no longer be able to create or finalize the 2007 version of the form.

While the AIA will be discontinuing all of its 2007 forms on October 31, including the A101 (Lump Sum Agreement), A102 (Cost Plus with Guaranteed Maximum Price Agreement), A103 (Cost Plus Agreement), A107 (Abbreviated Form Agreement, currently the A104), and the A105 (Short Form Agreement), the General Conditions are of particular concern. In addition to pairing with certain new 2017 agreements, such as the A101, A102 and A103, the new General Conditions will need to link up with certain older AIA documents, including the A133-2009 Cost Plus a Fee with a Guaranteed Maximum Price Agreement.

As the AIA generally revises its forms every ten years, it is likely that the A133-2009 Agreement will be receiving its overhaul in 2019 – but in the meantime, parties using the A133-2009 Agreement form will be pairing it with the new A201-2017. In mating old-to-new, there are bound to be some gaps. Beyond changing the references in the A133-2009 to the A201-2017 (from the A201-2007), one particular concern exists in the insurance provisions of the A133-2009 and the A201-2017. A major change to the 2017 AIA documents was the addition of an insurance exhibit to the A101, A102, and A103 agreements. Accordingly, many important insurance provisions were removed from the A201 and added to the insurance exhibits.

The removal of insurance language from the A201, creates a void when paired with the A133-2009 Agreement. The A133-2009 Agreement directs the parties to the insurance provisions contained in the A201 General Conditions, many of which have been removed in the 2017 update. Currently there is no standard insurance exhibit for the A133-2009 Agreement.

Thus, pairing an “off-the-rack” version of the A133-2009 Agreement with an A201-2017 could mean an absence of important insurance terms. In order to fill-the-gap, a custom insurance exhibit, or an exhibit constructed from one of the other 2017 AIA agreement forms should be used in conjunction with the A133 Agreement. If the parties choose to borrow an insurance exhibit from one of the other 2017 AIA agreements, there are several issues in these form documents that should be carefully examined by Contractors, including:

- If the Contractor provides the Builder’s Risk Insurance, it must provide the Owner with a copy of the policy. The Owner does not have a reciprocal obligation in the event it provides the Builder’s Risk Insurance. (Sections A.2.3.1 and A.3.3.2.1).
- The Owner Builder’s Risk section does not specify that the Owner’s policy must provide protection against terrorism. (Section A.2.3.1.1).
- The Owner is given the power to adjust a claim with the Contractor’s Builder’s Risk carrier. (Section A.3.3.2.1).
- The expanded Contractor Commercial General Liability sections include 11 different prohibitions against exclusions in the Contractor’s policy. (Section A.3.2.2.2).
- Architect/consultants are still additional insureds on the Contractor’s Commercial General Liability policy (carry over from the A201-2007, Article 11). (Section A.3.1.3).

With October 31 looming, we recommend that Contractors begin familiarizing themselves with the AIA’s 2017 forms and prepare modified versions of these documents before the 2007 forms expire. [For additional guidance we recommend consulting the AGC’s Commentary on the AIA A201.](#) Alternatively, consider switching to [ConsensusDocs](#) which AGC endorses.

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