

DRAFT AIA® Document A101™ - 2017

Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the [REDACTED] day of [REDACTED] in the year [REDACTED] (In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

[INSERT DESCRIPTION OF PROJECT]

THE OWNER:
(Name, legal status and address)

[INSERT CORRECT LEGAL NAME AND ADDRESS OF OWNER IF NOT AS BELOW]

Hobbs Brook Management LLC
225 Wyman Street
Waltham, MA 02451

THE CONTRACTOR:
(Name, legal status and address)

[INSERT NAME OF CONTRACTOR, ADDRESS and CONTRACTOR LICENSE NUMBER IF REQUIRED]

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ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

This document is intended to be used in conjunction with AIA Document A201™-2017, General Conditions of the Contract for Construction. Article 11 of A201™-2017 contains additional insurance provisions.

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§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk “all-risks” completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost, agreed amount basis. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as named insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, earth movement, flood, sprinkler leakage, equipment breakdown, or windstorm (named or un-named). The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows: *(Indicate below the cause of loss and any applicable sub-limit.)*

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Contractor’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows: *(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)*

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Contractor shall be solely responsible for all loss not covered because of such deductibles or retentions. The Owner shall have the right, but not the obligation, to pay any necessary deductibles, or retentions in order to allow for the policy limits to be accessed.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The policy shall provide the Owner with the right to occupy or use any completed or partially completed portion of the Work prior to Substantial Completion.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, “all-risks” property insurance in the amount of One Million Dollars (\$1,000,000) per occurrence, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. This property insurance shall be primary insurance, without contribution, from any other property insurance provided on the

existing structure(s). This coverage shall be provided on an agreed amount basis, without a provision for co-insurance.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

§ A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

Coverage A Policy Limits; Coverage B and C – One Million Dollars (\$1,000,000) combined

§ A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

One Million Dollars (\$1,000,000)

§ A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

One Million Dollars (\$1,000,000)

§ A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

Five Hundred Thousand Dollars (\$500,000)

§ A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

Five Hundred Thousand Dollars (\$500,000)

§ A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

One Million Dollars (\$1,000,000)

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

§ A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. (Indicate applicable limits of coverage or other conditions in the fill point below.)

§ A.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.2 and A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show all instances where the Owner and all other Additional Insureds have been provided named insured, additional insured and waiver of subrogation coverage on the Contractor's policies per the terms and conditions of this Exhibit A.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations.

To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage and the excess or umbrella liability policy or policies to include (1) the Owner, the Architect, the Architect's consultants, Factory Mutual Insurance Company, Hobbs Brook Management LLC, the owner of the building where the Work is to be performed if not owned by the Owner, and all of their respective officers, directors, owners, affiliates, employees, and volunteers, as additional insureds (collectively, the "Additional Insureds") for claims caused in whole or in part by the Contractor's acts or omissions resulting from the Contractor's operations; and (2) the Additional Insureds as additional insureds for claims caused in whole or in part by the Contractor's acts or omissions resulting from the Contractor's completed operations. Such additional insured coverage provided shall extend to all of Contractor's excess liability and umbrella liability policies. The coverage provided to the Additional Insureds on Contractor's commercial general liability excess liability and umbrella liability policies shall be primary and non-contributory to any of the Additional Insureds' coverage under any other commercial general liability, excess liability or umbrella liability insurance policies and shall apply to both ongoing and completed operations. The limits of insurance available to such Additional Insureds shall be the full policy limits of any commercial general liability, excess liability and umbrella liability policies to which the Additional Insured's coverage applies. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Additional Insureds.

Contractor shall include the Additional Insureds as additional insureds on a primary, non-contributory basis to any automobile liability or contractors' pollution liability insurance policy carried by Contractor.

For purposes of this Agreement, the term "affiliate" shall mean a parent, subsidiary, brother or sister corporation or other corporation or entity which controls the Additional Insured or which the Additional Insured controls or which is under common control with the Additional Insured. For purposes hereof, control means, in the case of a corporation, direct or indirect ownership of more than fifty percent (50%) of the interest entitled to a vote for a majority of the Board of Directors or equivalent body or, in the case of a partnership, limited liability company or other entity, direct or indirect ownership of the right to receive more than fifty percent (50%) of the profits thereof.

§ A.3.1.4 Waiver of Subrogation Obligations. To the fullest extent permitted by law, the Contractor agrees to waive any right of action against the Owner and all of the Additional Insureds for any damages or loss covered by any policy provided in accordance with this Exhibit A. Such waiver shall be evidenced by a waiver of subrogation endorsement (or policy coverage provision) within each policy. See also the AIA A201, Article 11, attached as a Contract Document, with respect to the additional waiver of subrogation provisions with respect to claims or damages covered under any applicable property or builder's risk policy of insurance, if such A201 is a Contract Document.

§ A.3.1.5 Obligations of Subcontractors/Subconsultants. All insurance required of Contractor in this Exhibit A shall also be required of all tiers of their subcontractors and subconsultants except as it pertains to:

1. Builder's risk/property insurance policy per A.3.3.2.1; and
2. Limits of insurance required of Contractor.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

All Commercial General Liability, Excess Liability and Umbrella Liability policies shall be maintained continuously through the statue of repose as specified in the jurisdiction in which the Project is located.

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate, and Two Million Dollars (\$2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 general aggregate limit shall apply separately to each project;
- .5 bodily injury or property damage arising out of completed operations; and
- .6 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Business Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than **One Million Dollars (\$1,000,000)** combined single limit bodily injury and property damage 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. Coverage shall be provided on a form equivalent to ISO CA 00 01, and shall provide Code 1 (any auto) coverage. The policy shall include coverage for pollution liability using form CA 99 48 (or its equivalent). If any hazardous materials will be transported, then the MCS-90 endorsement must be attached to the policy.

§ A.3.2.4 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 such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than **One Million Dollars (\$1,000,000)** each accident, **One Million Dollars (\$1,000,000)** each employee, and **One Million Dollars (\$1,000,000)** policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor (or someone for whom they are legally responsible) is required to furnish professional services (including but not limited to design, architectural services, engineering services, construction management and/or preconstruction services) as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than **Five Million Dollars (\$5,000,000)** per claim and **Five Million Dollars (\$5,000,000)** in the aggregate.

§ A.3.2.9 Intentionally omitted.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.6 Contractors' Pollution Liability Insurance may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than **Ten Million Dollars (\$10,000,000)** per claim and **Ten Million Dollars (\$10,000,000)** in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than **Five Million Dollars (\$5,000,000)** per claim and **Five Million Dollars (\$5,000,000)** in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than **Five Million Dollars (\$5,000,000)** per claim and **Five Million Dollars (\$5,000,000)** in the aggregate. Breach of privacy coverage shall be included.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

All Commercial General Liability, Excess Liability and Umbrella Liability policies shall be maintained continuously through the statute of repose as specified in the jurisdiction in which the Project is located.

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Contractor shall be responsible for losses within the deductible. The Contractor shall provide the Owner with a copy of the property insurance policy or policies required before commencing their Work. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with the terms of the Agreement, including, if applicable and included as a Contract Document, Article 11 of the General Conditions.
- § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than **One Million Dollars (\$1,000,000)** per claim and **Two Million Dollars (\$2,000,000)** in the aggregate, for Work within fifty (50) feet of railroad property.
- § A.3.3.2.3 Asbestos Abatement Liability Insurance, if Contractor's scope of work includes asbestos removal then it shall provide policy limits of not less than **Five Million Dollars (\$5,000,000)** per claim and **Five Million Dollars (\$5,000,000)** in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials. Non-owned, offsite disposal coverage shall be included in the policy.
- § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form. This insurance shall be provided at 100% replacement cost value on an agreed amount basis.
- § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment. This policy shall be provided on an agreed amount basis.
- § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverages

(1) Excess Follow Form/Umbrella Liability with respect to coverages (excess over 3.2.2.1, 3.2.3 and 3.2.6)

(2) Contractor's Pollution Liability Insurance (such coverage shall include non-owned offsite disposal and

Limits

For (1): Ten Million Dollars (\$10,000,000) per occurrence, Ten Million Dollars (\$10,000,000) General Aggregate, Ten Million Dollars (\$10,000,000) Products-Completed Operations Aggregate.

transportation liability coverage and hazardous abatement coverage – including asbestos abatement)

For (2): Five Million Dollars (\$5,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate.

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum
Payment Bond	Full contract amount
Performance Bond	Full contract amount

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

[INSERT ANY SPECIAL TERMS FROM LEASE, OWNER REQUIREMENTS, ETC.]