

**South Carolina Division of Procurement
Services, Office of the State Engineer Version of
 AIA[®] Document A133[™] – 2019**

***Standard Form of Agreement Between Owner and
Construction Manager as Constructor where the basis of
payment is the Cost of the Work Plus a Fee with a
Guaranteed Maximum Price***

This version of AIA Document A133[™]–2019 is modified by the South Carolina Division of Procurement Services, Office of the State Engineer (“SCOSE”). Publication of this version of AIA Document A133–2019 does not imply the American Institute of Architects’ endorsement of any modification by SCOSE. A comparative version of AIA Document A133–2019 showing additions and deletions by SCOSE is available for review on the SCOSE Web site.

Cite this document as “AIA Document A133[™]–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor — SCOSE Version,” or “AIA Document A133[™]–2019 — SCOSE Version.”

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Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

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)

The Owner is a Governmental Body of the State of South Carolina as defined in
S.C. Code Ann. § 11-35-310.

and the Construction Manager:
(Name, legal status, address, and other information)

for the following Project:
(Name, State Project Number, location, and detailed description)

The Architect:
(Name, legal status, address, and other information)

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

The Owner and Construction Manager agree as follows.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

(Provide total and, if known, a line item breakdown.)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
- .4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager may complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representatives in accordance with Section 4.2:

§ 1.1.8.1 The Owner designates the individual listed below as its Owner's Senior Representative, which individual has the responsibility for and the authority to resolve disputes under Section 15.6 of the General Conditions:

Name:
Title:
Address:
Telephone:
Email:

§ 1.1.8.2 The Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions:

Name:
Title:
Address:
Telephone:
Email:

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

and such other consultants as may be designated by Owner from time to time.

§ 1.1.11 The Architect's representative:

Name:
Title:
Address:
Telephone:
Email:

§ 1.1.12 The Construction Manager identifies the following representatives in accordance with Article 3:

§ 1.1.12.1 The Construction Manager designates the individual listed below as its Contractor's Senior Representative, which individual has the responsibility for and authority to resolve disputes under Section 15.6 of the General Conditions:

Name:
Title:
Address:
Telephone:
Email:

§ 1.1.12.2 The Construction Manager designates the individual listed below as its Contractor's Representative, which individual has the authority and responsibility set forth in Section 3.1.1 of the General Conditions:

Name:
Title:
Address:
Telephone:
Email:

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

§ 1.1.14 Reserved

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager may appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner may adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representatives shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

§ 2.1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.1.2 Any reference in this document to the Agreement between the Owner and Construction Manager as Constructor, AIA Document A133, or some abbreviated reference thereof, shall mean the AIA A133-2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor, SCOSE Version. Any reference in this document to the General Conditions of the Contract for Construction, AIA Document A201, or some abbreviated reference thereof, shall mean the AIA A201-2017 General Conditions of the Contract for Construction, SCOSE Version.

§ 2.2 Relationship of the Parties

§ 2.2.1 The Construction Manager shall 1) cooperate with the Architect in furthering the interests of the Owner; 2) furnish efficient construction administration, management services, and supervision; 3) furnish at all times an adequate supply of workers and materials; and 4) perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.2.2 The Construction Manager represents that it is an independent Contractor, competent, knowledgeable, and familiar with the type of work contemplated by this Contract. The Construction Manager agrees and understands that neither it nor any of its agents or employees may act in the name of the Owner except and unless specifically authorized in writing by the Owner to do so. The Construction Manager further represents that it owes the Owner the duties of good faith, trust, confidence, and candor, and that it must exercise a high standard of care in managing money and property. The Construction Manager will, to its best abilities, act in the best interests of the Owner and the timely completion of the Work.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.6, Notice; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 3.12.10, Professional Services; Section 3.18, Indemnification; Section 10.3, Hazardous Materials; Section 13.1, Governing Law; Section 13.3, Rights and Remedies; Section 13.5, Interest; Section 13.7, Interpretation of Building Codes; Section 13.8, Minority Business Enterprises; Section 13.9, Illegal immigration, Section 13.10, Drug-Free Workplace; Section 13.11, False Claims; Section 13.13, Open Trade; Section 15.1.7, Claims for Listed damages; Section 15.1.8, Waiver of Claims against the Architect; Section 15.6, Dispute Resolution. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the

Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.3.4 The Construction Manager shall actively participate in Design Coordination Meetings with the Architect and Owner for the purpose of collaborating and coordinating the final design and Construction Documents. The Construction Manager is responsible to cooperate and assist by providing feedback during the development of the design of the Project. The objective of the coordination is to assure that the design meets the Owner's program in all respects, including but not limited to the following areas:

- .1 Cost containment and cost monitoring;
- .2 Cost-effective decisions;
- .3 Compatibility with the Owner's architectural standards;
- .4 The appropriate provision of all necessary services and utilities;
- .5 The necessary level of environmental review and documentation;
- .6 The Owner is kept fully aware of the progress of the Project;
- .7 Project Schedule is maintained;
- .8 Construction quality assurance complies with the Owner's requirements;
- .9 Construction Documents are reviewed for constructability; and
- .10 All permits and approvals are obtained for the Owner to occupy the Project.

The Construction Manager shall review the Schematic Design, Design Development, and Construction Documents, including without limitation, the Owner's program (as appropriate) to understand the requirements of the Project.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the

Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.2 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. The cost of such items shall be included in the Cost of the Work set forth in Article 7. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.1.1 Prior to proposing a Guaranteed Maximum Price, the Construction Manager shall 1) carefully study and compare the various Drawings and Specifications relative to the Work, as well as the information furnished by the Owner pursuant to this Agreement, 2) take field measurements of any existing conditions related to the Work, and 3) observe any conditions at the site affecting the Work, including but not limited to the regular daily operations of the Owner and the flow of visitors and the public to the Owner's facilities, in order to allow for continued operation of substantially all of the Owner's business and providing for the highest degree of safety for the Owner's visitors and public.

§ 3.2.1.2 The Construction Manager's review of documents and conditions is for the purpose of confirming the accuracy of the Construction Manager's estimate of the Cost of the Work and for facilitating coordination and construction by the Construction Manager. The Construction Manager's review is not for the purpose of 1) discovering design errors and omissions that are latent or are not obvious to the average Construction Manager licensed for projects of the scope and size of this Project performing a reasonable review of the Drawings and Specifications; 2) discovering violations of the International Code Council series of codes as adopted by South Carolina; or 3) discovering latent inconsistencies and ambiguities in the Drawings and Specifications. The Construction Manager shall promptly notify the Architect of any errors, inconsistencies, or omissions discovered. Such notice shall be made in writing and shall be submitted to the Owner and Architect.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency in the amount of _____ % of the Cost of the Work or \$ _____. With the Owner's written approval, which shall not be unreasonably withheld, the Construction Manager may expend funds from the contingency

for the Cost of the Work. The contingency is not intended, nor shall it be used, for Owner directed scope changes or additions to the Work. The parties agree that any use of contingency must be for the Cost of the Work. If the expenditure relates to the failure of a Subcontractor to perform Work in accordance with this Agreement, the Construction Manager shall demonstrate, to the Owner's reasonable satisfaction, that the Construction Manager has in good faith exercised all reasonable steps to obtain performance by the Subcontractor or the Subcontractor's surety.

§ 3.2.4.1 Allowable uses of contingency:

- .1 Shift work/overtime,
- .2 Project acceleration costs (except to the extent the Construction Manager or Subcontractor is at fault),
- .3 Safety issues,
- .4 Unknown or undiscovered pre-existing conditions or materials,
- .5 Design conflicts or errors and omissions not otherwise chargeable back to the Architect,
- .6 Corrective work as a result of damage by parties outside of the Construction Manager's responsibility not including costs or deductibles covered by Commercial General Liability or Builder's Risk Insurance.

§ 3.2.4.2 Non-allowable uses of contingency:

- .1 Claim settlements with Subcontractors or suppliers,
- .2 Insurance claims including those of the Construction Manager or Subcontractors,
- .3 Changes in the final design,
- .4 Legal fees incurred by the Construction Manager (excluding litigation between the Owner, its agents, or consultants and the Construction Manager),
- .5 Errors in Subcontractor bids due to their failure to thoroughly examine the bidding documents and Contract Documents and failure to request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements prior to their bid submission,
- .6 Any other use other than those identified in Subparagraph 3.2.4.2 unless mutually agreed.

§ 3.2.4.3 As the Work progresses, the Owner may request a meeting with the Construction Manager and Architect to analyze the remaining contingency and determine methods of reducing such contingency for the benefit of Owner to implement scope changes to the Work or otherwise to make the contingency available for the Owner's use. Any such reduction in the contingency shall be documented by Change Order.

§ 3.2.4.4 On a monthly basis, the Construction Manager shall provide to the Owner a summary of the contingency expenditures in a format approved by the Owner. The Owner has the right to audit the contingency.

§ 3.2.4.5 Contingency funds remaining at the completion and final acceptance of the Project are not considered cost savings and are to be returned to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 Upon review and approval by the parties of the Guaranteed Maximum Price proposal, the Contract shall be amended by completing and attaching the Exhibit A of the A133 to a Change Order to CM-R Contract. With the signatures of the Construction Manager, Architect, Owner, and OSE on the Change Order, the Guaranteed Maximum Price proposal shall be deemed effective and included as part of the Agreement without further acceptance from the Construction Manager. The Owner shall supply to the Construction Manager and Architect a copy of the approved Change Order.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs. The Construction Manager may not commence construction of any portion of the Work prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price unless the Owner and the Construction Manager agree on a fixed price or a guaranteed maximum price regarding that portion of the construction. All cost for any such work shall be included in the Cost of the Work set forth in Article 7.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the

Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall be in accordance with Section A2.1 of Exhibit A of the A133-2019.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner’s execution of the Guaranteed Maximum Price Amendment. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§ 3.3.3 The Construction Manager shall provide a Construction Schedule in a detailed precedence-style critical path management (CPM) or primavera-type format satisfactory to the Owner and the Architect. The Schedule shall (1) provide a graphic representation of all activities and events that will occur during performance of the Work; (2) identify each phase of construction and occupancy; and (3) set forth milestone dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.

1. Upon review by the Owner and the Architect for conformance with milestone dates and Construction Time given in the Construction Documents, with associated Substantial Completion date(s), the Construction Schedule shall be deemed part of the Contract Documents and attached to the Agreement as an Exhibit. If returned for non-conformance, the Construction Schedule shall be promptly revised by the Construction Manager in accordance with the recommendations of the Owner and the Architect and resubmitted.
2. The Construction Manager shall monitor the progress of the Work for conformance with the requirements of the Construction Schedule and shall promptly advise the Owner of any delays or potential delays. Whenever the Construction Schedule no longer reflects actual conditions and progress of the Work or the

Contract Time is modified in accordance with the terms of the Contract Documents, the Construction Manager shall update the Construction Schedule to reflect such conditions.

3. In the event any progress report indicates any delays, the Construction Manager shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary.
4. In no event shall any progress report constitute an adjustment in the Contract Time, any milestone date, or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to Change Order.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Reserved

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. However, the Owner does not warrant the accuracy of any such information requested by the Construction Manager that is not otherwise required of the Owner by the Contract Documents. Neither the Owner nor the Architect shall be required to conduct investigations or to furnish the Construction Manager with any information concerning subsurface characteristics or other conditions of the area where the Work is to be performed beyond that which is provided in the Contract Documents.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. The Construction Manager acknowledges and accepts that the authority of the Owner and its representative to act on certain matters without the prior approval of the Office of State Engineer is prohibited or limited by the South Carolina Codified Laws, as Amended and the Manual for Planning and Execution of State Permanent Improvements Projects (Manual). The Construction Manager further agrees to be bound by and subject to any approval processes set forth in the Manual.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, SCOSE Version, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount per Phase (if applicable), or basis for, compensation and include a list of reimbursable cost items, as applicable.)

§ 5.1.1.1 Services Provided In Two Phases/Contract Depends On Continued Funding

1. The preconstruction services to be provided by the Construction Manager under this Agreement may need to be divided into two phases, if so noted in Section 5.1.1. Phase 1 Services shall include all preconstruction services through completion of Schematic Design Phase Services by the Architect. Phase 2 Services shall include all preconstruction services from the start of the Design Development Phase through the completion of all preconstruction services to be provided under this Agreement.
2. Of the total preconstruction fee, only funding for performance of this contract through completion of Phase 1 Services has been approved under Title 2, Chapter 47 of the South Carolina Code of Laws.
3. The parties contemplate that upon completion of Phase 1 Services, the Joint Bond Review Committee and State Fiscal Accountability Authority will approve additional funds for Phase 2 Services. Notwithstanding any other provision of this Agreement, the Owner's total obligation to pay or reimburse the Construction Manager is limited to the amount allotted to this Agreement under Section 5.1.1.1.2 unless and until such time as expenditure of additional funds is approved pursuant to Title 2, Chapter 47 of the South Carolina Code of Laws and any other applicable laws and the Owner provides the Construction Manager with written notice to proceed with Phase 2 Services.
4. The Construction Manager acknowledges and agrees that upon completion of Phase 1 Services, further work will be suspended for a reasonable amount of time, as determined by the meeting schedules of the Joint Bond Review Committee and State Fiscal Accountability Authority, as needed for the Agency to prepare and submit a revised Project scope and budget to the Joint Bond Review Committee and State Fiscal Accountability Authority for their approval. In the event that the Joint Bond Review Committee and State Fiscal Accountability Authority do not approve additional funding for the Project, the Owner intends to terminate this contract pursuant to the "Termination for Convenience" clause of this contract subject to limits on Owner's obligation to pay under Section 5.1.1.1.3 and provided the Construction Manager shall

not be entitled to recover as damages or otherwise, anticipated profits on work not performed. The Owner shall provide the Construction Manager notice of the lack of funding for Phase 2 Services within a reasonable time of the Owner's receiving that notice.

§ 5.1.2 Reserved

§ 5.1.2.1 Reserved

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within _____ (___) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable twenty-one (21) days from the date the Construction Manager's invoice is received by the Owner.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

§ 6.1.3 Reserved

§ 6.1.4 Reserved

§ 6.1.5 Reserved

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. As provided in the General Conditions, the Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work which negatively impacts achievement of Substantial Completion as shown on the last updated Project Schedule issued before the date of the Change Order, provided the Construction Manager complies with all claim and notice provisions in the Contract Documents.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.1.2 An adjustment due to changes in the Work may include compensation to the CM-R, compensation for the Work performed by the Subcontractors forces, and compensation for the Work performed by the sub-subcontractors forces. Compensation to the CM-R is calculated by multiplying the Subcontractor and/or sub-subcontractor actual costs, less overhead and profit for the Subcontractor and sub-subcontractor, by the CM-R fee.

§ 6.3.1.3 For any adjustment to the Contract Sum, the Construction Manager’s fee shall be as set forth in Section 6.1.2 of the Agreement.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the Fee without an adjustment will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site and performing Work, with the Owner’s prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 Reserved

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner’s prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Reserved

§ 7.6.10 Expenses incurred in accordance with the Construction Manager’s standard written personnel policy for relocation and temporary living allowances of the Construction Manager’s personnel required for the Work, with the Owner’s prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner’s prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 The Construction Manager shall ordinarily invite bids for all major components of the Work. The Construction Manager shall not self-perform any Work for which subcontractor bids are invited, unless no acceptable bids are received, or a subcontractor fails to perform. Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids as noted in Section 5.2.2 of the A201. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall provide a summary of such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below, in the General Conditions, and elsewhere in the Contract Documents. In the event of a conflict between the provisions of this Article and the provisions of the General Conditions, the provisions of the General Conditions shall control unless this Article, overrides the provisions of the General Conditions, expressly setting forth by section number the terms of the General Conditions which are overridden by this Article.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 The Owner shall make payment of the certified amount to the Contractor not later than twenty-one (21) days after receipt of the Application for Payment.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 Subject to S.C. Code Ann. § 12-8-550 (Withholding Requirements for Payments to Non-Residents), in accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the amount of three and one half percent (3.5%), as retainage, from the payment otherwise due

§ 11.1.8.2 When a portion, or division, of Work as listed in the Schedule of Values is 100% complete, that portion of the retained funds which is allocable to the completed division must be released to the Construction Manager. No later than ten (10) days after receipt of retained funds from the Owner, the Construction Manager shall pay to the subcontractor responsible for such completed work the full amount of retainage allocable to the subcontractor's work.

§ 11.1.8.3 Upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site. Storage of materials off site of the construction project shall require sufficient bonding and insurance to cover the value of said materials. Insurance shall name the Construction Manager and the Owner as benefactors in the event of loss, damage, or failure of delivery to the project.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements. The percentage of retainage held on subcontracts shall not be more than three and one half percent (3.5%).

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than twenty-one (21) days after the issuance of the Architect's final Certificate for Payment

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due to the Construction Manager and unpaid under the Contract shall bear interest in accordance with Section 13.5 of the AIA Document A201–2017. However, no interest is due unless the Construction Manager notifies the Owner of its intent to charge interest at the time request for payment is made.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Architect shall be required as a condition precedent to dispute resolution.

§ 12.1.2 Reserved

§ 12.2 Reserved

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1** Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2** Add the Construction Manager’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3** Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement prior to the date of assignment provided those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the

Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole, or in part, without written consent of the other and then only in accordance with and as permitted by Regulation 19-445.2180 of the South Carolina Code of Regulations, as amended. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 Reserved

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than \$1,000,000 for each occurrence and \$1,000,000 in the aggregate for bodily injury and property damage, \$1,000,000 personal and advertising injury, \$50,000 fire damage (any one fire), and \$5,000 medical expense (any one person).

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than \$1,000,000 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.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability, Employers Liability, and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. The umbrella policy limits shall not be less than \$3,000,000.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than \$100,000 each accident, \$100,000 each employee, and \$500,000 policy limit for claims, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed.

§ 14.3.1.5 Reserved

§ 14.3.1.6 Other Insurance

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

Coverage

Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations, whether such operations be by the Construction Manager or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable..

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.1.9 A failure by the Owner to either (i) demand a certificate of insurance or written endorsement required by Section 14.3, or (ii) reject a certificate or endorsement on the grounds that it fails to comply with Section 14.3, shall not be considered a waiver of Contractor's obligations to obtain the required insurance.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format 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.)

§ 14.5 Other provisions:

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, SCOSE Version
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, SCOSE Version, if executed
- .3 AIA Document A133™–2019, Exhibit B, SCOSE Version, Insurance and Bonds
- .4 AIA Document A201™–2017, SCOSE Version, General Conditions of the Contract for Construction
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .6 Other Exhibits:

(Check all boxes that apply.)

AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- .7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Form SE-470, Notice of Intent to Award

Form SE-490, Notice to Proceed – CM-R Construction

Standard Modifications to the AIA A201-2017, SCOSE Version, CM-R Project

Certificate of Procurement Authority issued by the State Fiscal Accountability Authority

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

(Printed name and title)

Sample

South Carolina Division of Procurement Services, Office of State Engineer Version of AIA Document A133™ – 2019 Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the _____ day of _____ in the year _____, is incorporated into the accompanying AIA Document A133™–2019, SCOSE Version, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the _____ day of _____ in the year _____ (In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name, State Project Number, and location or address)

THE OWNER:
(Name, legal status, and address)

The Owner is a Governmental Body of the State of South Carolina as defined in S.C. Code Ann. § 11-35-310.

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

This version of AIA Document A133–2019 Exhibit A is modified by the South Carolina Division of Procurement, Office of State Engineer. Publication of this version of AIA Document A133 Exhibit A does not imply the American Institute of Architects' endorsement of any modification by the South Carolina Division of Procurement, Office of State Engineer. A comparative version of AIA Document A133–2019 Exhibit A showing additions and deletions by the South Carolina Division of Procurement Services, Office of State Engineer is available for review on South Carolina state Web site

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

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed _____ (\$ ____), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.
(Provide itemized statement below or reference an attachment.)

§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 Reserved

§ A.1.1.5 Reserved

§ A.1.1.6 Unit prices, if any:
(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)
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ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The Date of Commencement of the Work shall be the date fixed in a Notice to Proceed issued by the Owner. The Owner shall issue the Notice to Proceed to the Construction Manager in writing, no less than seven (7) days prior to the Date of Commencement. Unless otherwise provided elsewhere in the Contract Documents and provided the Construction Manager has secured all required insurance and surety bonds, the Construction Manager may commence work immediately after receipt of the Notice to Proceed.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time as provided in the Notice to Proceed shall be measured from the Date of Commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work within the Contract Time indicated in the Notice to Proceed.

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
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§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Number	Title	Date
--------	-------	------

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
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Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price
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§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, and suppliers, identified below:
(List name, discipline, address, and other information.)

This Amendment to the Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

(Printed name and title)

Sample

South Carolina Division of Procurement Services, Office of State Engineer Version of AIA Document A133™ – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the _____ day of _____ in the year _____
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name, State Project Number, and location or address)

THE OWNER:
(Name, legal status, and address)

The Owner is a Governmental Body of the State of South Carolina as defined in S.C. Code Ann. § 11-35-310.

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 OWNER'S INSURANCE**
- B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Construction Manager 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, SCOSE Version.

ARTICLE B.2 OWNER'S INSURANCE

§ B.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 B.2 and, upon the Construction Manager's request, provide a copy of the policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

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

This version of AIA Document A133–2019 Exhibit B is modified by the South Carolina Division of Procurement, Office of State Engineer. Publication of this version of AIA Document A133 Exhibit B does not imply the American Institute of Architects' endorsement of any modification by the South Carolina Division of Procurement, Office of State Engineer. A comparative version of AIA Document A133–2019 Exhibit B showing additions and deletions by the South Carolina Division of Procurement Services, Office of State Engineer is available for review on South Carolina state Web site

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

§ B.2.3 Reserved

§ B.2.3.1 Reserved

§ B.2.3.1.1 Reserved

§ B.2.3.1.2 Reserved

§ B.2.3.1.3 Reserved

§ B.2.3.1.4 Reserved

§ B.2.3.2 Reserved

§ B.2.3.3 Reserved

§ B.2.4 Reserved

§ B.2.5 Optional Insurance.

The Owner shall purchase and maintain any insurance selected below.

- § B.2.5.1 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.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 B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Construction Manager with reasonable promptness.

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

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations, whether such operations be by the Construction Manager or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. 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 Architect and the Architect's consultants, CG 20 32 07 04.

§ B.3.1.4 A failure by the Owner to either (i) demand a certificate of insurance or written endorsement required by Section A.3, or (ii) reject a certificate or endorsement on the grounds that it fails to comply with Section A.3, shall not be considered a waiver of Contractor's obligations to obtain the required insurance.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager 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 Construction Manager 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, for such other period for maintenance of completed operations coverage as specified in the Contract Documents, or unless a different duration is stated below: *(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)*

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than \$1,000,000 each occurrence, \$1,000,000 general aggregate, \$1,000,000 aggregate for products-completed operations hazard, \$1,000,000 personal and advertising injury, \$50,000 fire damage (any one fire), and \$5,000 medical expense (any one person), 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 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.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 Construction Manager'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.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than \$1,000,000 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.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability, Employers 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 B.3.2.2 and B.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. The umbrella policy limits shall not be less than \$3,000,000.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than \$100,000 each accident, \$100,000 each employee, and \$500,000 policy limit for claims, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed.

§ B.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

§ B.3.2.8 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 _____ (\$ ___) per claim and _____ (\$ ___) in the aggregate.

§ B.3.2.9 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than _____ (\$ ___) per claim and _____ (\$ ___) in the aggregate.

§ B.3.3 Required Property Insurance

§ B.3.3.1 The Construction Manager 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 basis. The Construction Manager'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 B.3.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds.

§ B.3.3.1.1 Causes of Loss. The insurance required by this Section B.3.3.1 shall provide coverage for direct physical loss or damage and shall include the risks of fire (with extended coverage), explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, workmanship, or materials.
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss

Sub-Limit

§ B.3.3.1.2 Specific Required Coverages. The insurance required by this Section B.3.3.1 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 Construction Manager's services and expenses required as a result of such insured loss, including claim preparation expenses. *(Indicate below the cause of loss and any applicable sub-limit.)*

Causes of Loss

Sub-Limit

§ B.3.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall replace the insurance policy required under Section B.3.3.1 with property insurance written for the total value of the Project.

§ B.3.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.3.3 is subject to deductibles or self-insured retentions, the Construction Manager shall be responsible for all loss not covered because of such deductibles or retentions.

§ B.3.3.2 Occupancy or Use Prior to Substantial Completion. The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.3.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ B.3.3.3 If the Owner requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Construction Manager shall, if possible, include such insurance, and the cost thereof shall be charged to the Owner by appropriate Change Order.

§ B.3.3.4 Before an exposure to loss may occur, the Construction Manager shall file with the Owner a copy of each policy that includes insurance coverages required by this Section B.3.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project.

§ B.3.4 Construction Manager’s Other Insurance Coverage

§ B.3.4.1 Insurance selected and described in this Section B.3.4 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager 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 Construction Manager 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.)

§ B.3.4.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.4.1.

(Select the types of insurance the Construction Manager 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.)

- § B.3.4.2.1 Reserved**
- § B.3.4.2.2** 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.
- § B.3.4.2.3** Property insurance on an “all-risks” completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

§ B.3.4.2.4 Boiler and Machinery Insurance

The Construction Manager shall purchase and maintain boiler and machinery insurance as required, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Construction Manager, Subcontractors and Sub-subcontractors in the Work, and the Owner and Construction Manager shall be named insureds.

§ B.3.5 Performance Bond and Payment Bond

The Construction Manager 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 (\$0.00)
Payment Bond	
Performance Bond	

§ B.3.5.1 Before commencing any services hereunder, the Construction Manager shall provide the Owner with Performance and Payment Bonds, each in an amount not less than the Contract Price set forth in Article 4 of the Agreement. The Surety shall have, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty". In addition, the Surety shall have a minimum "Best Financial Strength Category" of "Class V", and in no case less than five (5) times the contract amount. The Performance Bond shall be written on Form SE-355, "Performance Bond" and the Payment Bond shall be written on Form SE-357, "Labor and Material Payment Bond", and both shall be made payable to the Owner.

§ B.3.5.2 The Performance and Labor and Material Payment Bonds shall:

- .1 be issued by a surety company licensed to do business in South Carolina;
- .2 be accompanied by a current power of attorney and certified by the attorney-in-fact who executes the bond on the behalf of the surety company; and
- .3 remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer.

§ B.3.5.3 Any bonds required by this Contract shall meet the requirements of the South Carolina Code of Laws and Regulations, as amended.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

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

Sample