



# AIA<sup>®</sup> Document Comparison

## *AIA Documents A133<sup>TM</sup> – 2009 and A121CMc<sup>TM</sup> – 2003*

AIA Document A133<sup>TM</sup>–2009 is in the right-hand column. Corresponding sections of AIA Document A121<sup>TM</sup>CMc–2003 are in the left-hand column. Sections of A121CMc may be subdivided and may not be in sequential order. The reordering of text is explained by notes. The left or right column is blank where there is no correspondence between the two documents.

A121 <sup>TM</sup> CMc–2003	A133 <sup>TM</sup> –2009
TITLE	TITLE
<i>Standard Form of Agreement Between Owner and Construction Manager where the Construction Manager is Also the Constructor</i>	<i>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</i>
COVER PAGE	COVER PAGE
<p>AGREEMENT made as of the        day of in the year of <i>(In words, indicate day, month and year)</i></p> <p>BETWEEN the Owner: <i>(Name and address)</i></p> <p>and the Construction Manager: <i>(Name and address)</i></p> <p>The Project is: <i>(Name, address and brief description)</i></p> <p>The Architect is: <i>(Name and address)</i></p> <p>The Owner and Construction Manager agree as set forth below:</p>	<p>AGREEMENT made as of the        day of in the year <i>(In words, indicate day, month and year.)</i></p> <p>BETWEEN the Owner: <i>(Name, legal status and address)</i></p> <p>and the Construction Manager: <i>(Name, legal status and address)</i></p> <p>for the following Project: <i>(Name and address or location)</i></p> <p>The Architect: <i>(Name, legal status and address)</i></p> <p>The Owner’s Designated Representative: <i>(Name, address and other information)</i></p> <p>The Construction Manager’s Designated Representative: <i>(Name, address and other information)</i></p> <p>The Architect’s Designated Representative: <i>(Name, address and other information)</i></p> <p>The Owner and Construction Manager agree as follows.</p>

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ARTICLE 1 GENERAL PROVISIONS	ARTICLE 1 GENERAL PROVISIONS
	<p><b>§ 1.1 The Contract Documents</b>  The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the 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 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.</p>
<p><b>§ 1.1 RELATIONSHIP OF PARTIES</b>  The Construction Manager accepts the relationship of trust and confidence established with the Owner by this Agreement, and covenants with the Owner to furnish the Construction Manager’s reasonable skill and judgment and to cooperate with the Architect in furthering the interests of the Owner. The Construction Manager shall furnish construction administration and management services and use the Construction Manager’s best efforts to perform the Project in an expeditious and economical manner consistent with the interests of the Owner. The Owner shall endeavor to promote harmony and cooperation among the Owner, Architect, Construction Manager and other persons or entities employed by the Owner for the Project.</p>	<p><b>§ 1.2 Relationship of the Parties</b>  The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager’s skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to 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.</p>
<p><b>§ 1.2 GENERAL CONDITIONS</b>  For the Construction Phase, the General Conditions of the contract shall be the AIA Document A201™–1997, General Conditions of the Contract for Construction, which is incorporated herein by reference. For the Preconstruction Phase, or in the event that the Preconstruction and Construction Phases proceed concurrently, A201–1997 shall apply to the Preconstruction Phase only as specifically provided in this Agreement. The term “Contractor” as used in A201–1997 shall mean the Construction Manager.</p>	<p><b>§ 1.3 General Conditions</b>  For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term “Contractor” as used in A201–2007 shall mean the Construction Manager.</p>
ARTICLE 2 CONSTRUCTION MANAGER’S RESPONSIBILITIES	ARTICLE 2 CONSTRUCTION MANAGER’S RESPONSIBILITIES
The Construction Manager shall perform the services described in this Article. The services to be provided under	The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The

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<p>Sections 2.1 and 2.2 constitute the Preconstruction Phase services. If the Owner and Construction Manager agree, after consultation with the Architect, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases will proceed concurrently.</p>	<p>Construction Manager’s Construction Phase responsibilities are set forth in Section 2.3. 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.</p>
<p><b>§ 2.1 PRECONSTRUCTION PHASE</b>  <b>§ 2.1.1 PRELIMINARY EVALUATION</b>  The Construction Manager shall provide a preliminary evaluation of the Owner’s program and Project budget requirements, each in terms of the other.</p>	<p><b>§ 2.1 Preconstruction Phase</b>  <b>§ 2.1.1</b> The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.</p>
<p><b>§ 2.1.2 CONSULTATION</b>  The Construction Manager with the Architect shall jointly schedule and attend regular meetings with the Owner. The Construction Manager shall consult with the Owner and Architect regarding site use and improvements and the selection of materials, building systems and equipment. The Construction Manager shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, preliminary budgets and possible economies.</p>	<p><b>§ 2.1.2 Consultation</b>  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. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; 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.</p>
<p><b>§ 2.1.3 PRELIMINARY PROJECT SCHEDULE</b>  When Project requirements described in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare, and periodically update, a preliminary Project schedule for the Architect’s review and the Owner’s approval. The Construction Manager shall obtain the Architect’s approval of the portion of the preliminary Project schedule relating to the performance of the Architect’s services. The Construction Manager shall coordinate and integrate the preliminary Project schedule with the services and activities of the Owner, Architect and Construction Manager. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, Owner’s occupancy requirements showing portions of the Project having occupancy priority, and proposed date of Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect.</p>	<p><b>§ 2.1.3</b> When Project requirements in Section 3.1.1 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 could 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 well in advance of construction; and the occupancy requirements of the Owner.</p>

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<p><b>§ 2.1.4 PHASED CONSTRUCTION</b>  The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Work, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities.</p>	<p><b>§ 2.1.4 Phased Construction</b>  The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.</p>
<p><b>§ 2.1.5 PRELIMINARY COST ESTIMATES</b>  <b>§ 2.1.5.1</b> When the Owner has sufficiently identified the Project requirements and the Architect has prepared other basic design criteria, the Construction Manager shall prepare, for the review of the Architect and approval of the Owner, a preliminary cost estimate utilizing area, volume or similar conceptual estimating techniques.</p>	<p><b>§ 2.1.5 Preliminary Cost Estimates</b>  <b>§ 2.1.5.1</b> Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect’s review and Owner’s approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.</p>
<p><b>§ 2.1.5.2</b> When Schematic Design Documents have been prepared by the Architect and approved by the Owner, the Construction Manager shall prepare, for the review of the Architect and approval of the Owner, a more detailed estimate with supporting data. During the preparation of the Design Development Documents, the Construction Manager shall update and refine this estimate at appropriate intervals agreed to by the Owner, Architect and Construction Manager.</p> <p><b>§ 2.1.5.3</b> When Design Development Documents have been prepared by the Architect and approved by the Owner, the Construction Manager shall prepare a detailed estimate with supporting data for review by the Architect and approval by the Owner. During the preparation of the Construction Documents, the Construction Manager shall update and refine this estimate at appropriate intervals agreed to by the Owner, Architect and Construction Manager.</p> <p><b>§ 2.1.5.4</b> If any estimate submitted to the Owner exceeds previously approved estimates or the Owner’s budget, the Construction Manager shall make appropriate recommendations to the Owner and Architect.</p>	<p><b>§ 2.1.5.2</b> 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, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect’s review and the Owner’s approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.</p>
<p><b>§ 2.1.6 SUBCONTRACTORS AND SUPPLIERS</b>  The Construction Manager shall seek to develop subcontractor interest in the Project and shall furnish to the Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Architect will promptly reply in writing to the Construction Manager if the Architect or Owner know of any objection to such subcontractor or supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed subcontractor or supplier.</p>	<p><b>§ 2.1.6 Subcontractors and Suppliers</b>  The Construction Manager shall develop bidders’ interest in the Project.</p>

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<p><b>§ 2.1.7 LONG-LEAD-TIME ITEMS</b>  The Construction Manager shall recommend to the Owner and Architect a schedule for procurement of long-lead-time items which will constitute part of the Work as required to meet the Project schedule. If such long-lead-time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall expedite the delivery of long-lead-time items.</p>	<p><b>§ 2.1.7</b> The Construction Manager shall prepare, for the Architect’s review and the Owner’s acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. 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.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>NOTE: Section 2.1.7 of A133 follows the 2007 edits to AIA Contract Documents and replaces “long-lead-time” with “materials that must be ordered well in advance of construction”.</i></p> </div>
<p><b>§ 2.1.8 EXTENT OF RESPONSIBILITY</b>  The Construction Manager does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The recommendations and advice of the Construction Manager concerning design alternatives shall be subject to the review and approval of the Owner and the Owner’s professional consultants. It is not the Construction Manager’s responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if the Construction Manager recognizes that portions of the Drawings and Specifications are at variance therewith, the Construction Manager shall promptly notify the Architect and Owner in writing.</p>	<p><b>§ 2.1.8 Extent of Responsibility</b>  The Construction Manager shall exercise reasonable care in preparing schedules and estimates. 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.</p>
<p><b>§ 2.1.9 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>  The Construction Manager shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.</p>	<p><b>§ 2.1.9 Notices and Compliance with Laws</b>  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 for inclusion in the Contract Documents.</p>
<p><b>§ 2.2 GUARANTEED MAXIMUM PRICE PROPOSAL AND CONTRACT TIME</b>  <b>§ 2.2.1</b> When the Drawings and Specifications are sufficiently complete, the Construction Manager shall propose a Guaranteed Maximum Price, which shall be the sum of the estimated Cost of the Work and the Construction Manager’s Fee.</p>	<p><b>§ 2.2 Guaranteed Maximum Price Proposal and Contract Time</b>  <b>§ 2.2.1</b> At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner’s review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager’s estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager’s Fee.</p>
<p><b>§ 2.2.2</b> As the Drawings and Specifications may not be finished at the time the Guaranteed Maximum Price proposal</p>	<p><b>§ 2.2.2</b> To the extent that the Drawings and Specifications are anticipated to require further development by the</p>

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<p>is prepared, the Construction Manager shall provide in the Guaranteed Maximum Price for further development of the Drawings and Specifications by the Architect that is consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.</p>	<p>Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.</p>
<p><i>NOTE: Refer to A133 Section 2.2.4 for the text of Section 2.2.3.</i></p>	
<p><b>§ 2.2.4 BASIS OF GUARANTEED MAXIMUM PRICE</b> The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include:</p> <ol style="list-style-type: none"> <li>1 A list of the Drawings and Specifications, including all addenda thereto and the Conditions of the Contract, which were used in preparation of the Guaranteed Maximum Price proposal.</li> <li>2 A list of allowances and a statement of their basis.</li> <li>3 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.</li> <li>4 The proposed Guaranteed Maximum Price, including a statement of the estimated cost organized by trade categories, allowances, contingency, and other items and the Fee that comprise the Guaranteed Maximum Price.</li> <li>5 The Date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based, and a schedule of the Construction Documents issuance dates upon which the date of Substantial Completion is based.</li> </ol>	<p><b>§ 2.2.3</b> The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:</p> <ol style="list-style-type: none"> <li>1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;</li> <li>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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;</li> <li>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, allowances, contingency, and the Construction Manager’s Fee;</li> <li>4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and</li> <li>5 A date by which the Owner must accept the Guaranteed Maximum Price.</li> </ol>
<p><b>§ 2.2.3</b> The estimated Cost of the Work shall include the Construction Manager’s contingency, a sum established by the Construction Manager for the Construction Manager’s exclusive use to cover costs arising under Section 2.2.2 and other costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order.</p>	<p><b>§ 2.2.4</b> In preparing the Construction Manager’s Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager’s exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.</p>
<p><b>§ 2.2.5</b> The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. 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.</p>	<p><b>§ 2.2.5</b> The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.</p>
<p><b>§ 2.2.6</b> Unless the Owner accepts the Guaranteed Maximum Price proposal in writing on or before the date specified in</p>	<p><b>§ 2.2.6</b> If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price</p>

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<p>the proposal for such acceptance and so notifies the Construction Manager, the Guaranteed Maximum Price proposal shall not be effective without written acceptance by the Construction Manager.</p> <p>§ 2.2.8 Upon acceptance by the Owner of the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price and its basis shall be set forth in Amendment No. 1...</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>NOTE: For the remainder of Section 2.2.8, refer to A133 Section 5.2.2.</i></p> </div>	<p>proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.</p>
<p>§ 2.2.7 Prior to the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal and issuance of a Notice to Proceed, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as the Owner may specifically authorize in writing.</p>	<p>§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.</p>
<p>§ 2.2.9 The Owner shall authorize and cause the Architect to revise the Drawings and Specifications to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in Amendment No. 1. Such revised Drawings and Specifications shall be furnished to the Construction Manager in accordance with schedules agreed to by the Owner, Architect and Construction Manager. The Construction Manager shall promptly notify the Architect and Owner if such revised Drawings and Specifications are inconsistent with the agreed-upon assumptions and clarifications.</p>	<p>§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.</p>
<p>§ 2.2.10 The Guaranteed Maximum Price shall include in the Cost of the Work only those taxes which are enacted at the time the Guaranteed Maximum Price is established.</p>	<p>§ 2.2.9 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.</p>
<p>§ 2.3 CONSTRUCTION PHASE § 2.3.1 GENERAL</p>	<p>§ 2.3 Construction Phase § 2.3.1 General § 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.</p>
<p>§ 2.3.1.1 The Construction Phase shall commence on the earlier of:</p> <ol style="list-style-type: none"> <li>1) the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal and issuance of a Notice to Proceed, or</li> <li>2) the Owner’s first authorization to the Construction Manager to: <ol style="list-style-type: none"> <li>a) award a subcontract, or</li> <li>b) undertake construction Work with the Construction Manager’s own forces, or</li> <li>c) issue a purchase order for materials or equipment required for the Work.</li> </ol> </li> </ol>	<p>§ 2.3.1.2 The Construction Phase shall commence upon the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal or the Owner’s issuance of a Notice to Proceed, whichever occurs earlier.</p>



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<p>§ 2.3.2 ADMINISTRATION</p> <p>§ 2.3.2.1 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 by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated to a special design for the Work from the list previously reviewed and, after analyzing such bids, shall deliver such bids to the Owner and Architect. The Owner will then determine, with the advice of the Construction Manager and subject to the reasonable objection of the Architect, which bids will be accepted. The Owner may designate specific persons or entities from whom the Construction Manager shall obtain bids; however, if the Guaranteed Maximum Price has been established, the Owner may not prohibit the Construction Manager from obtaining bids from other qualified bidders. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.</p>	<p>§ 2.3.2 Administration</p> <p>§ 2.3.2.1 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 by 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. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.</p>
<p>§ 2.3.2.2 If the Guaranteed Maximum Price has been established and a specific bidder among those whose bids are delivered by the Construction Manager to the Owner and Architect (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 which 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 in the Work be issued to adjust the Contract Time and 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.</p>	<p>§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.</p>
<p>§ 2.3.2.3 Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the payment provisions of Sections 7.1.8 and 7.1.9 and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner.</p>	<p>§ 2.3.2.3 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 without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>NOTE: “Related Party” is a new concept based upon the 2007 revisions. See Section 6.10 for “Related Party Transactions”, requiring certain disclosures. A “related party” is defined in Section 6.10.1.</i></p> </div>
	<p>§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a “related party” according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such</p>

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	relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.
§ 2.3.2.4 The Construction Manager shall schedule and conduct meetings at which the Owner, Architect, Construction Manager and appropriate Subcontractors can discuss the status of the Work. The Construction Manager shall prepare and promptly distribute meeting minutes.	§ 2.3.2.5 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 to the Owner and Architect.
§ 2.3.2.5 Promptly after the Owner’s acceptance of the Guaranteed Maximum Price proposal, the Construction Manager shall prepare a schedule in accordance with Section 3.10 of A201–1997, including the Owner’s occupancy requirements.	§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201–2007.
§ 2.3.2.6 The Construction Manager shall provide monthly written reports to the Owner and Architect on the progress of the entire Work. The Construction Manager shall maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may reasonably require. The log shall be available to the Owner and Architect.	§ 2.3.2.7 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. The Construction Manager shall also 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.
§ 2.3.2.7 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 at regular intervals.	§ 2.3.2.8 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 2.3.2.7 above.
§ 2.4 PROFESSIONAL SERVICES Section 3.12.10 of A201–1997 shall apply to both the Preconstruction and Construction Phases.	§ 2.4 Professional Services Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.
§ 2.5 HAZARDOUS MATERIALS Section 10.3 of A201–1997 shall apply to both the Preconstruction and Construction Phases.	§ 2.5 Hazardous Materials Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.
<b>ARTICLE 3 OWNER’S RESPONSIBILITIES</b>	<b>ARTICLE 3 OWNER’S RESPONSIBILITIES</b>
§ 3.1 INFORMATION AND SERVICES § 3.1.1 The Owner shall provide full information in a timely manner regarding the requirements of the Project, including a program which sets forth the Owner’s objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.	§ 3.1 Information and Services Required of the Owner § 3.1.1 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.

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<p>§ 3.1.2 The Owner shall, at the written request of the Construction Manager prior to commencement of the Construction Phase and thereafter, furnish to the Construction Manager reasonable evidence that financial arrangements have been made to fulfill the Owner’s obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager.</p>	<p>§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.</p>
<p>§ 3.1.3 The Owner shall establish and update an overall budget for the Project, based on consultation with the Construction Manager and Architect, which shall include contingencies for changes in the Work and other costs which are the responsibility of the Owner.</p>	<p>§ 3.1.3 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 Section 6.1.1, (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.</p>
<p><b>§ 3.1.4 STRUCTURAL AND ENVIRONMENTAL TESTS, SURVEYS AND REPORTS</b> In the Preconstruction Phase, the Owner shall furnish the following with reasonable promptness and at the Owner’s expense. Except to the extent that the Construction Manager knows of any inaccuracy, the Construction Manager shall be entitled to rely upon the accuracy of any such information, reports, surveys, drawings and tests described in Sections 3.1.4.1 through 3.1.4.4 but shall exercise customary precautions relating to the performance of the Work.</p>	<p><b>§ 3.1.4 Structural and Environmental Tests, Surveys and Reports.</b> 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.</p>
<p>§ 3.1.4.1 Reports, surveys, drawings and tests concerning the conditions of the site which are required by law.</p> <p>§ 3.1.4.4 Structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports which are required by law.</p>	<p>§ 3.1.4.1 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.</p>
<p>§ 3.1.4.2 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; adjacent drainage; rights-of-way,</p>	<p>§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a 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</p>

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<p>restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining 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 information on the survey shall be referenced to a project benchmark.</p>	<p>drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and 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.</p>
<p>§ 3.1.4.3 The services of a geotechnical engineer when such services are requested by the Construction Manager. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.</p>	<p>§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to 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.</p>
<p><i>NOTE: Refer to A133 Section 3.1.4.1 for the text of Section 3.1.4.4.</i></p>	
<p>§ 3.1.4.5 The services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Construction Manager.</p>	<p>§ 3.1.4.4 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.</p>
<p><b>§ 3.2 OWNER’S DESIGNATED REPRESENTATIVE</b> The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. This representative shall have the authority to make decisions on behalf of the Owner concerning estimates and schedules, construction budgets, and changes in the Work, and shall render such 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 A201–1997, the Architect does not have such authority.</p>	<p><b>§ 3.2 Owner’s Designated Representative</b> 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 A201–2007, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.</p>
<p><i>NOTE: Refer to A133 Section 3.3 for the text of Section 3.3.</i></p>	
<p><b>§ 3.4 LEGAL REQUIREMENTS</b> The Owner shall determine and advise the Architect and Construction Manager of any special legal requirements relating specifically to the Project which differ from those generally applicable to construction in the jurisdiction of the Project. The Owner shall furnish such legal services as are necessary to provide the information and services required under Section 3.1.</p>	<p><b>§ 3.2.1 Legal Requirements.</b> 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.</p>

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<p><b>§ 3.3 ARCHITECT</b>  The Owner shall retain an Architect to provide Basic Services, including normal structural, mechanical and electrical engineering services, other than cost estimating services, described in the edition of AIA Document B151™–1997, <i>Abbreviated Standard Form of Agreement Between Owner and Architect</i> current as of the date of this Agreement. The Owner shall authorize and cause the Architect to provide those Additional Services described in B151–1997, requested by the Construction Manager which must necessarily be provided by the Architect for the Preconstruction and Construction Phases of the Work. Such services shall be provided in accordance with time schedules agreed to by the Owner, Architect and Construction Manager. Upon request of the Construction Manager, the Owner shall furnish to the Construction Manager a copy of the Owner’s Agreement with the Architect, from which compensation provisions may be deleted.</p>	<p><b>§ 3.3 Architect</b>  The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™–2007, Standard Form of Agreement Between Owner and Architect, 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 a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.</p>
<p><b>ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES</b></p>	<p><b>ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES</b></p>
<p>The Owner shall compensate and make payments to the Construction Manager for Preconstruction Phase services as follows:</p>	<p><b>§ 4.1 Compensation</b>  § 4.1.1 For the Construction Manager’s Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:</p>
<p><b>§ 4.1 COMPENSATION</b>  § 4.1.1 For the services described in Sections 2.1 and 2.2, the Construction Manager’s compensation shall be calculated as follows:  <i>(State basis of compensation, whether a stipulated sum, multiple of Direct Personnel Expense, actual cost, etc. Include a statement of reimbursable cost items as applicable.)</i></p>	<p><b>§ 4.1.2</b> For the Construction Manager’s Preconstruction Phase services described in Sections 2.1 and 2.2:  <i>(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)</i></p>
<p><b>§ 4.1.2</b> Compensation for Preconstruction Phase Services shall be equitably adjusted if such services extend beyond ( ) days from the date of this Agreement or if the originally contemplated scope of services is significantly modified.</p>	<p><b>§ 4.1.3</b> 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.</p>
<p><b>§ 4.1.3</b> If compensation is based on a multiple of Direct Personnel Expense, Direct Personnel Expense is defined as the direct salaries of the Construction Manager’s personnel engaged in the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.</p>	<p><b>§ 4.1.4</b> Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager’s personnel providing Preconstruction Phase services on the Project and the Construction Manager’s costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.</p>
<p><b>§ 4.2 PAYMENTS</b>  § 4.2.1 Payments shall be made monthly following presentation of the Construction Manager’s invoice and, where applicable, shall be in proportion to services performed.</p>	<p><b>§ 4.2 Payments</b>  § 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.</p>

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<p>§ 4.2.2 Payments are due and payable ( ) days from the date the Construction Manager’s invoice is received by the Owner. Amounts unpaid after the date on which payment is due shall bear interest at the rate entered below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. <i>(Insert rate of interest agreed upon.)</i>  <i>(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner’s and Contractor’s principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)</i></p>	<p>§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. <i>(Insert rate of monthly or annual interest agreed upon.)</i></p>						
<p><b>ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES</b></p>	<p><b>ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES</b></p>						
<p>The Owner shall compensate the Construction Manager for Construction Phase services as follows:</p>	<p>§ 5.1 For the Construction Manager’s performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager’s performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager’s Fee.</p>						
<p>§ 5.1 COMPENSATION  § 5.1.1 For the Construction Manager’s performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager in current funds the Contract Sum consisting of the Cost of the Work as defined in Article 7 and the Construction Manager’s Fee determined as follows:...</p>	<p>§ 5.1.1 The Construction Manager’s Fee:  <i>(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager’s Fee.)</i></p>						
<p>§ 5.1.1 ...<i>(State a lump sum, percentage of actual Cost of the Work or other provision for determining the Construction Manager’s Fee, and explain how the Construction Manager’s Fee is to be adjusted for changes in the Work.)</i></p>	<p>§ 5.1.2 The method of adjustment of the Construction Manager’s Fee for changes in the Work:</p>						
	<p>§ 5.1.3 Limitations, if any, on a Subcontractor’s overhead and profit for increases in the cost of its portion of the Work:</p>						
	<p>§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed _____ percent ( % ) of the standard rate paid at the place of the Project.</p> <p><i>NOTE: New Section 5.1.4 of new A133 incorporates “rental rates” as included in AIA Document A102™–2007.</i></p>						
	<p>§ 5.1.5 Unit prices, if any:  <i>(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)</i></p> <table border="1" data-bbox="850 1780 1455 1818"> <thead> <tr> <th>Item</th> <th>Units and Limitations</th> <th>Price per Unit (\$0.00)</th> </tr> </thead> <tbody> <tr> <td colspan="3"><i>NOTE: New Section 5.1.5 of new A133 incorporates “unit prices” as included in AIA Document A102™–2007.</i></td> </tr> </tbody> </table>	Item	Units and Limitations	Price per Unit (\$0.00)	<i>NOTE: New Section 5.1.5 of new A133 incorporates “unit prices” as included in AIA Document A102™–2007.</i>		
Item	Units and Limitations	Price per Unit (\$0.00)					
<i>NOTE: New Section 5.1.5 of new A133 incorporates “unit prices” as included in AIA Document A102™–2007.</i>							

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<p>§ 5.2 GUARANTEED MAXIMUM PRICE</p> <p>§ 5.2.1 The sum of the Cost of the Work and the Construction Manager’s Fee are guaranteed by the Construction Manager not to exceed the amount provided in Amendment No. 1, subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum as adjusted by approved changes in the Work is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.</p> <p><i>(Insert specific provisions if the Construction Manager is to participate in any savings.)</i></p>	<p>§ 5.2 Guaranteed Maximum Price</p> <p>§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.</p> <p><i>(Insert specific provisions if the Construction Manager is to participate in any savings.)</i></p>
<p>§ 2.2.8 . . . The Guaranteed Maximum Price shall be subject to additions and deductions by a change in the Work as provided in the Contract Documents, and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>NOTE: For the first sentence of Section 2.2.8, refer to A133 Section 2.2.6.</i></p> </div>	<p>§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.</p>
<p>§ 5.3 CHANGES IN THE WORK</p>	<p>§ 5.3 Changes in the Work</p> <p>§ 5.3.1 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. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.</p>
<p>§ 5.3.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of Amendment No. 1 may be determined by any of the methods listed in Section 7.3.3 of A201–1997.</p>	<p>§ 5.3.2 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 Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.</p>
<p>§ 5.3.2 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of A201–1997 and the terms “costs” and “a reasonable allowance for overhead and profit” as used in Section 7.3.6 of A201–1997 shall have the meanings assigned to them in that document and shall not be modified by this Article 5. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.</p>	<p>§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of AIA Document A201–2007 and the term “costs” as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.</p>
<p>§ 5.3.3 In calculating adjustments to the Contract, the terms “cost” and “costs” as used in the above-referenced provisions of A201–1997 shall mean the Cost of the Work</p>	<p>§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in the above-referenced provisions of AIA Document A201–2007</p>

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<p>as defined in Article 6 of this Agreement, and the term “and a reasonable allowance for overhead and profit” shall mean the Construction Manager’s Fee as defined in Section 5.1.1 of this Agreement.</p>	<p>shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 5.1 of this Agreement.</p>
<p>§ 5.3.4 If no specific provision is made in Section 5.1.1 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 adjustment provisions of Section 5.1.1 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the basis of the Fee established for the original Work.</p>	<p>§ 5.3.5 If no specific provision is made in Section 5.1.2 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 adjustment provisions of Section 5.1.2 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.</p>
<p><b>ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE</b></p>	<p><b>ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE</b></p>
<p><b>§ 6.1 COSTS TO BE REIMBURSED</b>  <b>§ 6.1.1</b> The term “Cost of the Work” shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than those customarily paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 6.</p>	<p><b>§ 6.1 Costs to Be Reimbursed</b>  <b>§ 6.1.1</b> The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.</p>
	<p><b>§ 6.1.2</b> Where any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.</p>
<p><b>§ 6.1.2 LABOR COSTS</b>  <b>.1</b> Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s agreement, at off-site workshops.</p>	<p><b>§ 6.2 Labor Costs</b>  <b>§ 6.2.1</b> Wages 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.</p>
<p><b>.2</b> Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s agreement.  <i>(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal office or offices other than the site office shall be included in the Cost of the Work, such personnel shall be identified below.)</i></p>	<p><b>§ 6.2.2</b> Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.  <i>(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)</i></p>
<p><b>.3</b> Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged, at factories, workshops or on the road, 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.</p>	<p><b>§ 6.2.3</b> Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or on the road, 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.</p>



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<p>.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements, and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided that such costs are based on wages and salaries included in the Cost of the Work under Sections 6.1.2.1 through 6.1.2.3.</p>	<p>§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such 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 6.2.1 through 6.2.3.</p>
	<p>§ 6.2.5 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, with the Owner’s prior approval.</p>
<p><b>§ 6.1.3 SUBCONTRACT COSTS</b> Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.</p>	<p><b>§ 6.3 Subcontract Costs</b> Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.</p>
<p><b>§ 6.1.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION</b> .1 Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed construction.</p>	<p><b>§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction</b> § 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.</p>
<p>.2 Costs of materials described in the preceding Section 6.1.4.1 in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be handed over to the Owner at the completion of the Work or, at the Owner’s option, shall be sold by the Construction Manager; amounts realized, if any, from such sales shall be credited to the Owner as a deduction from the Cost of the Work.</p>	<p>§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 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.</p>
<p><b>§ 6.1.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS</b> .1 Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the Construction Manager at the site and fully consumed in the performance of the Work; and cost less salvage value on such items if not fully consumed, whether sold to others or retained by the Construction Manager. Cost for items previously used by the Construction Manager shall mean fair market value.</p>	<p><b>§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items</b> § 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling 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.</p>
<p>.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by the construction workers, which are provided by the Construction Manager at the site, whether rented from the Construction Manager or others, and costs</p>	<p>§ 6.5.2 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 costs of transportation, installation, minor repairs, dismantling and removal. The total rental</p>

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of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be subject to the Owner’s prior approval.	cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner’s prior approval.
.3 Costs of removal of debris from the site.	§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.
.4 Reproduction costs, costs of telegrams, facsimile transmissions and long-distance telephone calls, postage and express delivery charges, telephone at the site and reasonable petty cash expenses of the site office.	§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.
.5 That portion of the reasonable travel and subsistence expenses of the Construction Manager’s personnel incurred while traveling in discharge of duties connected with the Work.	§ 6.5.5 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.
	§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner’s prior approval.
<p>§ 6.1.6 MISCELLANEOUS COSTS</p> <p>.1 That portion directly attributable to this Contract of premiums for insurance and bonds. <i>(If charges for self-insurance are to be included, specify the basis of reimbursement.)</i></p>	<p>§ 6.6 Miscellaneous Costs</p> <p>§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner’s prior approval.</p>
.2 Sales, use or similar taxes imposed by a governmental authority which are related to the Work and for which the Construction Manager is liable.	§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.
.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.	§ 6.6.3 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.
.4 Fees of testing laboratories for tests required by the Contract Documents, except those related to nonconforming Work other than that for which payment is permitted by Section 6.1.8.2.	§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201–2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.
.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent or other intellectual property rights arising from such requirement by the Contract Documents; payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner’s consent; provided, however, that such costs of legal defenses, judgment and settlements shall not be included in the calculation of	§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner’s consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager’s Fee or subject to the

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<p>the Construction Manager’s Fee or the Guaranteed Maximum Price and provided that such royalties, fees and costs are not excluded by the last sentence of Section 3.17.1 of A201–1997 or other provisions of the Contract Documents.</p>	<p>Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.</p>
<p>.6 Data processing costs related to the Work.</p>	<p>§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner’s prior approval.</p>
<p>.7 Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility to the Owner set forth in this Agreement.</p>	<p>§ 6.6.7 Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents.</p>
<p>.8 Legal, mediation and arbitration costs, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager in the performance of the Work and with the Owner’s written permission, which permission shall not be unreasonably withheld.</p>	<p>§ 6.6.8 Legal, mediation and arbitration costs, including attorneys’ fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner’s prior approval, which shall not be unreasonably withheld.</p>
<p>.9 Expenses incurred in accordance with Construction Manager’s standard personnel policy for relocation and temporary living allowances of personnel required for the Work, in case it is necessary to relocate such personnel from distant locations.</p>	<p>§ 6.6.9 Subject to the Owner’s prior approval, 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.</p>
<p>§ 6.1.7 OTHER COSTS .1 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner.</p>	<p>§ 6.7 Other Costs and Emergencies § 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.</p>
<p>§ 6.1.8 EMERGENCIES AND REPAIRS TO DAMAGED OR NONCONFORMING WORK The Cost of the Work shall also include costs described in Section 6.1.1 which are incurred by the Construction Manager: .1 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 Section 10.6 of A201–1997.</p>	<p>§ 6.7.2 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 Section 10.4 of AIA Document A201–2007.</p>
<p>.2 In repairing or correcting damaged or nonconforming Work executed by the Construction Manager or the Construction Manager’s Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence or failure to fulfill a specific responsibility to the Owner set forth in this agreement of the Construction Manager or the Construction Manager’s foremen, engineers or superintendents, or other supervisory, administrative or managerial personnel of the Construction Manager, or the failure of the Construction Manager’s personnel to supervise adequately the Work of the Subcontractors or suppliers, and only to the extent that the cost of repair or correction is not recoverable by the Construction Manager from insurance, Subcontractors or suppliers.</p>	<p>§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.</p>

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<p>§ 6.1.9 The costs described in Sections 6.1.1 through 6.1.8 shall be included in the Cost of the Work notwithstanding any provision of AIA or A201–1997 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 6.2.</p>	<p>§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 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 6.8.</p>
<p><b>§ 6.2 COSTS NOT TO BE REIMBURSED</b>  <b>§ 6.2.1</b> The Cost of the Work shall not include:</p> <ol style="list-style-type: none"> <li>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 Sections 6.1.2.2 and 6.1.2.3.</li> <li>2 Expenses of the Construction Manager’s principal office and offices other than the site office, except as specifically provided in Section 6.1.</li> <li>3 Overhead and general expenses, except as may be expressly included in Section 6.1.</li> <li>4 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work.</li> <li>5 Rental costs of machinery and equipment, except as specifically provided in Section 6.1.5.2.</li> <li>6 Except as provided in Section 6.1.8.2, costs due to the negligence of the Construction Manager or to the failure of the Construction Manger to fulfill a specific responsibility to the Owner set forth in this Agreement.</li> <li>8 Except as provided in Section 6.1.7.1, any cost not specifically and expressly described in Section 6.1.</li> <li>9 Costs which would cause the Guaranteed Maximum Price to be exceeded.</li> <li>7 Costs incurred in the performance of Preconstruction Phase Services.</li> </ol>	<p><b>§ 6.8 Costs Not To Be Reimbursed</b>  <b>§ 6.8.1</b> The Cost of the Work shall not include the items listed below:</p> <ol style="list-style-type: none"> <li>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 6.2, or as may be provided in Article 11;</li> <li>2 Expenses of the Construction Manager’s principal office and offices other than the site office;</li> <li>3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;</li> <li>4 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;</li> <li>5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of 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 to fulfill a specific responsibility of the Contract;</li> <li>6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;</li> <li>7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and</li> <li>8 Costs for services incurred during the Preconstruction Phase.</li> </ol>
<p><b>§ 6.3 DISCOUNTS, REBATES AND REFUNDS</b>  <b>§ 6.3.1</b> 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 them in an Application for Payment and received payment therefor 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 secured.</p>	<p><b>§ 6.9 Discounts, Rebates and Refunds</b>  <b>§ 6.9.1</b> 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 them 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.</p>
<p><b>§ 6.3.2</b> Amounts which accrue to the Owner in accordance with the provisions of Section 6.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.</p>	<p><b>§ 6.9.2</b> Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.</p>

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	<p><b>§ 6.10 Related Party Transactions</b>  <b>§ 6.10.1</b> For purposes of Section 6.10, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term “related party” includes any member of the immediate family of any person identified above.</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>NOTE: See note at Section 2.3.2.4. AIA Document A133 at Section 6.10 contains a new concept, based upon our 2007 revisions. “Related Party Transactions” requires certain disclosures prior to the Construction Manager incurring those costs. “Related Party” is a new concept based upon the 2007 revisions. “Related Party Transactions” require certain disclosures prior to the Construction Manager incurring those costs.</i></p> </div>
	<p><b>§ 6.10.2</b> 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.</p>
<p><b>§ 6.4 ACCOUNTING RECORDS</b>  <b>§ 6.4.1</b> The Construction Manager shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner’s accountants shall be afforded access to the Construction Manager’s records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Project, and the Construction Manager shall preserve these for a period of three years after final payment, or for such longer period as may be required by law.</p>	<p><b>§ 6.11 Accounting Records</b>  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, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, 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.</p>

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ARTICLE 7 CONSTRUCTION PHASE	ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
<p>§ 7.1 PROGRESS PAYMENTS</p> <p>§ 7.1.1 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 and elsewhere in the Contract Documents.</p>	<p>§ 7.1 Progress Payments</p> <p>§ 7.1.1 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 and elsewhere in the Contract Documents.</p>
<p>§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:</p>	<p>§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:</p>
<p>§ 7.1.3 Provided an Application for Payment is received by the Architect not later than the _____ day of a month, the Owner shall make payment to the Construction Manager not later than the _____ day of the _____ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment.</p>	<p>§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the _____ day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the _____ day of the _____ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment. <i>(Federal, state or local laws may require payment within a certain period of time.)</i></p>
<p>§ 7.1.4 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 cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager; less (2) that portion of those payments attributable to the Construction Manager's Fee; plus (3) payrolls for the period covered by the present Application for Payment.</p>	<p>§ 7.1.4 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 cash disbursements 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, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.</p>
<p>§ 7.1.5 Each Application for Payment shall be based upon 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.</p>	<p>§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.</p>

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§ 7.1.6 Applications for Payment shall show the percentage completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage 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 which has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual 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.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.8 of A201–1997, even though the Guaranteed Maximum Price has not yet been adjusted by Change Order.
- .2 Add 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 Work or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing.
- .3 Add the Construction Manager’s Fee, less retainage of percent ( % ). The Construction Manager’s Fee shall be computed upon the Cost of the Work described in the two preceding Sections at the rate stated in Section 5.1.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, shall be an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in the two preceding Sections bears to a reasonable estimate of the probable Cost of the Work upon its completion.
- .4 Subtract the aggregate of previous payments made by the Owner.
- .5 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s accountants in such documentation.
- .6 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of A201–1997.

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§ 7.1.6 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 for which the Construction Manager has made or intends to make actual 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.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;
- .2 Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager’s Fee, less retainage of percent ( % ). The Construction Manager’s Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of percent ( % ) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

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<p>§ 7.1.8 Except with the Owner’s prior approval, payments to Subcontractors shall be subject to retention of not less than percent ( %). The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments and retention for subcontracts.</p>	<p>§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.</p>
<p>§ 7.1.9 Except with the Owner’s prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.</p>	<p>§ 7.1.9 Except with the Owner’s prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.</p>
<p>§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data, that the Architect has made exhaustive or continuous on-site inspections or 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 accountants acting in the sole interest of the Owner.</p>	<p>§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.</p>
<p><b>§ 7.2 FINAL PAYMENT</b>  § 7.2.1 Final payment shall be made by the Owner to the Construction Manager when (1) the Contract has been fully performed by the Construction Manager except for the Construction Manager’s responsibility to correct nonconforming Work, as provided in Section 12.2.2 of A201–1997, and to satisfy other requirements, if any, which necessarily survive final payment; (2) a final Application for Payment and a final accounting for the Cost of the Work have been submitted by the Construction Manager and reviewed by the Owner’s accountants; and (3) a final Certificate for payment has then been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:</p>	<p><b>§ 7.2 Final Payment</b>  § 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when</p> <ol style="list-style-type: none"> <li>.1 the Construction Manager has fully performed the Contract except for the Construction Manager’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment;</li> <li>.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and</li> <li>.3 a final Certificate for Payment has been issued by the Architect.</li> </ol> <p>The Owner’s final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:</p>
<p>§ 7.2.2 The amount of the final payment shall be calculated as follows:</p> <ol style="list-style-type: none"> <li>.1 Take the sum of the Cost of the Work substantiated by the Construction Manager’s final accounting and the Construction Manager’s Fee, but not more than the Guaranteed Maximum Price.</li> <li>.2 Subtract amounts, if any, for which the Architect withholds, in whole or in part, a final Certificate for</li> </ol>	<div style="border: 1px solid black; padding: 5px;"> <p><i>NOTE: Refer to Section 9.10 of AIA Document A201™–2007, for final payment procedures.</i></p> </div>



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<p>Payment as provided in Section 9.5.1 of A201–1997 or other provisions of the Contract Documents.</p> <p>.3 Subtract the aggregate of previous payments made by the Owner.</p> <p>If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner.</p>	
<p>§ 7.2.3 The Owner’s accountants will review and report in writing on the Construction Manager’s final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner’s accountants report to be substantiated by the Construction Manager’s final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner’s accountants, 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 Section 9.5.1 of A201–1997 . The time periods stated in this Section 7.2 supersede those stated in Section 9.4.1 of A201–1997.</p>	<p>§ 7.2.2 The Owner’s auditors will review and report in writing on the Construction Manager’s final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner’s auditors report to be substantiated by the Construction Manager’s final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner’s auditors, 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 Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.</p>
<p>§ 7.2.4 If the Owner’s accountants report the Cost of the Work as substantiated by the Construction Manager’s final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to proceed in accordance with Article 9 without a further decision of the Architect. Unless agreed to otherwise, a demand for mediation or arbitration of the disputed amount shall be made by the Construction Manager within 60 days after the Construction Manager’s receipt of a copy of the Architect’s final Certificate for Payment. Failure to make such demand within this 60-day period shall result in the substantiated amount reported by the Owner’s accountants 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.</p>	<p>§ 7.2.3 If the Owner’s auditors report the Cost of the Work as substantiated by the Construction Manager’s final accounting to be 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 Section 15.2 of A201–2007. 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.</p>
<p>§ 7.2.5 If, subsequent to final payment and at the Owner’s request, the Construction Manager incurs costs described in Section 6.1 and not excluded by Section 6.2 (1) to correct nonconforming Work or (2) arising from the resolution of disputes, the Owner shall reimburse the Construction Manager such costs and the Construction Manager’s Fee, if any, related 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 the Construction Manager has participated in savings, the amount of such</p>	<p>§ 7.2.4 If, subsequent to final payment and at the Owner’s request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such</p>

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savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.	savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.				
<b>ARTICLE 8 INSURANCE AND BONDS</b>	<b>ARTICLE 8 INSURANCE AND BONDS</b>				
<p><b>§ 8.1 INSURANCE REQUIRED OF THE CONSTRUCTION MANAGER</b>  During both phases of the Project, the Construction Manager shall purchase and maintain insurance as set forth in Section 11.1 of A201–1997. Such insurance shall be written for not less than the following limits, or greater if required by law:</p> <p><b>§ 8.1.1 Workers’ Compensation and Employers’ Liability</b> meeting statutory limits mandated by state and federal laws. If (1) limits in excess of those required by statute are to be provided, or (2) the employer is not statutorily bound to obtain such insurance coverage or (3) additional coverages are required, additional coverages and limits for such insurance shall be as follows:</p> <p><b>§ 8.1.2 Commercial General Liability</b> including coverage for Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards):  \$_____ Each Occurrence  \$_____ General Aggregate  \$_____ Personal and Advertising Injury  \$_____ Products-Completed Operations Aggregate</p> <ol style="list-style-type: none"> <li>.1 The policy shall be endorsed to have the General Aggregate apply to this Project only.</li> <li>.2 Products and Completed Operations insurance shall be maintained for a minimum period of at least ( ) year(s) after either 90 days following Substantial Completion or final payment, whichever is earlier.</li> <li>.3 The Contractual Liability insurance shall include coverage sufficient to meet the obligations in Section 3.18 of A201™–1997.</li> </ol> <p><b>§ 8.1.3 Automobile Liability</b> (owned, non-owned and hired vehicles) for bodily injury and property damage:  \$_____ Each Accident</p> <p><b>§ 8.1.4 Other coverage:</b>  <i>(If Umbrella Excess Liability coverage is required over the primary insurance or retention, insert the coverage limits. Commercial General Liability and Automobile Liability limits may be attained by individual policies or by a combination of primary policies and Umbrella and/or Excess Liability policies. If Project Management Protective Liability Insurance is to be provided, state the limits here.)</i></p>	<p>For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007.  <i>(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)</i></p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Type of Insurance or Bond</th> <th style="text-align: left;">Limit of Liability or Bond Amount (\$0.00)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)		
Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)				

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<p><b>§ 8.2 INSURANCE REQUIRED OF THE OWNER</b>            During both phases of the Project, the Owner shall purchase and maintain liability and property insurance, including waivers of subrogation, as set forth in Sections 11.2 and 11.4 of A201–1997. Such insurance shall be written for not less than the following limits, or greater if required by law:</p> <p><b>§ 8.2.1 Property Insurance:</b>            \$ _____ Deductible Per Occurrence            \$ _____ Aggregate Deductible</p> <p><b>§ 8.2.2 Boiler and Machinery insurance with a limit of:</b>  <i>(If not a blanket policy, list the objects to be insured.)</i></p> <p><b>§ 8.3 PERFORMANCE BOND AND PAYMENT BOND</b>  <b>§ 8.3.1</b> The Construction Manager shall <i>(Insert “shall” or “shall not”)</i> furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager’s usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to percent ( % ) of the Contract Sum.</p> <p><b>§ 8.3.2</b> The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.</p>	
<p><b>ARTICLE 9 MISCELLANEOUS PROVISIONS</b></p>	<p><b>ARTICLE 9 DISPUTE RESOLUTION</b></p>
<p><b>§ 9.1 DISPUTE RESOLUTION</b>  <b>§ 9.1.1</b> During both the Preconstruction and Construction Phases, Claims, disputes or other matters in question between the parties to this Agreement shall be resolved as provided in Sections 4.3 through 4.6 of A201–1997 except that, during the Preconstruction Phase, no decision by the Architect shall be a condition precedent to mediation or arbitration.</p>	<p><b>§ 9.1</b> Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.</p>
<div style="border: 1px solid black; padding: 5px;"> <p><i>NOTE: For the remaining sections of Article 9, refer to A133 Article 11, Miscellaneous Provisions, and Article 12, Scope of the Agreement.</i></p> </div>	<p><b>§ 9.2</b> For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows: <i>(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)</i></p> <p><input type="checkbox"/> Arbitration pursuant to Section 15.4 of AIA Document A201–2007</p> <p><input type="checkbox"/> Litigation in a court of competent jurisdiction</p> <p><input type="checkbox"/> Other: <i>(Specify)</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>NOTE: Another change based on the 2007 documents allows the Owner and Construction Manager to select a binding form of dispute resolution, other than arbitration, with the default being litigation.</i></p> </div>

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	<p><b>§ 9.3 Initial Decision Maker</b>            The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.  <i>(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)</i></p> <div style="border: 1px solid black; padding: 5px;"> <p><i>NOTE: Another change based on the 2007 documents allows the Owner and Construction Manager to name a third party Initial Decision Maker. If the parties do not name a third party decision maker, the Architect will serve in that role, as in the 1997 documents.</i></p> </div>
<b>ARTICLE 10 TERMINATION OR SUSPENSION</b>	<b>ARTICLE 10 TERMINATION OR SUSPENSION</b>
<p><b>§ 10.1 TERMINATION PRIOR TO ESTABLISHING GUARANTEED MAXIMUM PRICE</b>  <b>§ 10.1.1</b> Prior to execution by both parties of Amendment No. 1 establishing the Guaranteed Maximum Price, the Owner may terminate this Contract at any time without cause, and the Construction Manager may terminate this Contract for any of the reasons described in Section 14.1.1 of A201–1997.</p>	<p><b>§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price</b>  <b>§ 10.1.1</b> 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 Section 14.1.1 of A201–2007.</p>
<p><b>§ 10.1.2</b> If the Owner or Construction Manager terminates this Contract pursuant to this Section 10.1 prior to commencement of the Construction Phase, the Construction Manager shall be equitably compensated for Preconstruction Phase Services performed prior to receipt of notice of termination; provided, however, that the compensation for such services shall not exceed the compensation set forth in Section 4.1.1.</p>	<p><b>§ 10.1.2</b> In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.</p>
<p><b>§ 10.1.3</b> If the Owner or Construction Manager terminates this Contract pursuant to this Section 10.1 after commencement of the Construction Phase, the Construction Manager shall, in addition to the compensation provided in Section 10.1.2, be paid an amount calculated as follows:</p> <ol style="list-style-type: none"> <li>1 Take the Cost of the Work incurred by the Construction Manager.</li> <li>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 5.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount which 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.</li> </ol>	<p><b>§ 10.1.3</b> If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:</p> <ol style="list-style-type: none"> <li>1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;</li> <li>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 5.1 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</li> </ol>

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<p>.3 Subtract the aggregate of previous payments made by the Owner on account of the Construction Phase.</p> <p>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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. 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 10, 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.</p> <p>Subcontracts, purchase orders and rental agreements entered into by the Construction Manager with the Owner’s written approval prior to the execution of Amendment No. 1 shall contain provisions permitting assignment to the Owner as described above. If the Owner accepts such assignment, the Owner shall reimburse or indemnify the Construction Manager with respect to all costs arising under the subcontract, purchase order or rental agreement except those which would not have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner elects not to accept the assignment of any subcontract, purchase order or rental agreement which would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager shall terminate such subcontract, purchase order or rental agreement and the Owner shall pay the Construction Manager the costs necessarily incurred by the Construction Manager by reason of such termination.</p>	<p>.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.</p> <p>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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. 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 10, 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.</p> <p>If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if 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.</p>
<p><b>§ 10.2 TERMINATION SUBSEQUENT TO ESTABLISHING GUARANTEED MAXIMUM PRICE</b> Subsequent to execution by both parties of Amendment No. 1, the Contract may be terminated as provided in Article 14 of A201–1997.</p>	<p><b>§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price</b> Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.</p>
<p><b>§ 10.2.1</b> In the event of such termination by the Owner, the amount payable to the Construction Manager pursuant to Section 14.1.3 of A201–1997 shall not exceed the amount the Construction Manager would have been entitled to receive pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.</p>	<p><b>§ 10.2.1</b> If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.</p>
<p><b>§ 10.2.2</b> In the event of such termination by the Construction Manager, the amount to be paid to the Construction Manager under Section 14.1.3 of A201–1997</p>	<p><b>§ 10.2.2</b> If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager</p>

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<p>shall not exceed the amount the Construction Manager would have been entitled to receive under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager’s Fee shall be calculated as if the Work had been fully completed by the Construction Manager, including a reasonable estimate of the Cost of the Work for Work not actually completed.</p>	<p>under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager’s Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.</p>
<p><b>§ 10.3 SUSPENSION</b> The Work may be suspended by the Owner as provided in Article 14 of A201–1997; in such case, the Guaranteed Maximum Price, if established, shall be increased as provided in Section 14.3.2 of A201–1997 except that the term “cost of performance of the Contract” in that Section shall be understood to mean the Cost of the Work and the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1.1 and 5.3.4 of this Agreement.</p>	<p><b>§ 10.3 Suspension</b> The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement.</p>
<p><b>ARTICLE 11 OTHER CONDITIONS AND SERVICES</b></p>	<p><b>ARTICLE 11 MISCELLANEOUS PROVISIONS</b></p>
<p><b>§ 9.2 OTHER PROVISIONS</b> <b>§ 9.2.1</b> Unless otherwise noted, the terms used in this Agreement shall have the same meaning as those in A201–1997, General Conditions of the Contract for Construction.</p>	<p><b>§ 11.1</b> Terms in this Agreement shall have the same meaning as those in A201–2007.</p>
<p><b>§ 9.2.3 OWNERSHIP AND USE OF DOCUMENTS</b> Article 1.6 of A201–1997 shall apply to both the Preconstruction and Construction Phases.</p>	<p><b>§ 11.2 Ownership and Use of Documents</b> Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.</p>
<p><b>§ 9.2.4 GOVERNING LAW</b> The Contract shall be governed by the law of the place where the Project is located.</p>	<p><b>§ 11.3 Governing Law</b> Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.</p>
<p><b>§ 9.2.5 ASSIGNMENT</b> The Owner and Construction Manager respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2 of A201–1997, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.</p>	<p><b>§ 11.4 Assignment</b> The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.</p>
	<p><b>§ 11.5</b> Other provisions:</p>
	<p><b>ARTICLE 12 SCOPE OF THE AGREEMENT</b></p>
<p><b>§ 9.2.2 EXTENT OF CONTRACT</b> This Contract, which includes this Agreement and the other documents incorporated herein by reference, represents the</p>	<p><b>§ 12.1</b> This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations,</p>

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<p>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 the Owner and Construction Manager. If anything in any document incorporated into this Agreement is inconsistent with this Agreement, this Agreement shall govern.</p>	<p>representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.</p> <p>§ 12.2 The following documents comprise the Agreement:</p> <ol style="list-style-type: none"> <li>.1 AIA Document A133–2009, 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</li> <li>.2 AIA Document A201–2007, General Conditions of the Contract for Construction</li> <li>.3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:</li> <li>.4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:</li> <li>.5 Other documents: <i>(List other documents, if any, forming part of the Agreement.)</i></li> </ol>
<p>This Agreement entered into as of the day and year first written above.</p> <p>_____ OWNER <i>(Signature)</i></p> <p>_____ CONSTRUCTION MANAGER <i>(Signature)</i></p> <p>_____ <i>(Printed name and title)</i></p> <p>_____ <i>(Printed name and title)</i></p>	<p>This Agreement entered into as of the day and year first written above.</p> <p>_____ OWNER <i>(Signature)</i></p> <p>_____ CONSTRUCTION MANAGER <i>(Signature)</i></p> <p>_____ <i>(Printed name and title)</i></p> <p>_____ <i>(Printed name and title)</i></p>

A121™ CMc–2003, Amendment 1	A133™ – 2009, Exhibit A
TITLE	TITLE
<i>Amendment No. 1 to Agreement Between Owner and Construction Manager</i>	<i>Guaranteed Maximum Price Amendment</i>
COVER PAGE	COVER PAGE
Pursuant to Section 2.2 of the Agreement, dated between (Owner) and (the Construction Manager), for (the Project), the Owner and Construction Manager establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below.	<p>for the following PROJECT: (Name and address or location)</p> <p>THE OWNER: (Name, legal status and address)</p> <p>THE CONSTRUCTION MANAGER: (Name, legal status and address)</p>
ARTICLE 1 GUARANTEED MAXIMUM PRICE	ARTICLE A.1
<p><b>ARTICLE I GUARANTEED MAXIMUM PRICE</b> The Construction Manager's Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 6 and the Construction Manager's Fee as defined in Article 5, is Dollars (\$ ). This Price is for the performance of the Work in accordance with the Contract Documents listed and attached to this Amendment and marked Exhibits A through F, as follows:</p>	<p><b>§ A.1.1 Guaranteed Maximum Price</b> Pursuant to Section 2.2.6 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 this Agreement.</p> <p><b>§ A.1.1.1</b> 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.</p>
<div style="border: 1px solid black; padding: 5px;"> <p><i>NOTE: Refer to A134 Section A.1.1.6 through Section A.1.1.8 for the text of Exhibit A.</i></p> </div>	
Exhibit E, Alternate Prices, pages through , dated	<p><b>§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price.</b> Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Construction Manager's Fee, and other items that comprise the Guaranteed Maximum Price. (Provide below or reference an attachment.)</p>
	<p><b>§ A.1.1.3</b> The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: (State the numbers or other identification of accepted alternates. If the Contract Documents permit the Owner to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)</p>



A121™ CMC–2003, Amendment 1	A133™ – 2009, Exhibit A																						
Exhibit B, Allowance items, pages through _____, dated _____	<p>§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any: (Identify allowance and state exclusions, if any, from the allowance price.)</p> <table border="1" data-bbox="836 346 1482 409"> <thead> <tr> <th>Item</th> <th>Price (\$0.00)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Item	Price (\$0.00)																				
Item	Price (\$0.00)																						
Exhibit C, Assumptions and Clarifications made in preparing the Guaranteed Maximum Price, pages _____ through _____, dated _____	§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:																						
Exhibit A, Drawings, Specifications, addenda and General, Supplementary and other Conditions of the Contract on which the Guaranteed Maximum Price is based, pages _____ through _____, dated _____	<p>§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:</p> <table border="1" data-bbox="836 661 1482 724"> <thead> <tr> <th>Document</th> <th>Title</th> <th>Date</th> <th>Pages</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications: (Either list the Specifications here, or refer to an exhibit attached to this Agreement.)</p> <table border="1" data-bbox="836 850 1482 913"> <thead> <tr> <th>Section</th> <th>Title</th> <th>Date</th> <th>Pages</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings: (Either list the Drawings here, or refer to an exhibit attached to this Agreement.)</p> <table border="1" data-bbox="836 1039 1482 1102"> <thead> <tr> <th>Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Document	Title	Date	Pages					Section	Title	Date	Pages					Number	Title	Date			
Document	Title	Date	Pages																				
Section	Title	Date	Pages																				
Number	Title	Date																					
Exhibit D, Completion Schedule, pages _____ through _____, dated _____																							
Exhibit F, Unit Prices, pages _____ through _____, dated _____																							
	<p>§ A.1.1.9 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 Agreement.)</p>																						
<b>ARTICLE 2 CONTRACT TIME</b>	<b>ARTICLE A.2</b>																						
The date of Substantial Completion established by this Amendment is:	§ A.2.1 The anticipated date of Substantial Completion established by this Amendment:																						
<table border="0" data-bbox="162 1638 803 1900"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>OWNER</b></p> <p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>ATTEST</p> </td> <td style="width: 50%; vertical-align: top;"> <p><b>CONSTRUCTION MANAGER</b></p> <p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>ATTEST</p> </td> </tr> </table>	<p><b>OWNER</b></p> <p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>ATTEST</p>	<p><b>CONSTRUCTION MANAGER</b></p> <p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>ATTEST</p>	<p>This Agreement is entered into as of the day and year first written above.</p> <table border="0" data-bbox="836 1753 1482 1879"> <tr> <td style="width: 50%; vertical-align: top;"> <p>_____</p> <p><b>OWNER</b></p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> </td> <td style="width: 50%; vertical-align: top;"> <p>_____</p> <p><b>CONSTRUCTION MANAGER</b></p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p> </td> </tr> </table>	<p>_____</p> <p><b>OWNER</b></p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p>	<p>_____</p> <p><b>CONSTRUCTION MANAGER</b></p> <p>(Signature)</p> <p>_____</p> <p>(Printed name and title)</p>																		
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