

A132TM – 2019 Compared to A132TM – 2009

Additions to A132 – 2009 are underlined. Deletions from A132 – 2009 are in ~~strikethrough~~ text.

Title

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

Cover Page

AGREEMENT made as of the day of in the year
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

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

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

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

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

The Owner and Contractor agree as follows.

Table of Articles

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND <u>DATES OF SUBSTANTIAL COMPLETION</u>
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS
10	<u>EXHIBIT A</u> INSURANCE AND BONDS
	EXHIBIT <u>AB</u> DETERMINATION OF THE COST OF THE WORK

Article 1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and

integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

Article 2 The Work of This Contract

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

Article 3 Date of Commencement and Dates of Substantial Completion

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

The date of this Agreement ~~unless a different~~.

A date is stated below or provision is made for the date to be fixed ~~set forth~~ in a notice to proceed issued by the Owner.

Established as follows:

(Insert a date or a means to determine the date of commencement, if it differs from of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 ~~The Contractor shall achieve Substantial Completion of the entire Work not later than () days from Project or Portions Thereof~~

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of commencement, or as follows:

~~(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain the Work of all of the Contractors for the Project will be:~~

(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates:

Portion of the Work

Substantial Completion Date

§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete

§ 3.4.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

(Check one of the following boxes and complete the necessary information.)

Not later than () calendar days from the date of commencement of the Work.

By the following date:

§ 3.4.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:

<u>Portion of Work</u>	<u>Date to be substantially complete</u>
------------------------	--

§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

Article 4 Contract Sum

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- Stipulated Sum, in accordance with Section 4.2 below
- Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The ~~Stipulated~~Contract Sum shall be (\$), subject to additions and ~~deletions~~deductions as provided in the Contract Documents.

§ 4.2.2 ~~The Stipulated Sum is based on the following alternates~~Alternates

§ 4.2.2.1 ~~Alternates, if any, which are described~~included in the Contract Documents and are hereby accepted by the OwnerSum:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.2.3 Unit prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

§ 4.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Allowance Price	Conditions for Acceptance
------	-----------------	---------------------------

§ 4.2.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

<u>Item</u>	<u>Price</u>
-------------	--------------

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)

<u>Item</u>	<u>Units and Limitations</u>	<u>Price per Unit (\$0.00)</u>
-------------	------------------------------	--------------------------------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The ~~Contract Sum is the~~ Cost of the Work is as defined in Exhibit AB, Determination of the Cost of the Work, ~~plus the Contractor's Fee.~~

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (_____ %) of the standard rental rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:
(Identify the item and state the unit price; ~~state quantity limitations, if any, to which the unit price will be applicable.~~)
~~and quantity limitations, if any, to which the unit price will be applicable.~~)

<u>Item</u>	<u>Units and Limitations</u>	<u>Price per Unit (\$0.00)</u>
-------------	------------------------------	--------------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager ~~for the Owner, in writing, a Control Estimate,~~ within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section ~~A~~ B.1 of Exhibit AB, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The ~~Contract Sum is the~~ Cost of the Work is as defined in Exhibit AB, Determination of the Cost of the Work, ~~plus the Contractor's Fee.~~

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (_____ %) of the standard rental rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:
(Identify the item and state the unit price; ~~and state the quantity limitations, if any, to which the unit price will be applicable.~~)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

~~§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee Contract Sum is guaranteed by the Contractor not to exceed (\$), subject to additions and deductions by changes in the Work Change Order as provided in the Contract Documents. Such This maximum sum 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 Contractor without reimbursement by the Owner.~~

~~(Insert specific provisions if the Contractor is to participate in any savings.)~~

~~§ 4.4.7.2 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:~~

§ 4.4.7.2 Alternates

~~§ 4.4.7.2.1 Allowances Alternates, if any, included in the Guaranteed Maximum Price, if any:~~

~~(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)~~

Item	Allowance Price
------	-----------------

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~

~~(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)~~

Item	Price	Conditions for Acceptance
------	-------	---------------------------

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~

~~(Identify each allowance.)~~

Item	Price
------	-------

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~

~~(Identify each assumption.)~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

~~§ 4.5 Liquidated damages, if any:~~

~~(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)~~

~~§ 4.6 Other:~~

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

Article 5 Payments

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate Certificates for Payment or Application for Payment and Certificate for Payment issued by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

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

§ 5.1.3 Provided that an Application for Payment is received by the Construction Manager not later than the day of a month, the Owner shall make payment of the amount certified amount in the Application for Payment to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Construction Manager receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 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.

§ 5.1.4.3 Subject to the

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent (—%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 Add that That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (—%);; and
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Construction Manager or Architect has previously withheld or nullified a Certificate for Payment as provided in Section Article 9:5 of the General Conditions: AIA Document A232–2019;

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to

- percent (—%) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- ~~.2 Add, if final completion of the Work is thereafter materially delayed through no fault of~~
 - ~~.3 Any amount which the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions, does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~

~~§ 5.1.4.5 Reduction or limitation of retainage, if any, shall be as follows:~~

~~(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)~~

- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and~~
- ~~.5 Retainage withheld pursuant to Section 5.1.7.~~

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit ~~AB~~, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that ~~each disbursements payments~~ already made by the Contractor on account of the Cost of the Work equal or exceed ~~(4) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3), plus~~ payrolls for the period covered by the present Application for Payment, ~~less that portion of the payments attributable to the Contractor's Fee.~~

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 ~~Subject~~In accordance with AIA Document A232-2019 and ~~subject~~ to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

~~§ 5.1— Take the~~ 5.3.1 The amount of each progress payment shall first include:

- ~~.1 The Cost of the Work as described in Exhibit AB, Determination of the Cost of the Work;~~
- ~~.2 Add That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~.3 The Contractor's Fee, less retainage of — percent (—%). The Contractor's Fee shall be computed upon the Cost of the Work described in that the preceding Section 5.1.5.3.1.1 at the rate stated in that Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum, in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (—%) from that portion of the Work that the Contractor self-performs;~~
- ~~.4 Subtract the~~

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

- ~~.1 The aggregate of previous payments made any amounts previously paid by the Owner;~~
- ~~.5 Subtract the~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Article 5 Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™–2009, General Conditions~~

~~of the Contract for Construction, Construction Manager as Adviser Edition.~~
.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.5.4 The Owner, Construction Manager and Contractor 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 Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to ~~represent~~ be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that ~~each disbursement~~ payments already made by the Contractor on account of the Cost of the Work equal or exceed ~~(1)~~ progress payments already received by the Contractor; ~~less~~ (2) that portion of those payments attributable to the Contractor's Fee; plus ~~(3)~~ plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire ~~Contract Sum~~ Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing (3) the Contractor's Applications for Payment Fee.

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

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work and for which the Contractor has made payment 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.

§ 5.1.6.4 ~~Subject~~ In accordance with AIA Document A232-2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

~~.1~~ Take that

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

- ~~.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the 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 7.3.10 of AIA Document A232-2009 most recent schedule of values;~~
- ~~.2 Add that 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, completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;~~
- ~~.3 Add That portion of Construction Change Directives that the Contractor's Fee, less retainage of — percent (— %). Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~.4 The Contractor's Fee shall be, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor'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 included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 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 Contractor self-performs;~~
- ~~.5 Subtract the~~
- § 5.1.6.4.2 The amount of each progress payment shall then be reduced by:
- ~~.1 The aggregate of previous payments made any amounts previously paid by the Owner;~~
- ~~.6 Subtract the~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232-2019;~~
- ~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232-2019;~~
- ~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 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 Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.~~
- .6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a ~~(1)~~ mutually acceptable procedure for review and approval of payments to Subcontractors and ~~(2)~~ the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to represent a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due: (Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:

(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in ~~Section~~ Article 12.2 of AIA Document A232-~~2009~~2019, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232-2019, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit AB, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a ~~Guaranteed Maximum~~ payment and a final Application for Payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; ~~such~~ in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made by the Owner ~~not more~~ no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

_____%

Article 6 Dispute Resolution

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to ~~Section~~ Article 15.2 of AIA Document A232-~~2009~~2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if*

other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to ~~Section~~Article 15.3 of AIA Document A232–20092019, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor 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.)

- Arbitration pursuant to ~~Section~~Article 15.4 of AIA Document A232–20109.
- Litigation in a court of competent jurisdiction.
- Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution 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.

Article 7 Termination or Suspension

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–20092019.

§ 7.1.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:

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

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–20092019.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of ~~Section~~Termination

§ 7.2.2 below, the1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–20092019.

§ 7.2.1.2 Termination by the Owner for Cause

~~§ 7.2.1.2.1~~The Contract may be terminated by If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2009; ~~however~~2019, the Owner shall then only pay the Contractor an amount ~~calculated as~~ follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in ~~Sections~~Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; ~~and~~
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .34 ~~Subtract the aggregate of previous payments made~~costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.

~~§ 7.2.1.2.2.3~~If the Owner terminates the Contract for cause when When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, ~~and if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2009-2019,~~ the amount, if any, to be paid to the Contractor under ~~Section~~Article 14.2.4 of AIA Document A232–2009–2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.

§ 7.2.4.1.2.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in

the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.

§ 7.2.5-1.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:

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

§ 7.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–20092019; in such case, the Contract Sum and Contract Time shall be increased as provided in ~~Section~~Article 14.3.2 of AIA Document A232–20092019, except that the term ~~“profit”~~“profit” shall be understood to mean the Contractor's Fee as described in ~~Sections~~Section 4.3.2 and/or 4.4.2, as applicable, of this Agreement.

Article 8 Miscellaneous Provisions

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–20092019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

~~§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. (Insert rate of interest agreed upon, if any.)~~

~~—%~~

§ 8.32 The Owner's representative:
(Name, address, email address, and other information)

§ 8.43 The Contractor's representative:
(Name, address, email address, and other information)

§ 8.54 Neither the Owner's nor the Contractor's representative shall be changed without ten days ~~written~~days' prior notice to the other party.

§ 8.6 Other provisions:

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor’s Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration 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 and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Article 9 Enumeration of Contract Documents

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below:

§ 9.1.1 This Agreement is this executed comprised of the following documents:

- .1 AIA Document A132–2009TM–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition:

§ 9.1.2 The General Conditions are AIA Document A132TM–2019, Exhibit A, Insurance and Bonds Exhibit

- .3 AIA Document A232–2009TM–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition:

- .4 AIA Document E203TM–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

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

- .5 Drawings

<u>Number</u>	<u>Title</u>	<u>Date</u>
---------------	--------------	-------------

- .6 Specifications

<u>Section</u>	<u>Title</u>	<u>Date</u>	<u>Pages</u>
----------------	--------------	-------------	--------------

- .7 Addenda, if any:

<u>Number</u>	<u>Date</u>	<u>Pages</u>
---------------	-------------	--------------

§ 9.1.3 The Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document A132TM–2019, Exhibit B, Determination of the Cost of the Work

AIA Document E235TM–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:

(Insert the date of the E235-2019 incorporated into this Agreement.)

The Sustainability Plan:

<u>Title</u>	<u>Date</u>	<u>Pages</u>
--------------	-------------	--------------

[] ___ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
---------	-------	------	-------

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

.1 AIA Document A132™ 2009, Exhibit A, Determination of the Cost of the Work, if applicable.

.2 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:

.3 AIA Document E202™ 2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

.4 Other documents, if any, listed below:

(List here any additional documents which that are intended to form part of the Contract Documents. AIA Document A232–2009/2019 provides that bidding requirements such as the advertisement or invitation to bid, Instructions to Bidders, sample forms and, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. They Any such documents should be listed here only if intended to be part of the Contract Documents.)

Note: Requirements for Insurance and Bonds are now located in A132-2019, Exhibit A, Insurance and Bonds.

Article 10 – Insurance and Bonds

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–

2009.)

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Signature

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

OWNER *(Signature)*

CONTRACTOR *(Signature)*

(Printed name and title)

(Printed name and title)



AIA Document A132™ – 2019 Exhibit A

Insurance and Bonds

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

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

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

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

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

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions.

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

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

§ A.2.2 Liability Insurance

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

§ A.2.3 Required Property Insurance

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

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit
----------------	-----------

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

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
----------	-----------

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

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

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

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

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
- § A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- § A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- § A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- § A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

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

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

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

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

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

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

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

§ A.3.2.2 Commercial General Liability

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

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

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

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than _____ (\$ __) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

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

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than _____ (\$ __) each accident, _____ (\$ __) each employee, and _____ (\$ __) policy limit.

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

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate.

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

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

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

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

- § A.3.3.2.1 If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

- § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate, for Work within fifty (50) feet of railroad property.
- § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than _____ (\$ __) per claim and _____ (\$ __) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

- § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.
- § A.3.3.2.5 Property insurance on an “all-risks” completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.
- § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ A.3.4 Performance Bond and Payment Bond

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

Type	Penal Sum (\$0.00)
Payment Bond	
Performance Bond	

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

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

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

A132™ Exhibit B – 2019 Compared to A132™ Exhibit A – 2009

Additions to A132 Exhibit A – 2009 are underlined. Deletions from A132 Exhibit A – 2009 are in ~~strikethrough~~ text.

Title

Determination of the Cost of the Work

Cover Page

for the following Project:

(Name, location, and brief description)

THE OWNER:

(Name, legal status, address, and other information)

THE CONTRACTOR:

(Name, legal status, address, and other information)

THE CONSTRUCTION MANAGER:

(Name, legal status, address, and other information)

THE ARCHITECT:

(Name, legal status, address, and other information)

Article AB.1 Control Estimate

§ AB.1.1 Where the Contract Sum is based on the Cost of the Work, plus the Contractor's Fee without a Guaranteed Maximum Price pursuant to Section ~~4.1~~ of the Agreement, the Contractor shall prepare and submit to the Construction Manager, ~~for the Owner, in writing, a Control Estimate~~ within 14 days of executing this Agreement, a written Control Estimate, for the Owner's review and acceptance. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee. The Control Estimate shall be used to monitor actual costs and the timely performance of the Work. The Contractor shall update the Control Estimate with each Application for Payment as needed to reflect Changes in the Work.

§ AB.1.2 The Control Estimate shall include

- .1 the documents enumerated in Article ~~1~~ of the Agreement, including all ~~Addenda~~ Modifications thereto ~~and the Conditions of the Contract~~;
- .2 a list of the ~~clarifications and~~ assumptions made by the Contractor in the preparation of the Control Estimate, including assumptions under AB.1.4, to supplement the information provided by the Owner and contained in the ~~Drawings and Specifications~~ Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;
- .4 schedules, upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment ~~that must be ordered well in advance of construction~~, and the Owner's occupancy requirements ~~showing portions of the Project having occupancy priority~~; and
- .5 contingencies for further development of design and construction as required by Section ~~A~~ B.1.4.

§ ~~AB~~.1.3 The Contractor shall meet with the Owner and Construction Manager to review the Control Estimate. In the event that the Owner or Construction Manager discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Contractor, who shall make appropriate adjustments to the Control Estimate. When the Control Estimate is acceptable to the Owner, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ ~~AB~~.1.4 To the extent that the ~~Drawings and Specifications~~ Contract Documents are anticipated to require further development by the Architect, the Contractor shall provide in the Control Estimate for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

§ ~~AB~~.1.5 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Construction Manager with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner in writing, through the Construction Manager, ~~in writing~~, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ ~~B~~.1.6 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner, Architect, and Construction Manager of any inconsistencies between the Control Estimate and the revised Contract Documents.

Article ~~AB~~.2 Costs to be Reimbursed

§ ~~AB~~.2.1 Cost of the Work

§ ~~AB~~.2.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor 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 this Article ~~A~~ B.2.

§ ~~AB~~.2.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain ~~this~~ such approval in writing prior to incurring the cost. ~~The parties~~

§ ~~B~~.2.1.3 Costs shall endeavor to identify any such costs be at rates not higher than the standard paid at the place of the Project, except with prior to executing approval of the Agreement. ~~Owner.~~

§ ~~AB~~.2.2 Labor Costs

§ ~~AB~~.2.2.1 Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ ~~AB~~.2.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.
(If it is intended that the wages

§ ~~B~~.2.2.2.1 Wages or salaries of certain personnel the Contractor's supervisory and administrative personnel when performing Work and stationed at the Contractor's principal or a location other offices shall be included in the Cost than the site, but only for that portion of the Work, identify time required for the Work, and limited to the personnel and activities listed below:
(Identify the personnel to be included, whether for all or only part, type of their time, and activity and, if applicable, any agreed upon percentage of time to be devoted to the rates at which their time will be charged to the Work.) ~~Work.)~~

Person Included	Status (Full-time/Part-time)	Rate (\$0.00)	Rate (Unit of Time)
-----------------	------------------------------	---------------	---------------------

§ ~~A~~ ~~B~~.2.2.3 Wages and/or salaries of the Contractor's supervisory or administrative personnel engaged at factories, or workshops, or on the road while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

~~AB.2.2.4~~ Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments, and benefits required by law or collective bargaining agreements and, for personnel not covered by such collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under ~~Section A~~ Sections B.2.2.1 through B.2.2.3.

Note: Former Section A.2.2.5 is now Section B.3.1.2.

~~§ A.2.2.5~~ Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ B.2.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ AB.2.3 Subcontract Costs

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

§ AB.2.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ AB.2.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ AB.2.4.2 Costs of materials described in the preceding Section ~~A~~ B.2.4.1 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 Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ AB.2.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ AB.2.5.1 Costs of transportation, storage, installation, dismantling, 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 Contractor 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 Contractor shall mean fair market value.

§ AB.2.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and the costs of transportation, installation, dismantling, minor repairs, dismantling and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section B.2.8, shall be subject to the Owner's prior approval. The total rental cost of any ~~Contractor-owned items~~ such equipment may not exceed the purchase price of any comparable item. ~~Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.~~

§ AB.2.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ AB.2.5.4 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 Contractor's site office, including general office equipment and supplies.

§ AB.2.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with subject to the Owner's prior approval.

§ AB.2.6 Miscellaneous Costs

§ AB.2.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. ~~Self~~

§ B.2.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ B.2.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior approval.

~~§ AB.2.6.2~~ Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Contractor is liable.

~~§ AB.2.6.3~~ Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Contractor is required by the Contract Documents to pay.

~~§ AB.2.6.4~~ Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by under Article 13 of AIA Document A232™-2009, General Conditions of the Contract for Construction, current as of the date of this Agreement and Exhibit 2019, or by other provisions of the Contract Documents, and which do not fall within the scope of Section A.B.2.7.3.

~~§ AB.2.6.5~~ Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents, the

~~§ B.2.6.5.1~~ The cost of defending suits or claims for infringement of patent rights arising from such requirements of the Contract Documents, and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent. However, such, unless the Contractor had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect, as required by Article 3 of AIA Document A232™-2019. The costs of legal defenses, judgments, and settlements, shall not be included in the calculation of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section A.3 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

~~§ AB.2.6.6~~ Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

~~§ A.2.6.7~~ § B.2.6.7 Costs of document reproductions and delivery charges.

~~§ B.2.6.8~~ Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

~~§ AB.2.6.89~~ Legal, mediation, and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor 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.

~~§ A.2.6.9~~ Subject to the Owner's prior approval, expenses

~~§ B.2.6.10~~ Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior approval.

~~§ AB.2.6.1011~~ That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

~~§ AB.2.7~~ Other Costs and Emergencies

~~§ AB.2.7.1~~ Other costs incurred in the performance of the Work if, and to, with the extent, approved in advance in writing by the Owner's prior approval.

~~§ AB.2.7.2~~ Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property as provided in article 10 of AIA Document A232-2019.

~~§ AB.2.7.3~~ Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by negligence of, or failure to fulfill a specific responsibility of, by the Contractor, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

~~§ AB.2.8~~ Related Party Transactions

~~§ AB.2.8.1~~ For purposes of ~~this Section A B.2.8~~, the term “related party” shall mean ~~(1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor owns any equity interest in excess of ten percent in the aggregate; or (3) any person or entity which has the right to control the business or affairs of the Contractor. The term “related party” includes; or (4) any person, or any member of the immediate family of any person identified above, who has the right to control the business or affairs of the Contractor.~~

~~§ AB.2.8.2~~ If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner and the Construction Manager of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article ~~A B.5~~. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article ~~A B.5~~.

Article ~~AB.3~~ Costs Not to be Reimbursed

~~§ AB.3.1~~ The Cost of the Work shall not include the items listed below:

- ~~.1~~ Salaries and other compensation of the Contractor’s personnel stationed at the Contractor’s principal office or offices other than the site office, except as specifically provided in Section ~~A2B.2.2.2~~;
- ~~.2.2~~ Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- ~~.3~~ Expenses of the Contractor’s principal office and offices other than the site office;
- ~~.34~~ Overhead and general expenses, except as may be expressly included in Article ~~A B.2~~;
- ~~.45~~ The Contractor’s capital expenses, including interest on the Contractor’s capital employed for the Work;
- ~~.56~~ Except as provided in Section ~~A B.2.7.3~~ of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, 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;
- ~~.67~~ Any cost not specifically and expressly described in Article ~~AB.2~~; and
- ~~.7~~ Costs ~~8~~ Where a Guaranteed Maximum Price is part of the Agreement, costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

Article ~~AB.4~~ Discounts, Rebates and Refunds

~~§ AB.4.1~~ Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included ~~them~~ the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials, and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

~~§ AB.4.2~~ Amounts that accrue to the Owner in accordance with Section ~~A B.4.1~~ shall be credited to the Owner as a deduction from the Cost of the Work.

Article ~~AB.5~~ Subcontracts and Other Agreements

~~§ AB.5.1~~ Those portions of the Work that the Contractor does not customarily perform with the Contractor’s own personnel shall be performed under subcontracts or ~~by other appropriate agreements with the Contractor~~. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work ~~and, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Construction Manager and, Architect. The, and Owner shall then determine, with the advice of the Contractor, with an indication as to which bids the Contractor intends to accept. The Owner then~~

has the right to review the Contractor's list of proposed subcontractors and suppliers and, in consultation with the Construction Manager, and the Architect, which bids will be accepted object to any subcontractor or supplier. Any advice of the Construction Manager or Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ ~~AB.5.2~~ When a the Contractor has provided a Guaranteed Maximum Price, and a specific bidder subcontractor or supplier (1) is recommended to the Owner by the Contractor; (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 Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ ~~AB.5.3~~ 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 Owner's prior consent of the Owner written approval. If the subcontract is awarded on at the basis of cost-plus a fee basis, the Contractor 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 Contractor in Article A ~~B.6~~, below.

§ ~~B.5.4~~ Where the Contract Sum is based upon the Cost of the Work Plus a Fee without a Guaranteed Maximum Price, the Contractor shall prepare, for the Construction Manager and Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Contractor 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 Owner's approval of the Control Estimate, the Owner shall procure the items on terms and conditions acceptable to the Contractor. Upon the Owner's approval of the Control Estimate, the Owner shall assign all contracts for these items to the Contractor and the Contractor shall thereafter accept responsibility for them.

Article ~~AB.6~~ Accounting Records

§ ~~AB.6.1~~ The Contractor shall keep full and detailed records and accounts related to the cost 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 and the Construction Manager. 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 Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records, for a period of three years after final payment, or for such longer period as may be required by law.

§ ~~AB.6.2~~ When the Contractor believes that all the Work required by the Agreement has been fully performed, the Contractor shall deliver to the Owner's auditors Owner, through the Construction Manager, a final accounting of the Cost of the Work.

§ ~~AB.6.3~~ The Within 30 days after the Owner's auditors will review and report in writing on the receipt of the Contractor's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Construction Manager and Architect that it will not conduct an audit.

§ ~~B.6.3.1~~ If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 30 10 days after delivery completion of the final accounting audit, submit a written report based upon the auditor's findings to the Construction Manager by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and Architect.

§ ~~B.6.3.2~~ Within seven days after receipt of the written report described in Section B.6.3.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section A. ~~6.5.2~~ of the Agreement have been met, the Construction Manager and Architect will, within seven days after receipt of the written report of the Owner's auditors, Architect will either issue to the Owner, through the Construction Manager, a final Certificate for Payment, with a copy to the Contractor, or notify the Contractor, Construction Manager, and Owner, in writing, of the Construction

~~Manager and Architect's reasons for withholding a certificate as provided in Section Article 9.5.1 of the AIA Document A232-2009-2019. The time periods stated in this Section AB.6.3.2 supersede those stated in Section Article 9.4.1 of AIA Document A232-2009. The-2019. Neither the Architect, nor the Construction Manager and Architect are not, is~~ responsible for verifying the accuracy of the Contractor's final accounting.

§ ~~AB.6.43.3~~ If the Owner's ~~auditors~~ auditors' report concludes that the Cost of the Work, as substantiated by the Contractor's final accounting ~~to be, is~~ less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the ~~disputed~~ disputed amount without a ~~further~~ seeking an initial decision pursuant to Article 15 of the ~~Initial Decision Maker~~ AIA Document A232-2019. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the ~~Construction Manager and Architect's~~ final Certificate for Payment. ~~If the Contractor fails~~ Failure to request mediation within this 30-day period, ~~shall result in~~ the substantiated amount reported by the Owner's auditors ~~shall become~~ becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount, ~~if any, determined by the Owner's auditors to be due the Contractor certified in the final Certificate for Payment.~~

§ ~~AB.6.54~~ If, subsequent to final payment, and at the Owner's request, the Contractor incurs costs ~~in connection with the correction of defective or non-conforming work as,~~ described in Article ~~A B.2, Costs to be Reimbursed,~~ and not excluded by Article ~~A B.3, Costs Not to be Reimbursed~~ to correct defective or nonconforming Work, the Owner shall reimburse the Contractor for such costs and the Contractor'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 any. ~~If the Contractor has participated~~ adjustments to the Contract Sum are provided for in savings Section 4.6 of the Agreement, the amount of such ~~savings~~ those adjustments shall be recalculated ~~and appropriate credit given to the Owner, taking into account any reimbursements made pursuant to this Section B.6.4~~ in determining the net amount to be paid by the Owner to the Contractor.
