

LAKE LAND COLLEGE

**PROFESSIONAL SERVICES AGREEMENT FOR
ARCHITECTURAL/ENGINEERING SERVICES**

Project Information	
The Project: <p style="text-align: center;">Neal Hall Restoration</p>	
The College: <p style="text-align: center;">The Board of Trustees of Lake Land College</p>	The Architect/Engineer: <p style="text-align: center;">Control Technology & Solutions, L.L.C. d/b/a CTS Group</p>
The College's Representative: <div style="background-color: #cccccc; padding: 5px;">Greg J. Nuxoll, CPA Vice President for Business Services Lake Land College 5001 Lake Land Blvd Mattoon, Illinois 61938 Telephone Number: (217) 234-5224</div>	The Architect/Engineer's Representative: Brandon Little CTS Group 16647 Chesterfield Grove Road, Suite 200 Chesterfield, MO 63005 Telephone Number: (636) 230-0843 blittle@ctsgroup.com
Architect's/Engineer's Scope of Services: The Architect's Scope of Services consist of all Services required for the design and construction administration of the Project in accordance with this Agreement.	
Architect's/Engineer Compensation: The Architect's Professional Fee shall be _Thirty Five Thousand and Three Hundred Dollars (\$35,300.00). The total budget for the Project, including but not limited to the Architect's Compensation and the Cost of the Work, is _ Four Hundred and Seven Thousand and Twenty Nine Dollars (\$407,029.00).	

This Professional Services Agreement for Architectural/Engineering Services (the "Agreement") is executed on the date last written below (the "Effective Date"). This Agreement applies to all Project-related Services provided by Architect/Engineer before, on, and after the Effective Date.

The College and the Architect / Engineer agree as follows:

1. **General Definitions.**

1.1. “Agreement” means this Professional Services Agreement for the Project, as executed by the Parties.

1.2. “Architect/Engineer” means the person or entity identified in the Project Information section of the Agreement, and includes but is not limited to the Architect/Engineer’s employees, agents, representatives, subcontractors, consultants, and subconsultants, and any other entity or individual that has contracted with Architect/Engineer in connection with the Project. Although the term Architect/Engineer is used herein, the person or entity identified as the Architect/Engineer may be providing architectural, engineering, and/or land surveying services, as defined in the Scope of Services.

1.3. “Change Directive” means modification to the Construction Documents as directed by the College, where the resulting change to the contract sum and/or contract time, as specified in the Construction Contract, has not yet been agreed to and reduced to a written agreement executed by and between the College and the Contractor.

1.4. “Change Order” means modification to the Construction Documents and to the contract sum and/or contract time specified in the Construction Contract, as reflected in a written agreement executed by and between the College and the Contractor.

1.5. “College” means the Board of Trustees of Lake Land College.

1.6. “Compensation” means the Professional Fees and Reimbursable Expenses to be paid by the College to the Architect/Engineer for the timely and proper execution of Services. Compensation is specified in the Project Information section of the Agreement.

1.7. “Construction Contract” means the contract between the College and the Contractor for the performance of the Work. If the College is utilizing a construction manager at-risk, then the agreement between the College and the Construction Manager shall be defined as the “Construction Management Agreement,” which shall be synonymous with the Construction Contract.

1.8. “Construction Documents” means the drawings, specifications, instructions to bidders, and other terms, conditions and requirements as developed and prepared by the Architect/Engineer, together with the general conditions for construction as provided by the College, all of which have been completed and are in a condition ready for publication and competitive bidding or proposals. Construction Documents are subject to modification by Change Orders and Change Directives, if any.

1.9. “Contractor” means the person or entity who is required under the Construction Contract to perform the Work. If the College is utilizing a construction manager at-risk, then the term “Contractor” is interchangeable with the term “Construction Manager.”

1.10. “Cost of the Work” means the contract sum specified in the Construction Contract, as adjusted by fully-executed Change Orders. If the College is utilizing a Construction Manager at-risk or a Construction Manager adviser, the Cost of the Work means the aggregate cost of all labor, materials and equipment as reflected in the bid(s) awarded to a single prime contractor or multiple prime contractors, and

the Cost of the Work does not include any compensation, payments or other reimbursements to the Construction Manager.

1.11. “Day” or “Days” means a calendar day or a period of days, as applicable, without regard to weekends or holidays.

1.12. “Estimated Cost of the Work” means the Cost of the Work as estimated and contained in a cost estimate prepared by the Architect/Engineer or, as applicable, the Construction Manager. In preparing the Estimated Cost of Work, the Architect/Engineer or Construction Manager, as applicable, shall be permitted to include contingencies for design, bidding and price escalation, and to include in the Construction Documents alternate bids as may be necessary to adjust the actual Cost of the Work to meet the College’s budget.

1.13. “Parties” means the College and the Architect/Engineer.

1.14. “Party Representatives” means the College’s and Architect’s/Engineer’s respective representatives identified in the Project Information Section of this Agreement. The Parties may change their respective Party Representative upon prior written notice of such change to the other Party’s Representative, provided that the other Party accepts such change. Such acceptance shall not be unreasonably withheld. Any substitution of Architect/Engineer’s Party Representative must be with a person who has professional experience equal to or greater than Architect/Engineer’s current Party Representative.

1.15. “Professional Fee” means the fee specified in this Agreement and payable by the College to the Architect/Engineer for the performance of Services. The Professional Fee may be a lump sum or a percentage of the Cost of the Work.

1.16. “Project” means the construction project identified in the Project Information section of the Agreement.

1.17. “Reimbursable Expenses” means the actual cost to the Architect/Engineer of the items identified below as Reimbursable Expenses.

1.18. “Scope of Services” means the statement contained in or incorporated into the Project Information section of the Agreement which defines the nature and extent of Services to be provided by Architect/Engineer. The Scope of Services may explain or supplement the Services to be provided under this Agreement. To the extent of any conflict between the Scope of Services and this Agreement, this Agreement shall control.

1.19. “Services” means all professional services, administrative services, models, mock-ups, renderings, documents, instruments, and deliverables to be provided by Architect/Engineer under this Agreement.

1.20. “Substantial Completion” means the date on which the Work is completed to the point that the College can lawfully occupy the Project for its intended purpose, and the only Work then remaining consists of minor cosmetic items that can be completed without interruption of the College’s use of the Project. The scheduled date of Substantial Completion may or may not be ascertained as of the Effective Date of the Agreement. The scheduled date of Substantial Completion shall be reflected in the Construction Documents. The actual date of Substantial Completion shall be determined by the College.

1.21. “Work” means all labor, materials, services and equipment required to be furnished, installed and/or provided by the Contractor, and all duties required to be performed by the Contractor, as provided in the Construction Documents.

1.22. All other capitalized terms are defined below or in the Agreement.

2. Architect’s/Engineer’s Obligations.

2.1. **General Obligations.** Architect/Engineer shall provide all Services contained in the Scope of Services in a timely and professional manner in accordance with the Standard of Care. The Architect/Engineer shall conform its Services to the standard of care applicable to design professionals performing similar services for projects of like size and kind (the “Standard of Care”). Architect’s/Engineer’s Services and all deliverables furnished under the Agreement shall comply with all applicable laws, statutes, codes, ordinances, orders, rules and regulations of the governmental authority or authorities having jurisdiction over the Project, subject to the Standard of Care. The Architect/Engineer shall perform its services as expeditiously as is consistent with the standard of care applicable to its Services. The Architect/Engineer acknowledges that its position with the College is one of trust and confidence, and that the Architect/Engineer shall conduct its Services and act in the College’s best interest with respect to all decisions concerning the Project. The Architect/Engineer shall not engage in any activity, provide any services, or enter into any contract that may reasonably appear to conflict with the Architect’s/Engineer’s duties to the College or with the Architect’s/Engineers professional judgment concerning the Project. The Architect/Engineer and its employees are independent contractors with respect to the College.

2.2. **Scope of Architect’s/Engineer’s Services.** The Architect’s/Engineer’s Services shall include all relevant architectural, structural, mechanical, plumbing, technology system, civil, fire protection and electrical engineering services, and all other specialty services, which are required to provide a complete design of the Project. All other services are defined as “Additional Services,” and, except in an emergency, Additional Services shall only be provided by the Architect//Engineer upon the College’s prior written agreement to the scope of such Additional Services and the College’s prior written approval of the fee and expenses related to such Additional Services.

2.3. **Design Development Phase.** This design development shall consist of drawings including plans, sections, elevations, details, furniture, fixtures and equipment layout, which shall indicate the size and character of the Project as to all elements including architectural, structural, mechanical, plumbing, civil, fire protection and electrical engineering services, and all other specialty services as applicable, along with an outline of specifications that identify materials, equipment, and systems that are significant to the Project, including general quantity levels for each such item. The Architect/Engineer’s design development of the Project shall be based upon the Architect/Engineer’s inspection of existing conditions; the Architect/Engineer’s survey of the building and grounds on the Project site; the Architect/Engineer’s field verifications for visible conditions and non-visible conditions which, subject to the Standard of Care, the Architect/Engineer knows or reasonably should know to exist; and the Architect/Engineer’s review of all applicable as-built drawings related to the Project site. However, the Architect/Engineer shall not rely upon as-built drawings or other information provided by the College. In developing the design, the Architect/Engineer shall coordinate with all utility providers such that the developed design of the Project shall meet all reasonable requirements of such utility providers. The Architect/Engineer shall prepare, present, and explain to the College, for the College’s approval, the developed design. The Architect/Engineer shall revise the developed design as reasonably required to obtain the College’s approval. The Architect/Engineer shall reasonably cooperate with local authorities in developing the design. Upon the College’s approval of the Project’s design as developed by the Architect/Engineer, and the Architect’s transmittal of the finalized design development documents to the College in CAD and PDF format as provided in Appendix A, *Lake Land College’s Document Submittal*

Standards for Architects/Engineers, the Architect/Engineer shall prepare and present to the College an updated Estimated Cost of the Work, the Design Development Phase shall end, and the Construction Documents Phase shall begin.

2.4. **Construction Documents Phase.** Based upon the College's approval of the design as developed by the Architect/Engineer and any adjustments to the budget by the College, the Architect/Engineer shall prepare Construction Documents for the College's approval. The Architect/Engineer shall revise the Construction Documents as reasonably required to obtain the College's approval. The Construction Documents shall address all elements of the Project including architectural, structural, mechanical, plumbing, technology system, civil, fire protection and electrical engineering services, and all other specialty services as applicable. The Architect/Engineer shall identify and prepare the documents required to apply for all building permits and to obtain the approval of governmental authorities having jurisdiction over the Project, and shall present such documentation to the College for review, approval and execution, if necessary, and shall submit such executed documents to the appropriate governmental authorities. The Architect/Engineer shall present the Project at meetings or hearings to facilitate such approvals and the issuance of all permits required to commence and complete construction. The completed Construction Documents shall be dated and shall include:

2.4.1. Finalized drawings, site plans, general notes, sections, elevations, details, depictions of systems and equipment, layouts and locations, with all necessary sizes, dimensions and locations accurately depicted;

2.4.2. Finalized specifications setting forth in detail the quality, quantity, characteristics, and requirements of all labor, materials, equipment and systems included in the Project;

2.4.3. Finalized requirements for all commissioning services, if applicable, including all tests required for systems, equipment and devices, and whether such services are to be provided by the Contractor or separately by the College;

2.4.4. All documents, information, certifications, signatures, seals, stamps, required to obtain the construction permits and approvals of the governmental authority or authorities having jurisdiction over the Project, with all seals and stamps indicating their expiration date;

2.4.5. All instructions to bidders, bid notices, bid forms, alternate bid forms, certification forms, and all other information required by the Contractor for the preparation of its bid or quote;

2.4.6. General conditions of construction and contract forms as provided by the College; and

2.4.7. Finalized Construction Documents delivered to the College in CAD and PDF format, and in full compliance with the Appendix A, *Lake Land College's Document Submittal Standards for Architects/Engineers*.

2.5. **Ownership of Instruments of Service.** All hardcopy and electronically-stored drawings, details, sketches, specifications, conditions, requirements, and all other documents generated and/or prepared in connection with the Project by the Architect/Engineer or the Architect's/Engineer's consultants, including the Construction Documents, are defined collectively as "Instruments of Service." Provided the College has not materially breached the Agreement, the College owns the Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights, and the Architect/Engineer hereby waives all common law, statutory and other reserved rights, including

copyrights, in and to the Instruments of Service. Notwithstanding the foregoing, Architect/Engineer retains ownership of any pre-existing, standard specifications that are incorporated into or used in connection with the Construction Documents. Provided the College has not materially breached Agreement, the College may use the Instruments of Service for future additions to or alterations of the Project, or for other projects, which use shall be at the College's sole risk and without liability to the Architect/Engineer or the Architect's/Engineer's consultants.

2.6. **Pre-Bid Cost Estimate.** Upon the College's approval of the Construction Documents, the Architect/ Engineer shall prepare and present to the College an updated Estimated Cost of the Work, which shall organize the Work by trade contract and itemize each component of labor, materials and equipment included in the Work or which may be included in the Work, including alternates (the "Pre-Bid Cost Estimate"). If the Pre-Bid Cost Estimate exceeds the College's budget, the College may require the Architect/ Engineer to revise the Construction Documents and recalculate the Pre-Bid Cost Estimate to meet the College's budget, all at no additional cost to the College. Upon the College's approval of the Pre-Bid Cost Estimate, as may be revised, the Construction Documents Phase shall end and the Bidding Phase shall commence.

2.7. **Bidding Phase.** The Architect/ Engineer shall assist the College in letting the Project for public bidding or in obtaining proposals. The College has sole discretion to determine the procurement process, consistent with applicable law and the College's policies and procedures. The Architect/Engineer shall develop, design, reproduce, and circulate the Construction Documents to all interested parties; endeavor to generate interest in the Project among contractors, subcontractors, and suppliers; attend and preside over pre-bid meetings as may be scheduled in the Construction Documents; prepare and circulate addenda and answer questions from interested parties; assist the College in conducting the bid opening and in receiving proposals; tabulate and summarize the contents of all bid submittals; assist the College in evaluating bids and proposals; assist the College in determining the lowest responsible bidder and in selecting proposals; correspond with all interested parties concerning the procurement and selection process; recommend to the College the lowest responsive and responsible bidder(s) for award of contract(s); and provide all other customary architectural and engineering services necessary for the College to enter into a contract with the Contractor. Upon the earlier of the College's award of bids or the execution of the Construction Contract, the Bidding Phase shall end and the Construction Phase shall commence.

2.8. **Rejection of Bids.** If the lowest responsible bid exceeds the Pre-Bid Cost Estimate, or if there are multiple bid packages and the Pre-Bid Cost Estimate for one or more bid packages exceeds the related lowest responsible bid(s), the College may, in its sole discretion, reject bids and direct the Architect/ Engineer to revise the Construction Documents, recalculate the Pre-Bid Cost Estimate, and assist the College with rebidding the Project. Cost to provide these services will be billed on a Time & Material Basis.

2.9. **Construction Phase.** The Architect/Engineer shall provide project administration services as set forth below and as provided in the Construction Documents. The Architect/ Engineer shall only have authority to act on the College's behalf to the extent provided in the Agreement.

2.9.1. **Submittals.** The Architect/Engineer shall coordinate with the Contractor to agree upon a schedule for submittals of shop drawings, product data, and other information required by the Construction Documents. The Architect/Engineer shall review all submittals to determine if they conform to or are consistent with the Construction Documents. If the Construction Documents require the Contractor to provide professional design services, the services of a registered architect or engineer, or the approval or certification of a registered architect or engineer, the Architect/Engineer shall specify in the Construction Documents the performance or design criteria to be met. The Architect/Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and

approvals performed or provided by such design professionals, unless the Architect/Engineer knows or reasonably should know that such submittals contain errors or omissions or do not conform to the Construction Documents. The Architect/Engineer shall promptly review all submittals and, unless otherwise agreed in writing by the College, shall approve or reject each submittal in a dated writing returned to the Contractor within fourteen (14) days after submittal, and immediately in the case of submittals affecting the Project's critical path. The Architect/Engineer shall promptly review all resubmittals and, unless otherwise agreed in writing by the College, shall approve or reject each resubmittal in a dated writing returned to the Contractor within seven (7) days after resubmittal. The Architect/Engineer shall not make changes to the Construction Documents through the submittal process. All rejected submittals shall include the basis for such rejection and any required revisions. The Architect/Engineer shall maintain a copy of all submittals, resubmittals, approvals, and rejections, and all related correspondence.

2.9.2. **Requests for Information.** The Architect/Engineer shall prepare a form for the Contractor to use in submitting all requests for information. The form is subject to the College's approval. The Architect/Engineer shall interpret and where necessary issue supplemental instructions to the Contractor regarding the Construction Documents, and shall promptly respond to all requests for information and other correspondence from the College or the Contractor concerning the Construction Documents, the Work, and/or the Project. If necessary, the Architect/Engineer shall prepare supplemental drawings, specifications, and/or other modifications to the Construction Documents, and, unless otherwise agreed in writing by the College, shall transmit such information to the Contractor within seven (7) days after the Architect/Engineer's receipt of such request, and immediately in the case of such requests affecting the Project's critical path. All such interpretations and instructions shall be in writing, shall be sent to the College and the Contractor, and shall be consistent with the Construction Documents.

2.9.3. **Site Observation.** The Architect/Engineer shall regularly visit the site to observe and become familiar with the progress and quality of the Work, and to determine if the then-observable portions of the Work are being performed in accordance with the Construction Documents. The Scope of Services may quantify the number of and specify the interval for such site observation visits, but otherwise, site observation shall occur on a weekly basis throughout the Construction Phase. Unless the Scope of Services provides otherwise, the Architect/Engineer shall promptly submit a field observation report to the College for each such site observation visit. The Architect/Engineer shall keep the College reasonably informed about the progress and quality of the Work, and shall promptly report to the College in writing (1) known deviations from the Construction Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Construction Documents prepared or furnished by the Architect/Engineer that are found to contain any error or omission shall be promptly corrected by the Architect/Engineer at no cost to the College, without prejudice to any other of College's remedies under the Agreement.

2.9.4. **Evaluations of the Work.** On the basis of submittal review, site observation, and communications with the Contractor, the Architect/Engineer shall evaluate the Work and, by written communication to the Contractor with a copy to the College, shall reject Work that does not conform to the Construction Documents.

2.9.5. **Progress Meetings.** Unless the Scope of Services provides otherwise, the Architect/Engineer shall schedule, organize, and preside over weekly progress meetings between representatives of the College, the Contractor, the Architect/Engineer, and if appropriate the Architect's/Engineer's sub-consultants. The College shall determine the location of the meetings. The topics of each meeting shall include the progress of the Work in relationship to the Contractor's Project schedule; the coordination of trades; the status of materials or equipment with abnormal lead times; pending and potential changes in the Work; the preparation, review, and update of a Change Order log ("Log") to itemize each required change and identify the party financially responsible for such change; the

identification and review of any defects or deficiencies in the Work; and all other matters bearing on the Work and the Project. In preparing, reviewing, and updating the Log, the College and the Architect/Engineer shall work together in good faith to come to agreement on who is financially responsible for a particular Change Directive and Change Order. For omissions of the Architect/Engineer which are uncorrected by the Architect/Engineer, such assignment of responsibility shall account for and exclude any additional costs that would have initially been incurred by the College if such omission had not occurred. The Architect/Engineer shall prepare and circulate to all participants the minutes of all progress meetings within forty-eight (48) hours after conclusion of such meeting. The minutes shall identify all attendees, summarize all topics discussed, and include as an attachment copies of all documents discussed or circulated.

2.9.6. **Changes in the Work.** The Architect/Engineer shall review requests by the College or Contractor for changes in the Work, including requests for adjustments to the contract sum and/or the schedule. Requests for changes in the Work made by the Contractor shall be accompanied by information sufficient to permit the Architect/Engineer to make a reasonable determination of whether the change is necessary or advisable, without an extensive investigation by the Architect/Engineer. If the request for a change is not accompanied by such information, the Architect/Engineer shall identify such deficiencies and request that the Contractor supply the missing information prior to the Architect's/Engineer's response to the request. The Architect/Engineer shall respond to all requests for changes in the Work, and such response shall be directed to the College and the Contractor. Unless the Scope of Services provides otherwise, the Architect/Engineer shall respond to all requests for changes in the Work within seven (7) days after receiving the request, and immediately in cases of requested changes that affect the Project's critical path. The Architect/Engineer shall respond to all College-initiated requests for changes by preparing either a Change Order or a Change Directive, as appropriate. The Architect/Engineer shall respond to all Contractor-initiated requests for changes by preparing a Change Order or Change Directive, or by recommending that the College reject the change as unnecessary, inadvisable, or unjustified. If necessary, the Architect/Engineer shall prepare additional drawings, specifications, and other modifications to the Construction Documents to accompany all Change Orders and Change Directives. The Architect/Engineer shall maintain copies of all requests for changes, responses thereto, and all Change Orders and Change Directives, with all attachments and supporting documentation.

2.9.7. **Review and Certification of Payment Applications.** The Architect/Engineer shall receive draft payment applications from the Contractor, and on the basis of the Architect's/Engineer's site observations, and based upon the progress of the Work and the status of requested changes in the Work, shall verify that such payment applications accurately reflect the progress of the Work, shall revise such payment applications in cooperation with the Contractor as necessary to accurately reflect the progress of the Work, and shall promptly certify, sign, and deliver all such payment applications to the College. Unless the Scope of Services provides otherwise, the Architect/Engineer shall certify all payment applications within seven (7) days after receipt. The Architect/Engineer shall not certify payment applications that contain, reference, or otherwise reflect changes in the Work except when such changes are reduced to a Change Order that was fully executed on or before the date of such certification. The Architect's/Engineer's submittal of certified payment applications to the College shall constitute the Architect's/Engineer's representation to the College, to the best of the Architect's/Engineer's knowledge, information and belief, that all such certified payment applications accurately reflect the progress of the Work and the Contractor's entitlement to payment in the amount specified. The Architect/Engineer shall maintain a copy of all applications for payment, all revisions thereto, and all certified payment applications as submitted to the College, including all documentation, summaries, and schedules attached thereto.

2.9.8. **Substantial Completion and Punch List.** When the Architect/Engineer determines or the Contractor reports that the Project is Substantially Completed, the Architect/Engineer shall schedule a comprehensive inspection of the Work with the College and the

Contractor. During such inspection, the Architect/Engineer shall document in writing all Work that is incomplete, defective, or otherwise not in conformance with the Construction Documents. Based upon the inspection, the Architect/Engineer shall determine if the Work has reached Substantial Completion. If not, the Architect/Engineer shall so notify the Contractor and the College and explain the basis for the determination. If so, the Architect/Engineer shall prepare a certificate of Substantial Completion for execution by the Architect/Engineer, College, and Contractor, which shall have attached to it a detailed list of items identified as incomplete, defective, or otherwise not in conformance with the Construction Documents (the "Punch List"). The Punch List shall also include or reference all requirements in the Construction Documents for the Contractor's submittal of Close-Out Documents. "Close-Out Documents" means the consent of surety to final payment to the Contractor; final waivers and releases of all liens; all as-built and record drawings in the form and mediums specified by the College; and all installation and operating manuals related to systems and equipment included in the Work; all warranties, guarantees, certifications, documents, and instruments required by the Construction Documents. The certificate of Substantial Completion shall contain a date of Substantial Completion, and shall include the date by which the Contractor must complete the Punch List and furnish the Close-Out Documents. The Architect/Engineer shall present the certificate of Substantial Completion, with the Punch List attached, to the College and the Contractor for approval and execution.

2.9.9. **Final Completion and Close-Out.** When the Architect/Engineer determines or the Contractor reports that the Punch List has been completed, and all Close-Out Documents have been received by the Architect/Engineer and received, reviewed and approved by the College, the Architect/Engineer shall schedule an inspection of the Punch List items with the College and the Contractor. If, upon inspection, the Architect/Engineer determines that all Punch List items have been completed to the College's satisfaction, the Architect/Engineer shall certify the Contractor's final payment application,. If, upon inspection, the Architect/Engineer determines that not all Punch List items have been completed to the College's satisfaction, the Architect/Engineer shall amend the Punch List accordingly, establish a new completion date for the remaining Punch List items or follow the College's directions for takeover and completion of the Work, and shall not certify the final payment to the Contractor. When the Architect/Engineer determines or the Contractor reports that the amended Punch List has been completed to the College's satisfaction, a re-inspection shall occur in accordance with this Section and, if appropriate, the Architect/Engineer shall certify the Contractor's final payment application. When the Punch List is completed, the Construction Phase ends and that date shall be the date of "Final Completion."

2.10. **Post-Completion Inspection.** During the period between nine (9) months and one (1) year from the date of Substantial Completion, the Architect/Engineer shall schedule and conduct, and where appropriate shall cause its subcontractors and subconsultants to attend and participate in, a meeting with the College to review the completed Project. This post-completion inspection shall include a review of the Project's major components, equipment, and systems to verify proper working order, to identify any corrective work required, and to address any concerns or questions raised by the College. All such items shall be identified and addressed in a detailed written report furnished by the Architect/Engineer to the College. The Architect/Engineer shall not be entitled to any additional fee or the reimbursement of expenses for the post-inspection completion.

2.10.1. **Means and Methods.** The Architect/Engineer shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect/Engineer be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Construction Documents, except if the Architect/Engineer fails to provide written notice as required in this Agreement and such failure causes specific damages to the Owner beyond those damages caused by the Contractor's failure to properly perform the Work. The Architect/Engineer shall be responsible for the Architect/Engineer's negligent acts or omissions, but shall not have control over or charge of, and shall not

be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. During the Project, the Architect/Engineer shall promptly report in writing to Owner any known defects or deficiencies in the Project or the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the Work. These provisions shall not limit the Owner's remedies under this Agreement.

2.11. **Indemnification.**

2.11.1. The Architect/Engineer shall indemnify and hold harmless the College, its Board of Trustees, individual board members, officers, administrators, employees, agents, and representatives, and their successors and assigns, and each of them (collectively, "Indemnitees") from all claims, demands, causes of action, losses, liabilities, injuries, penalties, damages, and expenses, including reasonable attorneys' fees and court costs, that one or more of the Indemnitees may incur, to the extent caused by the Architect's/Engineer's negligence or by the Architect's/Engineer's breach of the Standard of Care as defined in this Agreement.

2.11.2. The Architect/Engineer shall indemnify, defend, and hold harmless the College, its Board of Trustees, individual board members, officers, administrators, employees, agents, and representatives, and their successors and assigns, and each of them (collectively, "Indemnitees") from all claims, demands, causes of action, losses, liabilities, injuries, penalties, damages, and expenses, including reasonable attorneys' fees and court costs, that one or more of the Indemnitees may incur, to the extent arising from personal injury, property damage or death caused by the Architect's/Engineer's negligent act or omission.

2.12. **Insurance.** The Architect/Engineer shall procure and maintain the following insurance policies for the durations provided below. The Architect/Engineer shall also cause each of its subcontractors and subconsultants to procure and maintain the following insurance policies for the durations provided below. All specified insurance shall be obtained from insurance companies licensed to conduct business in Illinois and with a Best's Key Guide Rating of at least A / XV, unless otherwise specified in writing by the College. All specified policies shall by endorsement incorporate a provision requiring thirty days written notice to the College prior to the cancellation, non-renewal or material modification of any such policies. The Architect's/Engineer's cost of maintaining such insurance is included in the Architect's/Engineer's Professional Fee. If Architect/Engineer fails to furnish and maintain insurance as required by the Agreement, the College may purchase such insurance on behalf of Architect/Engineer, and Architect/Engineer shall furnish to the College any information needed to obtain such insurance, and shall pay the cost thereof to the College upon demand. Prior to performing Services, and upon the expiration and renewal of each such policy, the Architect/Engineer shall furnish to the College proof of all required insurance including certificates of insurance, and policies with all declarations and endorsements attached.

2.12.1. **Commercial General Liability.** The Architect/Engineer shall procure and maintain general liability insurance, including completed operations coverage, with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage. The policy shall be properly endorsed to list "The Board of Trustees of Lake Land College" as an additional insured. The policy shall be properly endorsed to waive subrogation against the College. Coverage shall by endorsement be primary and non-contributory to any insurance written or available to the College. Such coverage shall be maintained in full force and effect until completion of Architect's/Engineer's Services, except the Completed Operations coverage, which shall extend an additional four (4) years after Substantial Completion.

2.12.2. **Automobile Liability.** The Architect/Engineer shall procure and maintain automobile liability insurance covering all vehicles operated by the Architect/Engineer in

connection with the Project, with policy limits of not less than One Million Dollars (\$1,000,000), combined single limit and aggregate for bodily injury and property damage. The policy shall be properly endorsed to list "The Board of Trustees of Lake Land College" as an additional insured. Coverage shall by endorsement be primary and non-contributory to any insurance written or available to the College. Such coverage shall be maintained in full force and effect until completion of Architect's/Engineer's Services.

2.12.3. **Umbrella Coverage.** For Projects where the Estimated Cost of the Work and/or the Cost of the Work exceeds \$5,000,000, and for Projects where the duration of the Construction Phase is scheduled to exceed twelve (12) months regardless of the Cost of the Work, the Architect/Engineer shall procure and maintain umbrella coverage above the commercial general liability and automobile policies specified above, in the amount of \$3,000,000, and such umbrella coverage shall follow form.

2.12.4. **Workers' Compensation.** The Architect/Engineer shall procure and maintain workers' compensation insurance with statutory minimum limits and employers' liability coverage with a limit of not less than Five Hundred Thousand Dollars (\$500,000). Such coverage shall be maintained in full force and effect until completion of Architect's/Engineer's Services. The policy shall be properly endorsed to waive subrogation against the College.

2.12.5. **Professional Liability.** The Architect/Engineer shall procure and maintain professional liability insurance covering all negligent acts, errors and omissions of the Architect/Engineer and its employees, agents, representatives, subcontractors, consultants, and subconsultants, and any other entity or individual that has contracted with Architect/Engineer in connection with the Project, with policy limits of not less than Five Million Dollars (\$5,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate. Such coverage shall be maintained on a claims-made basis, and shall be in full force and effect until the expiration of the period of five (5) years from the completion of Architect's/Engineer's Services.

2.12.6. **Construction Manager.** If the College has retained or later retains a Construction Manager for the Project pursuant to a separate Construction Management Agreement, then the Architect is hereby relieved of any and all duties under this Agreement to the extent they are also specified as the sole obligations of the Construction Manager under the Construction Management Agreement, and the Architect shall cooperate and coordinate with the Construction Manager to the extent the Architect and the Construction Manager have joint obligations under their respective agreements.

3. **The College's Obligations.**

3.1. **Information and Approvals.** The College shall timely respond to all reasonable requests by the Architect/Engineer for documents, information, surveys, and approvals that may be necessary for the Architect/Engineer to perform its Services. The Architect/Engineer may request and the College shall provide previously-prepared geotechnical reports regarding the Project site, but if any further geotechnical information, reports, or recommendations are required for the Project, the Architect/Engineer shall procure such information and services from a sub-consultant to the Architect/Engineer, and the compensation for such geotechnical services are included in the Architect's/Engineer's Professional Fee. Notwithstanding any provision of this Agreement to the contrary, the College's review and approval of any and all documents or other information shall be for the purpose of providing the Architect/Engineer with information as to the College's objectives and goals with respect to the Project and not for the purpose of determining the accuracy, completeness or correctness of such documents and, notwithstanding any professional skill or judgment possessed by the College, shall in no way create any liability on the part of the College for errors, inconsistencies or omissions in such documents or information.

3.2. **Party Representative.** The College's Party Representative is authorized to act on the College's behalf only to the extent authorized by the College's Board Policies and Project-specific directives, if any.

3.3. **Budgeting.** The College shall establish and regularly update a budget for the Project, and shall communicate such budget and updates to the Architect/Engineer. The College may rely upon the Architect's/Engineer's Estimates of the Cost of the Work in establishing and updating the budget.

3.4. **Site Access.** The College shall provide the Architect/Engineer with access to the Project site as reasonably requested by the Architect/Engineer throughout the Design Phase and Construction Phase of the Project.

4. **Compensation and Payment.**

4.1. **Professional Fee.** The Architect's/Engineer's Compensation is contained in the Project Information Section of the Agreement. A portion of the Professional Fee shall be earned and become payable during each phase of the Project, in accordance with the schedule below.

Project Phase	Percentage of Professional Fee Earned
Design Development Phase	35%
Construction Documents Phase	40%
Bidding Phase	5%
Construction Phase To Substantial Completion	20%

4.2. **Reimbursable Expenses.** The Architect's/Engineer's Reimbursable Expenses include and are limited to the Architect's/Engineer's actual costs incurred in connection with the following specified items. There shall be no markup by the Architect/Engineer on Reimbursable Expenses. The Reimbursable Expenses shall not exceed \$5,000 unless, prior to such expenditure in excess of \$5,000, Architect/Engineer requests in writing a specified increase of this not-to-exceed cap and a basis for the request, and the College approves such request in writing and before the expenditure is incurred. Reimbursable Expenses include and are limited to:

- 4.2.1. Renderings, models, mockups, and presentation materials.
- 4.2.2. Printing and document reproduction costs.
- 4.2.3. Postage, handling and delivery.
- 4.2.4. Fees paid for securing necessary governmental permits and approvals.
- 4.2.5. Travel expenses.
- 4.2.6. Mileage at standard rates as published by the IRS.

4.3. **Invoicing.** From the Effective Date of the Agreement through completion of the Construction Phase, the Architect/Engineer shall on a monthly basis send the College invoices for the Professional Fee and Reimbursable Expenses. The invoices shall reflect portions of the Professional Fee earned and due, which shall be expressed as a percentage of completion of the then-current phase of the Project (Professional Fee * percentage allocated to that phase of the project as provided in Section 4.1 * percentage completion of that phase), less payments previously made. The invoices shall also reflect Reimbursable Expenses incurred in the immediately preceding month, which shall be supported by the attachment of all third-party documents and information needed for the College to independently verify the

amount incurred and paid by the Architect/Engineer and the details of such expenses. The College shall specify the monthly deadline and procedure, if any, for the submittal of invoices. The invoices shall be directed to the College's Project Representative as identified in the Project Information Section of the Agreement. The College shall process all invoices in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, *et seq.* The final Design Phase invoice shall not become payable until all design documents for the Design Phase have been delivered to the College in CAD and PDF format as provided in Appendix A, *Lake Land College's Document Submittal Standards for Architects/Engineers*, as required by Sections 2.5, 2.6, and 2.7.7.

5. General Provisions.

5.1. **Termination for Convenience.** The College may terminate the Agreement upon at least seven (7) days written notice to the Architect/Engineer for any reason in the College's sole discretion. Upon such termination for convenience, the Architect/Engineer shall submit a final invoice for that portion of the Professional Fee earned and Reimbursable Expenses incurred as of the effective date of termination. Such invoice shall be prepared and calculated as provided in Article 4, above. Payment of such invoice shall be Architect's/Engineer's sole remaining compensation under the Agreement. The Architect/Engineer shall not under any circumstance have any claim for consequential or incidental damages, or lost profits, and all such claims are expressly waived.

5.2. **Termination for Cause.** If one Party materially breaches the Agreement, the other Party may terminate the Agreement upon at least three (3) days written notice to the breaching Party. If the Architect/Engineer terminates under this Section, upon such notice of termination to the College, the Architect/Engineer shall submit a final invoice for that portion of the Professional Fee earned and Reimbursable Expenses incurred as of the effective date of termination. Such invoice shall be prepared and calculated as provided in Article 4, above. Payment of such invoice shall be Architect's/Engineer's sole remaining compensation under the Agreement. If the College terminates under this Section, the Architect/Engineer shall not be entitled to any further compensation, except for those portions of the Professional Fee and Reimbursable Expenses that are then earned, due, and unrelated to the material breach forming the basis for such termination, which shall be invoiced and paid in accordance with Article 4. The Architect/Engineer shall not under any circumstance have any claim for consequential or incidental damages, or lost profits, and all such claims are expressly waived.

5.3. **Use of AIA Documents.** The College may permit Architect/Engineer and Contractor to use standard and modified form AIA Documents for certain purposes including but not limited to general conditions for construction, payment applications, change orders, and certificates of Substantial Completion. Any such use shall be pre-authorized in writing by the College.

5.4. **Retention and Inspection of Records.** To the extent the Agreement, these terms and conditions, or other Construction Documents require the Architect/Engineer to prepare, receive or maintain correspondence, documents, records, instruments and/or files related to the Project ("Project Records"), the Architect/Engineer shall maintain all Project Records in an organized, safe, and secure location during the Design and Construction Phases and for a period of four (4) years from the date of Substantial Completion. Upon the College's request at any time, the Architect/Engineer shall promptly provide the College with access to original Project Records, and copies of Project Records if requested. If the Architect/Engineer intends to destroy or dispose of Project upon the expiration of this retention period, Architect/Engineer shall notify the College in writing at least ninety (90) days prior to such destruction or disposal and provide the College a reasonable opportunity to retrieve such items at the College's expense.

5.5. **Confidentiality and FOIA.** The Architect/Engineer shall maintain, and shall contractually require its employees and sub-consultants to maintain, the confidentiality of all information

in their possession regarding the Project. Architect/Engineer shall keep all Project-related information, documents, records, instruments, and files strictly confidential and shall not disclose them to any other person except to (1) those employees of Architect/Engineer who need such information to perform Project-related services, and (2) its sub-consultants who are contractually bound by this confidentiality provision and who need such information to perform Project-related services. The Architect/Engineer acknowledges that certain Project-related documents in its possession or under its control may be subject to the Freedom of Information Act, 5 ILCS 140/1, *et seq.*, and the Architect/Engineer shall comply with and shall cooperate with the College's efforts to comply with such requirements.

5.6. **Statutory Compliance.** The Architect/Engineer shall comply with and shall cause its sub-consultants to comply with all statutory requirements including but not limited to:

5.6.1. The Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*, including but not limited to requirements pertaining to a sexual harassment policy.

5.6.2. The Drug Free Workplace Act, 30 ILCS 580/1, *et seq.*

5.6.3. Article 33E of the Criminal Code, 720 ILCS 5/Art. 33E. Pursuant to Section 33E-11, the Architect/Engineer hereby certifies that it is not barred from contracting with any unit of State or local government as a result of a violation of either Section 33E-3 or 33E-4 of Article 33E.

5.7. **Professional Credit.** Upon Architect's/Engineer's receipt of prior written consent from the College, the Architect/Engineer shall have the right to include photographic or artistic representations of the Project among the Architect's/Engineer's promotional and professional materials. The College shall give the Architect/Engineer reasonable access to the completed Project to make such representations. However, the Architect's/Engineer's promotional and professional materials shall not include the College's confidential or proprietary information or any other information prohibited by law or by the Agreement from disclosure.

5.8. **Governing Law.** The Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of Illinois without regard to conflict of law principles.

5.9. **Interpretation and Construction.** The Parties intend the Agreement to be legally binding on them, and to inure to their benefit and the benefit of their respective legal representatives, successors and assigns. The provisions of the Agreement are severable and no provision shall be affected by the invalidity of any other provision. If any court determines any provision of the Agreement to be ambiguous, the ambiguity shall not be construed against either Party.

5.10. **No Assignment or Delegation.** Except as may be otherwise provided in the Scope of Services, each of the Parties represents that it has not assigned and will not assign any rights under the Agreement, and that it has not delegated and will not delegate or subcontract any duties arising under this Agreement.

5.11. **No Third-Party Beneficiaries.** The Agreement is not intended to confer any rights upon any third party who is not a Party to the Agreement.

5.12. **Statute of Limitations.** Notwithstanding any other provision to the contrary, all causes of action arising from the performance and/or breach of this Agreement shall be deemed to have accrued and the applicable statutes of limitation and repose shall operate as provided by Illinois law.

5.13. **Prevailing Party.** In any proceeding to enforce the Agreement, or for damages arising under the Agreement, or for damages arising from Services required or performed, the prevailing party shall be entitled to recover its respective court costs, reasonable attorneys' fees, litigation consulting fees, and expert witness fees from the non-prevailing Party.

5.14. **Integration.** This Agreement, and the documents attached to and incorporated by reference in this Agreement including but not limited to the Scope of Services, if any, provisions relating to Compensation, if any, and the Construction Documents, constitute the entire agreement of the Parties with respect to this Project, and supersede all prior representations and agreements, both oral and written. This Agreement may only be modified or cancelled by the subsequent written agreement of the Parties.

Executed on the date last written below, by and between:

The Board of Trustees of Lake Land College

Control Technology & Solutions, L.L.C. d/b/a
CTS Group

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Appendix A
Lake Land College's Document Submittal Standards for Architects/Engineers

1 INTRODUCTION

1.1 Overview

These standards are issued to promote consistency and compatibility with existing LLC AutoCAD® and office documents.

This document specifies the requirements for Architects submitting CAD drawings and specifications for review, bidding and construction. Documents shall be submitted to the appropriate LLC project manager and or representative.

1.2 Software

Project drawings shall be submitted to LLC in the release of AutoCAD® software version 2010 – current version and in PDF formats as provided in Appendix A, *Lake Land College's Document Submittal Standards for Architects/Engineers*. Specifications shall be submitted in Microsoft Word 2010 and PDF formats.

1.3 Key Terms

- AutoCAD® – CAD software from Autodesk.
- BIND (BOUND) - To make an external referenced drawing (XREF) a standard block definition within the AutoCAD® drawing database.
- BLOCK – One or more AutoCAD® objects grouped to create a single object.
- CAD – Computer Aided Drafting.
- DWG – A native AutoCAD® file format
- GPS – Global Positioning System
- Layer – A logical grouping of data, like transparent acetate overlays on a drawing
- RVT – A native Revit file format.
- LLC – Lake Land College
- XREF/LINK – External reference. A drawing file linked (or attached) to another drawing.

2 REQUIREMENTS

2.1 Compliance

LLC recognizes that Architectural/Engineering firms may not use the same version of AutoCAD® or Microsoft Word; however, LLC expects file formats will be submitted in DWG formatted CAD files or Microsoft Word files that are fully compliant with these outlined standards which preserve data when translating to AutoCAD or Microsoft Word.

2.2 Design Documents

Submit CAD drawings, Word documents and PDF files to the project manager for design efficiency compliance according to LLC standards. Drawing submitted during the design phase shall have the layering standards described in section 5 and the block standards in section 6 of this document.

2.3 Bidding and Construction Documents

Bidding and Construction drawing files shall be in DWG format, PDF format, one full size paper copy and three half size paper copies. Specifications shall be in Word format, PDF format and one paper copy.

File names shall be the same as the sheet name.

The Construction drawings and specifications shall incorporate all Addenda and SK-drawings

DRAWING STRUCTURE

3.1 Model Space and Paper Space

- *Model Space* - Floor plans elevations, sections, relevant dimensions and other drawings shall be in model space only. Draw model space objects at full scale.
- *Paper space* - Each CAD file shall contain only one title block per paper space which references the building model contained in model space. Each paper space shall be named to the drawing sheet it references.

3.2 External References – XREF’S

XREF’s are not allowed. All xref’s shall be bound.

4.0 File Naming

AutoCAD® drawing files shall use the naming convention described in this section. Drawings shall be saved as an individual file. Drawing files shall be composed of the building letter(s), followed by the sheet number (see section 4.1), and lastly the year of project completion. Each component shall be separated by an underscore.

Example File Names:

BLDG_X_A103A_YEAR OF ISSUE.dwg

BLDG_X_A103A_2014.dwg

5 LAYERS

5.1 Standard Layers

Layer names shall be based on the AIA CAD Layer Guidelines obtained from the United States National CAD Standards. Layer names shall have a description defining what objects the layer contains. Partially duplicated layer names are not acceptable.

5.2 General Layer Rules

Drawings shall adhere to the following layering rules.

- Purge unused layers, dim styles, blocks, etc. prior to submittal. The drawing file shall contain only those layers necessary for displaying and plotting the information and drawing entities contained in each drawing.
- Eliminate duplicate lines with the ‘overkill’ command.
- Delete frozen and turned off layers in model space.
- Layers that appear to have similar names (example: VD-SLAB, CD-SLAB, A-SLAB) are not allowed. Data shall be moved to the highest ranking layer.
- Lines shall be colored by layer not by object with the exception of Layer 0
- Layer names shall not be labeled with ‘existing’, phases, etc.

6 SYMBOLS AND BLOCKS

6.1 Symbols

Drawings shall contain the following symbols:

- *Scale* - A symbol that shows the size of a floor plan in relation to feet.

- *North Arrow* - A symbol that points north.

6.2 Title blocks

AutoCAD® drawings submitted to LLC shall contain the information listed below. There should be no information outside of the title block, including text.

- Issue date
- Sheet number
- Sheet title
- Revision history
- Drawing phase (SD/DD/CD X% Review, Bid Set, or Issued For Construction)
- Company project number
- Architect/Engineer, consultant information

6.3 Entity Blocks

Blocks can reside on any relevant layer provided they were created on Layer 0.

All entities within a block must be created on Layer 0.

Drawing entities translated into Autocad blocks from non-Autocad systems must revert to Layer 0 when exploded within Autocad.

7 SETTINGS

7.1 Text Style

Text styles and fonts may vary, but LLC requires the use of SIMPLEX.shx in drawings. Special fonts which are not packaged with AutoCAD® are not allowed. Dimensions, labels, and notes shall be 1/8" tall on printed drawings.

7.2 Drawing Units

CAD drawing models should be drafted at full scale in architectural or engineering units.

7.3 Line types and Line Weights

Drawing line types and line weights shall comply with those provided in the United States National CAD Standard. Lines shall be colored by layer.

7.4 Text

Entities that look like text shall be editable text. Exploded text is not permitted.

8 ROOM NUMBERING

LLC assigns building names and room numbers. LLC requires that CAD drawings be submitted for room numbering during the design phase.

9 PLUMBING AND HVAC PIPING

Pipe lines shall have a direction of flow indicated by linetype and arrow.

10 ELECTRICAL

Power and lighting electrical drawings shall show the circuit and electrical panel number/name for power outlets, lighting and equipment. Electrical drawings shall include panel schedules, one-line drawings and riser diagrams.

11 SPECIFICATIONS

Three hard copies, one Word file and one PDF version of the Specifications/Bid Manual and Addenda are required. Each specification section shall be its own file with the section number as its name. The PDF file shall contain all sections.

12 REJECTION OF DOCUMENTS

Non-compliance with the above policies shall result in the rejection of Document files.

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AIA® Document C132™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the thirteenth day of July in the year Two Thousand Twenty (In words, indicate day, month and year.)

BETWEEN the Owner

(Name, legal status, address and other information)

Board of Trustees of Lake Land College

5001 Lake Land Blvd

Mattoon, Illinois 61938

Telephone Number: (217) 234-5253

and the Construction Manager:

(Name, legal status, address and other information)

Control Technology & Solutions, L.L.C. d/b/a CTS Group

16647 Chesterfield Grove Road, Suite 200

Chesterfield, MO 63005

Telephone Number: (636) 230-0843

for the following Project:

(Name, location and detailed description)

Neal Hall Restoration

Mattoon, Illinois 61938

The Architect:

(Name, legal status, address and other information)

CTS Group

16647 Chesterfield Grove Road, Suite 200

Chesterfield, MO 63005

Telephone Number: (636) 230-0843

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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 Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. ⁴AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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TABLE OF ARTICLES

1	INITIAL INFORMATION
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES
4	ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

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

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

The Project will be developed in accordance with the Room by Room Renovation Scope of Work prepared by CTS and dated June 4, 2020, attached to and incorporated as **Exhibit A** to this Agreement.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

TBD.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

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

Estimated to be \$371,729.20.

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

Init.

Design Phase through Construction Document Phase: July, 2020 through November, 2020. The Design through Construction Document Phase dates are subject to using the current Room by Room Renovation Scope of Work attached as Exhibit A.

.2 Construction Phase:

Mid-September through November 2020

.3 Substantial Completion date or milestone dates:

Substantial Completion: November 30, 2020

.4 Other:

§ 1.1.5 The Owner intends the following procurement method for the Project:

(Identify method such as competitive bid, negotiated Contract or multiple Prime Contracts.)

Competitively bid in accordance with public bidding statutes.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

TBD.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

TBD.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

(List name, address and other information.)

Greg J. Nuxoll, CPA
Vice President for Business Services
Lake Land College
5001 Lake Land Blvd
Mattoon, Illinois 61938
Telephone Number: (217) 234-5224
Gnuxoll1@lakelandcollege.edu

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other information.)

N/A

§ 1.1.10 Unless provided by the Construction Manager, the Owner will retain the following consultants and contractors:

(List name, legal status, address and other information.)

.1 Land Surveyor:

TBD

.2 Geotechnical Engineer:

Init.

TBD

.3 Civil Engineer:

TBD

.4 Other:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)

TBD

§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.4:
(List name, address and other information.)

Dave Ortmann

16647 Chesterfield Grove Road, Suite 200

Chesterfield, MO 63005

Telephone Number: (636) 230-0843

Dortmann@ctsgroup.com

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:
(List any specific requirements and personnel to be included in the staffing plan, if known.)

TBD

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

.1 Cost Estimator:

(List name, legal status, address and other information.)

NA

.2 Other consultants:

NA

§ 1.1.14 The Construction Manager's consultants retained under Additional Services:

NA

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

Owner's total Project cost is \$371,729.20.

(Paragraph deleted)

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Construction Manager understands and acknowledges that it has been engaged by the Owner to provide professional construction management services because of Construction Manager's represented character, expertise and qualifications, including its represented experience in providing construction management services on projects of similar kind and scope to this Project which were successfully completed. The Construction Manager accepts the relationship of trust and confidence established with the Owner by the terms of this Agreement, and covenants with the Owner to use Construction Manager's reasonable efforts, skill, judgment, experience and ability to perform its

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services under this Agreement in an expeditious, economical and professional manner and otherwise consistent with good construction management practices as would be exercised by a reputable construction manager with extensive experience in projects of similar scope and kind as this Project in the same or similar locality under the same or similar circumstances, and to cooperate with the Owner and the Architect in furthering the interests of the Owner. The foregoing statement of the manner in which the Construction Manager shall perform its services for this Project is not intended as a "warranty" of performance, but rather is an articulation of the professional standard of care (the "Professional Standard") in accordance with which the proper performance by the Construction Manager of its services under this Agreement shall be determined, unless a stricter standard of performance is specifically stated in this Agreement with respect to the provision of a particular service.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, as modified by Owner. The Construction Manager shall not be responsible for actions taken by the Architect.

§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project, subject to Owner's concurrence.

§ 2.5 Except with the Owner's knowledge and consent, the Construction Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Construction Manager's judgment with respect to this Project.

(Paragraphs deleted)

§2.6 The Construction Manager shall provide sufficient organization, personnel and management to properly carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager accepts sole responsibility for the acts and omissions of its employees, agents, consultants and other persons which it assigns, employs or engages to work on this Project and for the acts and omissions of their respective employees and agents. The Construction Manager shall at all times enforce strict discipline and good order among its employees, and shall cooperate with, and coordinate its services with those of, the Architect and the Architect's consultants. The Construction Manager shall employ, contract with and assign to work on, or to perform services under, this Agreement only persons who are fit and skilled in the task assigned to them. The Owner and the Construction Manager shall each endeavor to promote harmony and cooperation among the Owner, the Architect and the Construction Manager and other persons employed or engaged by any of them in connection with the Project. In the event that the Construction Manager believes that the action or inaction of any other person involved in the Project is having an adverse impact on the successful completion of the Project, it will promptly notify the Owner.

§ 2.7 The Construction Manager shall maintain the insurance listed in **Exhibit B**, attached to and incorporated as part of this Agreement, for the duration of this Agreement. The Construction Manager shall not commence its services until it has provided the Owner with a certificate of insurance evidencing that the Construction Manager maintains insurance in accordance with Exhibit B to this Agreement. If the Construction Manager fails to furnish and maintain insurance as required, upon written notice to the Construction Manager and failure of the Construction Manager to furnish evidence within seven (7) days of the giving of such notice that Construction Manager has obtained and is maintaining such insurance, the Owner may purchase such insurance on behalf of the Construction Manager, and the Construction Manager shall pay the cost thereof to the Owner upon demand therefor and shall furnish to the Owner any information needed to obtain such insurance. During the period provided to the Construction Manager to obtain and provide proof of insurance coverage, the Owner may suspend the Construction Manager's services. Insurance policies set forth in Exhibit B shall be maintained in force for at least twelve months after the date of Final Completion of the Project.

ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

§ 3.1 Definition

The Construction Manager's Basic Services consist of those described in Construction Manager's Proposal dated July 8, 2020, attached to and incorporated as part of this Agreement as **Exhibit C** ("Construction Manager's Proposal"), Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, value engineering and allocation of construction activities among the Contractors and such others services described in this Agreement.

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§ 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

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

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan only as required that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

§ 3.2.4 Intentionally stricken.

§ 3.2.5 The Construction Manager shall carefully review the design documents prepared by the Architect, identify design specifications and the Construction Manager believes is not in accordance with legal requirements, building codes, accessibility codes, life safety codes, other legal requirements, or Owner's program requirements, and discuss with the Architect any questions the Construction Manager has, or clarifications the Construction Manager needs, upon such review, and also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.6 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan for the Architect's review and the Owner's acceptance. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, the necessary review of governmental agencies having jurisdiction over aspects of the Project and utilities, and the Owner's responsibilities and highlight items that could affect the Project's timely completion. The Construction Manager shall provide to the Architect for review and comment the portion(s) of the Project Schedule relating to the Architect's services. The Construction Manager shall endeavor to notify the Owner immediately if the Architect has informed the Construction Manager that the Architect disagrees with the Project Schedule in any respect, and will work with the Owner and the Architect to resolve any disagreements.

§ 3.2.7 Intentionally stricken.

§ 3.2.8 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that design details are not consistent with Owner's approved program or adversely affect constructability, cost or schedules. The Construction Manager shall review final design and Construction Documents at appropriate stages of preparation for ambiguities, conflicts, overlaps and omissions between or among proposed trades and review the trade packages for sequencing issues, disagreement with assignment or the scope of work, or assignment to trade contractors which, in Construction Manager's opinion, may lead to jurisdictional disputes and shall immediately notify and consult with the Architect regarding resolution of any such issues which it discovers.

§ 3.2.9 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents, including appropriate trade contracts.

§ 3.2.10 The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. The Construction Manager shall verify that there is provision in the Contract Documents for: a) the holding of scheduled safety meetings; b) Contractor

attendance at said safety meetings; c) require adherence to the safety standards; and d) during construction shall periodically review with the Contractor the safety program and Contractor's adherence to the safety program.

§ 3.2.11 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Construction Manager shall use reasonable best efforts and review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) Work is appropriately assigned to each respective trade contractor, (3) no overlap exists in the assignment of the Work to the trade contractors; (4) the Work is assigned in a manner that provides for appropriate sequencing of the Work; (5) the likelihood of labor jurisdictional disputes is minimized, and (6) proper coordination is provided for phased construction.

§ 3.2.12 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.2.13 The Construction Manager shall expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.

§ 3.2.14 The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 3.2.15 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages and labor conflicts. During the Pre-Construction Phase, as part of its Basic Services the Construction Manager will advise the Owner, and the Architect of any regional collective bargaining agreements relevant to trades that will be working on the Project and which Construction Manager knows are scheduled to expire during the period of Project construction and may be the source of labor disputes, shortages or work stoppages. The Construction Manager shall recommend to Owner and Architect strategies to ameliorate or avoid any such anticipated labor events. The Construction Manager will also advise the Owner, and the Architect of any current or industry anticipated shortages of materials proposed to be used in or in connection with the Project.

§ 3.2.16 The Construction Manager shall consult with Owner's legal counsel to assist the Owner in obtaining information regarding applicable legal requirements for inclusion in the Bidding and Contract Documents. The Construction Manager shall coordinate with the Architect in providing the Owner's legal counsel with a complete copy of the Bidding and Contract Documents prepared by the Architect and the Construction Manager at least seven (7) business days prior to making them available to prospective bidders, to permit sufficient time for responsible review and revision as may be recommended by the Owner's legal counsel.

§ 3.2.17 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for Owner's review and approval.

§ 3.2.18 The Construction Manager shall submit the list of prospective bidders for the Owner's review and approval. The submission of this list is intended to supplement, and not to act as a substitute for, public competitive bidding as required by law.

§ 3.2.19 The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall assist in preparing Project Manual and Bidding Documents for use in publicly bidding the Work on the Project as required by law, issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders and answer questions and issue addenda associated with the same. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the Owner with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Construction Manager shall receive bids, review the bids including with respect to the responsiveness of the bidder to the requirements of the Bidding Documents and the responsibility of the bidder to successfully complete

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the Work for which the bid has been submitted, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids. The Construction Manager shall consult with the Architect prior to making recommendations to the Owner to determine whether the Architect has had or has knowledge of others having had a prior unsatisfactory experience with any of the bidders, and shall review published governmental agency lists to determine whether any of the bidders or their proposed subcontractors have been disqualified from the award of public contracts due to violations of applicable laws.

§ 3.2.21 The Construction Manager shall assist the Owner in preparing Construction Contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Multiple Prime Contractors.

§ 3.2.22 The Construction Manager shall assist the Owner and Architect in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall use reasonable best efforts to verify that the Contract Documents include clear, unambiguous and non-conflicting requirements and assignment of responsibilities regarding obtaining of permits and payment of applicable fees and assessments. The Construction Manager shall verify that the Owner, or the applicable Contractor, as required by the Contract Documents, has obtained all required permits and paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and will end thirty (30) days after final payment to all Contractors is due.

§ 3.3.2 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified by Owner.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Architect, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall determine the cause of such failure and promptly notify and recommend corrective action, if any, to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule and conduct at least weekly meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

§ 3.3.7 Utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

§ 3.3.8 The Construction Manager shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

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§ 3.3.9 The Construction Manager shall endeavor, using its reasonable diligent efforts consistent with good construction management practices and the "Professional Standard" as defined in Section 2.2. of this Agreement, to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall timely recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs periodically and timely as required during the course of the Project in order to assist the Owner to maintain adequate budget and cash flow controls and to afford the Owner the opportunity to make changes in the Work, if and as necessary, to keep within the Project budget without unreasonably delaying the orderly progress of the Work. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner. The Construction Manager shall research and advise Owner of any discounts or pricing promotions available for materials and/or equipment specified by the Architect or which relate to equal substitute to that specified by the Architect and the requirements that must be met to obtain such price advantage.

§ 3.3.11 The Construction Manager shall develop, prepare and submit to Owner at such intervals as reasonably required by Owner, cash flow reports and forecasts for the Project, indicating when major payments will be required, and shall advise the Owner and Architect as to anticipated and actual variances between actual and budgeted or estimated cost as indicates in Section 3.3.10.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by Multiple Prime Contractors for progress and final payments.

§ 3.3.12.2 Based on the Construction Manager's observations of the Work performed by each Contractor and evaluations of each Contractor's Application for Payment, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Construction Manager determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, but not to the Contractor, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation to the

Owner, but not to the Contractor, that Contractor is entitled to payment in the amount certified subject to the Contractor's submission with its application of all documents required by its contract with Owner.

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.3.13 The Construction Manager understands and acknowledges that Project site safety is a material concern of the Owner. The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the allocation of responsibilities for safety programs, procedures and equipment among the Contractors and the recommended means for achieving Contractor compliance, and coordination relative to same. The Construction Manager shall verify that provision for such responsibilities is included in the appropriate Contract Documents prepared by the Architect. Notwithstanding the foregoing, however, the Construction Manager's responsibilities for institution, administration and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions, procedures, means, methods, operative details and incidental aspects of the Work of the Contractors or Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager. The Construction Manager shall not exercise control over, or take charge of, these activities of the Contractors or Subcontractors.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents, endeavoring consistent with good construction management practices and the Professional Standard to guard the Owner against defects and deficiencies in the Work, and shall notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority, upon written authorization from Owner, to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures. The Construction Manager shall also have the authority, upon written authorization from Owner, to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents and provided that Construction Manager shall not direct any Contractor in any of these regards. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work. However, the foregoing is not intended to relieve and shall not relieve the Construction Manager of responsibility for the proper performance of its services and obligations in accordance with this Agreement.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 Intentionally omitted.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval. The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

§ 3.3.20 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

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

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and
- .11 Any other items the Owner may require:

The above information will be provided in meeting minutes and monthly pay request not a separate report.

(Paragraphs deleted)

§ 3.3.21 Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work. The Construction Manager shall not agree to payment for materials, systems and equipment stored off site without first consulting with the Owner and assuring proper storage, protection (including adequate insurance in favor of the Owner) and security, and assignment of all right, title and interest in and to the items to the Owner.

§ 3.3.23 With the Architect and the Owner's maintenance personnel, the Construction Manager shall observe the Contractor's or Multiple Prime Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.24 When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with the Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.25 When the Work or designated portion thereof is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractor. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Contractor or Multiple Prime Contractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in conducting final inspections and providing close out documents.

§ 3.3.26 The Construction Manager shall secure and forward to the Owner, with a copy to the Architect, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) all warranties and similar submittals required by the Contract Documents; (5) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.27 The Construction Manager shall assemble and deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment or final Application for Payment and final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 3.3.28 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction Manager, Architect, Contractor and Multiple Prime Contractors. Consent shall not be unreasonably withheld.

§ 3.3.29 Prior to the expiration of one year from the date of Substantial Completion, the Construction Manager shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Construction Manager shall provide the listed Additional Services only if specifically designated in the table below as the Construction Manager's responsibility, and the Owner shall compensate the Construction Manager as provided in Section 11.2.

(Designate the Additional Services the Construction Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility (Construction Manager, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Measured drawings	Not Provided	
§ 4.1.2 Architectural interior design (B252™-2007)	Not Provided	
§ 4.1.3 Tenant-related services	Not Provided	

Init.

§ 4.1.4 Commissioning (B211™-2007)	Not Provided	
§ 4.1.5 LEED® certification (B214™-2007)	Not Provided	
§ 4.1.6 Furniture, furnishings, and equipment design (B253™-2007)	Not Provided	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1, if not further described in an exhibit attached to this document.

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§ 4.3 Additional Services may be provided after execution of this Agreement, upon prior written authorization from Owner, without invalidating this Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.3 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Construction Manager shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following services until the Construction Manager receives the Owner's prior written authorization:

- .1 Services necessitated by a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, except as provided in Section 12.1.25, or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement, except for those revisions that Construction Manager knew of or reasonably should have known of prior to the date of this Agreement;
- .3 Preparation of documentation for alternate bid or proposal requests proposed by the Owner;
- .4 Except as provided herein, preparation for, and attendance at, a public presentation, meeting or hearing. Attendance at [two] (2) meetings of the Owner's Board of Trustees meetings thereof whether or not characterized as a public hearing shall be included in the Basic Services and shall not be deemed an Additional Service pursuant to Article 12.1.9 of this Agreement;
- .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto; or
- .6 Providing consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such

(Paragraphs deleted)
Work.

§ 4.3.2 To avoid delay in the Construction Phase, the Construction Manager shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Construction Manager, and the Owner shall have no further obligation to compensate the Construction Manager for those services:

- .1 Services in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work.
- .2 To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is later.
- .3 Services required in an emergency to coordinate the activities of a Contractor or Multiple Prime Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.13.

§ 4.3.3 Except as otherwise provided herein, if the services covered by this Agreement, other than services to be provided pursuant to Section 3.3.29, 12.1.12, and any other post construction phase services to be provided in accordance with Construction Manager's Proposal, have not been completed within ten (10) months from commencement of construction ("Additional Service Date"), through no fault of the Construction Manager, extension

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of the Construction Manager's services beyond that time shall be compensated as Additional Services. If the Project is suspended due to an event listed in 12.1.25, the Additional Service Date will be extended by the equal amount of time the Project is suspended due to such an event(s) and Construction Manager's fee will be equitably adjusted for this suspension period as provided in Section 12.1.25.

§4.4 EXCEPTIONS

§4.4.1 Notwithstanding anything to the contrary contained in or implied from any provision of this Agreement, if a service which would otherwise be considered an Additional Service is required due in whole or in part to the negligence or the willful or wrongful act, or the error or omission of the Construction Manager or otherwise due to the Construction Manager's failure to properly perform its services in accordance with the terms of this Agreement, the service shall not be deemed to be, and shall not be compensable as, an Additional Service, but shall be deemed to be, and compensable as a Basic Service.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce any lien rights, if any.

§ 5.2 The Owner shall establish and periodically update, based on consultation with Construction Manager and Architect, the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition as modified by Owner. Upon request, the Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and Architect, and any further modifications to the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

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

§ 5.7 Unless provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Construction Manager. Upon the Construction Manager's request, the Owner shall furnish copies of the scope of services in the

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contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Construction Manager to furnish them as an Additional Service, when the Construction Manager requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Construction Manager shall advise Owner of any such tests or reports which Construction Manager knows prior to commencement of the Work will be required for the Project in order to assist Owner to properly plan, schedule and budget for same.

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

§ 5.11 The Owner shall provide prompt written notice to the Construction Manager and Architect if the Owner becomes aware of any fault or defect in Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Construction Manager's services.

§ 5.12 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

§ 5.13 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Construction Manager of any direct communications that may affect the Construction Manager's services.

§ 5.14 Before executing the Contract for Construction, the Owner shall coordinate the Construction Manager's duties and responsibilities set forth in the Contract for Construction with the Construction Manager's services set forth in this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.15 The Owner shall provide the Construction Manager access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Construction Manager access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, and reasonable overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner. The actual final Cost of the Work shall be calculated net of trade discounts and rebates, refunds and returns, and of the amounts received from the sale of surplus materials, equipment and supplies.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a competent and experienced Contractor and Construction Manager as a person or entity familiar with the construction industry, including without limitation construction of public recreational

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facilities. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager.

§ 6.3 If any discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another in order to meet Owner's budget for the Project. Construction Manager, with assistance from Architect, shall establish, in a format acceptable to the Owner, a cost reporting system whereby the Owner will be kept apprised on a regular basis, but no less frequently than at the conclusion of each Phase and no less frequently than monthly during the Construction Phase, of accumulated costs of the Project by budget line item.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

ARTICLE 7 COPYRIGHTS AND LICENSES

The Drawings, Specifications and other documents prepared by the Architect or by Owner's legal counsel are instruments of the Architect's or Owner's legal counsel service through which the Work to be executed by the Contractors is described. The Construction Manager may retain one record set. The Construction Manager shall not own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or Owner's legal counsel, and unless otherwise indicated in the Agreement between the Owner and the Architect or in an agreement between the Owner and legal counsel, the Architect or Owner's legal counsel, as applicable, shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. The Drawings, Specifications and other documents prepared by the Architect or the Owner's legal counsel, and copies thereof furnished to the Construction Manager, are for use solely with respect to this Project. They are not to be used by the Construction Manager on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and the Architect or Owner's legal counsel, as applicable. The Construction Manager is granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and Owner's legal counsel appropriate to and for use in the performance of the Construction Manager's services under this Agreement.

All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Construction Manager shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Construction Manager waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009,

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User Notes:

(1177759792)

General Conditions of the Contract for Construction. The Owner or the Construction Manager, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

(Paragraph deleted)

§ 8.1.4 The Construction Manager and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

(Paragraphs deleted)

§ 8.2.4 Unless otherwise agreed to by the Parties in writing at the time of the dispute, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[X] Litigation in a court of competent jurisdiction
(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 Unless payment is disputed or unless the Owner otherwise withholds payment for cause in accordance with this Agreement, if the Owner fails to make payments to the Construction Manager in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Construction Manager's option, cause for suspension of performance of services under this Agreement. If the Construction Manager elects to suspend services, the Construction Manager shall give at least seven days' written notice to the Owner before suspending services. In the event of a suspension of services in accordance with this Agreement, the Construction Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Construction Manager shall be paid all sums due prior to suspension in accordance with this Agreement. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 The Owner may suspend the Construction Manager's services or the Project immediately upon at least twenty four (24) hours prior written notice. Construction Manager shall take reasonable steps in consultation with the Owner to secure the Project site for the period of suspension and to protect any materials onsite. The Owner shall reimburse the Construction Manager for the reasonable, necessary and actual costs incurred by the Construction Manager in taking such action upon detailed written documentation of same reasonably acceptable to the Owner. If the Project is suspended by the Owner for more than 30 consecutive days, the Construction Manager shall be compensated for services properly performed and authorized in accordance with this Agreement prior to notice of such suspension. When the Project is resumed, unless and except to the extent such suspension was caused by or resulted from the Construction Manager's breach of its obligations under this Agreement, the Construction Manager's compensation shall be equitably adjusted to provide for the reasonable and actual expenses necessarily incurred by the Construction Manager in the interruption and resumption of the Construction Manager's services.

§ 9.3 If the Owner abandons the Project for more than 90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Construction Manager, the Construction Manager shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7. authorized and properly performed prior to termination in accordance

with this Agreement, together with Reimbursable Expenses and Termination Expenses plus Construction Manager's reasonable overhead and profit, as defined in Section 9.7, then due in accordance with this Agreement.

§ 9.7 Termination Expenses are reasonable, necessary and actual out-of-pocket or other reasonable, necessary and actual expenses incurred in disengagement of Construction Manager's services and directly attributable to termination without cause, and for which the Construction Manager is not otherwise compensated. Termination Expenses shall in no event include any amounts for lost profits, lost opportunities, or incidental or consequential damages or costs.

§ 9.7.1 In the event of termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services authorized and properly performed in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement

§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services authorized and properly performed prior to termination in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of Illinois.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction, as modified by Owner, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the prior written consent of the other.

§ 10.4 If the Owner requests the Construction Manager to execute certificates, the proposed language of such certificates shall be submitted to the Construction Manager for review at least 14 days prior to the requested dates of execution. If the Owner requests the Construction Manager to execute consents reasonably required to facilitate assignment to a lender, the Construction Manager shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Construction Manager for review at least 14 days prior to execution. The Construction Manager shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Construction Manager.

§ 10.6 Unless otherwise required in this Agreement, the Construction Manager shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site unless and to the extent that such materials or substances were introduced to the site by the Construction Manager or the result of the Construction Manager's failure to perform its obligations in accordance with this Agreement. The Owner shall be responsible for all costs associated with the removal, remediation of any kind, detoxification, clean up and disposal of such hazardous substances and determining whether the project site is in compliance with all applicable environmental laws.

§ 10.7 The Owner reserves the sole right to release all Project information, as well as to time its release, form and content. This requirement shall survive the expiration of the Contract Documents. Notwithstanding the foregoing, the Owner shall not withhold permission unreasonably for the Construction Manager to release general promotional information concerning the Project, provided that such information shall be reviewed and approved in advance in writing by the Owner. The foregoing shall not be deemed to preclude the Construction Manager from (i) including the Owner's name in a list of former clients in specific proposals to prospective clients or (ii) listing the Owner's name or a Project in the Construction Manager's internal publications, brochures and website including photos of the Project taken by or on behalf of the Construction Manager. Under no circumstances shall the Construction Manager include among its promotional materials photographic or artist's representations of the design of the Project for which the

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Architect or Construction Manager was compensated by the Owner, without the Owner's express written permission in each specific instance, which permission may be denied in the Owner's sole discretion, or may be made subject to payment to the Owner or to such other terms as the Owner shall require.

§ 10.8 If the Construction Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 Construction Manager shall perform its services for this Project in accordance with all applicable local, state and federal laws, rules and regulations. .

ARTICLE 11 COMPENSATION

§ 11.1 For the Construction Manager's Basic Services described under Article 3, the Owner shall compensate the Construction Manager as follows:

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:

(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

Total Lump Sum of \$5,000.00.

§ 11.1.2 For Construction Phase Services in Section 3.3:

(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

Construction Manager's fee is equal to 5.5% of the Cost of Work. Cost of Work for the purpose of calculating Construction Manager's fee is the total value of all prime trade contracts, general condition costs, and contingencies. Currently the Cost of Work is estimated at \$371,729.20, but is subject to change based on the final scope of Work.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

NA

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation.)

Hourly per 11.5 or a lump sum mutually agreed to by the Parties.

§ 11.4 Compensation for Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus zero percent (0 %), or as otherwise stated below:

NA

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project provided that Construction Manager shall first notify Owner of the nature and the amount of such fees and the deadline for payment of the same in sufficient advance of such deadline and must afford Owner the opportunity to obtain a complete or partial waiver of same or to pay same directly;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;
- .7 Professional photography, and presentation materials requested by the Owner;
- .8 Construction Manager's consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Construction Manager's consultants;
- .9 Site office expenses; and
- .10 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the actual and necessary expenses incurred by the Construction Manager and the Construction Manager's consultants plus zero percent (0 %) of the expenses incurred. Reimbursable Expenses shall not exceed \$[INSERT] without prior written approval of Owner. Construction Manager shall provide all supporting documentation of said Reimbursable Expenses.

§ 11.7 Payments to the Construction Manager

§ 11.7.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.7.2

(Paragraphs deleted)

Payments are due and payable and shall bear interest, if applicable, in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.

§ 11.7.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

(Paragraph deleted)

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

ARTICLE 12.1

12.1.1 General Conditions Costs: \$General Conditions will be billed, as costs are incurred, on a monthly basis. Adjustments to the CM General Conditions costs shall be made as provided as follows:

Change Order Value	Fee	General Conditions	Insurance
Increase in Cost	0%	0%	1.0%
Decrease in Cost	0%	0%	(.1.0%)

12.1.2 [Intentionally omitted]

12.1.3 Owner will take into consideration all attorneys' services recommended by Construction Manager to enforce terms and conditions of the contracts, bonds, or performance of Contractors.

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- 12.1.4 Payment and performance bond is not required for the Construction Manager. Contractors will be required to provide bonds in their contracts as directed by Owner. Construction Manager will review Contractor bonds for general conformance with Owner's specifications.
- 12.1.5 Except as provided in Section 12.1.22, Construction Manager shall prepare all Change Orders for Owner's review, approval and execution. Construction Manager will provide the Owner with an accounting of these Change Orders updated as required.
- 12.1.6 Cost of CGL Insurance will be charged to the Project at 1.0% of the Cost of Work.
- 12.1.7 Construction Manager will include contract language in Contractor Contracts to require compliance with the Illinois Prevailing Wage Act and other legal requirements as determined by Owner's Attorney.
- 12.1.8 Construction Manager will comply with the most current Illinois Prevailing Wage Act.
- 12.1.9 Attendance at Meetings: The fees and cost provided for in this Agreement include compensation for Construction Manager's attendance at two (2) public meetings, as such term is hereafter defined. For purposes of this Paragraph, the term "public meeting" shall mean and refer to an evening meeting of any board or committee of Owner. Attendance by the Construction Manager at any meeting before any board or committee of the Owner held during regular business hours (i.e. between 7:00a.m. and 5:00 p.m.) on any regular business day shall not constitute attendance at a public meeting.
- 12.1.10 In addition to and not in limitation of the Basic Service described in the printed form of this Agreement Construction Manager's Basic Services shall include services of the Construction Manager, whether occurring before or after Project completion and payment to all Contractors, which are made necessary by Construction Manager's negligence or failure to properly perform its duties and obligations in accordance with the provisions of this Agreement. The Construction Manager shall not be entitled to any additional compensation or expense reimbursement in connection with such services.
- 12.1.11 Except as provided herein, Construction Manager shall neither perform any of the Work with its own forces, or provide any of the materials or equipment for the Project. Construction Manager may with the Owner's prior permission given in the specific instance, self-perform (a) portions of the Work if and as necessary to protect the interests of the Owner in the event of a bona fide emergency, (b) Work of a temporary nature that facilitates the construction process if necessary, (c) portions of the Work Construction Manager submits a bid for and is awarded the Work by Owner as the lowest responsible bidder; or (d) as otherwise directed by Owner. If Construction Manager performs any Work with its own forces in accordance with this Section, Construction Manager shall comply with the requirements of the Contract Documents and applicable laws, including without limitation those pertaining to maintenance of required insurance coverage, payment of prevailing rates of wages, provision of performance and labor and material payment bonds, maintenance of a Sexual Harassment Policy and maintenance of a Drug Free Workplace and a Substance Abuse Prevention Program. When self-performing or having an affiliated company perform any portion of the Work, as well as when acting as the Construction Manager, the Construction Manager shall at all times act in the interests of the Owner. The foregoing sentence is not intended to create a fiduciary relationship between Construction Manager and Owner.
- 12.1.12 As part of the Construction Manager's Basic Services, for a period of one year after the Date of Substantial Completion, the Construction Manager shall assist the Owner, if and as requested by the Owner to:
- (a). Coordinate and expedite the resolution of construction-related problems related to the services of the Construction Manager or the Work of the Construction Manager or an affiliated company, under the Construction Documents.
 - (b). Coordinate and expedite the repair/replacement of items covered under guaranties/warranties.

- 12.1.13 As part of its Basic Services, the Construction Manager shall review Contractors' payment applications and shall collect and review lien waivers and Contractor's affidavits relating to the Project. The Construction Manager shall promptly report any known deficiencies in such documentation to the Contractor involved and to the Owner and the Architect. Notwithstanding the foregoing, the Construction Manager's review of the lien waivers shall be for form only and the Construction Manager will have no responsibility to make any independent investigation as to the authenticity of any signatures on the payment applications and lien waivers or as to the application of any funds by the Contractor. The Construction Manager will not be responsible for Contractor fraud and is not providing a guarantee of the waivers or title to the Owner.
- 12.1.14 If the Construction Manager is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if any provision of the bankruptcy law is invoked by or against the Construction Manager, then notwithstanding any other rights or remedies granted the Owner, the Owner may, without prejudice to any other right or remedy, (i) immediately upon written notice to the Construction Manager terminate the employment of the Construction Manager and/or (ii) finish the services by whatever method the Owner may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the services are finished. If the unpaid balance of the Construction Manager's Compensation exceeds (1) the expenses of completing the services, including compensation for additional managerial, administrative and legal services, plus (2) the Owner's losses and damages because of the Construction Manager's default, such excess shall be paid to the Construction Manager. If such reasonable expense to complete Construction Manager's services, plus the Owner's direct damages arising from Construction Manager's termination pursuant to this Section exceeds such unpaid balance, the Construction Manager shall pay the difference to the Owner promptly on demand and the Owner may resort to any other rights or remedies the Owner may have by law or under this Agreement.
- 12.1.15 Upon Final Completion of the Work, the Construction Manager shall request and endeavor to collect from each Contractor and deliver to the Owner, for the Owner's records and review, two sets of Construction Documents consisting of reproducible drawings in field record form (reflecting changes made to the Construction Documents by that Contractor as the Work progressed) and other documents indicating all significant changes, revisions and substitutions in the Work made during the Construction Phase. If a specification allows a Contractor to elect one of several brands, makes or types of material or equipment, the annotations shall show which of the allowable items the Contractor furnished.
- 12.1.16 The relationship of the Construction Manager to the Owner is that of an independent contractor. No employment relationship is intended or created by this Agreement or by any course of dealing between the Parties.
- 12.1.17 Any provision of this Agreement to the contrary notwithstanding, the Owner shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to the Construction Manager hereunder if any one or more of the following conditions exist.

- (a) The Construction Manager is in material default of any of its obligations under this Agreement, including but not limited to persistently or repeatedly refusing or failing (except in cases for which extension of time is provided), to perform the services in accordance with this Agreement, and, after written notification from Owner of said default, fails to remedy such default within the time period provided for termination of the Construction Manager under Article 9 of this Agreement provided, however, that the Owner shall only withhold from such payment an amount which the Owner in good faith reasonably believes is the amount by which Owner has been or will be damaged by such default if not fully remedied within said time period and provides a detailed accounting of the amount to be withheld; further provided that the failure of the Owner to withhold any sums from the Construction Manager or the failure of the Owner to withhold a sufficient amount to compensate the Owner fully for the damages it sustains by virtue of such default shall not constitute a waiver by the Owner of its right or a limitation on its right to recover such provable sums subsequently from the Construction Manager; or

- (b) The Construction Manager has failed to make payments promptly to consultants or other

third parties used by it in connection with the services for which the Owner has made payment to the Construction Manager unless Construction Manager has a dispute with any such party and is actively working to resolve same; or

- (c) Liens are filed with Owner against Project funds by Construction Manager's consultants providing services with or on behalf of Construction Manager in connection with the Project, and payment will be withheld to the extent of the amount of the lien, as required by Illinois law unless the Construction Manager provides a bond in form and substance reasonably acceptable to Owner in the full amount of the lien and applicable law would prevent the release to the Construction Manager of the amount of the lien.

12.1.18 Applications for Payment for the Construction Manager's Compensation shall be submitted by the Construction Manager monthly on or before the first day of each month, and shall cover the prior month's services. Applications for payment shall be made in such form as shall be approved by the Owner. The Application for Payment shall be accompanied by (i) evidence satisfactory to the Owner (including paid invoices for which payment has been made, releases, the Construction Manager's affidavits averring to full payment of all labor and materials covered in said application for payment, that all payments, reimbursement of expenses and other indebtedness related to the services provided to the date of the current application will, upon payment of the current application be paid in full or otherwise satisfied; (ii) lien waivers from the Construction Manager covering all services performed through the date of the prior application for payment, in form reasonably acceptable to the Owner; and (iii) such other documents, instruments, and waivers, as the Owner may reasonably request consistent with the types of information required to be provided in this paragraph. Subject to Section 12.1.17, above, payments by the Owner for invoiced amounts shall be due in accordance with the Local Government Prompt Payment Act, after the Owner's receipt of the completed Application for Payment, Construction Manager's Certificate, and all other required deliveries; and with respect to the final payment to the Construction Manager, the Agreement has been fully performed, a final Construction Manager's Application for Payment and related documents have been submitted by the Construction Manager and approved by the Owner, and the Construction Manager has met all of the other conditions to receiving final payment as set forth in this Agreement.

12.1.19 The final payment shall not become due until the Construction Manager submits to the Owner (i) a waiver affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the services, for which the Owner might in any way be responsible, have been paid, will be paid out of such payment or shall otherwise be satisfied; (ii) data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may reasonably be designated by the Owner; and (iii) the Construction Manager shall have delivered to the Owner all deliveries required to be made by Construction Manager under this Agreement.

12.1.20 None of (i) any progress or final payment, (ii) any partial or entire use of any services, or (iii) occupancy of all or any portion of the Project by the Owner shall constitute an acceptance of the Construction Manager's services or be construed or relied upon as an indication that the services are in accordance with this Agreement, or that the amount paid or certified therefor represents the correct cost or value of the services or that such amount is in fact or in law due to the Construction Manager.

12.1.21 Notices required or permitted to be given under a provision of this Agreement, shall be in writing and shall be given by (i) first class U.S. certified or registered mail, return receipt requested, with postage prepaid; or (ii) by depositing the same into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service; or (iii) by hand delivery with proof of delivery endorsed thereon; or (iv) by fax or email provided that it is also delivered by express mail or courier (for next business day delivery). All such Notices, sent in compliance with the provisions hereof shall be deemed given and received on (i) if mailed, on the date of delivery as set forth on the return receipt, (ii) the date it is delivered to the other party if sent by overnight delivery or hand delivery or (iii) the date it is delivered to the other party if sent by fax or email, provided it is sent before 5:00 p.m. and is confirmed by express mail or courier (for next business day delivery). From time to time either party may designate another address or addresses for all purposes of this Agreement by a notice given to the other party in accordance with the provisions hereof. For purposes of this Section 12.1.21, the addresses of the Parties shall be as follows:

If to Owner:

Greg J. Nuxoll, CPA
Vice President for Business Services
Lake Land College
5001 Lake Land Blvd
Mattoon, Illinois 61938
Telephone Number: (217) 234-5224
Gnuxoll1@lakelandcollege.edu

If to Construction Manager:

Dave Ortman
16647 Chesterfield Grove Road, Suite 200
Chesterfield, MO 63005
Telephone Number: (636) 230-0843
Dortmann@ctsgroup.com

12.1.22 Subject to prior authorization of the Owner's Board of Trustees, the Owner's Construction Manager shall have the authority to approve and execute, as agent on behalf of Owner, a change in the Work provided that the cost of such change, does not result in an increase or decrease in either the cost of the Project by \$10,000 or more or the time of completion by a total of thirty (30) days or more per change. All other change order requests require prior approval by the Owner's Board of Trustees or by the Owner's authorized designee to whom change orders shall be submitted and written determinations made with respect to such change orders in accordance with Section 33E-9 of the Criminal Code of 1961 [720 ILCS 5/33E-9]. Evidence of any such designee shall be provided to the Construction Manager in the form of a certified resolution of the Owner's Board of Trustees.

12.1.23 The Construction Manager hereby represents and warrants to the Owner that: (i) Construction Manager is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital and credit facility to complete the services required and perform its obligations under this Agreement; (ii) Construction Manager is able to furnish all of the services required hereunder to perform all obligations hereunder and to perform all of its obligations hereunder and has sufficient experience and competence to do so; (iii) Construction Manager is authorized to do business in Illinois, and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services required hereunder and the Project itself; (iv) Construction Manager's execution of this Agreement and the performance thereof are within its duly authorized powers.

12.1.24 Conflicts: If there is any conflict between any of the provisions in this Article 12.1 of the Agreement and the other Articles of this Agreement or between this Article 12.1 of the Agreement and any of the Contract Documents, the terms and provisions of this Article 12 shall prevail.

12.1.25 In the event that the COVID-19 pandemic, other infectious disease outbreak or pandemic or other public health emergencies, any governmental orders or directives, failure of any governmental or other regulatory authority to act in a timely manner, or any other cause beyond Owner's control changes Owner's schedule for the Project or delays completion of the Project, the time for completion of Construction Manager's work shall be extended by the period of resulting delay and Owner and Construction Manager will mutually agree to an equitable adjustment of Construction Manager's fee and associated costs if and as appropriate given the stage of the Project. Construction Manager agrees that Owner shall not be responsible for any of Construction Manager's damages, nor shall Owner be deemed in default of this Agreement due to such delays.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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User Notes:

(117759792)

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§ 13.2 This Agreement is comprised of the following documents listed below:

.1 AIA Document C132™–2009, Standard Form Agreement Between Owner and Construction Manager as Adviser, as modified.

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

N/A

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

N/A

.4 Other documents:

(List other documents, if any, including additional scopes of service forming part of the Agreement.)

Exhibit A Room by Room Renovation Scope of Work prepared by CTS dated June 4, 2020 .

Exhibit B Insurance and Indemnification Requirements

Exhibit C CTS Proposal dated July 8, 2020, which includes Hourly Fees

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

BOARD OF TRUSTEES OF LAKE LAND COLLEGE

CONTROL TECHNOLOGY & SOLUTIONS, LLC
D/B/A CTS GROUP

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

(Printed name and title)

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