

**CONSTRUCTION AGREEMENT**

***(Cost Plus Fees with GMP***

***with Preconstruction Services)***

This Construction Agreement (this “Agreement”) is effective as of <<DATE>> by and between the Owner and Construction Manager for the Project.

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| The Owner is:  Vanderbilt University  Department of Facilities  110 21st Avenue South, Suite 1110  Nashville, Tennessee 37203 | The Construction Manager is:  <<CONTRACTOR LEGAL NAME>>  << STREET ADDRESS>>  <<CITY, STATE, ZIP CODE>> |
| The Owner’s Representative is:  <<REPRESENTATIVE NAME>>  110 21st Avenue South, Suite 1110  Nashville, Tennessee 37203  <<PHONE NUMBER>>  <<E-MAIL>> | The Construction Manager’s Representative is:  <<REPRESENTATIVE NAME>>  << STREET ADDRESS>>  <<CITY, STATE, ZIP CODE>>  <<PHONE NUMBER>>  <<E-MAIL>> |
| The Architect is:  <<ARCHITECT LEGAL NAME>>  c/o <<REPRESENTATIVE NAME>>  << STREET ADDRESS>>  <<CITY, STATE, ZIP CODE>>  <<PHONE NUMBER>>  <<E-MAIL>> | The Project is:  << PROJECT NAME>>  << STREET ADDRESS>>  <<CITY, STATE>> |

In consideration of the mutual covenants and promises set forth herein, Owner and Construction Manager hereby agree as follows:

1. Project. The Project consists of: *(Provide description of Project with references to current design documents as available, e.g., project programs, narratives, preliminary plans, etc.)* <<INSERT DESCRIPTION OF PROJECT WITH REFERENCES >>.
2. Contract Documents. The Contract Documents consist of (a) this Agreement, (b) the General Conditions to the Contract for Construction attached hereto as Exhibit A (the “General Conditions”), (c) the Scope of Preconstruction Services attached hereto as Exhibit B (the “Preconstruction Services”), (d) all Modifications issued in accordance with the General Conditions, and (e) the other documents specifically listed as a Contract Document in Paragraph 17. The Contract Documents also include the Drawings, Specifications, schedules and other documents and provisions specifically incorporated into the Contract by GMP Amendment in accordance with Paragraph 5. The Contract Documents include only the documents described in this Paragraph. In the General Conditions, the term “Contractor” means “Construction Manager” and the term “Contractor’s Fee” means “Construction Manager’s Fee.”
3. Preconstruction. Construction Manager will provide preconstruction services in accordance with the Scope of Preconstruction Services. The Work, as defined in the General Conditions, does not include the Preconstruction Services. Costs incurred in the performance of the Preconstruction Services are not includable in the Cost of the Work. If the Project is delivered in phases or components, or portions of the Work otherwise commence prior to the completion of the Preconstruction Services, the Preconstruction Services and Work shall proceed concurrently. Unless specifically provided otherwise below in Additional Provisions, the Preconstruction Services include the services necessary to deliver the Project in multiple phases or components with multiple building permits and construction document packages.
4. GMP Proposals. At the appropriate time(s) during Preconstruction Services, considering the progression of the design and the Project delivery schedule, Construction Manager will prepare and submit for the Owner’s consideration a guaranteed maximum price proposal (a “GMP Proposal”). GMP Proposals must include (a) a listing of the applicable Drawings, Specifications, and Addenda, (b) the proposed guaranteed maximum price and the proposed Schedule of Values required in accordance with Section 9.2 of the General Conditions, (c) the subcontractor bidding information required in accordance with Section 5.2.2 of the General Conditions, (d) the proposed rental equipment and staffing schedules required in accordance with Sections 16.3.3.1 and 16.4.5 of the General Conditions, (e) the proposed construction schedule in accordance with Section 3.10.1 of the General Conditions, (f) a list of the clarifications and assumptions upon which the guaranteed maximum price is based, and (g) a proposed GMP Amendment, the general form of which is attached hereto as Exhibit C. If the Project is delivered in phases or components, Construction Manager shall submit separate GMP Proposals for each phase or component and each of the items in the proposal must be specific to the applicable phase or component.
5. GMP Amendments. Construction Manager will meet with Owner and Architect to review the GMP Proposal(s), promptly respond to requests for information and make appropriate adjustments. Upon acceptance by Owner of a GMP Proposal, as adjusted, Owner and Construction Manager will execute a GMP Amendment, the form of which is attached hereto as Exhibit C, to incorporate the guaranteed maximum price, documents and other details of the accepted GMP Proposal into the Contract. If the Project is delivered in phases or components, a GMP Amendment will be executed for each phase or component. The Project Issues Log shall include status entries for each GMP Proposal and GMP Amendment.
6. Work. Construction Manager will perform the Work as defined by, and in accordance with the requirements of, the Contract Documents as amended by the GMP Amendment(s), and shall achieve Substantial Completion of the Work (or portions thereof) within the Contract Time(s) established by the GMP Amendment(s).
7. Commencement of the Work. Construction Manager shall not commence the Work, or any portion of the Work, prior to the commencement date established for such Work by GMP Amendment. Nor shall Construction Manager incur any cost to be reimbursed as part of the Cost of the Work prior to executing a GMP Amendment applicable to such cost. However, in the event the schedules require that materials, equipment or other items or services be ordered, delivered or provided in advance of the applicable GMP Amendment, Construction Manager may order or procure such items and services provided that Owner preapproves each transaction in writing and that each contract is assignable to Owner upon request.
8. Preconstruction Fee. For Construction Manager’s complete performance of the Preconstruction Services for the entire Project, Owner shall pay Construction Manager the Preconstruction Fee, which is <<AMOUNT IN WORDS>> DOLLARS ($<<###.##>>). The Preconstruction Fee is the total amount due to Construction Manager for the Preconstruction Services. The Preconstruction Fee shall be paid in progress payments based on the services actually performed during the billing period. Construction Manager shall invoice for Preconstruction Services separately with detail regarding the time spent and services performed during the billing period. Owner shall pay such invoices in accordance with Section 9.6 of the General Conditions.
9. Contract Sum. For Construction Manager’s complete performance of the Work, Owner shall pay Construction Manager the Contract Sum, which is an amount equal to the Cost of the Work, as defined in Article 16 of the General Conditions, plus the Construction Manager’s Fee. The Contract Sum, which is the total amount due from Owner to Construction Manager for the Work, will be paid in monthly progress payments in accordance with Article 9 of the General Conditions. If the Project is delivered in phases or components with multiple GMP Amendments, each GMP Amendment will be treated as a separate project with respect to costs, accounting, payments, completion and the other provisions of Article 9 of the General Conditions.
10. Construction Manager’s Fee. The Construction Manager’s Fee shall be the sum stipulated in the GMP Amendment, which sum shall be equal to <<PERCENTAGE IN WORDS>> PERCENT (<<##>>%) (the “Construction Manager’s Fee Percentage”) of the Cost of the Work as estimated in the GMP Amendment. If the Project is delivered in phases or components with multiple GMP Amendments, each GMP Amendment will include its own Construction Manager’s Fee. The Construction Manager’s Fee under the Contract is the aggregate of the sums stipulated in each GMP Amendment.

1. Overhead Fee. The Cost of the Work includes the Overhead Fee as set forth in Section 16.5 of the General Conditions. The Overhead Fee shall be the sum stipulated in the GMP Amendment, which shall be equal to <<PERCENTAGE IN WORDS>> PERCENT (<<##>>%) (the “Overhead Fee Percentage”) of the Cost of the Work, not including the Overhead Fee, as estimated in the GMP Amendment. If the Project is delivered in phases or components with multiple GMP Amendments, each GMP Amendment will include its own Overhead Fee. The Overhead Fee under the Contract is the aggregate of the sums stipulated in each GMP Amendment.
2. Guaranteed Maximum Price. Regardless of the amount of the Cost of the Work, and subject only to adjustment by Change Orders issued in accordance with Article 7 of the General Conditions, the Contract Sum is guaranteed by the Construction Manager not to exceed the Guaranteed Maximum Price (the “GMP”) stipulated in the GMP Amendment. If the Project is delivered in phases or components with multiple GMP Amendments, the Contract Sum attributable to any GMP Amendment is guaranteed by the Construction Manager not to exceed the GMP established in such GMP Amendment, and the Contract Sum attributable to a GMP Amendment is the Construction Manager’s Fee established in the GMP Amendment plus the Cost of the Work for the phase or component of the Work defined in the GMP Amendment.
3. Change Orders. Change Order adjustments to a GMP Amendment will be determined in accordance with Section 7.3 of the General Conditions. The Construction Manager’s Fee Percentage defined above will apply to Change Order adjustments to the Construction Manager’s Fee, and Overhead Fee Percentage defined above will apply to Change Order adjustments to the Overhead Fee. Change Order adjustments to the Staffing Fee shall be based be on the net change in Staffing Costs due to the change in the Work. If the Project is delivered in phases or components with multiple GMP Amendments, Change Orders shall be construed as specific only to the applicable GMP Amendment.
4. Termination. The parties’ termination rights are set forth in Article 14 of the General Conditions. With respect to Owner’s right to terminate for convenience in accordance with Section 14.4, Owner may also terminate Construction Manager’s right to complete the Preconstruction Services or any phase, component or portion of the Work. In the event the right to complete the Preconstruction Services is terminated for convenience, Construction Manager will be entitled to payment of the Preconstruction Fee in proportion to the Preconstruction Services completed as of the date of termination. In the event the right to complete a portion of the Work is terminated for convenience before signature of the GMP Amendment applicable to such portion of the Work, Construction Manager shall, as a condition precedent to receiving payment, sign and deliver to Owner all documents necessary to assign all subcontracts, purchase orders and other contracts entered into in accordance with Paragraph 7 that the Owner elects to accept assignment.
5. Insurance. Prior to commencement of the Work, Construction Manager shall submit certificates of insurance to the Owner’s Representative verifying all insurance coverages and compliance with the requirements of Article 11 of the General Conditions. The costs of all such insurance are Overhead Costs in accordance with Sections 16.5.1 and 16.5.2 of the General Conditions. All alternative coverages and variations from requirements of Article 11 of the General Conditions must be specifically approved herein or by Modification.
6. Authority. The Owner’s Representative does not have the authority to approve or sign a Change Order or other Modification or a Certificate of Substantial Completion. Only the Chancellor and those to whom the Chancellor has delegated such authority in accordance with the Owner’s internal policies, which include Eric C. Kopstain and Michael G. Perez, have the authority to a sign a Change Order or other Modification or a Certificate of Substantial Completion on behalf of the Owner.
7. Exhibits. In addition to this Agreement and documents added by Modification, the Contract Documents are as follows: *(Attach hereto and insert the titles and dates of all documents intended to be part of the Contract. Generally, proposal letters and other documents drafted by the Construction Manager should not be Contract Documents.)*
8. Exhibit A: General Conditions, which is a modified AIA Document A201™–2007, General Conditions of the Contract for Construction, with user note “VU Standard General Conditions (01/26/23)”;
9. Exhibit B: Scope of Preconstruction Services dated January 26, 2023;
10. Exhibit C: VU GMP Amendment (01/26/23) form;
11. Exhibit D: Schedule of Key Employees dated <<DATE>>;
12. Exhibit E: Schedule of Hourly Labor Bill Rates for <<YEAR>> dated <<DATE>>;
13. Exhibit F: Project Schedule dated <<DATE>>;
14. Exhibit G: <<TITLE OF DOCUMENT>> dated <<DATE>>;
15. Etc.
16. Additional Provisions.
17. <<PROJECT SPECIFIC ASSUMPTION OR PROVISION>>
18. <<PROJECT SPECIFIC ASSUMPTION OR PROVISION>>
19. <<PROJECT SPECIFIC ASSUMPTION OR PROVISION>>
20. <<PROJECT SPECIFIC ASSUMPTION OR PROVISION>>
21. <<PROJECT SPECIFIC ASSUMPTION OR PROVISION>>

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

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| OWNER  Vanderbilt University  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: <<NAME OF SIGNEE>>  Title: <<POSITION OF SIGNEE>> Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | CONSTRUCTION MANAGER  <<CONTRACTOR LEGAL NAME>>  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: <<NAME OF SIGNEE>>  Title: <<POSITION OF SIGNEE>>  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |