

of Insurance showing such coverages to be in force shall be filed with Owner prior to the commencement of the Work.

2.1.11 Construction Manager shall provide Owner with certificates in duplicate evidencing such coverages upon the execution of this Agreement, and shall provide Owner with copies of all such policies prior to the initiation of construction of the improvements on the Site. Copies of any subsequent endorsements shall also be furnished. Construction Manager will provide Owner forty-five (45) days Notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage.

2.1.12 No acceptance or approval by Owner of any insurer or insurance policy or policies shall relieve or release Construction Manager from any liability, duty or obligation assumed by, or imposed upon it by, the Contract Documents.

2.2 Insurance to Protect the Project. Owner shall purchase and maintain policies of insurance for builder's risks, hazard, fire, and flood with limits at least equal to the replacement cost of the Project on a completed value basis (the "Builder's Risk Policy"), and such boiler and machinery insurance as is necessary. To the extent that errors or omissions of Construction Manager contribute to any loss, Construction Manager will be responsible for any co-insurance penalties or deductibles.

2.3 Property Insurance Loss Adjustment. Any insured loss shall be adjusted by Owner and made payable to Owner and Construction Manager, as their interests may appear. If they are unable to agree between themselves on the distribution, this dispute shall be submitted to resolution pursuant to the Disputes Clause.

2.4 Waiver of Subrogation. Owner and Construction Manager waive all rights against each other, Architect and Subcontractors for all loss or damage, but only to the extent such loss is covered by property insurance provided under this Article 2. Construction Manager shall require and secure similar waivers from all Subcontractors. If any policy of insurance requires an endorsement to provide for continued coverage where there is a waiver of subrogation, the purchaser of such policy will cause it to be so endorsed.

ARTICLE 3

PAYMENT AND PERFORMANCE BONDS

3.1 Upon the execution of this Agreement by all parties, Construction Manager shall provide Owner a payment bond and performance bond in accordance with O.C.G.A Sections 36-91-90 *et seq.* and O.C.G.A. Sections 36-91-70 *et seq.*, respectively. The bonds shall be in the form of the forms attached as Exhibit "E". The penal amounts of the bonds shall be 100% of the Guaranteed Maximum Price. The performance bond shall expressly cover all Liquidated Damages referenced herein. As used in the performance bond, the phrases "perform and complete the Construction Contract" and "performance and completion of the Construction Contract" shall include performance and completion of all of the duties and obligations of the Construction Manager under this Agreement, in accordance with all terms and conditions applicable thereto. As used in the performance bond, the term "Balance of the Contract Price" shall mean the total amount of any undisputed payments owed by Owner to the Construction Manager under this Agreement, through the date that the Owner makes demand on the Surety for performance. As used in the performance and payment bonds, the term "Owner Default" shall mean failure of the Owner to pay any undisputed amounts owed to the Construction Manager through the date of the demand by Owner for performance by the Surety and, in the event that the Owner calls on the Surety to perform under the performance bond, the Construction Manager hereby waives any default or failure by the Owner other than failure of the Owner to make payment as provided in this subparagraph. As used in the payment bond, "Owner Default" shall further mean only an Owner default that gives rise to the filing of the subject claim. Such bonds shall be issued by surety company or companies listed by the Department of the Treasury as "Companies Holding Certificates Of Authority As Acceptable Sureties On Federal Bonds And As Acceptable Reinsuring Companies" as revised annually on July 1