

DRAFT AIA® Document A133® – 2019

Exhibit B

Insurance and Bonds

AIA® Document A133® – 2019 Exhibit B

Insurance and Bonds This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the « » day of « » in the year « »

(In words, indicate day, month and year.)

for the following **PROJECT:**

(Name and location or address)

Edelman College

THE OWNER:

(Name, legal status, and address)

Rowan University
« » 201 Mullica Hill Road
« » Glassboro, New Jersey 08028

THE CONSTRUCTION MANAGER:

(Name, legal status, and address)

« » « » « »
« » « »

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ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

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

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.

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

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

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§ B.2.2 Liability Insurance

Rowan University is an agency of the State of New Jersey. Any agreement signed, or any action, act, failure to act or any other similar undertaking on behalf of the State of New Jersey by a State official shall be subject to all of the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.), and the availability of appropriations.

The State of New Jersey does not carry public liability insurance, but the liability of the State and the obligation of the State to be responsible for tort claims against its employees is covered under the terms and provisions of the New Jersey Tort Claims Act. The Act also creates a fund and provides for payment of claims under the Act, including claims alleging professional error and/or omissions, against the State of New Jersey or against its employees for which the State is obligated to indemnify against tort claims, which arise out of the performance of their duties.

Rowan University provides statutory workers' compensation protection to its employees in accordance with the New Jersey Workers' Compensation Act (N.J.S.A. 34:15-1 et seq.).

Claims against the State of New Jersey or its employees should be referred to the State of New Jersey, Division of Risk Management, P.O. Box 620, Trenton, NJ 08625.

§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in insured property during construction on the Project, to the extent of the Insured's legal liability for insured physical loss or damage to such property. Such interest of Construction Manager, contractors and subcontractors is limited to the property for which they have been hired to perform work. . This insurance shall include the interests of mortgagees as loss payees.

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

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

Cause of Loss

Sub-Limit

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

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

Coverage

Sub-Limit

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

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Construction Manager shall be responsible for the \$100,000 deductible on the Builder's Risk Policy unless the loss is caused by the negligence of the Owner.

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

§ B.2.3.3 Insurance for Existing Structures

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

§ B.2.4 Optional Extended Property Insurance.

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

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

[☒] **§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

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[☒] **§ B.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

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[☒] **§ B.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

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[☒] **§ B.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

<< >>

[☒] **§ B.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered

under the required property insurance.

« »

- [☒] **§ B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

« »

- [☒] **§ B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

« »

§ B.2.5 Other Optional Insurance. NOT APPLICABLE

The Owner shall purchase and maintain the insurance selected below.

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

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

« »

- [☐] **§ B.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance or policies of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner, the State of New Jersey, and the New Jersey Educational Facilities Authority each as an additional insured on the Construction Manager's Commercial General Liability, Automobile Liability, Pollution Legal Liability and excess or umbrella liability policy or policies. All insurance must be placed with an insurance company licensed to conduct business in the State of New Jersey and maintaining an A.M. Best Rating of "A" or better with a financial size rating of Class XI or larger. All insurance required herein shall be written on an Occurrence basis, unless otherwise noted and shall contain a waiver of subrogation in favor of Rowan University, the State of New Jersey, and the New Jersey Educational Facilities Authority. No insurance policy will be cancelled, reduced, or revised without thirty (30) days prior written notice to Rowan University. In addition, required insurance will be primary and non-contributory to any other insurance available and any limitations of Construction Manager's insurance will not relieve Construction

Manager of its indemnification responsibilities to Rowan University, the State of New Jersey, and the New Jersey Educational Facilities Authority as outlined in Contract.

If any of Construction Manager's insurance does not include the Architect's, Subcontractors, Sub-subcontractors or other parties engaged for the Project, Construction Manager will ensure that these parties maintain insurance of the same type and limits.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager and shall be responsible for such deductibles or retentions.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the State of New Jersey, and the New Jersey Educational Facilities Authority as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner, the State of New Jersey, and the New Jersey Educational Facilities Authority as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's coverage under the New Jersey Tort Claims Act and insurance policies and shall apply to both ongoing and completed operations.

§ B.3.2 Construction Manager's Required Insurance Coverage

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

(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.3.2.2 Commercial General Liability

1. **§ B.3.2.2.1** Commercial General Liability insurance for the Project with a "per location or Project endorsement" included so that the general aggregate limit applies separately to the Rowan Project, and written on a current ISO Occurrence Form or equivalent with policy limits of not less than **Five Million Dollars (\$ 5,000,000)** each occurrence, **Twenty Million Dollars (\$ 20,000,000)** general aggregate, and **Twenty Million Dollars (\$20,000,000)** aggregate for products completed operations hazard. The required limits can be satisfied through a combination of both primary and excess policies. Coverage under the General Liability will include but not be limited to:

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

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

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

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

§ B.3.2.3 Automobile Liability covering vehicles owned, hired, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than «Two Million Dollars » (\$ «2,000,000 ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

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

§ B.3.2.5 Workers' Compensation at statutory limits applicable to the laws of the State of New Jersey and any other State or Federal jurisdiction required to protect the employees of Construction Manager who will be engaged in the performance of work under this contract.

§ B.3.2.6 Employers' Liability with policy limits not less than « One Million Dollars » (\$ «1,000,000 ») each accident, « One Million Dollars » (\$ «1,000,000 ») each employee, and «One Million Dollars » (\$ «1,000,000 ») policy limit.

§ B.3.2.7 Not Applicable.

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability (Errors and Omissions) insurance covering performance of the professional services, 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. If this policy is written on a claims-made policy form, Construction Manager agrees that upon termination of the claims-made policy a retroactive reporting policy (tail policy) will be purchased to provide coverage for a period of five (5) years following Completion of the Project and Owner Occupancy for losses that result from the professional services provided during the term of this contract

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, 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. If this policy is written on a claims-made policy form, Construction Manager agrees that upon termination of the claims-made policy a retroactive reporting policy (tail policy) will be purchased to provide coverage for a period of five (5) years following Completion of the Project and Owner Occupancy for losses that occurred during, or as a result of, the provision of services under this contract.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than «Ten Million Dollars » (\$ «10,000,000 ») per claim and «Ten Million Dollars » (\$ «10,000,000 ») in the aggregate.

§ B.3.2.

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

§ B.3.3 Construction Manager's Other Insurance Coverage NOT APPLICABLE

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

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

« NA »

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1. **NOT APPLICABLE**

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

- [« »] **§ B.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

« »

- [« »] **§ B.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for Work within fifty (50) feet of railroad property.
- [« »] **§ B.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [« »] **§ B.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- [« »] **§ B.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by

the Construction Manager and used on the Project, including scaffolding and other equipment.

[« »] **§ B.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

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

Payment and Performance Bonds shall be in the form required pursuant to N.J.S.A. 2A:44-143 *et. Seq.*

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

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

« »