

DEFECT BOND
(61 Okla. Stat. § 113 B.3.)

_____, as surety (the "Surety"), and _____, as principal (the "Construction Manager"), enter into and execute this bond ("the Bond"), and bind themselves in favor of the Board of Regents of The Regional University System of Oklahoma, an agency of the State of Oklahoma, as obligee (the "Owner"), in the penal sum of _____ Dollars (\$_____) as of the _____ day of _____, 20 ____.

WHEREAS, the Construction Manager has entered into an agreement with the Owner (the "Agreement for At Risk Construction Management Services") for the _____ project at East Central University in Ada, Oklahoma (the "Project"); and,

WHEREAS, the Owner has required the Construction Manager to furnish this Bond containing the terms and conditions set forth herein as a condition of the Agreement for At Risk Construction Management Services with the Construction Manager;

NOW THEREFORE, the Surety and the Construction Manager, both jointly and severally, and for themselves, their heirs, administrators, executors and successors agree:

1.

The Agreement for At Risk Construction Management Services is hereby incorporated herein and by reference made a part hereof to the same extent and effect as though it were copied verbatim herein. The Surety and the Construction Manger are bound for the full and proper performance and prompt completion of the Agreement for At Risk Construction Management Services including without exception all of its terms and conditions, both express and implied. Furthermore, the Surety and the Construction Manager are bound to ensure that the Construction Manger shall pay all indebtedness incurred by the Construction Manager, his Subcontractors, and all materialmen for such labor, material, rental of machinery or equipment, and repair of and parts for equipment as are used or consumed in the performance of the Contract. In the event the Lump Sum Price as set forth in the Agreement for At Risk Construction Management Services exceeds the amount of this bond as set forth hereinabove, the penal sum of this bond shall be deemed increased to said Lump Sum Price. If thereafter the Lump sum Price is increased by amendment, the penal sum of this bond shall be deemed increased by the same amount as such increase in the Lump Sum Price.

2.

If the Construction Manager installs defective workmanship or materials, the Owner, by letter to the Construction Manager and the Surety, shall declare the Construction Manger to be in default.

3.

Within thirty (30) days after the Owner has satisfied the requirement of Paragraph 2, the Surety shall take the following action:

- (a) Proceed itself, or through others acting on its behalf, to promptly correct any defective workmanship or replace any defective materials installed by the Construction Manager;
- (b) Pay the Owner any an all damages, costs, expenses or liabilities arising out of any defective workmanship or defective materials installed by the Construction Manager; and,
- (c) Take any and all other acts mutually agreed upon in writing by the Owner and the Surety.

4.

In addition to those duties set forth hereinabove, the Surety shall promptly pay the Owner all loss, costs, and expenses resulting form the Construction Manager's default(s), including without limitation, fees, expenses and costs for

architects, engineers, consultants, testing, surveying and attorneys, liquidated or actual damages for delay in completion of the Project, and fees, expenses and costs incurred at the direction or request of the Surety.

5.

In no event shall the Surety be obligated to the Owner hereunder for sums in excess of the penal sum.

6.

The Surety waives notice any changes to the Agreement for At Risk Construction Management Service including, without limitation, changes in the contract time, the contract price, or the work to be performed.

7.

This Bond is executed pursuant to the terms, conditions and provisions of 61 Okla. Stat. § 113 B.1. which statute is incorporated herein by reference.

8.

Any and all notices to the Surety, the Construction Manager or the Owner shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

Surety: _____

Construction Manager: _____

Owner: Board of Regents of the Regional University System of Oklahoma
East Central University
1100 E. 14th Street
Ada, OK 74820

Construction Manager's Signature:
_____ SEAL

By: _____

Title _____

Surety's Signature:
_____ SEAL

By: _____

Title _____