

## WESTERN NATIONAL MUTUAL INSURANCE COMPANY

### GENERAL AGREEMENT OF INDEMNITY

THIS GENERAL AGREEMENT of INDEMNITY (this "Agreement"), is made by

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_

and any of its present or future direct or indirect subsidiaries, affiliates, divisions or operating units whether in the form of a corporation, partnership, limited liability company or other unincorporated association (collectively, the "Principal") and any additional undersigned persons and/or entities (collectively, and together with the Principal, the "Indemnitors") in favor of Western National Mutual Insurance Company, or any combination of the aforesaid companies, and/or any Person or company joining with any of the aforesaid companies in executing any bond at the request of Principal or Indemnitors or any Person or company providing reinsurance with respect to any such bond, as well as any subsidiaries, successors, affiliates and assigns thereof, and any entity which has executed any Bonds on behalf of Principal at the request of the aforesaid companies (hereinafter individually and collectively referred to as "Surety").

WHEREAS, the Principal, in the performance of contracts or the fulfillment of bonded obligations generally, whether in its own name solely or in joint venture with others, may desire or be required to give or procure certain surety bonds, undertakings or other similar instruments of guarantee; and

WHEREAS, at the request of the undersigned Principal and Indemnitors, and upon the express understanding that this Agreement shall be given, Surety has or may in its discretion execute, arrange for the execution of, or procure the execution, renewal, continuation, substitution or amendment of such surety bonds, undertakings or other similar instruments of guarantee, whether issued in paper form or electronically, on behalf of the Principal or any one or more of the Indemnitors (hereinafter referred to as "Bonds"); and

WHEREAS, each of the Indemnitors hereby affirm that they have a substantial, material and beneficial interest in obtaining Bonds from or through Surety.

NOW, THEREFORE, as an inducement to Surety to execute, procure, renew, continue, substitute or amend Bonds on behalf of or at the request of Principal or any one or more of the Indemnitors, and in consideration of the mutual covenants contained herein, the Indemnitors for themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, hereby covenant and agree with Surety, as follows:

#### DEFINITIONS

**1.1** In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, when utilized in this Agreement, unless the context otherwise requires, will have the meanings listed below, which meanings shall be equally applicable to both the singular and plural forms of such terms:

"Affiliate" of a Person means another Person that directly or indirectly controls, is controlled by or is under common control of such Person. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract, as trustee or executor or otherwise.

"Bonded Contract" or "Bonded Obligation" means any contract or obligation for which Surety has issued or procured the issuance, renewal, continuation, substitution or amendment of a Bond.

“Claim” shall mean any claim, notice of default, notice of termination, demand for payment, demand for meeting, suit, or any form of notice or claim or demand received by Surety in connection with any Bond.

“Collateral” shall mean any security provided to Surety to secure Indemnitors’ obligations to Surety under this Agreement or Other Agreements, which shall be in the form of cash or an irrevocable, self-renewing letter of credit in a form and from a bank acceptable to Surety, or such other form of collateral as Surety may accept, in its sole and absolute discretion.

“Event of Default” shall mean the occurrence of any one or more of the following: (1) any abandonment, forfeiture, default or declaration of default, breach, failure, refusal or inability to perform with respect to any of Principal’s obligations under any Bonded Contract or Bond; or (2) the failure, delay, refusal, or inability of the Principal to pay bills or other indebtedness incurred in, or in connection with, the performance of any Bonded Contract or Bonded Obligation; or (3) any breach by Indemnitors of any of the provisions of this Agreement or Other Agreements; or (4) the failure to pay and discharge, when due, any indebtedness or liabilities of the Indemnitors to Surety; or (5) any assignment by any Indemnitor for the benefit of creditors, or any appointment or application for the appointment of a receiver or trustee for any Indemnitor or its property, whether insolvent or not, or an application by any Indemnitor for reorganization or arrangement under the terms of the United States Bankruptcy Code or any similar laws of any other jurisdiction, or if such proceedings are initiated by other Persons, the continuance of those proceedings for a period of thirty days; or (6) any proceeding which deprives the Principal of, or interferes with, the use of any of the machinery, equipment, plant, tools, or material referred to in Section 5.1(c) of this Agreement.

“Loss” shall mean all damages, losses, costs, professional and consulting fees (including but not limited to legal fees), disbursements, interest and expenses of every kind and nature, which Surety may sustain or incur as a result of any Claim or by reason of having executed or procured the execution of any Bond, amendment, waiver or supplement to any Bond, or which Surety may sustain or incur in the enforcement of, attempted enforcement of, or preservation of any rights under any Bond or this Agreement.

“Other Agreements” means any other agreements executed by any Principal and/or any Indemnitor that inure to or for the benefit of Surety.

“Person” means any person or entity, whether an individual, business trust, corporation, general partnership, limited partnership, limited liability company, joint-stock company, trust, estate, unincorporated organization, business association, firm, joint venture, or any other form of business or professional entity.

## **REPRESENTATIONS AND WARRANTIES**

**2.1** Each Indemnitor represents and warrants to Surety that they have the requisite power and authority and legal right to execute and deliver this Agreement and to perform the obligations hereunder. The execution and delivery by each Indemnitor of this Agreement and the performance of its respective obligations hereunder have been duly authorized by proper corporate proceedings, and this Agreement constitutes the legal, valid and binding obligations of such Indemnitor and is enforceable against such Indemnitor in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally.

## **COVENANTS**

Each Principal and Indemnitor, and their successors and assigns, agrees:

**3.1 PREMIUMS** - to pay or cause to be paid to Surety, in advance and promptly upon demand, in such manner as may be agreed upon, all premiums, costs and charges of Surety for any Bonds in accordance with Surety’s rate filings, its manual of rates, or as otherwise agreed upon, and, where such premiums, costs or charges are annual, to continue to pay the same at the then applicable rate until the Indemnitors or Principal shall deliver evidence satisfactory to Surety of its discharge or release from such Bond and all liability by reason thereof.

**3.2 INDEMNITY** - to at all times exonerate, hold harmless, defend, indemnify, and keep indemnified Surety from and against any and all liability for Loss which Surety may pay, sustain or incur by reason of: (1) having executed or procured the execution of any Bond or any commitment letter, consent of surety, or any other document related to the issuance of any Bond; or (2) the failure of Indemnitors or any of them to perform or comply with any of the covenants and conditions of this Agreement or any obligation under any Other Agreement or Bond or any obligation under any agreements with respect to which a Bond has been executed by Surety; or (3) seeking enforcement of any of the covenants and conditions of this Agreement. Promptly on request by Surety following assertion of any Claim, and before Surety may be required to make any payment or suffer any Loss relating to such Claim, Indemnitors will deposit Collateral with Surety in the full amount of such Claim, plus any additional amount that Surety deems sufficient in its sole and absolute discretion to indemnify and hold Surety harmless from and against any potential Loss arising from such Claim. If the amount asserted, as a Claim is unascertainable or unliquidated, Indemnitors will deposit Collateral with Surety in such amount that Surety deems sufficient, in its sole and absolute discretion, to indemnify and hold it harmless from and against any potential Loss arising from such Claim.

**3.3 JOINT AND SEVERAL LIABILITY** - to be jointly and severally liable with each other Indemnitor for all of such Indemnitors' obligations to Surety, including, but not limited to, those arising under this Agreement. Each Indemnitor explicitly confirms its joint and several liability for Bonds issued by Surety as provided in this Agreement. Each of the Indemnitors shall remain responsible to Surety under this Agreement regardless of any changes in the relationship between or among any of the undersigned and the Principal.

**3.4 CHANGE IN CONTROL** – not to permit, without Surety’s prior written consent, such consent not to be unreasonably withheld: (a) any transfer, merger or consolidation (in one transaction or a series of transactions) of all or substantially all of the assets of any Indemnitor which results in an unaffiliated Person or group owning, directly or indirectly, fifty percent (50%) or more of the beneficial ownership or control of such Indemnitor; (b) the acquisition (in one transaction or a series of transactions) by any Person or group, directly or indirectly, of fifty percent (50%) or more of the beneficial ownership or control of any Indemnitor, or (c) the acquisition by any Indemnitor, directly or indirectly, of fifty percent (50%) or more of the beneficial ownership or control in any other entity through the issuance of fifty percent (50%) or more of the voting power of the total outstanding voting stock of such Indemnitor.

**3.5 REPORTING** – to maintain a system of accounting established and administered in accordance with generally accepted accounting principals and shall furnish to Surety:

- a) Such information (including both financial and non-financial information) as Surety may from time to time reasonably request.
- b) Notice of any modification, change, amendment or termination of any credit facility agreements.
- c) Notice to Surety of any technical or other default under any credit facility agreements within five (5) calendar days of the occurrence thereof, whether or not such default has been waived or cured.

**3.6 BOOKS AND RECORDS** – to provide Surety or any person designated by Surety with unrestricted access at any and all times upon reasonable notice to the financial statements, books, records, and/or accounts of the Indemnitors for the purpose of inspection, copying or reproduction. This access will continue until such time as the liability of Surety under all Bonds is terminated and Surety is fully reimbursed for all amounts due under this Agreement. In addition, each of the Undersigned hereby specifically authorizes any financial institution or depository in which its funds may be deposited to furnish any information requested by Surety relating to such accounts. The Indemnitors hereby waive any privilege in any accountant’s work papers and any other documents or communications that may be subject to any accountant/client privilege related to the preparation any financial statements prepared by their accountant(s) and further agree to provide any additional releases, requests, waivers or any other documents required in order to allow Surety access to the requested information. In addition, any materialman, subcontractor, supply house or other Person doing business with any of the Indemnitors is hereby authorized by Indemnitors to furnish to Surety, at Surety’s request, any information relating to any account maintained by Indemnitor or any information relating to the performance of any Bonded Contract or Bonded Obligation.

**3.7 COOPERATION WITH INVESTIGATION** – promptly, upon receipt of a notice from Surety regarding any Claim, to provide Surety with access to full, complete, accurate and up to date information regarding Indemnitor’s position regarding the validity of or defenses to the Claim. If information concerning the Claim is in the possession of the Indemnitor’s attorney, Indemnitor shall instruct said attorney to cooperate with Surety and Indemnitor will provide Surety with access to said attorney and information.

**3.8 TRUST FUND** – to hold as a trust fund and/or as a constructive or equitable trust, all interest, title and rights in all monies due or to become due under the Bonded Contracts or Bonded Obligations, whether in possession of any Indemnitor or another Person, for the benefit and payment all obligations incurred in the performance of such Bonded Contract or Bonded Obligation for which Surety, as beneficiary, may be liable under any Bond. The trust shall inure for the benefit of Surety and this Agreement shall constitute notice of such trust.

**3.9 BONDS COVERED** – Each of the Indemnitors expressly recognizes and covenants that this Agreement is a continuing obligation applying to any and all Bonds heretofore or hereafter executed by Surety on behalf of any Principal and/or any Indemnitor, whether acting alone or in joint venture, until this Agreement shall be canceled in the manner hereinafter provided. For any Bonds covered by a separate application signed by any Indemnitor, each Principal and Indemnitor agrees that such application shall be considered as merely supplemental to this Agreement.

#### **SETTLEMENTS, USE OF COLLATERAL, PAYMENT**

**4.1 SETTLEMENTS** – Surety shall have the right, at its option and in its sole and absolute discretion, to adjust, settle or compromise any Claim arising out of any Bond and/or to take any action Surety deems appropriate in response thereto; and Surety's determination of whether to defend or settle any such Claim shall be binding and conclusive upon the Indemnitors. Surety may incur such expenses, including reasonable attorneys' fees, as it deems necessary or advisable in the investigation, defense and payment of such Claims and in the completion of any Bonded Contract or fulfillment of any bonded obligation and all such expenses shall constitute a part of Surety's Loss.

**4.2 COLLATERAL** – All Collateral to be provided to Surety under this Agreement or Other Agreements shall be sent via overnight delivery to the following Address:

Western National Mutual Insurance Company  
Surety Department  
4700 West 77<sup>th</sup> Street  
Edina, MN 55435-4818

All Collateral held by Surety may be used, in Surety's sole and absolute discretion, to settle any Claims or reimburse itself for any Loss sustained or incurred by reason of or in connection with the furnishing of any or all Bonds or the enforcement of this Agreement or Other Agreements. Surety shall have no obligation to return any unused proceeds of the Collateral unless and until the full discharge of all obligations under the Bonds and this Agreement or Other Agreements, demonstrated by written evidence of discharge satisfactory to Surety, in its sole and absolute discretion. Indemnitors further agree that, in the event of their breach of the obligation to provide Collateral under this Agreement, Surety will have no adequate remedy at law and shall therefore be entitled to specific performance of the Indemnitors' obligation to provide Collateral under this Agreement. The Surety's delay or failure to act to enforce its right to specific performance hereunder shall not be construed as a waiver of that right, which may be enforced at any time at Surety's sole discretion.

**4.3 PAYMENTS** – In the event of any Loss by Surety, the Indemnitors agree to immediately reimburse Surety for any and all payments made by Surety, plus interest from the date of Surety's payment at the rate of 9% per annum or the maximum rate allowable by law, whichever is less. In any accounting between Surety and the Indemnitors or in any claim or suit by Surety against Indemnitors with respect to a Loss, the vouchers or other evidence of any Loss payments made by Surety shall be prima facie evidence of the fact and amount of the Indemnitors liability to Surety for such Loss; and Surety shall be entitled to reimbursement for all disbursements made in good faith under the belief that Surety is, was, or might be liable for the sums and amounts so disbursed or that it was necessary or expedient to make such disbursements, whether or not such liability, necessity or expediency actually existed.

## **ASSIGNMENT, TAKEOVER, ADVANCES, POWER OF ATTORNEY**

**5.1 ASSIGNMENT** - To secure the obligations in any and all of the paragraphs of this Agreement and any other indebtedness and liabilities of the Principal and/or Indemnitors to Surety, whether heretofore or hereafter incurred, the Principal and the Indemnitors hereby consent to and do assign, transfer, pledge, convey, and set over to Surety, as collateral: (a) All the rights, title and interest of the Principal and/or Indemnitors in, and growing in any manner out of, Bonded Contracts or Bonded Obligations; (b) Any and all sums that may be due or hereafter become due on account of any and all contracts referred to in the Bonds and all other contracts including, but not limited to, all percentages retained, progress payments, deferred payments, compensation for extra work and proceeds of claims; (c) All the rights, title and interest of the Principal and/or Indemnitors in and to all machinery, supplies, equipment, plant, tools and materials of every nature and description which are now owned or hereafter acquired, about or upon the site or sites of any and all of the Bonded Contracts or Bonded Obligations, including materials purchased for or chargeable to any and all Bonded Contracts or Bonded Obligations, materials for Bonded Contracts or Bonded Obligations which may be in process of construction, in storage elsewhere, or in transportation to any and all of said sites; (d) All the rights, title and interest of the Principal and/or Indemnitors in and to all subcontracts let or to be let in connection with any and all Bonded Contracts or Bonded Obligations, and in and to all surety bonds supporting such subcontracts; (e) All actions, causes of actions, claims and demands whatsoever which the Principal and/or Indemnitors may have or acquire against any obligee, subcontractor, laborer or materialman, or any person furnishing or agreeing to furnish or supply labor, material, supplies, machinery, tools or other equipment in connection with or on account of any and all Bonded Contracts or Bonded Obligations and against any surety or sureties of any subcontractor, laborer, or materialman on such Bonded Contracts or Bonded Obligations; (f) All monies due or to become due to Principal and/or Indemnitors on any policy of insurance relating to any claims or any premium refund arising out of any Bonded Contract or Bonded Obligation, including but not limited to builders risk, fire, employee dishonesty or workers' compensation policies; and (g) All right, title and interest, or use of any license, patent, trademark or copyright held by Principal or Indemnitors in connection with or relating to work required in the performance of any Bonded Contract or Bonded Obligation.

The foregoing assignment shall be effective as of the date of the execution of any Bonds, although nothing herein shall limit the right of Surety to claim under any prior assignment. Surety, or any persons designated by Surety, may enforce the security interests granted hereby, and is empowered by the Principal and Indemnitors to take any action necessary to obtain possession of the funds, rights and property assigned hereby, upon the occurrence of any Event of Default.

**5.2 TAKEOVER** – Upon the happening of an Event of Default, Surety shall have the right, at its option and in its sole and absolute discretion, and is hereby authorized, with or without exercising any other right or option conferred upon it by law or under the terms of this Agreement, to take possession of any part or all of the work under any Bonded Contract or Bonded Obligation, including, but not limited to, machinery, supplies, equipment, plant, tools and materials, without charge and at the cost and expense of the Indemnitors, to complete or arrange for the completion of the same, and the Indemnitors shall promptly, upon demand, pay to Surety all Loss so incurred by Surety.

**5.3 ADVANCES** – Surety is authorized and empowered, in its sole and absolute discretion and without any obligation to do so, to advance or lend to the Principal any money, which Surety may see fit, for any purpose relating to the performance of any Bonded Contract or Bonded Obligation; and any money expended in the completion of any Bonded Contract or Bonded Obligation by Surety, or lent or advanced from time to time to the Principal relating to the performance of such contracts or obligations, and all Loss incurred by Surety in relation thereto, unless repaid with legal interest by the Principal to Surety when due, shall be a Loss incurred by Surety for which the Principal and Indemnitors shall be responsible hereunder.

**5.4 POWER OF ATTORNEY** – The Principal and Indemnitors hereby irrevocably nominate, constitute, appoint and designate Surety, and any persons designated by Surety, as their attorney-in-fact with the right, but not the obligation, to exercise all of the rights of the Principal and Indemnitors assigned, transferred and set over to Surety in this Agreement, and in the name of the Principal and Indemnitors to make, execute, and deliver any and all additional or other assignments, documents, financing statements or papers deemed necessary and proper by Surety in order to (i) vest in Surety absolute title to any and all monies, property and rights hereby assigned and (ii) provide the protection and rights to Surety contemplated by all of the provisions of this Agreement. The Principal and Indemnitors hereby ratify and confirm all acts and actions taken and done by Surety and its designees as such attorney-in-fact and agree to protect and hold harmless Surety for all such acts and actions.

## **GENERAL PROVISIONS**

**6.1 AMENDMENTS** – This Agreement may not be changed or modified orally. No change or modification shall be effective unless made by written endorsement executed by Surety to form a part hereof. Each Indemnitor hereby agrees to waive notice and consent to the addition of any new Indemnitor as well as the release on any existing Indemnitor.

**6.2 CHANGES TO BONDS AND CONTRACTS** – Surety is authorized and empowered, without notice to or knowledge of the Indemnitors or Principals, notice being hereby expressly waived, to issue any Bonds on behalf of Principal, to assent, or to refuse to assent, to any change whatsoever in the Bonds, and/or any Bonded Contracts or Bonded Obligations, and/or in the general conditions, plans and/or specifications accompanying said Bonded Contracts or Bonded Obligations, including, but not limited to, any change in the time for the completion of said contracts or obligations and to payments or advances thereunder before the same may be due, and to assent, or to refuse to assent, to or take any assignment or assignments, to execute or consent to the execution of any continuations, extensions or renewals of the Bonds and to execute any substitute or substitutes therefor, with the same or different conditions, provisions and obligees and with the same or larger or smaller penalties, it being expressly understood and agreed that the Indemnitors shall remain bound under the terms of this Agreement even though any such assent or the refusal to assent by Surety does or might substantially increase the liability of said Indemnitors.

**6.3 COUNTERPARTS** – This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall be effective as to each Indemnitor when it has been executed by each Indemnitor. The Indemnitors hereby acknowledge that the failure of any one of them to execute this Agreement or the subsequent execution of any agreements of indemnity shall not in any way affect the validity or enforceability of this Agreement as to those Indemnitors who have executed this Agreement.

**6.4 ENTIRE AGREEMENT** – This Agreement (together with any Bonds issued by Surety) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and verbal, among the parties or any of them with respect to the subject matter hereof.

**6.5 DECLINE EXECUTION** – Surety may, in its sole and absolute discretion, decline to execute, renew or extend any Bond and may cancel any Bond for whatever reason, in Surety's sole and absolute discretion, unless the Bond states otherwise, and the Principal and Indemnitors agree to make no claim to the contrary; including, if Surety shall execute a Bid or Proposal Bond or Consent of Surety, Surety shall have the right to decline to execute any and all Bonds that may be required in connection with any award that may be made under the proposal for which the Bid or Proposal Bond or Consent of Surety is given and such declination shall not diminish or alter the liability of the Principal and Indemnitors, whether under this Agreement or otherwise, that may arise by reason of Surety having executed the Bid or Proposal Bond or Consent of Surety. The Indemnitors acknowledge that Surety makes no representation as to the validity or acceptability of any Bond to any Person under any contract, and Indemnitors agree that they shall have no claim against Surety arising out of or in any manner relating to the failure or refusal of any Person to award any contract to the Principal, or to accept any Bond executed and delivered by Surety, or that Surety has been requested to execute and deliver.

**6.6 INVALIDITY** – Invalidation of any provisions of this Agreement shall not render the other provisions hereof invalid. In case any of the parties mentioned in this Agreement fail to execute the same, or in case the execution hereof by any of the parties be defective or invalid for any reason, such failure, defect or invalidity shall not affect the validity of this Agreement or the liability hereunder of any of the Indemnitors executing the same, but each and every Indemnitor so executing shall be and remain fully bound and liable hereunder to the same extent as if such failure, defect or invalidity had not existed. Each Indemnitor agrees to execute promptly any documentation necessary to cure any such failure, defect or invalidity. It is understood and agreed by the Indemnitors that the rights, powers, and remedies given Surety under this Agreement shall be and are in addition to, and not in lieu of, any and all other rights, powers, and remedies which Surety may have or acquire against the Indemnitors or others whether by the terms of any Other Agreement or by operation of law or otherwise.

**6.7 FORUM AND CHOICE OF LAW** - This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to such state's conflicts of laws rules. As to any legal action or proceeding related to this Agreement, the Indemnitors submit to the general jurisdiction of the United States District Court for the District of Minnesota or, if such court does not have subject matter jurisdiction, to the general jurisdiction of the Minnesota District Court, Fourth District, as well as the general jurisdiction of any local, state or federal court of the United States or its territories in which any Claim may be brought against Surety under any Bonds; and Indemnitors waive any claim or defense in any such action or proceeding based on any alleged lack of personal jurisdiction, improper venue, forum non conveniens or any similar basis.

**6.8 NOTICE OF BONDS AND LIABILITIES** – The Indemnitors have relied upon their own due diligence in making their own independent appraisal of Principal and its business and financial condition and agree to keep themselves fully informed as to the business and financial affairs of the Principal and each of the other Indemnitors so that they are aware of the risks and hazards of continuing as Indemnitors. The Indemnitors have not relied upon and will not hereafter rely upon Surety for information. The Indemnitors hereby waive notice of the execution of any Bond and of the acceptance of this Agreement, and of any change in surety credit or other fact that might materially alter the Principal's and Indemnitors' obligations hereunder, and the Principal and the Indemnitors hereby waive all notice of any default, or any other act or acts giving rise to any claim under said Bonds, as well as notice of any and all liability of Surety under said Bonds, and any and all liability on their part hereunder, to the end and effect that, the Principal and the Indemnitors shall be and continue to be liable hereunder, notwithstanding any notice of any kind to which they might have been or be entitled, and notwithstanding any defenses they might have been entitled to make as a result of lack of notice.

**6.9 OTHER INDEMNITY** – The Principal and the Indemnitors shall continue to remain bound under the terms of this Agreement even though Surety may have from time to time heretofore or hereafter, with or without notice to or knowledge of the Principal or the Indemnitors, accepted, reduced or released other agreements of indemnity or collateral in connection with the execution or procurement of any Bonds, from the Principal or Indemnitors or others, it being expressly understood and agreed by the Principal and the Indemnitors that any and all other rights which Surety may have or acquire against the Principal and the Indemnitors and/or others under any such other or additional agreements of indemnity or collateral shall be in addition to, and not in lieu of, the rights afforded Surety under this Agreement. No Indemnitor shall raise any defense to the enforcement of this Agreement based on the addition or the release of any Indemnitor. The security interest, assignments, trust, indemnity and other rights granted herein, will not be deemed a waiver of Surety's equitable subrogation rights or other rights, said security and rights granted herein being in addition to the rights of exoneration, subrogation, and other rights to which Surety is entitled to under law or in equity, which Principal and Indemnitors expressly recognize.

**6.10 WAIVER AND SUBORDINATION** – The Indemnitors waive and subordinate all rights of indemnity, subrogation and contribution each may have against the other until all of their obligations to Surety under this Agreement, at law or in equity, have been satisfied in full.

**6.11 SUITS** – Separate suits may be brought hereunder as causes of action accrue, and the bringing of suit or the recovery of judgment upon any cause of action shall not prejudice or bar the bringing of other suits, upon other causes of action, whether theretofore or thereafter arising.

**6.12 UNIFORM COMMERCIAL CODE** – This Agreement shall constitute a Security Agreement to Surety and also a Financing Statement, both in accordance with the provisions of the Uniform Commercial Code of every jurisdiction wherein such Code is in effect and may be so used by Surety without in any way abrogating, restricting or limiting the rights of Surety under this Agreement or under law or in equity. The Indemnitors will execute and deliver such other instruments as may be necessary or desirable to permit either the filing of this Agreement as a Financing Statement or the filing of a Financing Statement based upon this Agreement as a Security Agreement in such jurisdictions as Surety shall deem necessary or desirable. Each Indemnitor hereby authorizes Surety to make such filings, including continuation statements and amendments thereto, without the signature of such Indemnitor.

**6.13 THIRD PARTY BENEFICIARIES** – The Indemnitors agree that all of the terms, provisions, and conditions of this Agreement shall be extended to and for the benefit of any surety or insurance company or companies with which Surety may participate as a co surety or reinsurer, in whole or in part, with respect to any Bonds and also for the benefit of any other Person or company which may execute any Bond at the request of Surety on behalf of the Principal or any one or more of the Indemnitors.

**6.14 TERMINATION** – Any Indemnitor may terminate its liability under this Agreement upon thirty (30) days' written notice sent by certified mail or courier requiring proof of delivery signature to Surety at the address provided in Section 4.2 of this Agreement, but any such notice of termination shall not operate to modify, bar, or discharge Indemnitors or Principals as to any Bonds or Bonded Obligations: (a) which may have been executed or authorized prior to the expiration of the notice period; (b) which may be executed after the expiration of the notice period in fulfillment of any commitment given by Surety prior to the expiration of such notice period; (c) which may be executed in connection with any project as to which any bid bond was executed or authorized prior to the expiration of such notice period; and/or (d) which are renewed, extended, substituted or modified after the expiration of such notice period. Such termination of liability as to any Indemnitor or Principal in no way affects the obligations of any other Indemnitor or Principal who has not given notice as herein provided.

**6.15 COPIES AS ORIGINALS** – The undersigned agree that any scanned or electronically digitized copy of this document made by Surety as part of any record storage and retention program shall be as effective as the original for all purposes.

**6.16 HEADINGS** - The section headings herein are included for convenience only and shall not be deemed to be part of this Agreement.

IN WITNESS WHEREOF, the Indemnitors who are individuals have hereunder set their hands and seals and the Indemnitors which are partnerships, corporations, or unincorporated associations have caused this Agreement to be duly executed by their authorized representatives on this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

(SIGNATURE PAGES FOLLOW)



(ALL SIGNATURES MUST BE ACKNOWLEDGED BELOW)

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

ATTEST:

**Indemnitor:**

By: \_\_\_\_\_  
Name and title:

By: \_\_\_\_\_  
Name and title: \_\_\_\_\_,

State of incorporation: \_\_\_\_\_

Taxpayer ID #: \_\_\_\_\_

Address: \_\_\_\_\_

(ALL SIGNATURES MUST BE ACKNOWLEDGED BELOW)

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS:

By: \_\_\_\_\_  
Name:

**Individual Indemnitor:**

By: \_\_\_\_\_  
Name:

Social Security #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

CORPORATE ACKNOWLEDGMENT

STATE OF )  
 ) SS:  
COUNTY OF )

On this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared \_\_\_\_\_ of \_\_\_\_\_, known or proven to me to be the \_\_\_\_\_ of \_\_\_\_\_, the corporation executing the above instrument; who acknowledged to me that said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of said corporation and that it was affixed and that he executed said instrument by authority of the Board of Directors of said corporation.

\_\_\_\_\_  
Notary Public, residing at:  
My Commission expires:

CORPORATE ACKNOWLEDGMENT

STATE OF )  
 ) SS:  
COUNTY OF )

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Notary Public, residing at:  
My Commission expires:

INDIVIDUAL ACKNOWLEDGMENT

STATE OF )  
 ) SS:  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

\_\_\_\_\_  
Notary Public, residing at:  
My Commission expires:

INDIVIDUAL ACKNOWLEDGMENT

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