

**PERFORMANCE BOND**

By this Bond ..... of ..... as Principal (hereinafter called "the Contractor") and ..... with its offices at ..... with its postal address as P.O. BOX 20084, ACCRA as Surety (hereinafter called "the Surety"), are held and bound unto ..... with its postal address as ..... as Obligee (hereinafter called "the Employer") in the amount of ..... for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their successors, and assigns, jointly and severally, by these presents \_\_\_\_\_

DATED this \_\_\_\_\_

WHEREAS by a Contract DATED ..... TO COMMENCE ON ..... AND made between the Employer of the one part and the Contractor of the other part, the Contractor has been contracted to undertake ..... at CONTRACT VALUE NOT TO EXCEED .....in accordance with the documents, plans, specification, and amendments thereto, which to the extent herein

provided for are by reference made part hereof and are hereinafter referred to as the Contract \_\_\_\_\_

NOW, THEREFORE, the Condition of this Obligation are such that,

1. If the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto within the contract completion date) then this obligation shall be null and void; otherwise it shall remain in full force and effect.

2. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligation thereunder, the Surety may

(a) promptly remedy the default, or

(b) shall promptly obtain a bid or bids from qualified Bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price" as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer \_\_\_\_\_ to \_\_\_\_\_ Contractor;  
or \_\_\_\_\_

(c) Pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond \_\_\_\_\_

3. All claims and demands under this Bond shall be make in writing and signed by the

Employer and sent to us at our address shown above. All claims must be accompanied by:

- a. The Employer's signed statement certifying that the Contractor has failed to fulfil the Contract, together with either;
  - b. The written admission of the Applicant that it has failed to fulfil the Contract, or \_\_\_\_\_
  - c. A copy of an arbitration award expressed to be made pursuant to the Contract and in the Employer's favour certified by the arbitrator to be a true and accurate copy of the original; and \_\_\_\_\_
  - d. Written confirmation by the Employer's bankers that the signatories on the claim are authorised so to sign \_\_\_\_\_
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond \_\_\_\_\_
5. Notwithstanding any other provision herein contained, this Bond shall expire at the close of business hours at this office on ..... ("Expiry") so that any claim and statement hereunder together with the written admission of the Applicant or copy arbitration award must be received at this office before Expiry in the manner stipulated hereinabove and after Expiry this Bond shall become null and void whether returned to us for cancellation or not and any claim and statement together with the written admission of the Applicant or copy arbitration award received after Expiry shall be ineffective.
6. This Bond is personal to the Employer and shall not be transferable, assignable or negotiable. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or their successors or assigns \_\_\_\_\_
7. Any dispute relating to the PERFORMANCE BOND shall be referred to arbitration in accordance with the Arbitration Act of 1961 Act 38 \_\_\_\_\_

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the

Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of their duly authorised representative, this 11<sup>TH</sup> day of APRIL 2005

SIGNED, SEALED and DELIVERED by \_\_\_\_\_ )  
..... )  
for and on behalf of \_\_\_\_\_ )  
..... )  
In the presence of:- \_\_\_\_\_ )

SIGNED, SEALED and DELIVERED by \_\_\_\_\_ )

TO:

### COUNTER INDEMNITY

In consideration of the ..... (Surety Company) becoming Surety on the Bond applied for on the 11<sup>TH</sup> day of APRIL 2005 in connection with Bond Number ..... for an amount of ..... in favour of ..... (Obligee), ("the Bond") we do hereby covenant and agree to pay the premium agreed upon and we do hereby bind ourselves, liquidators and assigns, to indemnify the said ..... (Surety Company) and to keep it indemnified against all actions, proceedings, claims, demands, which may be brought or made against you and all loss, costs, damages, charges and expenses, whatever and however resulting that the said .....

..... (Surety Company) may sustain or incur by reason either directly or indirectly of its having executed the said Bond or any continuation thereof \_\_\_\_\_

WE HEREBY FURTHER AGREE for ourselves, our liquidators and assigns, to accept the vouchers or any other evidence of any sum paid by the said ..... (Surety Company) under the aforesaid obligations as conclusive evidence against us and our estates of the fact and extent of our liability under the obligation to the said .....

..... (Obligee)  
IT IS FURTHER EXPRESSLY AGREED that the said  
..... (Surety Company) possesses the  
right to redeem the Bond at its discretion even if we dispute our liability towards  
.....  
..... (Obligee)

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IT IS FURTHER EXPRESSLY AGREED that the said  
..... is hereby irrevocably  
authorised and directed to pay forthwith on any demand appearing or purporting to be made by  
or on behalf of the ..... any sums up  
to the limit of your said liability which may be demanded of you from time to time without any  
reference to or any necessity for confirmation or verification on the part of  
..... even if we despite  
or liability toward .....  
(Obligee)

DATED IN ACCRA THIS ..... DAY OF  
.....