



PERFORMANCE BOND

(Integrated Project Delivery)

[This bond form is intended for use with the CCDC 30-2018 standard form of Integrated Project Delivery (“IPD”) Contract.]

No. _____ (the “Bond”) Bond Amount \$ _____

(name of the principal*)

as a principal, hereinafter [collectively] called the “Principal”, and _____
(name of the surety company**)

as a surety, duly authorized to transact the business of Suretyship in _____
(Province/Territory in which the Principal’s Work (defined herein) is provided)

and hereinafter called the “Surety”, are held and firmly bound unto _____
(name of the owner)

as obligee, hereinafter called the “Owner”, in the amount of \$ _____ hereinafter called the “Bond Amount”,
(Bond Amount in figures)

for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally in accordance with the provisions of this Bond (the “Obligation”). WHEREAS the Principal has entered into a written contract with the Owner, amongst other parties, dated the

____ day of _____ in the year _____ for _____
(name of month) (title or description of the contract)

(the “Original IPD Contract”) and, for the purpose of specifying the conditions of the Obligation, this Original IPD Contract together with amendments made in accordance with its terms are by reference made part hereof and are hereinafter referred to collectively as the “IPD Contract”;

NOW THEREFORE the conditions of this Obligation are such that if the Principal has promptly and faithfully performed its obligations under the IPD Contract or the IPD Contract is terminated in its entirety, then this Obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following terms and conditions:

1. Written Notice

1.1 The Owner may make a written demand on the Surety by giving notice to the Surety substantially in the form attached as Schedule A (the “Notice”), after the Principal:

(a) is bound under the IPD Contract to perform construction work in accordance with the terms and conditions of the IPD Contract;

(b) is in default, and has properly been declared in default, under the IPD Contract; and

(c) has had its right to participate as a party to the IPD Contract properly terminated

(collectively, the “Principal’s Termination”).

1.2 Until it receives the Notice, the Surety shall have no obligation under this Bond, including without limitation in relation to any construction work which the Principal is bound under the IPD Contract to perform in accordance with the terms and conditions of the IPD Contract as of the date of the Principal’s Termination (the “Principal’s Work”).

- 1.3 Where the Surety includes two or more companies, the Notice may be delivered to the first listed Surety on behalf of all Sureties. The first listed Surety is hereby authorized to respond to the Notice on behalf of the Sureties, and the Owner is not required to give separate Notice to each Surety and is entitled to correspond with the first listed Surety on behalf of all Sureties.

2. Pre-Notice Meeting

- 2.1 The Owner may, at its sole discretion and acting reasonably, request a pre-Notice conference by notifying the Surety and the Principal of such request in writing (the “**Pre-Notice Meeting**”). This notice and request for a Pre-Notice Meeting by the Owner does not constitute a Notice under this Bond, nor under the IPD Contract, nor is it a precondition to the giving of a Notice. Upon receipt of such request, the Surety shall propose a face-to-face meeting, a telephone conference call or a meeting by any other form of electronic media between the Owner, the Principal, and the Surety to take place at a time and place mutually convenient for all parties within seven (7) business days (or such longer time as agreed by all parties) after the Surety’s receipt of the Owner’s request for a Pre-Notice Meeting in accordance with this Section. The Owner, the Principal and the Surety shall make reasonable efforts to arrange and attend the Pre-Notice Meeting. In the event that the Owner delivers a Notice prior to the Pre-Notice Meeting, then the Pre-Notice is deemed to be retracted.
- 2.2 The purpose of a Pre-Notice Meeting is to allow the Owner, prior to exercising its other rights under this Bond, to express its concerns about the Principal’s performance under the IPD Contract and to allow the Principal to respond to such concerns. The participation of the parties in one or more Pre-Notice Meetings shall be without prejudice to their respective rights and obligations under the IPD Contract, this Bond or applicable law, and neither the participation by any party in any Pre-Notice Meeting, nor any statement or position taken or information provided by any party during any Pre-Notice Meeting, may be relied on by any other party as a waiver or compromise of the rights or obligations of the Owner, the Surety or the Principal under the IPD Contract, this Bond or applicable law; including, but not limited to the Owner’s right to give Notice under this Bond.

3. Surety’s Investigation and Response

- 3.1 Upon receipt of the Notice from the Owner, the Surety shall promptly initiate an investigation of the Notice (the “**Investigation**”), using its best efforts, to determine if the Conditions Precedent have been satisfied and to determine its liability, if any, under the Bond.
- 3.2 Within the four (4) business days following receipt of the Notice, the Surety shall provide the Owner with an acknowledgement, substantially in the form set out as Schedule B (the “**Acknowledgement**”), identifying the date on which the Notice was received and requesting from the Owner the information and documentation (the “**Information**”) the Surety requires to continue the Investigation and, if necessary, request access to personnel who are knowledgeable about the circumstances of the Notice and/or access to the IPD Contract work site(s) where the Principal’s Work is being performed. Upon receipt of the Surety’s Acknowledgement, the Owner shall promptly, and in accordance with terms of the IPD Contract, provide the Surety with the requested Information and access to personnel and the IPD Contract work site(s) where the Principal’s Work is being performed, within its possession or control.
- 3.3 The Surety shall within a reasonable time conduct the Investigation, but in any event no later than twenty (20) business days after receipt by the Surety of the Notice (or such longer period as may be agreed between the Surety and Owner), the Surety shall provide the Owner with its written response to the Notice, substantially in the form set out at Schedule C (the “**Surety’s Position**”), advising either that:
- a) The Surety accepts liability under the Bond and proposes to satisfy its Obligation by performing one of the options set out in Section 6.1; or
 - b) The Surety does not accept liability, providing its specific reasons; or
 - c) The Surety is unable to determine whether or not one or more of the Conditions Precedent has been satisfied and, in the Surety’s sole discretion, the Surety may propose a process for collaborating with the Owner in the advancement of the completion of the Principal’s Work so as to attempt to mitigate the Owner’s cost to complete the Principal’s Work.

3.4 The Surety shall also, if requested by the Owner to do so, meet with the Owner to discuss the status of the Investigation within five (5) days following receipt of the request. This meeting may take place via a face-to-face meeting, a telephone conference call or a meeting by any other form of electronic media as may be mutually agreed to by the Owner and Surety.

4. Necessary Interim Work

4.1 Prior to and during the Investigation, if the Owner must take action which is necessary to:

- a) ensure public or worker safety,
- b) preserve or protect the Principal's Work from deterioration or damage, or
- c) comply with applicable law,

(the "**Necessary Interim Work**")

the Owner may, acting with due diligence and provided written notice is subsequently provided to the Surety within three (3) Business Days of the commencement of such Necessary Interim Work, undertake such Necessary Interim Work provided that:

- i. Owner shall allow the Surety and/or its consultant(s) reasonable access to the IPD Contract work site(s) during the course of the Necessary Interim Work for the purpose of monitoring the progress of the Necessary Interim Work;
- ii. any such Necessary Interim Work shall be undertaken without prejudice to the rights of the Owner, the Principal or the Surety under the IPD Contract, this Bond or applicable law; and
- iii. the reasonable costs incurred by the Owner in undertaking such Necessary Interim Work (to the extent they are not deducted in the calculation of the Principal's Entitlement in Section 9.1) shall be reimbursed by the Surety, subject to the Surety's liability being subsequently established and subject to such expenses being covered by this Bond. Any payments made by the Surety in respect of the Necessary Interim Work shall reduce the Bond Amount by the amount of any such payments.

4.2 Nothing in this Section is intended to limit the ability of an Owner to take whatever steps are reasonably necessary in the public interest.

4.3 Subject to the foregoing provisions in Section 4.1, the Surety shall not raise the mere fact that the Necessary Interim Work proceeded as a defence to any claim by the Owner hereunder.

5. Post-Notice Conference

5.1 Upon receipt of the Notice, the Surety shall propose a face-to-face meeting, telephone conference call or a meeting by any other form of electronic media (a "**Post-Notice Conference**") with the Owner at a mutually convenient time and place within five (5) business days (or such longer period as may be agreed between the Surety and Owner). The Principal may participate in a Post-Notice Conference at the invitation of the Surety.

5.2 The purpose of the Post-Notice Conference shall be to determine what actions or work, if any, the Owner believes must be done while the Surety is conducting the Investigation in order to effectively mitigate the costs for which the Owner is seeking recovery under this Bond (the "**Mitigation Work**"). Mitigation Work may be performed after Necessary Interim Work and throughout the period of investigation by the Surety.

5.3 Provided the Owner provides reasonable evidence to the Surety that Mitigation Work is necessary during the Investigation and that the anticipated costs are reasonable, the Owner may proceed with the Mitigation Work subject to the following conditions:

- a) Owner shall pay the reasonable costs of the Mitigation Work;
- b) Owner shall keep separate records of all amounts related to the Mitigation Work for which it intends to seek recovery under this Bond, including amounts to be set off against the Principal's Entitlement;

- c) Owner shall allow the Surety and/or its consultant(s) reasonable access to the IPD Contract work site(s) during the course of the Mitigation Work for the purpose of monitoring the progress of the Mitigation Work; and
 - d) the Mitigation Work shall be without prejudice to the rights or obligations of the Owner, the Principal, or the Surety under the IPD Contract, this Bond or applicable law.
- 5.4 If the Surety objects to any part of the Mitigation Work, including without limitation the Owner's proposed Mitigation Work contractor(s), scope of Mitigation Work, cost or method of Mitigation Work, it shall immediately advise the Owner in writing of its objections and the reasons therefor. The Owner may still proceed with the Mitigation Work and the Surety's objections will be addressed through negotiation with the Owner or at the trial of any action brought pursuant to this Bond.
- 5.5 The reasonable costs incurred by the Owner in undertaking the Mitigation Work shall be reimbursed by the Surety, subject to the Surety's liability being subsequently established. Any payments made by the Surety in respect of the Mitigation Work shall form part of its Obligation under this Bond and shall reduce the Bond Amount by the amount of any such payments.
- 5.6 For greater clarity, any Necessary Interim Work being performed by the Owner pursuant to Section 4 may continue to be performed pending an agreement, if any, as to the Mitigation Work.
- 5.7 Subject to the foregoing provisions in this Section 5, the Surety shall not raise the mere fact that the Mitigation Work proceeded as a defence to any claim by the Owner hereunder.

6. Surety's Options

- 6.1 If the Surety has accepted liability pursuant to this Bond, the Surety shall promptly select and commence one of the following options:
- a) complete the Principal's Work;
 - b) obtain a bid or bids for submission to the Owner for completing the Principal's Work and, upon determination by the Owner and the Surety of the lowest responsible bidder:
 - i. the Owner shall, in consultation with the Surety, arrange for such bidder to become a party to the IPD Contract to complete the Principal's Work; and
 - ii. the Surety shall make available as the Principal's Work progresses (even if there should be a default, or a succession of defaults by the party obligated to complete the Principal's Work under any contract or contracts arranged under this paragraph) sufficient funds to complete the Principal's Work, including any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement; or
 - c) enter into arrangements with the Owner for the Principal's Work to be completed by any method that is agreed upon by the Owner and the Surety and, upon determination by the Owner and the Surety of such arrangements:
 - i. the Owner shall, in consultation with the Surety, implement such arrangements to complete the Principal's Work; and
 - ii. the Surety shall make available as the Principal's Work progresses (even if there should be a default, or a succession of defaults by the party obligated to complete the Principal's Work under any contract or contracts arranged under this paragraph) sufficient funds to complete the Principal's Work, including any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement; or
 - (d) pay the Owner the lesser of: (1) the Bond Amount, or (2) without duplication, the Owner's Direct Expenses plus the Owner's proposed cost of completion of the Principal's Work and any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement.
- 6.2 The option selected by the Surety is referred to in this Bond and the Schedules as the "Surety Option".

7. Owner's Direct Expenses

- 7.1 Where the Surety is liable under this Bond, then the Surety shall be liable for the following fees and expenses, without duplication, to the extent that the Principal is liable to the Owner for such fees and expenses under the IPD Contract (the "**Owner's Direct Expenses**"):
- a) reasonable professional fees incurred by the Owner (excluding any such professional fees incurred by the Owner for services provided by any other party to the IPD Contract) to complete the Principal's Work, which are a direct result of the Principal's Termination and which would not have been incurred but for the Principal's Termination;
 - b) reasonable external legal fees incurred by the Owner to complete the Principal's Work, which are a direct result of the Principal's Termination and which would not have been incurred but for the Principal's Termination, with the exception of legal fees incurred by the Owner in defending a claim or action by the Principal, or incurred by the Owner in pursuing an action against the Principal;
 - c) reasonable, miscellaneous and out-of-pocket expenses incurred by the Owner to complete the Principal's Work, which are a direct result of the Principal's Termination and which would not have been incurred but for the Principal's Termination;
 - d) direct costs incurred as a result of an extension of the duration of the supply of services or materials used or reasonably required for use in the performance of the Principal's Work, which are a direct result of the Principal's Termination and which would not have been incurred but for the Principal's Termination;
 - e) reasonable costs of the Necessary Interim Work;
 - f) reasonable costs of the Mitigation Work; and
 - g) any additional fees and expenses agreed to by the Owner, the Principal and the Surety.
- 7.2 For the purpose of Section 7.1(d), the "direct costs" incurred are the reasonable costs of performing the Principal's Work during the extended period of time, including costs related to the additional supply of services or materials (including equipment rentals), insurance and surety bond premiums, and costs resulting from seasonal conditions, that, but for the extension, would not have been incurred.
- 7.3 Subject to any agreement to the contrary between the Owner, the Principal and the Surety, the Surety shall not be liable under this Bond for:
- a) any liquidated damages under the IPD Contract;
 - b) if no liquidated damages are specified in the IPD Contract, any damages caused by delayed performance or non-performance of the Principal, except as provided in Section 7.1(d);
 - c) any indirect or consequential damages, including but not limited to costs of financing, extended financing, hedging arrangements, loss of or deferral of profit, productivity or opportunity, or head office overhead costs; or
 - d) any costs incurred by any party to the IPD Contract or any costs, contingency, allowances or profits paid by the Owner or allocated under the IPD Contract to any party to the IPD Contract, unless expressly provided otherwise in this Bond.
- 7.4 If the Surety is liable under this Bond then, at the Owner's option, Owner's Direct Expenses may be deducted by the Owner from the Principal's Entitlement as defined hereinafter or will be promptly reimbursed by the Surety subject to the other terms, conditions and limitations of this Bond and will reduce the Bond Amount.

8. Conditions Precedent

- 8.1 The Surety shall have no liability or Obligations under this Bond unless all of the following conditions precedent (the “**Conditions Precedent**”) have been satisfied:
- a) There has been a Principal’s Termination;
 - b) The Owner has given notice to the Principal of the Principal’s Termination;
 - c) The Owner and all other parties to the IPD Contract, other than the Principal, have performed their respective obligations under the IPD Contract; and
 - d) The Owner has agreed to pay the Principal’s Entitlement to the Surety or as directed by the Surety.

9. Principal’s Entitlement

- 9.1 The term “**Principal’s Entitlement**” means the total amount payable by the Owner to the Principal under the IPD Contract, including any adjustments to the amount payable by the Owner to the Principal in accordance with the terms and conditions of the IPD Contract, or other amounts to which the Principal is entitled, reduced by any amounts deducted by the Owner for the Owner’s Direct Expenses under Section 7.4 and all valid and proper payments made to or on behalf of the Principal under the IPD Contract.
- 9.2 The Principal’s Entitlement shall be used by the Owner to first mitigate against any potential loss to the Surety under this Bond and then under any Labour & Material Payment Bond issued by the Surety in respect of the Principal’s Work, and the Owner shall assert all rights and remedies available to the Owner to the Principal’s Entitlement and make payment of the Principal’s Entitlement as directed by the Surety.

10. Limitations on the Surety’s Liability

- 10.1 Notwithstanding anything to the contrary contained in this Bond or in the IPD Contract, the Surety shall not be liable for a greater sum than the Bond Amount under any circumstances.
- 10.2 The Surety’s liability and responsibility under this Bond in respect of any Surety Option or Owner’s Direct Expenses shall not be greater than that of the Principal’s liability and responsibility to the Owner under the IPD Contract.
- 10.3 Notwithstanding the terms of the IPD Contract, no party to the IPD Contract other than the Owner may claim on or benefit from this Bond, and the Surety shall have no liability for amounts that the Owner may be required to pay to any other party to the IPD Contract.

11. Owner’s Representation

- 11.1 The Owner represents and warrants to the Surety that as of the date on which the Surety receives a Notice from the Owner in respect of a Principal’s Termination, the Principal’s Termination has been given effect properly in accordance with the terms and conditions of the IPD Contract and the Owner has the requisite authority to make a demand on this Bond.
- 11.2 The Surety is entitled to rely on the Owner’s representations and warranties under Section 11.1.

12. Right of Action

- 12.1 No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein, or the heirs, executors, administrators or successors of the Owner.

13. Commencement of Action

- 13.1 It is a condition of this Bond that any suit or action must be commenced before the expiration of two (2) years from the earlier of: (a) the date of substantial performance of the IPD Contract as defined in the lien legislation where the Principal’s Work is taking place; or (b) the date on which a Notice in respect of the Principal’s Termination that is the subject of such suit or action is received by the Surety under this Bond.

13.2 The Owner, the Principal, and the Surety agree that any suit or action is to be made to a court of competent jurisdiction in the location in which the Principal's Work is taking place and agree to submit to the jurisdiction of such court notwithstanding any terms to the contrary in the IPD Contract.

13.3 In the Province of Québec, the coverage period of this Bond begins at the date of commencement of the Principal's Work and ends two (2) years following acceptance of the Principal's Work pursuant to Article 2110 of the Civil Code. Only a Principal's Termination properly declared in writing and in accordance with the terms of the IPD Contract during such period shall be subject to coverage under this Bond.

14. Common Law Rights

14.1 The rights and obligations of the Owner, the Principal, and the Surety under this Bond are in addition to their respective rights and obligations at common law and in equity.

15. Applicable Law

15.1 This Bond is governed by the laws of the Province or Territory in which the Principal's Work is to be installed or delivered as the case may.

16. Notices

16.1 All notices under this Bond shall be delivered by registered mail, facsimile, or electronic mail at the addresses set out below, subject to any change of address in accordance with this Section. Any notice given by facsimile or electronic mail shall be deemed to have been received on the next business day or, if later, on the date actually received if the person to whom the notice was given establishes that he or she did not, acting in good faith, receive the notice until that later date. Any notice given by registered mail shall be deemed to have been received five (5) days after the date on which it was mailed, exclusive of Saturdays and holidays or, if later, on the date actually received if the person to whom the notice was mailed establishes that he or she did not, acting in good faith, receive the notice until that later date. The address for the Surety, the Owner or the Principal may be changed by giving notice to the other parties setting out the new address in accordance with this Section.

The Surety:
[Surety corporate name]
[address]
[fax]
[email]

The Owner:
[Owner proper name]
[address]
[fax]
[email]

The Principal:
[Principal corporate name]
[address]
[fax]
[email]

17. Headings for Reference Only

17.1 The headings and references to them in this Bond are for convenience only, shall not constitute a part of this Bond, and shall not be taken into consideration in the interpretation of this Bond.

18. Defined Terms

18.1 Any capitalized terms used and not otherwise defined in this Bond shall have the meaning ascribed thereto in the IPD Contract.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond this ____ day of _____ in the year _____.

[Principal proper name]

Witnessed by:

By: _____

Name: _____

Name of Witness: _____

Title: _____

Address of Witness: _____

I have authority to bind the corporation.

[Surety corporate name]

By: _____

Name: _____

Attorney-in-fact

*** IF THERE ARE TWO OR MORE COMPANIES IN PARTNERSHIP OR JOINT VENTURE, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH PARTNER OR JOINT VENTURE PARTY, AND INSERT THE WORD "COLLECTIVELY" AFTER THE WORD "HEREINAFTER" IN THE FIRST LINE.**

**** IF THERE ARE TWO OR MORE SURETY COMPANIES, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH SURETY COMPANY, FOLLOWED BY "each as a surety and each duly authorized to transact the business of Suretyship in the [name of applicable Province or Territory in which the Principal's Work is provided] and hereinafter collectively called the "Surety"".**

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SCHEDULE A
Form of Notice

[date]

[Surety name]

[Surety address]

[Surety's electronic/email address]

Attention:

Re: _____

Bond No: _____

Principal: _____

Owner: _____

IPD Contract: _____

Dear Sir/Madam,

We hereby notify you that the Principal is bound under the IPD Contract to perform construction work in accordance with the terms and conditions of the IPD Contract, the Principal is in default under the IPD Contract, and its right to participate as a party to the IPD Contract has been properly terminated, referred to as the Principal's Termination under Section 1.1 of the Bond. In general terms, the details of the Principal's Termination are as follows:

[insert description of the Principal's Termination]

We have given notice to the Principal of the Principal's Termination and enclose a copy for your records, and confirm that the IPD Contract has not been terminated and the Owner and all other parties to the IPD Contract, other than the Principal, have honoured their obligations under the IPD Contract.

We call on you as Surety to honour your obligations under the Bond. We represent and warrant that we have in our possession the original, executed Performance Bond and herein enclose a copy.

Please provide us with potential dates and times to conduct the Post-Notice Conference under Section 5.1 of the Bond.

OPTIONAL: In the circumstances we plan to proceed with work and incur expenses necessary in the circumstances to ensure public safety or to preserve or protect the Principal's Work referred to under Section 1.2 of the Bond from deterioration or damage, referred to as the Necessary Interim Work under Section 4.1 of the Bond, and will provide you with information and access to discuss and observe the Necessary Interim Work. In the interim, the following is a general description of the anticipated Necessary Interim Work:

OPTIONAL: To assist you in your Investigation, we enclose with this Notice the documents and information indicated in Appendix A to this Notice. [In addition to Appendix A, the Owner is encouraged to provide any information or material that may expedite the Investigation.]

We look forward to receiving your acknowledgment of this Notice no later than four (4) business days of receipt and your request for any additional documentation or information you require to meet your obligations under the Bond.

Your truly,

[Full corporate title]

By: _____

[Name]

[Title]

[Phone]

[Email address]

CC: [Principal]

Appendix A to Form of Notice

The following checked documents and information are enclosed with this Notice:

- Copy of full, executed IPD Contract documents (with letter of award), including any and all amendments thereto and any and all approved changes and pending changes relevant to this Notice
- Copy of original schedule and the latest schedule adjusted in accordance with the IPD Contract
- Copies of and summary reconciliation of all payment applications received under the IPD Contract
- Copies of and summary reconciliation of all payments made and holdback of any kind retained under the IPD Contract
- Copy of the most recent approved or certified payment application under the IPD Contract
- A detailed list of all outstanding Principal's Work (including any deficiencies identified to date)
- Copy of any notice or correspondence between the Owner and the Principal related to the IPD Contract and relevant to this Notice
- Copy of any claim for lien, legal proceeding or other documents received on the IPD Contract
- Copy of any correspondence from the Principal's subcontractors, suppliers or others indicating claims for unpaid amounts relating to the IPD Contract
- Copy of the executed and delivered Performance Bond
- [Additional documents or information]**

SCHEDULE B
Surety's Acknowledgement of a Notice

[date]

[Name/corporate title of the owner]
[Address]
[Address]
[E-mail address (if provided in the Notice of Claim)]
Attention:

Re: _____

Bond No: _____

Principal: _____

Owner: _____

IPD Contract: _____

Dear Sir/Madam,

On behalf of the Surety defined in the captioned Bond we acknowledge receipt on _____ of your Notice
(date of receipt)
under the captioned Performance Bond.

Please advise as soon as possible which of the following proposed dates and times and logistics are convenient to conduct the Post-Notice Conference:

Proposed Date	Proposed Time	Meeting or conference/video conference logistics

To enable our Investigation of the Notice please provide us promptly with the information and/or documentation identified in Appendix A to this Acknowledgement (and as necessary with access for our staff or appointed representatives to attend the place where the Principal's Work referred to under Section 1.2 of the Bond is being performed to inspect the condition and progress of the Principal's Work), hereinafter the Information.

We will provide you with the Surety's Position to the Notice no later than twenty (20) business days of our receipt of the Notice based on the information, documentation and access you have provided.

We continue to reserve all of our rights pursuant to the Bond and at law.

Yours truly;

[Corporate name of the Surety]

By:
[Name]
[Title]
[Phone]
[Email address]

CC: [Principal]

Appendix A to Surety's Acknowledgement
Surety's Request for Information

Please identify and provide contact information for a person who is knowledgeable about the circumstances of the Notice and any Necessary Interim Work and Mitigation Work, and who can speak for the Owner.

Please identify and provide contact information for a person with whom arrangements can be made for access to the IPD Contract site where the Principal's Work is being performed.

Please provide copies of the following documentation in digital or hard copy format:

- Copy of full, executed IPD Contract documents (with letter of award), including any and all amendments thereto and any and all approved changes and pending changes relevant to this Notice
- Copy of original schedule and the latest schedule adjusted in accordance with the IPD Contract
- Copies of and summary reconciliation of all payment applications received under the IPD Contract
- Copies of and summary reconciliation of all payments made and holdback of any kind retained under the IPD Contract
- Copy of the most recent approved or certified payment application under the IPD Contract
- A detailed list of all outstanding Principal's Work (including any deficiencies identified to date)
- Copy of any notice or correspondence between the Owner and the Principal related to the IPD Contract and relevant to this Notice
- Copy of any claim for lien, legal proceeding or other documents received on the IPD Contract
- Copy of any correspondence from the Principal's subcontractors, suppliers or others indicating claims for unpaid amounts relating to the IPD Contract
- Copy of the executed and delivered Performance Bond
- [Additional documents or information]**

SCHEDULE C
Surety's Position

[date]

[Name/corporate title of the Owner]

[Address]

[Address]

[E-mail address (if provided in the Notice of Claim)]

Attention:

Re: _____

Bond No: _____

Principal: _____

Owner: _____

IPD Contract: _____

Dear Sir/Madam,

Based on the Information you have provided and given the current status of our Investigation, we can advise that [use only one of these Options]:

OPTION A

The Surety accepts liability under the Bond. To satisfy our Obligation we propose, under Section 6.1 of the Bond, to:
[Select 1 and delete the others]

- a) complete the Principal's Work referred to under Section 1.2 of the Bond. *[Describe proposal and timelines.]*
or
- b) obtain a bid or bids for submission to the Owner for completing the Principal's Work and, upon determination by the Owner and the Surety of the lowest responsible bidder:
 - i. the Owner shall, in consultation with the Surety, arrange for such bidder to become a party to the IPD Contract to complete the Principal's Work; and
 - ii. the Surety shall make available as the Principal's Work progresses (even if there should be a default, or a succession of defaults by the party obligated to complete the Principal's Work under any contract or contracts arranged under this paragraph) sufficient funds to complete the Principal's Work, including any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement referred to under Section 9.1 of the Bond. *[Describe proposal and timelines.]***or**
- c) enter into arrangements with the Owner for the Principal's Work to be completed by any method that is agreed upon by the Owner and the Surety and, upon determination by the Owner and the Surety of such arrangements:
 - i. the Owner shall, in consultation with the Surety, implement such arrangements to complete the Principal's Work; and
 - ii. the Surety shall make available as the Principal's Work progresses (even if there should be a default, or a succession of defaults by the party obligated to complete the Principal's Work under any contract or contracts arranged under this paragraph) sufficient funds to complete the Principal's Work, including any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement referred to under Section 9.1 of the Bond. *[Describe proposal and timelines.]***or**
- d) pay the Owner the lesser of: (1) the Bond Amount, or (2) without duplication, the Owner's Direct Expenses plus the Owner's proposed cost of completion of the Principal's Work and any applicable value-added taxes for which the Surety may be liable, less the Principal's Entitlement referred to under Section 9.1 of the Bond. *[Describe proposal and timelines.]*

OPTION B

The Surety disputes the Notice. The reasons are as follows:

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OPTION C

Based on the Information you have provided and the time available for our Investigation

[if applicable] and taking into account genuine disputed issues as between the Owner and the Principal that have not been resolved according to the terms of the IPD Contract as outlined generally below,

the Surety is unable to determine whether or not one or more of the Conditions Precedent has been satisfied and, therefore, is not able to accept liability under the Bond.

In particular we have been unable to determine that

[delete those that do not apply]

- a) there has been a Principal's Termination under Section 1.1 of the Bond. *[Provide further explanation as appropriate.]*
and/or
- b) the Owner has given notice to the Principal of the Principal's Termination. *[Provide further explanation as appropriate.]*
and/or
- c) the Owner and all other parties to the IPD Contract, other than the Principal, have performed their respective obligations under the IPD Contract. *[Provide further explanation as appropriate.]*
and/or
- d) the Owner has agreed to apply the Principal's Entitlement as necessary to enable the Surety to exercise the Surety Option under the Bond. *[Provide further explanation as appropriate.]*

With your agreement and assistance, we are willing to extend our Investigation in an effort to resolve outstanding issues. Should this extended Investigation allow us to provide you with an alternative Surety's Position we will do so promptly.

[If applicable] Under a full reservation of all of our rights under the Bond and the applicable law, and without prejudice to the rights and obligations of the Owner, the Principal or the Surety under the Bond we propose to proceed as follows:

We continue to reserve all of our rights pursuant to the Bond and at law.

If you have any questions or concerns, please do not hesitate to contact us.

Yours truly,

[Corporate name of the Surety]

By: _____

[Name]
[Title]
[Phone]
[Email address]

CC: **[Principal]**