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## GENERAL INDEMNITY AGREEMENT (NON-CONTRACT)

This Agreement of Indemnity, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ is executed by the Undersigned for the purpose of indemnifying American Contractors Indemnity Company, Texas Bonding Company and/or U. S. Specialty Insurance Company herein referred to as "Surety," in connection with any Bonds written on behalf of \_\_\_\_\_, herein referred to as "Principal."

1. **DEFINITIONS** – The following definitions apply in this Agreement:

**Bond** – Any contractual obligation undertaken by Surety for Principal, before or after the date of this Agreement and any renewal or extension of said obligation.

**Principal** – The person(s) or entity(ies) set forth above or any one of them or any combination thereof, or their successors in interest, whether alone or joint venture with others named herein or not.

**Surety** – American Contractors Indemnity Company, Texas Bonding Company and/or U. S. Specialty Insurance Company and any other person(s) or entity(ies) which the Surety may procure to act as a Surety or as a co-Surety on any Bond, or any other person or entity who executes a Bond at

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2. **INDEMNITY** – In consideration of the execution and delivery by the Surety of a Bond or Bonds on behalf of the Principal, either prior to, in connection with or subsequent to this Agreement, the Undersigned agrees to exonerate, indemnify and hold the Surety harmless from and against any and all demands, liabilities, losses, costs, damages, attorneys' fees and expenses of whatever kind or nature (including, but not limited to, interest, court costs and counsel fees) which arise by reason of, or in consequence of, the execution by the Surety of any Bond on behalf of the Principal and whether or not the Surety shall have paid any sums in partial or complete payment thereof, including but not limited to: sums paid including interest, liabilities incurred in settlement of claims, expenses paid or incurred in connection with claims, suits, or judgments under such Bonds; expenses paid or incurred in enforcing the terms of this Agreement; expenses paid or incurred in procuring or attempting to procure release from liability under its Bond by Surety; expenses incurred in recovering or attempting to recover losses or expenses paid or incurred; attorneys fees and all legal or professional services; adjustment of claims; premiums on Bonds issued by Surety on behalf of the Principal; or monies advanced or loaned.

In furtherance of such indemnity:

- A. The liability of the Undersigned shall extend to and include all amounts paid by the Surety in good faith under the belief that the Surety was or might be liable, or that such payments were necessary or advisable to protect any of Surety's rights.
- B. Surety shall have the right to incur such expenses in handling a claim as it shall deem necessary, including but not limited to the expense for investigative, accounting, collection, litigation costs and legal services (including in-house counsel).
- C. Surety shall have all rights set out herein, irrespective of the fact that the Undersigned may have assumed, or offered to assume, the defense of the Surety upon such claim.
- D. In any claim or suit hereunder, an itemized statement of the aforesaid losses and expenses or the vouchers or other evidence of disbursement by Surety; shall be *prima facie* evidence of the fact of the liability hereunder of the Undersigned.
- E. Surety shall have the right to reimbursement of its expenses, premiums and attorneys' fees, including in-house attorneys' fees, costs and expenses hereunder, irrespective of whether any payment has been made by Surety.
- F. The Surety shall have the exclusive right for itself and for the Undersigned to decide and determine whether any claim, demand, suit, or judgment shall, on the basis of liability, expediency or otherwise, be paid, settled, defended or appealed, and the Surety's determination shall be final, conclusive and binding upon the Undersigned.
- G. If the Undersigned desire that the Surety litigate a claim or demand, or defend suit, or appeal from such judgment, they shall deposit with the company, at the time of such request, cash or collateral satisfactory to the Surety in kind and amount to be used in paying any judgement rendered, or which might be rendered, against Surety together with interest, costs and attorneys' fees.
- H. The parties agree that the place of performance of this agreement, including the promise to pay Surety, shall be the County of Los Angeles, State of California and venue for any suit, arbitration, mediation or any other form of dispute resolution shall be in Los Angeles County, California.

3. **COLLATERAL SECURITY** – If a claim or demand is made against Surety, whether disputed or not, or Surety deems it necessary to establish a reserve for potential claims, and upon demand from Surety, the Undersigned shall deposit with Surety cash or other property acceptable to Surety, as collateral security, in a sufficient amount to protect Surety with respect to such claim or potential claims and any expense or attorneys' fees. Such collateral may be held or utilized by Surety until it has received evidence of its complete exoneration and discharge from such claim or potential claims, and until it has been fully reimbursed for all loss, expense, attorneys' fees and unpaid premiums. If said collateral, or collateral previously deposited with Surety, is deemed insufficient by Surety, the Undersigned agrees to deposit additional or substitute collateral in an amount and type acceptable to Surety. This may include the Surety's demand for cash collateral in substitution for trust deed collateral.

4. **POWER OF ATTORNEY** – The Undersigned hereby irrevocably nominates, constitutes, appoints and designates the Surety or its designees as their attorney-in-fact with the power, but not obligation, to exercise all of the rights assigned, transferred and set over to the Surety by the Undersigned in this Agreement, and to make, execute and deliver any and all additional or other assignments, documents or papers, including but not limited to the execution of to further the intent of this Agreement, the endorsement of checks certificate of deposits or other instruments payable to any of the Undersigned, settle all claims and disputes that may arise under the bond or bonds including the execution of releases and settlement documents. The Undersigned hereby ratifies and affirms all acts and actions taken and done by the Surety or its designee as attorney-in-fact.

5. **GENERAL PROVISIONS**

- A. The obligations of the Undersigned hereunder are joint and several. Surety may bring separate suits hereunder against any of the Undersigned as causes of action may accrue hereunder. Surety need not proceed first against the Principal.
- B. Undersigned will procure the discharge and exoneration of Surety from any Bond, and all liability by reason thereof upon the request of Surety.
- C. Undersigned warrants that each of them is specifically and beneficially interested in obtaining each Bond and agrees to pay the initial, renewal, and additional premiums thereon, at the Surety's filed rate at the time of renewal. The Undersigned agree that the initial premium is fully earned upon execution of said Bond.
- D. Unless otherwise indicated herein, the Bond furnished by Surety pursuant to this Agreement shall not be applicable to guarantee or insure the Undersigned's operation, management, or control of an ongoing business operation.
- E. Undersigned agrees to give to Surety prompt notice of any facts which might give rise to any claims or suits against Surety upon any Bond.
- F. Surety shall have the right, at its option and in its sole discretion, to issue or cancel or decline the execution of any Bond, or renewal thereof.
- G. Surety shall have the right, at its option, to impose a "joint control" requirement as a condition of its issuance of a Bond to the Undersigned.
- H. Surety shall have every right, defense, or remedy which a personal Surety without compensation would have, including the right of exoneration.
- I. Until Surety shall have been furnished with conclusive evidence of its discharge without loss from any Bonds, and until Surety has been otherwise fully indemnified hereunder provided, Surety shall have right of free access to the books, records and accounts of the Undersigned for the purpose of examining and copying them. The Undersigned hereby authorizes third parties, including but not limited to depositories of funds of the Undersigned, to furnish to Surety any information requested by Surety in connection with any transaction, other persons, firms or entities for the purpose of procuring co-Suretyship or reinsurance or of advising such persons, firms, or entities as it may deem appropriate.
- J. If the execution of this Agreement by any of the Undersigned be found defective or invalid for any reason, such defect or invalidity shall not affect the validity of this Agreement with respect to any of the other Undersigned. The invalidity of any provision of this Agreement by reason of the law of any state or by any other reason shall not affect the validity of any other provision of this Agreement.
- K. The Surety may, at its option, file or record this Agreement or any other document executed by any or all the Undersigned, individually or jointly, in connection with the application, issuance or execution of any Bond or Bonds, or renewal thereof, coming within the scope of this instrument as: a security Agreement or as part of a financing statement or, as notice of its prior interest and assignment under the provisions of the Uniform Commercial Code or any other statute, ordinance or regulation of any jurisdiction or agency. The filing or recording of such document shall be solely at the option of the Surety. The failure to so file shall not release or discharge any of the obligations of the Undersigned under this Agreement.
- L. The Surety shall have the right to fill in any blanks and to correct any errors in the documents.
- M. The Undersigned waives any defense that this instrument was executed subsequent to the date of any such Bond, admitting and covenanting that such Bond was executed pursuant to the Undersigned's request and in reliance on the Undersigned's promise to execute this instrument.
- N. This Agreement may not be changed or modified without the written consent of Surety. Any amendment of the Agreement for one of the undersigned shall not release any of the other Undersigned.
- O. In the event any of the Undersigned shall fail to execute this instrument or become insolvent, or in the event any of the Undersigned who execute this Agreement, shall not be bound for any reason, the other Undersigned shall, nevertheless, be bound hereunder for the full amount of the liability as aforesaid.
- P. No course of conduct or failure to timely exercise any rights under this Agreement shall constitute waiver of future enforcement of the rights and obligations hereunder.
- Q. The liability of the Undersigned hereunder shall not be affected by: (a) the failure of the Principal to sign any Bond, (b) any claim that other indemnity or security was to have been obtained, (c) the release of any indemnity, (d) the return or the exchange of any collateral that may have been obtained.
- R. The Undersigned and their successors, executors and administrators agree to hold all money or other proceeds derived from the Undersigned actions covered by the bond or bonds for the purpose of performing the duties owed under the bond or bonds and discharging the obligations of the Bond, and for no other purpose until the Bond is completely exonerated.
- S. The issuance of a Bond to the Undersigned is conditioned upon the Undersigned's retention of competent legal representation in the proceeding for which the Bond is provided and throughout the duration of any time which the Bond is in effect.

6. **WAIVER OF NOTICE** –The Undersigned agree that the Surety need not give notice to the Undersigned of any act, fact or information coming to the notice or knowledge of the Surety concerning or affecting Sureties rights or liabilities under any such Bond or Undersigned rights or liabilities hereunder, notice of all such information being hereby expressly waived. The liability of the Undersigned as to the future Bonds of Principal shall not terminate by reason of the failure of Surety to disclose facts known about the Principal, even though such facts materially increase the risk beyond that which the Undersigned might intend to assume. Whether Surety may have reason to believe such facts are unknown to the Undersigned, or whether Surety may have reasonable opportunity to communicate such facts to Undersigned, the Undersigned hereby waives notice and disclosure of such facts or information.
  
7. **CREDIT RELATIONSHIP** – Each of the Undersigned further affirms that he understands Bonds are a credit relationship and hereby authorizes the Surety to gather such credit information it considers necessary and appropriate for purposes of evaluating whether such credit should be effected or continued.
  
8. **TERMINATION** – This Agreement is a continuing obligation of the Undersigned until Surety is exonerated and released from any liability under bonds issued to the Principal. The Undersigned may terminate their liability for any future bonds by written notice to Surety and such termination by a particular Undersigned shall in no way affect the obligation of any other Undersigned who has not given such notice. In order to terminate liability as to future Bonds of Principal, an Undersigned must:
  - A. Give written notice by means of certified mail to Surety at Surety’s home office; and
  - B. State in such notice the name of the principal, Undersigned and the effective date (not less than thirty days after receipt thereof of Surety) of termination of such Undersigned’s liability for future Bonds.

After the effective date of such termination by giving written notice, the Undersigned shall nonetheless be liable hereunder for Bonds executed or authorized prior to such date, and renewals, substitutions and extensions thereof.

**NOTICE: THIS IS A LEGALLY BINDING AGREEMENT THAT SETS OUT RIGHTS AND OBLIGATIONS WHEN YOU SIGN THIS AGREEMENT**  
**Undersigned:**

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Print Name (corp / partnership/entity)

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By (officer/ partner/ member)

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Print Name (corp / partnership/entity)

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By (officer/ partner/ member)

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Print Name

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Signature

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Print Name

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Signature

By \_\_\_\_\_ Address \_\_\_\_\_

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By \_\_\_\_\_ Address \_\_\_\_\_

By \_\_\_\_\_ Address \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_

Date

Here Insert Name and Title of the Officer

personally appeared \_\_\_\_\_

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

Signature of Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

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