



THE GUARANTEE COMPANY OF NORTH AMERICA

HEAD OFFICE  
4950 Yonge Street  
Madison Centre  
Suite 1400  
Toronto, Ontario  
M2N 6K1

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## **INDEMNITY AGREEMENT** (Commercial Surety)

The following parties will hereinafter be referred to as the "Principal":

IN FAVOUR OF:  
THE GUARANTEE COMPANY OF NORTH AMERICA  
(hereinafter called the "Company")

WHEREAS, the Principal has applied or may hereafter apply to the Company to execute surety bonds or other instruments of guarantee, indemnity or obligations (hereinafter called the "Bonds").

WHEREAS the Company may already have executed or procured the execution of Bonds.

NOW THEREFORE, in consideration of the Company having executed in the past, presently executing or procuring the execution of Bonds for which application is now pending, or which may be hereafter applied for, or for any alteration, renewal, continuation or extension thereof, the undersigned (hereinafter called the "Indemnitors") jointly, severally and for each other do hereby undertake and agree:

1. To pay the Company:
  - (a) as and when each and every such Bond is executed, the premium therefor, in accordance with the regular scheduled rates of the Company then in force, and
  - b) annually thereafter (except when the initial premium is schedule as a term premium) the annual premium therefor in accordance with the regular schedule rates of the Company then in force, until the Company is give satisfactory evidence confirming its final discharge from the said Bonds, their renewal or any extension thereof, however, the Company reserves the right, at any time, to withdraw from any further responsibility or obligation imposed up it by the Bonds, if its sole option it elects to do so, upon giving written notice to the undersigned of its intention to do so, in which event the undersigned will forthwith substitute another bond or bonds, or other security satisfactory to the Obligee, and the Company's only liability shall be for the pro rata unearned portion of the premium that shall have been paid to it.
2. To indemnify and save the Company harmless from and against every claim, demand, liability, expense, loss, cost, charge, adjusters' and consultants' fees, fees of attorneys retained by the Company on a solicitor and own client basis, bills of costs for claimants' attorneys, judgements and any and all liability therefor, sustained or incurred by the Company by reason of having executed or procured the execution of Bonds.
3. To ensure the exoneration and indemnification provided in the preceding paragraph, upon simple demand, to place the Company in funds or provide guarantees and/or securities sufficient to the Company to meet the Company's obligations before it shall be required to make any payments or incur any expenses as provided therein.
4. That, in the event that the Principal requests the Company to join in the prosecution or defence of any legal proceeding, the Indemnitors will, on demand of the Company, place it in funds sufficient to pay any judgement rendered against the Company and all expenses and costs incurred by or awarded against the Company, including judicial and extra-judicial costs.
5. That the Company shall have the sole right to pay, settle or compromise, without any prior obligation to notify the Indemnitors, any expense, claim or charge under any Bonds and the voucher, cheque or other evidence of such payment shall be prima facie evidence of the Company's right to make such payment and of the Indemnitors' liability therefor to the Company.
6. That the following events, which are in addition to any other right of the company, shall not in any way release, limit or abridge any right or remedy which the Company may have under the present Agreement which will remain in full force and effect:
  - (a) the acceptance by the Company of payment for its Bonds; or
  - (b) the acceptance by the Company at any time of other security or guarantees; or
  - (c) the company's assent to any act of the Principal; or
  - (d) a suit or a settlement deriving from this Agreement.
7. During business hours, to give the Company access to their books, records and accounts, while any Bond issued by the Company is in existence or in effect, or while the Principal shall potentially be liable to the Company for an sum of money.
8. To authorize and hereby authorize the Company to obtain any credit or other information it wishes to have with respect to the Principal or Indemnitors and any person, including banks, depositories, obligees on Bonds and suppliers are authorized to furnish such information.
9. That the liability of an Indemnitor shall not be discharged by any change in the penalty, amount or terms of any Bond covered by this Agreement, or by any change in the Obligee therein; or by any and all alterations, modifications, renewals, continuations and extensions thereof; and the Company is authorized to correct any mistakes in and to execute any substitute for said bonds with the same or different conditions, provisions, amounts and Obligees. The Company is hereby authorized but not obliged to attach hereto a copy of any Bond secured by this Agreement, and to complete this instrument or any Bond , and to correct any errors in this instrument or in any said Bonds.
10. That in the event of any claim or demand being made by the Company against the Indemnitors, by reason of execution of bonds, whether or not proceedings have been commenced against one or more of the Indemnitors, the company is hereby expressly authorized to settle with anyone or more of the Indemnitors, individually and without reference to the others, and such settlement or composition shall not affect the liability of any of the others and the Indemnitors hereby expressly waive the right to be discharged and released by reason of the release of one or more of the joint and several Indemnitors, and hereby consent to any settlement or composition that may hereafter be made.
11. That any settlement or agreement concluded with an Indemnitor following a claim against him by the Company under this Agreement shall no effect novation of the Indemnitor's obligations and this Agreement shall remain in full force and effect in case of default on the part of thh Indemnitor to fulfill the terms of such settlement or agreement wit the Company.
12. To waive the benefit of division between themselves and of discussion of the Principal.
13. That application to the Company to execute or procure any bonds may be made by the Principal or the President Vice-President, Secretary, Treasurer, General Manager, or any other officer, agent or employee of the Principal. Such applications, whether made on forms supplied by the Company or by letter, by telegraph, by persona interview or by telephone, my be regards as sufficient and ample authority for the Company to execute or procure any such Bond.

14. That this Agreement may be terminated by the Indemnitors or by any one or more of them, upon thirty (30) days prior written notice to the Company and this provision applies if the bond is cancellable. Such termination with respect to the Indemnitors' obligation, however, is effective only upon the termination of the surety's obligation under the said Bond.
15. The Indemnitors acknowledge that this Indemnity Agreement shall remain in full force and effect, even if they never had or no longer have any interest in the Principal, as long as this Agreement has not been terminated by them in accordance with the preceding paragraph and consent to service of this Agreement upon any person, firm or corporation.
16. That this Agreement is intended to covers all such Bonds as my be executed by the Company on behalf of the Principal from time to time, and over an indefinite period of years, until this Agreement shall be terminated in accordance with the terms hereof, and the Indemnitors agree that notice of the execution of such Bonds, need not be communicated to them.
17. That all of the terms and conditions of this Agreement shall also be for the benefit of any co-surety, any reinsuring company and any other surety procured by the Company, whether the Company does or does not execute or retain any portion of any such Bond..
18. That this Indemnity Agreement shall equally apply to bonds furnished as follows:
  - (a) to any present or future affiliate, subsidiary, employee, or director of the Principal; or
  - (b) to any joint venture of other form of common enterprise in which at the time the Bond was furnished, the Principal was a member.
19. That the rights conferred to the Company by this Agreement are in addition to any other rights the Company may have at law or otherwise.
20. That there shall be no waiver, modification or change of the terms of this Agreement without the written approval of any officer or officers of the Company.
21. That this Agreement binds the undersigned Indemnitors, their heirs, executors, personal representatives, successors and assigns.
22. That this Agreement applies to all bonds issued by the Company since \_\_\_\_\_ (the absence of an indication of date means that this Agreement will apply to Bonds issued from the date hereof).
23. That in the present Agreement, the singular form includes the plural and the plural includes the singular, and that the word "Indemnitor" or pronoun referring to said word, whether singular or plural, are to be construed as referring to the undersigned Indemnitor(s), through the latter be one or more individuals, partnerships, associations or operations; moreover, the word "Indemnitor" includes the Principal.
24. The parties hereto have requested that the present Agreement be drafted in the English language. Les parties au présentes on requis que las présente entente soit rédigée dans la langue anglasie.

THE UNDERSIGNED REPRESENT TO THE COMPANY THAT THEY HAVE CAREFULLY READ THE ENTIRE AGREEMENT AND THAT THERE ARE NO OTHER AGREEMENTS OR UNDERSTANDINGS WHICH IN ANY WAY LESSEN OR MODIFY THE OBLIGATIONS SET FORTH HEREIN. PERSONAL INDEMNITORS SIGN HEREUNDER.

IN WITNESS WHEREOF I/WE heron to set my/our hand and seal as of the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ .

SIGNED, SEALED AND DELIVERED by

In the presence of:

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (of Personal Indemnitor)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Personal Indemnitor

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

\_\_\_\_\_

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (of Personal Indemnitor)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Personal Indemnitor

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

\_\_\_\_\_

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (of Personal Indemnitor)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Personal Indemnitor

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

\_\_\_\_\_

CORPORATE INDEMNITORS SIGN HEREUNDER AFFIX THEIR CORPORATE SEAL AND ATTACH THE APPROPRIATE RESOLUTION FROM THEIR BOARD OF DIRECTORS.

IN WITNESS WHEREOF the said company hereto affixed its corporate seal, attested by the hand of its duly authorized officers as of

the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ .

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (Authorized Officer) - Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Authorized Officer

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

\_\_\_\_\_

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (Authorized Officer) - Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Authorized Officer

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

\_\_\_\_\_

Witness:

\_\_\_\_\_  
Name in Block letters

\_\_\_\_\_  
Name in block letters (Authorized Officer) - Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Authorized Officer

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

\_\_\_\_\_