

ABI Model form of Guarantee Bond – (Retention)

THIS DEED OF GUARANTEE is made this _____ day of _____ 200 between **[insert Surety]** whose registered office is situate at **[insert Surety address]** (hereinafter called the "Guarantor") of the one part and **[insert Contractors name]** whose registered office is situate at **[insert address]** (hereinafter called the "Employer") of the other part.

WHEREAS

This Guarantee (hereinafter "guarantee") is supplemental to a contract (hereinafter "agreement") dated the **[insert date]** and made between the Employer of the one part and **[insert Contractors name]** whose registered office is situated at **[insert address]** (hereinafter "the Contractor") of the other part whereby the Contractor undertakes to perform certain works as more particularly described in the agreement.

NOW in consideration of the sum of £1 Sterling (the receipt of which the Guarantor hereby acknowledges) as consideration for the Guarantor entering into this guarantee it is hereby agreed as follows.

1. The Guarantor hereby guarantees to satisfy the damages sustained by the Employer in an amount of up to but not exceeding the sum of this guarantee upon notification from the Employer stating that the Contractor has not fulfilled its obligations and has fallen into default, together with details of the alleged default.
2. The sum of this guarantee shall at all times equal [%] (**insert percentage in words**) of the accumulative value of the work (as defined in the agreement) invoiced monthly by the Contractor in accordance with the agreement provided that the maximum aggregate sum of this guarantee sum shall be **[insert amount in words]** (£) (heretofore and hereinafter known as "the Sum").
3. It is agreed that in the event of any dispute or any objection that such dispute or objection be referred to the arbitration of a person to be agreed upon between the Guarantor and the Employer whose decision shall be binding upon all parties.
4. Whether or not this Guarantee Bond shall be returned to the Guarantor the obligations of the Guarantor under this Guarantee Bond shall be released and discharged absolutely upon Expiry (as defined in Clause 7) save in respect of any breach of the Contract which has occurred and in respect of which a claim in writing containing particulars of such breach has been made upon the Guarantor before Expiry.
5. The Contractor having requested the execution of this Guarantee Bond by the Guarantor undertakes with the Guarantor (without limitation of any other rights and remedies of the Employer or the Guarantor against the Contractor) to perform and discharge the obligations on its part set out in the Contract.
6. The parties to this Guarantee Bond do not intend that any of its terms will be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999 or otherwise, by any person not a party to it.
7. This guarantee shall expire on **[insert Expiry Date]** or upon issue of the certificate of **[Practical Completion/Making Good of Defects]** in accordance with the terms and conditions of the agreement whichever is the first to occur and shall be governed and construed in accordance with the laws of England and Wales and only the courts of England and Wales shall have jurisdiction hereunder.
8. Any payments made to the Employer shall be clear and free of taxes, levies, duties, imposts, fees or deductions of any kind.
9. The Guarantee Bond and the benefit thereof shall not be assigned without the prior written consent of the Guarantor and the Contractor.

PROVIDED ALWAYS THAT neither giving of this guarantee or anything herein contained shall in any way limit or affect the obligations of the Contractor to the agreement.

IN WITNESS whereof the Contractor and the Guarantor have executed and delivered this Guarantee Bond as a Deed this _____ day of _____ 200

EXECUTED AND DELIVERED as a deed by
the CONTRACTOR

DIRECTOR _____

DIRECTOR _____

EXECUTED AND DELIVERED as a deed by
the GUARANTOR

DIRECTOR _____