

GENERAL AGREEMENT OF INDEMNITY
(Commercial Surety Short Form)

This General Agreement of Indemnity (the “Agreement”) is effective as of the _____ day of _____, _____ by the undersigned (individually, jointly, and severally, the “Indemnitor”), and the Indemnitor’s present and future subsidiaries, affiliates, successors, executors, trustees, personal representatives and assigns, including any co-principals, partners or joint ventures of any Indemnitor, and by one or more of the bonding companies known as Endurance Assurance Corporation, Endurance American Insurance Company, Lexon Insurance Company, and Bond Safeguard Insurance Company (individually and collectively, the “Surety”), for the purposes set forth herein and for the continuing benefit of the Surety.

In consideration of the execution of any surety undertaking, guaranty or other contractual obligation undertaken or procured by the Surety and/or with any co-surety or additional surety on behalf of or at the request of any Indemnitor, either before or after the date of this Agreement, and any renewal, amendment, alteration, continuation, extension or substitution thereof (“Bond”) for any Indemnitor, including any Bond on which any Indemnitor appears alone or with others, and as an inducement to the Surety to execute any Bond, and for other good and valuable consideration, each Indemnitor agrees individually, jointly, and severally as follows:

- 1. PREMIUM.** The Indemnitor shall pay all premiums and costs charged by the Surety for any Bond, including initial, renewal, continuation, and additional premiums thereon, computed according to current rate charges, until satisfactory proof is furnished to the Surety of the Surety’s discharge or release from liability under such Bond. The Indemnitor acknowledges that the initial premium on every Bond is fully earned upon execution of the Bond and, if a premium is not paid when due, it shall bear interest at the rate of six percent per annum.
- 2. INDEMNIFICATION.** The Indemnitor shall, upon demand from the Surety, promptly indemnify, exonerate, reimburse and hold the Surety harmless from and against any and all liability, damage, cost and expense of whatsoever kind or nature (cumulatively, “Loss”) and pay the Surety for any Loss sustained or incurred in connection with the execution of any Bond or the failure of the Indemnitor to perform or comply with the covenants and conditions of this Agreement. An itemized statement of Loss by the Surety, sworn to by an officer of the Surety, shall be prima facie evidence of the fact and amount of the liability of the Indemnitor to the Surety. The Surety shall be entitled to receive interest at the rate of six percent per annum from the date of its payment of each Loss.
- 3. DISCHARGE AND COLLATERAL.** The Indemnitor shall, upon request of the Surety, procure the discharge of the Surety from any Bond and all liability or potential liability by reason thereof. If such discharge does not occur within 30 days, the Indemnitor shall, upon demand by the Surety, either deposit collateral with the Surety in a form and type acceptable to the Surety and in an amount sufficient in the Surety's sole discretion to cover all exposure to loss under any such Bond, or make other provisions acceptable to Surety for the funding of the bonded obligations. The Indemnitor acknowledges that the failure to deposit the sums demanded as collateral security shall cause irreparable harm to the Surety for which the Surety has no adequate remedy at law, so that the Surety shall be entitled to injunctive relief for specific performance of this obligation of the Indemnitor.
- 4. DECLINE EXECUTION.** The Surety shall have the right at its option and at its sole discretion to issue, or cancel or decline the execution of, any Bond or change or renewal of any existing Bond without affecting the liability of the Indemnitor under this Agreement.

5. CLAIM SETTLEMENT. The Surety shall have the exclusive right for itself and any Indemnitor to determine whether a claim or liability involving any Bond shall be settled, compromised, paid, defended, prosecuted or appealed, and take any action it may deem necessary or expedient in handling any claim. The Surety's decisions shall be binding and conclusive upon the Indemnitor, irrespective of any offer from the Indemnitor to assume the defense of the Surety upon such Claim.

6. REMEDIES UPON DEFAULT. In the event of a default or breach with respect to any of the Indemnitor's obligations under any Bond, the Surety or a designated representative of the Surety shall have the right, at its option and in its sole discretion, with or without exercising any other right or option conferred upon it by law or the terms of this Agreement, and is hereby authorized by each Indemnitor: (1) to take possession of any part or all of the work, including equipment, materials and supplies, under any contract covered by a Bond and to complete or arrange for the completion of the same; (2) to take over the control of all funds, including accounts receivable, on any contract covered by a Bond; (3) to take possession of the office equipment, computer programs, disks, and books and records as are necessary or useful for the completion of any contract covered by a Bond; and (4) to take any other action that the Surety may deem appropriate to obtain a discharge of the Surety's obligations, all at the expense of the Indemnitor.

7. INVALIDITY AND WAIVERS. If any Indemnitor fails to execute this Agreement or if any Indemnitor's execution is invalid, such failure or invalidity shall not affect the validity of this Agreement or the liability hereunder of any other Indemnitor. Each Indemnitor waives and subordinates the rights of indemnity, subrogation, contribution or collection against any other Indemnitor or its property until the obligations of each Indemnitor to the Surety under this Agreement have been satisfied in full. Each Indemnitor waives notice of the execution of any Bond for any Indemnitor; the taking or failing to take or the release of any security, Collateral, or assignment of an Indemnitor; the settlement or partial settlement with any Indemnitor; or the addition of a new Indemnitor. The Surety is expressly authorized to settle with any one or more Indemnitor individually, without reference to the others, and such settlement shall not affect the liability of any of the others. The Surety's failure to act to enforce any of its rights under this Agreement shall not be construed as a waiver of any of its rights.

8. RIGHT TO INFORMATION. Until the Surety's exposure to liability under every Bond has terminated, the Surety shall have unrestricted access to any and all books, records, trust funds, accounts, documents, or other information pertaining to the financial affairs or operations of the Indemnitor, including the right to obtain credit or other investigative reports, and any bank depository, supplier, subcontractor, obligee, government entity, creditor, accountant or other person or entity is hereby authorized to furnish the Surety any information requested..

9. TERMINATION BY INDEMNITOR. This Agreement is a continuing obligation of each Indemnitor, but may be terminated prospectively upon thirty days' written notice sent to the Surety by certified mail to its office at 12890 Lebanon Road, Mount Juliet, TN 37122. Such notice of termination shall not operate to modify, bar or discharge the Indemnitor as to any obligation under any Bond that has been executed prior to the end of the thirty-day notice period. Such notice of termination by a particular Indemnitor shall not constitute notice by any other Indemnitor and shall in no way affect the continuing obligations of any other Indemnitor that has not given such notice.

10. APPLICATION OF LAW, JURISDICTION AND WAIVER OF JURY TRIAL. This Agreement is governed by the laws of the State of New York without regard to conflict of law rules. Each Indemnitor agrees to submit itself to personal jurisdiction and venue in County of New York and in the United States District Court for the Southern District of New York (if appropriate), and in whatever other jurisdiction in which the Surety sustains or pays any loss for which the Indemnitor is liable hereunder, and in whatever jurisdiction the Surety may be sued or required to arbitrate as a consequence of its having issued any Bond. Each Indemnitor waives any defense based upon alleged lack of personal jurisdiction, improper

venue or forum non conveniens.

THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION TO ENDORSE OR DEFEND ANY MATTER ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING CLAIMS AGAINST PERSONS OR ENTITIES WHO ARE NOT PARTIES TO THIS AGREEMENT.

11. CUMULATIVE RIGHTS. The rights of the Surety under this Agreement are cumulative, and are in addition to and not in lieu of any other rights the Surety may have with respect to the Indemnitor under any prior agreement of indemnity, other agreement, or operation of law.

12. JOINT AND SEVERAL LIABILITY. The obligations of each Indemnitor under this Agreement are individual, joint and several. The Surety may bring separate suits against any or all of them as causes of action may accrue hereunder. The Surety need not proceed first against any one Indemnitor, or any third party, or exhaust or avail itself of any other legal remedy or of any collateral.

13. REPRESENTATIONS AND WARRANTIES. Each Indemnitor represents, warrants and agrees that they have the full power and authority to execute, deliver and perform this Agreement and to carry out the obligations stated herein, and that the execution, delivery, and performance of their duties and obligations pursuant to this Agreement have been duly authorized by all necessary corporate action.

14. AMENDMENTS. This Agreement may not be changed or modified orally. No change or modification shall be effective unless made by written endorsement executed by an officer of the Surety.

15. COUNTERPARTS. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement. A duplicate or facsimile copy or electronic reproduction of the original document shall have the same force and effect as the original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.

[Signature Pages Follow]

If Indemnitor is a Corporation, Limited Liability Company or Partnership, sign below:

Instructions: If the entity is: 1) a corporation the secretary and an authorized officer should sign on behalf of the corporation, 2) a limited liability company the manager(s) or member(s) should sign on behalf of the LLC, or 3) a partnership the partner(s) should sign on behalf of the partnership. Two signatures are required for all entities and each indemnitors' signature must be notarized and dated. However, if the corporation or entity has only one officer, only that officer's signature is required and attestation to the officer's signature by a non-officer is acceptable. Please provide the entity's federal tax identification number on the line provided.

(ALL SIGNATURES MUST BE ACKNOWLEDGED AND NOTARIZED BELOW)

ATTEST:

INDEMNITOR: _____

By: _____
 Name: _____
 Title: _____

By: _____
 Name: _____
 Title: _____
 Taxpayer ID #: _____
 State of Incorporation: _____

Indemnitor Address: _____

ACKNOWLEDGEMENT

STATE OF _____)
) SS:
 COUNTY OF _____)

On this _____ day of _____ in the year _____ before me personally appeared _____, known or proven to me to be the

of _____, the entity executing the above General Agreement of Indemnity (Commercial Surety Short Form), who acknowledged to me that said instrument is the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath that he/she executed said instrument by authority of the Entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

(Notary Seal)

 Signature of Notary Public

 Residing at

 My Commission expires

(ALL SIGNATURES MUST BE ACKNOWLEDGED AND NOTARIZED BELOW)

ATTEST:

INDEMNITOR: _____

By: _____
 Name: _____
 Title: _____

By: _____
 Name: _____
 Title: _____
 Taxpayer ID #: _____
 State of Incorporation: _____

Indemnitor Address: _____

ACKNOWLEDGEMENT

STATE OF _____)
) SS:
 COUNTY OF _____)

On this _____ day of _____ in the year _____ before me personally appeared _____, known or proven to me to be the

of _____, the entity executing the above General Agreement of Indemnity (Commercial Surety Short Form), who acknowledged to me that said instrument is the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath that he/she executed said instrument by authority of the Entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

(Notary Seal)

 Signature of Notary Public

 Residing at

 My Commission expires

(ALL SIGNATURES MUST BE ACKNOWLEDGED AND NOTARIZED BELOW)

WITNESS:

INDIVIDUAL INDEMNITOR:

By: _____
Name: _____

By: _____
Name: _____
Social Security #: _____
Address: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, in the year _____, before me personally appeared _____, known or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the above General Agreement of Indemnity (Commercial Surety Short Form) and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

(Notary Seal)

Signature of Notary Public

Residing at

My Commission expires

(ALL SIGNATURES MUST BE ACKNOWLEDGED AND NOTARIZED BELOW)

WITNESS:

INDIVIDUAL INDEMNITOR:

By: _____
Name: _____

By: _____
Name: _____
Social Security #: _____
Address: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, in the year _____, before me personally appeared _____, known or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the above General Agreement of Indemnity (Commercial Surety Short Form) and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

(Notary Seal)

Signature of Notary Public

Residing at

My Commission expires