

Bond in respect of payment for off-site materials and/or goods

(Agreed between the JCT and the British Bankers' Association)

1 THE parties to this Bond are:

whose registered office is at _____

_____ ('the Surety'), and

of _____

_____ ('the Employer').

2 The Employer and _____ ('the Contractor')

have agreed to enter into a contract ('the Contract') for building works ('the Works') at _____

3 Subject to the relevant provisions of the Contract as summarised below but with which the Surety shall not at all be concerned:

- .1 the Employer has agreed to include the amount stated as due in Interim Payments (as defined in the Contract) the value of those materials or goods or items pre-fabricated for inclusion in the Works listed by the Employer in a list which has been included as part of the Contract ('the Listed Items'), before their delivery to or adjacent to the Works; and
- .2 the Contractor has agreed to insure the Listed Items against loss or damage for their full value under a policy of insurance protecting the interests of the Employer and the Contractor during the period commencing with the transfer of the property in the items to the Contractor until they are delivered to or adjacent to the Works; and
- .3 this Bond shall exclusively relate to the amount paid to the Contractor in respect of the Listed Items which have not been delivered to or adjacent to the Works.

4 The Employer shall in making any demand provide to the Surety a Notice of Demand in the form of the **Schedule** attached hereto which shall be accepted as conclusive evidence for all purposes under this Bond. The signatures on any such demand must be authenticated by the Employer's bankers.

5 The Surety shall within 5 Business Days after receiving the demand pay to the Employer the sum so demanded. 'Business Day' means the day (other than a Saturday or a Sunday) on which commercial banks are open for business in London.

6 Payments due under this Bond shall be made notwithstanding any dispute between the Employer and the Contractor and whether or not the Employer and the Contractor are or might be under any liability one to the other. Payment by the Surety under this Bond shall be deemed a valid payment for all purposes of this Bond and shall discharge the Surety from liability to the extent of such payment.

7 The Surety consents and agrees that the following actions by the Employer may be made and done without notice to or consent of the Surety and without in any way affecting changing or releasing the Surety from its obligations under this Bond and the liability of the Surety hereunder shall not in any way be affected hereby. The actions are:

- .1 waiver by the Employer of any of the terms, provisions, conditions, obligations and agreements of the Contractor or any failure to make demand upon or take action against the Contractor;

continued /

- 2 any modification or changes to the Contract; and/or
 - 3 the granting of an extension of time to the Contractor without affecting the terms of clause 9-2 below.
- 8** The Surety's maximum aggregate liability under this Bond shall be * [_____].
- 9** The obligations of the Surety under this Bond shall cease upon whichever is the earlier of:
- 1 the date on which all the Listed Items have been delivered to or adjacent to the Works as certified in writing to the Surety by the Employer; or
 - 2 [longstop date to be given],
- and any claims hereunder must be received by the Surety in writing on or before such earlier date.
- 10** The Bond is not transferable or assignable without the prior written consent of the Surety. Such written consent will not be unreasonably withheld.
- 11** Notwithstanding any other provisions of this Bond nothing in this Bond confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.
- 12** This Bond shall be governed and construed in accordance with the laws of England and Wales.

*The value stated in the Contract which the Employer considers will be sufficient to cover him for maximum payments to the Contractor for the Listed Items that will have been made and not delivered to the site at any one time.

IN WITNESS whereof this Deed of Guarantee has been duly executed and delivered on the date below:

Signed as a Deed by: _____

as the Attorney and on behalf of the Surety: _____

In the presence of:

witness' signature

witness' name

witness' address

Date: _____

Schedule to Bond

(clause 4 of the Bond)

Notice of Demand

Date of Notice: _____

Date of Bond: _____

Employer: _____

Surety: _____

We hereby demand payment of the sum of £ _____
being the amount in respect of Listed Items included in an Interim Payment(s) which has been duly made to the Contractor by the Employer but such Listed Items have not been delivered to or adjacent to the Works.

Address for payment: _____

This Notice is signed by the following persons who are authorised by the Employer to act for and on his behalf:

Signed by _____

Name: _____

Official Position: _____

Signed by _____

Name: _____

Official Position: _____

The above signatures to be authenticated by the Employer's bankers