PAYMENT BOND TEMPLATE

Bond Number _____

KNOW ALL MEN BY THESE PRESENTS:

That _____

_____

(Name and address of Principal)

as Principal, (hereinafter the "Principal") and _____a company organized and existing under the laws of the State of_____, as Surety (hereinafter the "Surety"), are held and firmly bound unto _____

_____

(Name and address of Owner)

as Obligee, (hereinafter the "Owner"), for the use and benefit of Claimants as hereinafter defined, in the amount of _ _____ Dollars (\$ _____) (hereinafter, the "Penal Sum") for the payment whereof the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has by written agreement dated _____, 20___, (hereinafter, the "Contract") entered into a contract with Owner for _____

_____.

(Describe the work or project)

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all Claimants, as hereinafter defined, for labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void, otherwise, it shall remain in full force and effect; **SUBJECT**, **HOWEVER**, to the following express conditions precedent and definitions:

(1) A "Claimant" is defined as one having a direct contract with the Principal, or with the subcontractor of the Principal, for labor, material or both, actually used in the performance of the Contract. Notwithstanding any term to the contrary in the Contract, the term "Claimant" expressly excludes the Owner.

(2) The Principal, the Surety and the Owner hereby agree, jointly and severally, and the Surety hereby undertakes, that every Claimant as hereinabove defined, who has not been paid in full before the expiration of ninety (90) days after the date on which the last of such Claimant's work or labor was done or performed, or materials were furnished by such Claimant, may thereafter sue on this bond for the use of such Claimant, prosecute suit to final judgment for such sum or sums as may be justly due Claimant, and have execution thereon; as further expressly conditioned hereinbelow. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

(3) No Claimant shall be entitled to any recovery against the Surety hereunder, and no suit or action shall be commenced hereunder by any Claimant, unless and until the following express conditions precedent have been met or performed by the Claimant and/or otherwise as limited hereinbelow:

(a) The Claimant, as hereinabove defined, shall have given written notice to the Principal, the Owner and the Surety within ninety (90) days after such Claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed, describing the work or labor performed and/or the materials provided, and providing the name of the person or entity to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, return receipt requested, in envelopes addressed to the Principal, the Owner and the Surety at any place where they or each of them regularly maintain any office for the transaction of business, or served on the Principal, Owner and Surety in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer;

(b) Any suit on this Bond must be commenced, if at all, within one (1) year following the date on which the Claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made; it being understood, however, that if any limitation embodied in this bond is prohibited

by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law;

(c) Any suit on this Bond must be brought in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the District in which the Project, or any part thereof, is situated, and not elsewhere.

(4) The liability and the undertaking of the Surety hereunder shall in no event exceed the Penal Sum set forth hereinabove.

(5) The amount of this bond shall be reduced by and to the full extent of any and all payments made by the Surety in good faith hereunder, inclusive of the payment by the Surety of any mechanics' liens which may be filed of record against the Project, whether or not the claim for the amount of such lien be presented under and against this bond, and whether or not any payments made in good faith by the Surety hereunder were actually due, subject to defense, set-off, contested or uncontested by any party.

(6) Notwithstanding anything to the contrary stated in the Contract or otherwise applicable at law, Surety has the express right to assert all defenses of the Principal to any claim against this Bond. This right expressly includes the right to assert any "paid-when-paid" or "paid-if-paid" defenses that may be available to the Principal.

(7) If and when this Bond has been furnished to comply with any statutory or other legal requirement pertaining in any location where the Project is located, any provision in this Bond conflicting with said statutory or other legal requirement shall be deemed deleted here from, and the minimum provisions conforming to such statutory or other legal requirements shall be deemed incorporated herein

(8) This Bond is for the term beginning _____ and ending _____.

(9) The Bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety.

Signed and sealed this _____ day of _____, 20___.

ATTEST:

_____
(Principal)

_____   By:_____(SEAL)

_____
(Name)   (Title)

ATTEST: Name of Company

_____   By:_____(SEAL)
                                        , Attorney-in-fact