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## CONSENSUSDOCS 706 SUBCONTRACT PERFORMANCE BOND

This document was developed through a collaborative effort of entities representing a wide cross-section of the construction industry. The organizations endorsing this document believe it represents a fair and reasonable consensus among the collaborating parties of allocation of risk and responsibilities in an effort to appropriately balance the critical interests and concerns of all project participants.

These endorsing organizations recognize and understand that users of this document must review and adapt this document to meet their particular needs, the specific requirements of the project, and applicable laws. Users are encouraged to consult legal, insurance and surety advisors before modifying or completing this document. Further information on this document and the perspectives of endorsing organizations is available in the ConsensusDOCS Guidebook.

The Contractor, \_\_\_\_\_ (the "Contractor")  
has entered into a Contract with the Owner \_\_\_\_\_ (the "Owner")  
dated \_\_\_\_\_ for \_\_\_\_\_  
(the "Project"); and

The Contractor and the Subcontractor \_\_\_\_\_, (the "Subcontractor")  
have entered into a Subcontract Agreement (the "Subcontract") dated \_\_\_\_\_ for certain portions

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of the work in connection with the Project consisting generally of:  
\_\_\_\_\_ (the "Subcontract Work").

The Subcontract is incorporated by reference into this Bond.

By virtue of this Performance Bond (the "Bond"), the Subcontractor as Principal and \_\_\_\_\_ as Surety ("Surety"), are bound to the Contractor as Obligee in the maximum amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "Bond Sum"). The Subcontractor and Surety hereby bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein.

1. GENERAL CONDITIONS. It is the condition of this Bond that if the Subcontractor provides all labor, materials, equipment and services necessary or incidental to complete the Subcontract Work in accordance with that which is indicated in the Subcontract, the Surety's obligations under this Bond are null and void. Otherwise the Surety's obligations shall remain in full force and effect. The Surety waives any requirement to be notified of any alteration or extension of time made by the Contractor in the Subcontract. The Contractor may not invoke the provisions of this Bond unless the Contractor has performed its obligations pursuant to the Subcontract. Upon making demand on this Bond, the Contractor shall make the Subcontract Balance (the total amount payable by the Contractor to the Subcontractor pursuant to the Subcontract less amounts properly paid by the Contractor to the Subcontractor) available to the Surety for completion of the Work.

2. SURETY OBLIGATIONS. If the Subcontractor is in default pursuant to the Subcontract and the Contractor has declared the Subcontractor in default in writing, the Surety promptly may remedy the default or shall:

- a. Complete the Subcontract Work, with the consent of the Contractor, through the Subcontractor or otherwise;
- b. Arrange for the completion of the Subcontract Work by a subcontractor acceptable to the Contractor and secured by performance and payment bonds equivalent to those for the Subcontract issued by a qualified surety. The Surety shall make available as the Subcontract Work progresses sufficient funds to pay the cost of completion of the Subcontract Work less the Subcontract Balance up to the Bond Sum; or
- c. Waive its right to complete the Subcontract Work and reimburse the Contractor the amount of its reasonable costs, not to exceed the Bond Sum, to complete the Subcontract Work less the Subcontract Balance.

3. DISPUTE RESOLUTION. Any dispute pursuant to this Bond shall be instituted in any court of competent jurisdiction in the location in which the Project is located and shall be commenced within two years after default of the Subcontractor or Substantial Completion of the Subcontract Work, whichever occurs first. If this provision is prohibited by law, the minimum period of limitation available to sureties in the jurisdiction shall be applicable.

This Bond is entered into as of \_\_\_\_\_

SURETY \_\_\_\_\_ (seal)

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By: .....

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

(Attach Power of Attorney)

Witness: .....

(Additional signatures, if any, appear on attached page.)

SUBCONTRACTOR \_\_\_\_\_ (seal)

By: .....

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Witness: .....

(Additional signatures, if any, appear on attached page.)

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**IMPORTANT:** A vertical line in the margin indicates a change has been made to the original text. Prior to signing, recipients may wish to request from the party producing the document a "redlined" version indicating changes to the original text. Consultation with legal and insurance counsel and careful review of the entire document are strongly encouraged.

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