

## Annex C EXAMPLE FORM OF PERFORMANCE SECURITY - DEMAND GUARANTEE

[See comments on Sub-Clause 4.2]

Brief description of Contract \_\_\_\_\_

Name and address of Beneficiary \_\_\_\_\_

\_\_\_\_\_ (whom the Contract defines as the Employer).

We have been informed that \_\_\_\_\_ (hereinafter called the "Principal") is your contractor under such Contract, which requires him to obtain a performance security.

At the request of the Principal, we (*name of bank*) \_\_\_\_\_ hereby irrevocably undertake to pay you, the Beneficiary/Employer, any sum or sums not exceeding in total the amount of \_\_\_\_\_ (the "guaranteed amount", say: \_\_\_\_\_) upon receipt by us of your demand in writing and your written statement stating:

- (a) that the Principal is in breach of his obligation(s) under the Contract, and
- (b) the respect in which the Principal is in breach.

[Following the receipt by us of an authenticated copy of the taking-over certificate for the whole of the works under clause 10 of the conditions of the Contract, such guaranteed amount shall be reduced by \_\_\_\_ % and we shall promptly notify you that we have received such certificate and have reduced the guaranteed amount accordingly.] <sup>(1)</sup>

Any demand for payment must contain your [minister's/directors'] <sup>(1)</sup> signature(s) which must be authenticated by your bankers or by a notary public. The authenticated demand and statement must be received by us at this office on or before (*the date 70 days after the expected expiry of the Defects Notification Period for the Works*) \_\_\_\_\_ (the "expiry date"), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the performance certificate under the Contract has not been issued by the date 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the performance certificate has not been issued, for reasons attributable to the Principal, and that this guarantee has not been extended.

This guarantee shall be governed by the laws of \_\_\_\_\_ and shall be subject to the Uniform Rules for Demand Guarantees, published as number 458 by the International Chamber of Commerce, except as stated above.

Date \_\_\_\_\_ Signature(s) \_\_\_\_\_

<sup>(1)</sup> When writing the tender documents, the writer should ascertain whether to include the optional text, shown in parentheses [ ]