

9990

**CONTRACT
BETWEEN
THE CITY OF JACKSONVILLE
AND
WARDEN CONSTRUCTION CORPORATION
FOR
JOB ORDER CONTRACTING FOR VARIOUS CITY OWNED FACILITIES**

THIS CONTRACT is executed as of this 21 day of May, 2014, by and between the CITY OF JACKSONVILLE, FLORIDA (hereinafter the "Owner" or the "City"), a municipal corporation in Duval County, Florida, and WARDEN CONSTRUCTION CORPORATION (hereinafter the "Contractor"), a foreign profit corporation authorized to do business in Florida with principal office at 3653 Regent Boulevard, Suite 201, Jacksonville, Florida 32224, for job order contracting for various City owned facilities.

WITNESSETH, that for the consideration and under the provisions hereinafter stated and referred to moving from each to the other of said parties respectively, it is mutually understood and agreed as follows:

1. That Contractor is the lowest responsive and responsible bidder for furnishing, not by way of limitation, all labor, materials, and equipment and performing all operations necessary for job order contracting for various City owned facilities, including, but not limited to repairs and minor renovations to City owned buildings, including building systems, horizontal projects such as paving, sidewalks, drainage, and curb cut ramps, and all other related work required to complete the projects, all in accordance with plans and specifications hereinafter referred to and has been awarded this Contract for said work pursuant to award made April 18, 2014.

2. The Contractor will at its own cost and expense do the work required to be done and furnish the materials required to be furnished on said work in accordance with specifications prepared by City of Jacksonville – Department of Public Works, bid numbered CP-0050-14, bid date February 26/April 2, 2014, designated as *Contract Documents and Bid Specifications Job*

Order Contracting for Various City Owned Facilities, and strictly in accordance with the advertisement calling for bids, specifications, addenda, requirements of the City of Jacksonville, proposal of the said Contractor, and award therefor (hereinafter collectively the “Contract Documents”) now on file in the Office of the Chief of the Procurement Division of the City of Jacksonville, all of which are, by this reference, hereby specifically made a part hereof to the same extent as if fully set out herein.

3. This Contract is a continuing contract. The City does not guarantee any work or any quantities to Contractor under this Contract; accordingly, the parties agree that City’s financial obligation under this Agreement is ZERO AND 00/100 DOLLARS (\$0.00). Financial obligations of City, if any, and encumbrances of lawfully appropriated funds shall be created by subsequent purchase orders in variable amounts subject to a limit up to but not-to-exceed TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00). Such purchase orders shall be binding upon the parties hereto. Such purchase orders shall be considered as “Notices to Proceed” with work or delivery or provision of quantities under this Agreement. Contractor shall not commence work or deliver or provide quantities under this Agreement unless and until it receives a written Notice to Proceed in the form of a purchase order.

4. Contractor shall submit and record all payment and performance bonds in the Official Records of Duval County as required by Section 255.05, Florida Statutes.

5. Notwithstanding any provision to the contrary in this Contract or in the Contract Documents, City has the absolute right to terminate this Contract without cause for convenience by giving the Contractor thirty (30) days’ advance written notice of the date of termination. Such notice shall be delivered by Certified United States Mail, return receipt requested, or by any other delivery method with evidence of receipt to the Contractor’s representative who signed this contract at the address specified in the Contract Documents.

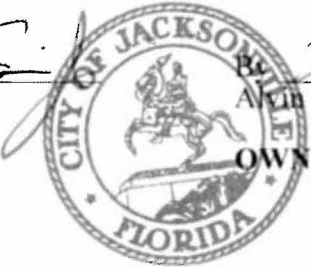
6. This Contract and all amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original, and all of such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Contract, in duplicate, the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE, FLORIDA

By James R. McCain, Jr.
Corporation Secretary



Alvin Brown
Mayor
OWNER

Encumbrance & funding information is found on the next page.

ATTEST:

WARDEN CONSTRUCTION CORPORATION

Lesley Lagimoniere
Signature
Lesley Lagimoniere
Type/Print Name
Secretary
Title

Gregory Lagimoniere
Signature
Gregory Lagimoniere
Type/Print Name
President
Title

CONTRACTOR

Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04


Encumbrance & funding information for internal City use:


Account..... Various subsequently issued purchase orders

Amount..... \$2,000,000.00

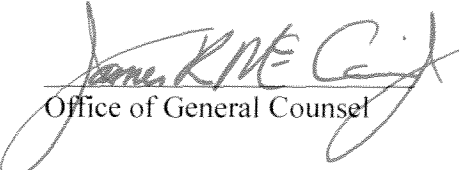
The above-stated amount is the maximum fixed monetary amount of the foregoing Contract. It shall not be encumbered by the foregoing Contract. It shall be encumbered by one (1) or more subsequently issued Purchase Orders(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Order(s) is/are issued.

In accordance with Section 24.103(e) of the Ordinance Code of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; provided however, this certification is not nor shall it be interpreted as an encumbrance of funding under the Contract. Actual encumbrance(s) shall be made by subsequent purchase orders as specified in said Contract.



Director of Finance
City Contract Number 9990


Approved as to form:



Office of General Counsel



THIS IS AN APPROVED FORM. DO NOT SUBSTITUTE OR REVISE.

CONTRACT NUMBER 9990

(Contract Number to be inserted by the City of Jacksonville)

PERFORMANCE BOND NUMBER 70108418

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

As to the Contractor/Principal:

Name: Warden Construction Company

Principal Business Address: 3653 Regent Blvd., Suite 201, Jacksonville, Florida 32224

Telephone: (904) 928-9819

As to the Surety:

Name: The Guarantee Company of North America USA

Principal Business Address: One Towne Square, Suite 1470, Southfield MI 48076

Telephone: (1) 866-328-0567 Toll Free

As to the Owner of the Property/Contracting Public Entity:

Name: The City of Jacksonville, Florida (c/o Public Works Department)

Principal Business Address: 214 North Hogan Street, Jacksonville, Florida 32202

Telephone: (904) 255-8786

Description of Project including address and description of improvements: furnishing, not by way of limitation, all labor, materials and equipment, and performing all operations necessary for job order contracting for various City owned facilities, including but not limited to repairs and minor renovations to City owned buildings, including building systems, horizontal projects such as paving, sidewalks, drainage, and curb cut ramps, and all other related work shown on construction plans and described in the Scope of Work (Section 30).

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CITY OF JACKSONVILLE, FLORIDA

PERFORMANCE BOND

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

KNOW ALL MEN BY THESE PRESENTS, that WARDEN CONSTRUCTION CORPORATION, as Principal, (hereinafter the "Contractor"), and The Guarantee Company of North America USA, a corporation organized and existing under the laws of the State of Michigan and duly authorized to conduct and carry on a general surety business in the State of Florida, as Surety (hereinafter the "Surety"), are each held and firmly bonded unto the City of Jacksonville, a municipal corporation in Duval County, Florida, as Obligee (hereinafter the "City"), in the sum of ONE MILLION AND 00/100 USD (\$1,000,000.00), lawful money of the United States of America, for the payment whereof Contractor and Surety bind themselves, their respective heirs, executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal made and entered into City Contract Number 9990 (to be inserted by the City) (the "Contract"), dated as of the 21 day of May, 2014, for furnishing, not by way of limitation, all labor, materials, and equipment and performing all operations necessary for job order contracting for various City owned facilities, including but not limited to repairs and minor renovations to City owned buildings, including building systems, horizontal projects such as paving, sidewalks, drainage, and curb cut ramps, and all other related work shown on construction plans and described in the Scope of Work (Section 30), all in accordance with plans and specifications entitled *Contract Documents and Bid Specifications*

Job Order Contracting for Various City Owned Facilities for the City of Jacksonville, Florida, in strict accordance with specifications prepared by City of Jacksonville – Department of Public Works, bid numbered CP-0050-14, bid date February 26/April 2, 2014, and any advertisement for bids for said work and the specifications for said work and requirements of the City request for bids and award therefor and of the Contract and all documents included as a part of the Contract, all of which are, by this reference, made a part hereof to the same extent as if fully set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall: **(1)** promptly and faithfully perform the construction work and other work in the time and manner prescribed in said Contract, which is made a part of this Bond by reference, in strict compliance with the Contract requirements; **(2)** perform the guarantee and maintenance of all work and materials furnished under the Contract for the time specified in the Contract; and, **(3)** pay the City all losses, delay and disruption damages, and all other damages, expenses, costs, statutory attorney's fees, including appellate proceedings, that the City sustains because of a default by Contractor under the Contract, then this Bond shall be void; otherwise, it shall remain in full force and effect, both in equity and in law, in accordance with the laws and statutes of the State of Florida.

PROVIDED, that the Surety hereby waives notice of any alteration or extension of time made by the City, and any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

PROVIDED FURTHER, that whenever Contractor shall be declared by the City to be in default under the Contract, the City having performed the City's obligations thereunder, the

Surety shall, at the City's sole option, take one (1) of the following actions:

- (1) Within a reasonable time, but in no event later than thirty (30) days after the City's written notice of termination for default, arrange for Contractor with the City's consent, which shall not be unreasonably withheld, to complete the Contract and the Surety shall pay the City all losses, delay and disruption damages, and all other damages, expenses, costs, and statutory attorney's fees, including appellate proceedings, that the City sustains because of a default by the Contractor under the Contract; or
- (2) (A) Within a reasonable time, but in no event later than sixty (60) days after the City's written notice of termination for default, award a contract to a completion contractor and issue a notice to proceed. Surety shall obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible qualified bidder, award a contract; (B) alternatively, the City may elect to have the Surety determine jointly with the City the lowest responsible qualified bidder, to have the Surety arrange for a contract between such bidder and the City, and for the Surety to make available as Work progresses sufficient funds to pay the cost of completion less the balance of the Contract price (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph). The term "balance of the Contract price", as used in this Bond, shall mean the total amount payable by the City to Contractor under the Contract and any approved change orders thereto, less the amount properly paid by the City to Contractor. (C) Either way, the Surety shall pay the City all

remaining losses, delay and disruption damages, expenses, costs, and statutory attorney's fees, including appellate proceedings, that the City sustains because of a default by Contractor under the Contract; or

- (3) Within a reasonable time, but in no event later than thirty (30) days after City's notice of termination for default, waive its right to complete or arrange for completion of the Contract and, within twenty-one (21) days thereafter, determine the amount for which it may be liable to the City and tender payment to the City of any amount necessary in order for the City to complete performance of the Contract in accordance with its terms and conditions less the balance of the Contract price, and shall also indemnify and save the City harmless on account of all claims and damages arising from the Contractor's default under the Contract, and pay the City for all losses, delay and disruption damages, and other damages, expenses, costs, and statutory attorney's fees, including appellate proceedings, that the City sustains because of a default of the Contractor under the Contract.

PROVIDED FURTHER, the Surety shall indemnify and save the City harmless from any and all claims and damages arising from the Contractor's default under the Contract, including, but not limited to, contractual damages, expenses, costs, injury, negligent or intentional default, patent infringement, and actual damages (including delay and disruption damages) in accordance with the Contract, and including all other damages and assessments which may arise by virtue of failure of the product to perform or any defects in work or materials within a period of one (1) year from the date on which the Contractor receives from the City a certificate of final completion under the Contract.

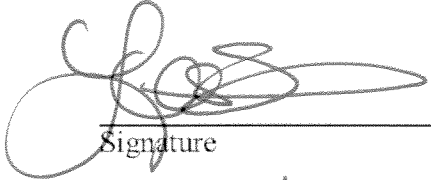
PROVIDED FURTHER, that during any interim period after the City has declared Contractor to be in default but Surety has not yet remedied the default in the manner acceptable to the City, Surety shall be responsible for securing and protecting the work site, including, but not limited to, the physical premises, structures, fixtures, materials, and equipment, and shall be responsible for securing and protecting materials and equipment stored off-site in accordance with the Contract.

PROVIDED FURTHER, no right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein or the heirs, executors, administrators, or successors of the City.

[Remainder of page intentionally left blank. Signature page follows immediately.]

SIGNED AND SEALED this 21 day of May, 2014.

WITNESS:



Signature

LESLEY LAGIMONIERE
Type/Print Name

SECRETARY
Title

WARDEN CONSTRUCTION
CORPORATION



Signature

Gregory Lagimoniere
Type/Print Name

President
Title

AS PRINCIPAL

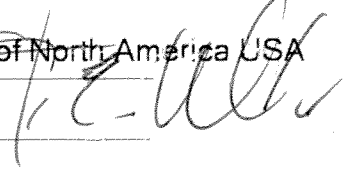
Signed, Sealed and Delivered
in the Presence of:

S. Clock 

Bonds Account Mgr.

Bonds Account Mgr.

The Guarantee Company of North America USA

By Steven E. White
Its Attorney-In-Fact 

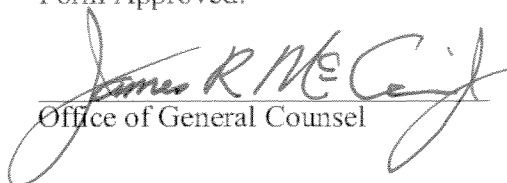
AS SURETY

Name of Agent: Hub International Texas, Inc.

Address: 10777 Westheimer #300
Houston TX 77042
Tel: 713-978-6668

Note. Date of Bond Must Not Be Prior to Date of Contract

Form Approved:



Office of General Counsel

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CONTRACT NUMBER 9990
(Contract Number to be inserted by the City of Jacksonville)

PAYMENT BOND NUMBER 70108418

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

As to the Contractor/Principal:

Name: Warden Construction Corporation

Principal Business Address: 3653 Regent Blvd., Suite 201, Jacksonville, Florida 32224

Telephone: (904) 928-9819

As to the Surety:

Name: The Guarantee Company of North America USA

Principal Business Address: One Towne Square, Suite 1470, Southfield MI 48076

Telephone: (1) 866-328-0567 Toll Free

As to the Owner of the Property/Contracting Public Entity:

Name: The City of Jacksonville, Florida (c/o Public Works Department)

Principal Business Address: 214 North Hogan Street, Jacksonville, Florida 32202

Telephone: (904) 255-8786

Description of project including address and description of improvements: furnishing, not by way of limitation, all labor, materials and equipment, and performing all operations necessary for job order contracting for various City owned facilities, including but not limited to repairs and minor renovations to City owned buildings, including building systems, horizontal projects such as paving, sidewalks, drainage, and curb cut ramps, and all other related work shown on construction plans and described in the Scope of Work (Section 30).

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CITY OF JACKSONVILLE, FLORIDA

PAYMENT BOND

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

KNOW ALL MEN BY THESE PRESENTS, that WARDEN CONSTRUCTION CORPORATION, as Principal, (hereinafter the "Contractor"), and The Guarantee Company of North America USA, a corporation organized and existing under the laws of the State of Michigan and duly authorized to conduct and carry on a general surety business in the State of Florida, as Surety (hereinafter the "Surety"), are each held and firmly bonded unto the City of Jacksonville, a municipal corporation in Duval County, Florida, as Obligee (hereinafter the "City"), in the sum of ONE MILLION AND 00/100 USD (\$1,000,000.00), lawful money of the United States of America, for the payment whereof Contractor and Surety bind themselves, their respective heirs, executors, administrators, legal representatives, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal made and entered into City Contract Number 9990 (to be inserted by the City) (the "Contract"), dated as of the 21 day of May, 2014, for furnishing, not by way of limitation, all labor, materials, and equipment and performing all operations necessary for job order contracting for various City owned facilities, including but not limited to repairs and minor renovations to City owned buildings, including building systems, horizontal projects such as paving, sidewalks, drainage, and curb cut ramps, and all other related work shown on construction plans and described in the Scope of Work (Section 30), all in accordance with plans and specifications entitled *Contract Documents and Bid Specifications Job Order Contracting for Various City Owned Facilities* for the City of Jacksonville, Florida, in

strict accordance with plans and specifications prepared by City of Jacksonville – Department of Public Works, bid numbered CP-0050-12, bid date February 26/April 2, 2014, and any advertisement for bids for said work and the specifications for said work and requirements of the City request for bids and award therefor and of the Contract and all documents included as a part of the Contract, all of which are, by this reference, made a part hereof to the same extent as if fully set out herein.

NOW, THEREFORE, THE CONDITION OF THIS BOND is such that if the said Principal:

(1) Promptly makes payments to all claimants, as defined in Sections 255.05 and 713.01, Florida Statutes, supplying Principal with labor, materials, or supplies that are consumed or used directly or indirectly by Principal in connection with the prosecution of the work provided for in such Contract and including all insurance premiums on the work and any authorized extensions or modifications of such Contract; and

(2) Defends, indemnifies, and saves the City harmless from claims, demands, liens, or suits by any person or entity whose claim, demand, lien, or suit is for the payment of labor, materials, or equipment furnished for use in the performance of the Contract, provided the City has promptly notified the Principal and Surety of any claims, demands, liens, or suits and provided there is no failure by the City to pay the Principal as required by the Contract; and

(3) Pays the City all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that the City sustains because of the Principal's failure to promptly make payments to all claimants as provided above, then this Bond is void; otherwise, it remains in full force and effect, both in equity and in law, in accordance with the statutes and the laws of the State of Florida and specifically Section 255.05, Florida Statutes.

PROVIDED, no suit or action for labor, materials, or supplies shall be instituted hereunder against the Principal or the Surety unless a claimant provides to each of them both of the proper notices, in accordance with the requirements of Section 255.05(2)(a), Florida Statutes. Both notices must be given in order to institute such suit or action.

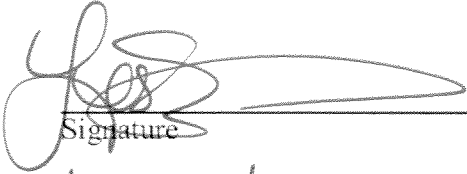
PROVIDED FURTHER, an action, except for an action exclusively for recovery of retainage, must be instituted against the Principal or Surety on this Payment Bond within one (1) year after the performance of the labor or completion of delivery of the materials or supplies in accordance with the requirements of Section 255.05(2)(a), Florida Statutes.

PROVIDED FURTHER, an action exclusively for the recovery of retainage must be instituted against the Principal or Surety within one (1) year after the performance of the labor or completion of delivery of the materials or supplies, or within ninety (90) days after the Principals' receipt of final payment (or the payment estimate containing the owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the Principal or Surety, whichever comes last, in accordance with the requirements of Section 255.05(2)(a), Florida Statutes.

PROVIDED FURTHER, that the said Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the specifications.

SIGNED AND SEALED this 21 day of May, 2014.

WITNESS:


Signature

LESBY LAGIMONIERE
Type/Print Name

SECRETARY
Title

WARDEN CONSTRUCTION CORPORATION


Signature

Gregory Lagimoniere
Type/Print Name


President
Title

AS PRINCIPAL

Signed, Sealed and Delivered
in the Presence of

S. Clock 

Bonds Account Mgr.

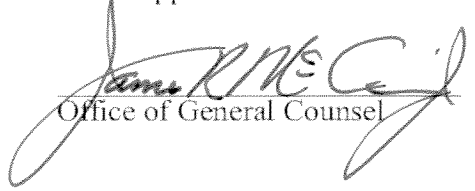
The Guarantee Company of North America USA
By: Steven E. White 
Its Attorney-In-Fact

AS SURETY

Name of Agent: Hub International Texas, Inc.

Address: 10777 Westheimer 300
Houston TX 77042
Tel: 713-978-6668

Form Approved:


Office of General Counsel

Note. Date of Bond Must Not Be Prior to Date of Contract



THE GUARANTEE COMPANY OF NORTH AMERICA USA

Southfield, Michigan

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS: That THE GUARANTEE COMPANY OF NORTH AMERICA USA, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

Teresa Godsey, Rosemary Anderson, Carol Noone, Lawrence L. Rhodes, Steven E. White, James Marks
HUB International Rigg

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon THE GUARANTEE COMPANY OF NORTH AMERICA USA as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of THE GUARANTEE COMPANY OF NORTH AMERICA USA at a meeting held on the 31st day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

- 1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-fact and revoke the authority given, except as provided below
3. In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.
4. In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 6th day of December 2011, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.



IN WITNESS WHEREOF, THE GUARANTEE COMPANY OF NORTH AMERICA USA has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 23rd day of February, 2012.

THE GUARANTEE COMPANY OF NORTH AMERICA USA

[Signature of Stephen C. Ruschak]

[Signature of Randall Musselman]

STATE OF MICHIGAN
County of Oakland

Stephen C. Ruschak, Vice President

Randall Musselman, Secretary

On this 23rd day of February, 2012 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of



Cynthia A. Takai
Notary Public, State of Michigan
County of Oakland
My Commission Expires February 27, 2018
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.

[Signature of Cynthia A. Takai]

I, Randall Musselman, Secretary of THE GUARANTEE COMPANY OF NORTH AMERICA USA, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by THE GUARANTEE COMPANY OF NORTH AMERICA USA, which is still in full force and effect.



IN WITNESS WHEREOF, I have thereunto set my hand and attached the seal of said Company this 21 day of May, 2014

[Signature of Randall Musselman]

Randall Musselman, Secretary

IMPORTANT NOTICE

TO OBTAIN INFORMATION ABOUT THIS BOND OR TO MAKE A COMPLAINT:

You may contact The Guarantee Company of North America USA at 866-328-0567 to make a complaint or for information regarding this bond.

You may write to The Guarantee Company of North America USA at:

Claim Department
1000 Town Center, Suite 1800
Southfield, MI 48075
www.gna.com