

Administrator : A fiduciary appointed by a probate court to manage or distribute the assets of an estate of a person who died without leaving a will.

Admiralty Court : Courts dealing with matters of the sea

Advance Payment Bond : Guarantees repayment or liquidation by the principal of moneys advanced in connection with a construction or supply bond or other type of contract

Alcohol Bond (also Liquor Bond) : Given in compliance with federal or state laws or regulations administering sale, manufacturer, or warehousing of alcohol; if alcohol is for beverages, the bond is frequently called a liquor bond or intoxicating liquor bond.

Annual Bond : One written to cover contracts or bids awarded or submitted during an annual period of for a period terminating within the fiscal year.

Appeal Bond : One filled in court by a party against whom a judgement has been rendered, in order to stay execution of the judgment pending appeal to a higher court, in the hope of reversing the judgment. The bond guarantees that the judgment will be paid if the appeal fails. (Collateral is required in most cases)

Application : A questionnaire which must be completed, when required, by an applicant for a bond. It gives the surety information about the applicant and contains his/her agreement to indemnify the surety in the event of loss, as well as his/her promise to pay the premium.

Attachment : The act or process of taking, apprehending, or seizing persons or property by means of judicial order, and bringing the same into the custody of the court for the purpose of securing satisfaction of the judgement ultimately to be entered in the action.

Attachment Bond - Plaintiff's : The statutes of the various states contain the ground on which an attachment or replevin can be instituted. The plaintiff must furnish a bond, often in an amount twice the value of the goods being attached, The bond guarantees to pay all damages sustained by the defendant if it is finally determined that the attachment or replevin should not have been issued..

Attachment - Defendant's Bond To Discharge Or Release : When an attachment has been issued, a defendant may discharge the attachment by giving bond conditioned for the payment of any judgement that may be rendered against him/her in the action, with interest and cost.

Attest : the bear witness to be true or genuine; to certify.

Attorney-In-Fact : The holder of a Power of Attorney granted by a surety company empowering the execution of a surety bond on behalf of the company. An Attorney In Fact for an insurance company is sometimes called an "Agent"

Bad Faith : Design to deceive another; conscious wrong doing or lack of appropriate investigation/action.

Bankers Blanket Bond : See Financial Institutions Blanket Bond

Bankruptcy : The state of being unable to pay debts as they are or come due as regulated by bankruptcy laws. Straight bankruptcy (Chapter 9) deals with the condition of insolvency in which the court provides for assets to be distributed to creditors. Debtor rehabilitation provisions (under Chapter 11 and 13) of the Bankruptcy Act provide for rehabilitation and reorganization in which creditors look to future earnings of the bankrupt to satisfy claims.

Big Bond : Given by a bidder for a supply or construction contract to guarantee that the bidder, if awarded the contract within the time stipulated, will enter into the contract and furnish the prescribed performance and payment bonds.

Bid Spread : The difference in the bid price between the first, second and third lowest bidders.

Blue Sky Bonds : In connection with the laws regulating the sale of securities, these are required of security dealers and indemnify purchasers against loss from false representation.

Bona Fide : In good faith ; without deceit or fraud; sincerely; real; genuine.

Bond (Corporate or Municipal) : A certificate or evidence of a debt on which the issuing company or governmental body promises to pay the bondholders a specified amount of interest for a specified length of time, and to repay the loan on the maturity date; debt.

Bond (Surety) : Agreement in which one party, called the surety, obligates itself to a second party, called the obligee, to answer for default of third party, called the principal.

Bond Penalty : See Penal Sum

Bonding Company (Surety Company) : Business authorized to issue bonds. Usually an insurance company.

Breach : The breaking or violation of a law, obligation, contract or standard , either by commission or omission.

Broker, Agent : Party representing a client to an insurance company or surety. The Broker/Agent must be licensed. In addition they must have an agreement with each company they deal with. See also Producer.

Building Codes : Rules and regulations of governmental bodies defining standards that construction in that jurisdiction must meet.

Buy - Sell Agreement : An agreement between principals in a Partnership, LLC , or Closed Corporation that specifies the buy-out price of each Principal's share of the business. This *price* to purchase is determined by an agreed - to formula which controls the price determination at the time an offer is made. The Buy- Sell Agreement gives the other Principl(s) first right of refusal on the purchase. They Buy-Sell Agreement is tied to a Key-Person insurance policy that stipulates

that the beneficiary upon death of each principal is the business entity and the proceeds would be used to buy back the dead principal's share of the business. The formula and Buy-Sell Agreement becomes part of the business documentation

By-Laws : Organization's rules and regulations governing its members and regulating its affairs.

Cancellation Clause : Provision in a bond permitting a surety to terminate future liability under bond by notification, in writing, to the obligee.

Certified Copy: Reproduction of a document that the authority, having custody of the original, signs and attests that it is a true, genuine and authentic copy.

Character : Principal's personal traits (e.g., moral integrity, conscience) which surety uses to evaluate risks.

Chattel : Tangible personal property, not real estate.

Claim : Party (s) demand for something believed due from another party.

Collateral : Anything of value pledged with the surety to secure it against loss by reason of default of the principal. For designated types of collateral, a lower rate is given on certain bonds. (Examples are : Letter of Credit, Cash, Certificate of Deposit)

Commercial Blanket Policy - A blanket fidelity policy covering against loss from employees' dishonest acts. It may exclude owners. This has been replaced by the **Combination Crime Policy** and **Commercial Crime Coverage Part of the Commercial Package Policy**.

Combination Crime Policy : Fidelity policy covering against loss from employees' dishonest acts. It may exclude owners.

Commission : Money paid to an agent or broker for placing business to a surety or insurance company.

Committee: (also conservator, curator, fiduciary) The individual or board of persons the court appoints to manage the estate of a person declared legally incompetent.

Common Law: Unwritten legal principles evolved from judicial proceedings, court precedents, and customs ; originally introduced into the United States from England

Completion Bond : One covering performance of a construction project that names as an obligee a lender or similar party in a position to invoke the performance features of the bond for his/her benefit without an obligation to provide funds to complete. (A difficult bond for a client to obtain)

Comprehensive Dishonesty, Disappearance and Destruction Policy (3-D Policy): A blanket policy written for commercial establishments containing five basic insuring agreements covering employee dishonesty, on-premises losses, off-premises losses, money order and counterfeit currency losses, and forgery losses.

Condition : Provision defining the obligation of insured and insurer to each other, breach of which may void the contract; clause in a contract or agreement modifying principal obligations or terms of the agreement. Technical name of part of a surety bond defining the guarantee.

Consent of Surety: Consent the surety gives the alter or accept changes to their obligation. (i.e., job change orders, release of retainage to final payment.)

Consideration : That which one party does or promises to do, done or promised by one party in return for another party's action or promise; the inducement to a contract.

Contingent Commission : The percentage of insurer (s) profit on business written with a particular agent that is paid to the agent in addition to regular commission. Percentage of the reinsure(s) profit (from business which the ceding company gives to the reinsurer), that the reinsurer gives back to the reinsured.

Contingent Liabilities : Potential liabilities but have not yet occurred.

Contract Bond: A guarantee of the faithful performance of a construction contract and usually the payment of all labor and material bills related to it. In those situations where two bonds are required, one to cover performance and the other to cover payment of labor and material, the former is known as a performance bond and the latter as a payment bond.

Contract Price : The whole sum of money which passes from the owner to contractor when final settlement is made between the two under the contract; the basis for the premium charge on most types of construction and supply contract bonds.

Corporate Surety : A corporation licensed under various insurance laws, which under its charter has legal power to act as surety for others.

Corporation : A legal entity, separate and distinct from the employees or people who own it (stockholders), chartered by a state or the federal government to conduct business. In a corporate form of organization, which provides limited liability, an owner can lose only what he or she has invested and can easily transfer ownership by selling stock. (See also limited liability company.) Continuity of existence is ensured since new owners purchase the stock of the pervious owners who are selling it. Capital can be relatively easily obtained by increasing the numbers of owners. One or more persons may file an official statement known as the articles of incorporation (also certificate of incorporation or charter) with the appropriate state official. Once an organization is chartered and begins operations, it must strictly follow the laws of the state under which it is incorporated. Corporations are known by various names that describe their organizational status and function, such as the domestic, foreign, out-of-state, alien, de facto, de jure, charitable, nonprofit(or not-for-profit), for-profit, closely held (or close), privately held (or closed), parent, Subchapter S. professional , public service (or utility) , public, and publicly held corporations, as well as the conglomerate and holding company.

1. A domestic corporation is organized to do business in the state in which it is incorporated .
2. A foreign corporation is either chartered under the laws of a state other than the one in which it does business or is organized under the laws of a foreign country.
3. An out-of-state corporation is another term for a foreign corporation that chartered under the laws of a state other than the one in which it does business.
4. An alien corporation is another term for a foreign corporation that is organized under that is organized under the laws of another country.

5. A defacto corporation exists in fact or in good faith but has not met all of a state(s) legal requirements.
6. A de jure corporation exists in law as well as in fact since it has met all incorporating requirements.
7. A nonprofit (or mot-for-profit) corporation, such as a religious body, is a tax-exempt organization that has no capital stock, pays no dividends, and operates for a charitable purpose.
8. A charitable corporation, such as a humane society, is a nonprofit corporation that operates to make a profit.
9. A for-profit corporation is a taxable business organization that issues stock, pays dividends, and operates to make a profit.
10. A closely held (or close) corporation has a limited number of stockholders, sometimes from the same family, has some stock available for trading, and conducts business less formally than a regular corporation.
11. A privately held (or closed) corporation also has a limited number of stockholders but does not offer any stock for public trading.
12. A parent corporation owns the majority of shares of stock of another corporation (a subsidiary) and thus has control over it.
13. A Subchapter S corporation is a small corporation that elects to be taxed as a partnership but whose stockholders enjoy the benefits of limited corporate liability.
14. A professional corporation is an association of one or more licensed members of a profession, such as the legal profession, who continue to practice their profession while enjoying tax and other benefits of incorporation.
15. A public service (or utility) corporation, usually franchised (see franchises) by a governmental authority, is organized to supply services, such as electricity or water, regarded as a public necessity.
16. A public corporation is a governmental-owned corporation, such as the U.S. Postal Service, or a subdivision of the state, such as a school district.
17. A publicly held corporation sells stock to the public under the regulation of the Securities and Exchange Commission.
18. A conglomerate is a widely diversified corporation composed of subsidiaries united through mergers and acquisitions.
19. A holding company is a corporation that has partial or complete interest in other companies and owns enough stock to control their policies and management.

Cost Bond : Required of a litigant for payment of court costs incurred during litigation.

Co-Surety: One of two or more surety companies directly participating in a bond. Their obligation to the owners is joint and several but often a limit of liability for each surety is stated as between themselves.

Countersignature: A signature of a license domiciled agent or representative required by the laws of several states to validate the bond. Most bonds must be countersigned when executed.

Court Bonds: A general term embracing all bonds and undertakings required of participants in a lawsuit permitting them to pursue certain remedies in the courts.

Cumulative Liability: The aggregate amount of two or more bonds in behalf of the same principal (or in the fidelity blanket bonds, in favor of the same obligee) filed in succession, where

the succeeding bond(s) does not extinguish the liability under the prior bond(s) or the liability resulting from an adjudicating that the aggregate liability of the surety is the penalty of the bond times the number of years in force.

Custom Bonds: These bonds guarantee the payment of import duties and taxes, and compliance with regulations governing the entry into the United States of merchandise from foreign countries.

Deductible: An amount which is to be “deducted “ from any loss and which the insured agrees to bear personally.

Default: The omission or failure to perform contractual duty.

Defendant: Party against whom relief or recovery is sought in an action or suit.

Defendants Bond: Bonds given by defendants in litigation enabling them to regain possession of property, pending the outcome of a suit, or to suspend the execution of a judgement, order or decree of a court while the defendant seeks reversal of an unfavorable judgement in a higher court.

Depositors Forgery Bond: A bond which provides protection to the insured, and also to banks in which the insured has a checking or savings account, against loss by reason of forgery or alteration of checks, drafts, promissory notes, etc.

Depository Bond: This guarantees repayment of moneys deposited with a bank in the event of the failure or insolvency of the bank. Now a negligible line of surety business, it was once a large one. The Federal Deposit Insurance Corporation (FDIC) now guarantees the payment of bank deposits.

Depository Liability: A public official is liable for public funds which he deposits in a bank and cannot pay over because of insolvency or failure of the bank in many states, statutes provide for the designation of depositories for public funds and for the furnishing of collateral security by such depositories. Such laws, if strictly complied with, usually exempt the public official and his surety from liability for loss through failure of any of the designated and qualified depositories.

Design Build: The design/build system of project delivery is an integration of design and construction, characterized by a single entity providing all the services necessary to design and construct the project based upon the requirements established by the Owner.

Discharge: Release or removal of an obligation or liability

Discharge Mechanics Lien: See Mechanics Lien - Bond Discharge

Disclosure: Act of making known something previously unknown, or known to only a few

Discovery Bond: A form of fidelity bond which covers against dishonest or fraudulent acts of employees provided such loss is discovered any time after the bond becomes effective and before it is terminated, irrespective of when the dishonest or fraudulent acts were committed.

Discovery Period: Under certain bonds and policies, provision is made to give the insured a period of time after the cancellation of a contract in which to discover whether he had sustained a loss that would have been recoverable had the contract remained in force. This period usually varies from six months to three years. The period may be determined by statute; in certain bonds, it is of indefinite duration because of statutory requirement.

Dishonesty Insurance: Used interchangeably with the Fidelity Bond or Fidelity Policy

Division: Part of a corporation, created for defined purpose, whose assets are not separate from those of the corporation; corporation is responsible for the division debts.

Earned Premium: The premium amount which would compensate the surety for the protection furnished for the expired portion of the term of the bond.

Effective Date: The date from which bond coverage is provided.

Employee Retirement Income Security Act (1974) --- ERISA: This act, which replaced the Welfare and Pension Plans Disclosure Act of 1962, requires employee benefit plans, subject to the Act, to be bonded by accepted surety companies (as indicated by the U.S. Treasury Department's List), for the protection of plan funds. ERISA also requires the disclosure and reporting of financial and other information concerning the operation of employee benefit plans.

ERISA Bond/Policy: A bond required by ERISA for all employee benefits plans covered by ERISA. The bond/policy is a Fidelity Policy and protects the moneys of the Plan from theft. The Employee Benefit Plan is the named insured. ERISA requires that the bond be a minimum of 10% of the assets of the Plan with the maximum of \$500,000

Encumbrance: A claim, lien charge or liability attached to and binding real property; e.g., lien for work and materials, a cloud on title.

Endorsement(see also rider): Amendment added to a written document, particularly an agreement between parties, altering its provisions.

Enjoin: To prohibit or forbid by legal action

Equity: Pecuniary value of property exceeding claims and liens against it.
Justice administered according to fairness

Escrow: The holding by an independent party of assets in safe custody pending fulfillment of terms or conditions allowing for release of the assets to one of the parties.

Excess Bond or Policy: Additional coverage over a primary bond or policy protecting against loss (usually do to dishonesty) applying only to loss above a specified amount.

Exclusion: A provision in a bond referring to perils or property not covered.

Executor: A fiduciary named in a will to manage or distribute the assets of an estate and pay all claims and debts. (See also "Administrator")

Expense Ratio: The percentage of the premium used to pay all costs of acquiring, writing and servicing bond.

Experience Rating: A plan available for fidelity bonds whereby surcharges or discounts are applied to premiums developed by those risks based on the actual past experience of such risks.

Expiration: The date upon which a bond will cease to provide coverage unless previously canceled.

Exposure: Potential loss from a hazard, contingency, or condition

Facultative Reinsurance: Reinsurance of individual risks by offer and acceptance wherein the reinsurer retains the faculty or privilege to accept or reject each risk offered.

Fidelity Bond or Fidelity Policy: A bond which will indemnify an insured for loss caused by a dishonest or fraudulent act of an employee covered under the bond. Also known as Dishonest insurance.

Fiduciary: A person who occupies a position of trust, particularly one who manages the affairs of funds of another.

Fiduciary Bond: Required of administrators, executors, guardians, committees, etc., guaranteeing faithful performance of duty in accordance with the laws applicable to the trust. Frequently called a probate bond because the bond is customarily filed in a probate court.

Financial Guarantee Bond: A bond which guarantees payment of a sum of money whether or not the exact amount is known or stated. Common types are court bonds (appeals, etc.), lease bonds which guarantee payment of rent, utility bonds, sales tax bonds, etc.

Financial Institution Blanket Bond: A bond basically insuring various types of financial institutions against loss due to employee dishonesty, robbery, larceny, burglary, theft, holdup, forgery, misplacement, mysterious unexplainable disappearance and certain other perils.

Financial Statement: A financial report, including a balance sheet, an income statement and notes which the surety requires of an applicant for a bond (particularly a contractor), setting forth his/her financial position as of a given time or period.

Fixed Penalty Bond: A bond penalty which is expressed in terms of stated and definite sum of money. Compare with Open Penalty Bond.

Forfeiture Bond: A bond where the full penalty is payable upon breach of condition regardless of the amount of loss or damage.

Forgery: The false and fraudulent making or altering of a written instrument. The illegal signing of another's name to a document, such as a check.

GAAP: Generally Accepted Accounting Principles

Garnishment: Legal attachment and distribution of property to satisfy a debt.

General Average Bond: If ship and cargo have been in common peril, and cargo has been voluntarily sacrificed, bond is required on delivery of property saved to its owners, conditioned for payment of their shares of losses and expenses.

General Indemnity Agreement(GIA): An indemnity agreement is a contract entered into between indemnitor and surety in which indemnitor secures surety against loss surety may sustain on bond on behalf of itself or another.

Guarantor: Party undertaking that another party will pay or will perform; one who becomes secondarily liable for another's debt or performance; e.g., a surety is a guarantor.

Guaranty: Undertaking a collateral contract that another party will pay or will perform.

Guardian: Court-appointed fiduciary caring for a minor or incompetent person and administering an estate on his or her behalf.

Immigrants Bonds: A class of Federal bonds covering aliens who legally enter the United States for temporary reasons, such as study or work, or for permanent reasons. i.e., to become United States citizens. Such obligations are conditioned upon departure from the country as called for by entry permits and are required to ensure the aliens do not become public charges.

Income Tax Bonds: These are given to guarantee payment of Federal income tax due or claimed to be due.

Indemnify: To compensate for actual direct loss sustained under a bond. There can be no recovery on a bond until the obligee has actually suffered a loss.

Indemnitor: One who enters into an agreement with a surety company to hold the surety harmless from any loss or expense it may sustain or incur on a bond issued on behalf of another.

Indemnity: Security against. And compensation for, hurt, loss or damage. Also, the promise by a Principal to save the surety harmless from a loss as a result of the surety assuming an obligation of the Principal.

Indemnity Agreement: Contract entered into between indemnitor and surety in which indemnitor secures surety against loss surety may sustain on bond on behalf of itself or another.

Indemnity Bond: A general term describing any bond which protects the obligee against direct loss which may arise as a result of failure on the part of a principal to perform.

Injunction: Judicial process requiring a person to do, or to refrain from doing, a particular thing.

Injunction - Plaintiff's Bond To Secure: An injunction is a judicial process whereby the defendant is required to do or refrain from performing a particular act. An order granting an injunction may be conditioned upon the furnishing by the plaintiff of a bond to indemnify the defendant against loss in case it be finally decided that the injunction should not have been granted.

Injunction - Defendant's Bond To Dissolve: When an injunction has been issued, the court may order the injunction dissolved upon the giving of a bond conditioned, in effect, to pay such damages as the plaintiff may sustain as a result of the performance of the act or acts originally enjoined, it being then the privilege of the defendant to proceed as if the injunction had never been issued.

Instrument: Written document, formal or legal; e.g., contract, deed, will, bond.

Insuring Clause: That part of a bond or policy which recites the agreement of the insurer to protect the insured against some form of loss or damage. Also known as insuring Agreement.

Intestate: Person dying without leaving a valid will.

Joint Control: An arrangement by written agreement between a fiduciary and a surety, acknowledged by the bank in which funds are deposited or securities lodged so that the funds or securities are controlled by both parties; usually all checks are required to be signed by the fiduciary and signed by an authorized representative of the surety and access to the securities can be had only in the presence of an authorized representative.

Joint and several Liability: Sureties bind themselves jointly and individually to the obligee(s) so that the sureties may be sued either together or separately for enforcement of the bond.

Joint Venture: Legal entity usually in the nature of a partnership for one project engaged in the joint prosecution of a particular transaction for mutual profit; e.g., contractors combining their skills and financial resources to undertake a contract for mutual benefit.

Judicial Bonds: A general term applied to all bonds filed in court – whether Fiduciary or court bonds.

Labor and Material Bond: A bond given by a contractor to guarantee payment for the labor and material used in the work which he is obligated to perform under the contract. This liability may be contained in the performance bond, in which case a separate labor and material bond (payment bond) is not given.

Lease Bond: Guarantees that the party leasing property will make payments and fulfill other terms of the lease.

Letter of Credit (LOC): An engagement by a bank made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit agreement. A letter of credit may be either revocable or irrevocable.

Liability: Legally enforceable obligation.

License Bond(also permit bond): Used interchangeably with the term “permit bond “ to describe bonds required by state law, municipal ordinance or regulation, to be filed prior to the granting of a license to engage in a particular business or permit to exercise a particular privilege. Such bonds provide payment to the obligee for loss or damage resulting from violations by the licensee of the duties and obligations imposed upon him/her.

Lien: A charge or encumbrance upon property; a charge a court issues on a property to discharge a debt or duty.

Lien Bond, Release of: Secures owner of realty against loss from liens against his property ; e.g., unpaid bills for work on owner(s) property.

LLC: Generally, an LLC is a noncorporate business in which all the members have limited liability, in the absence of personal guarantees, and in which all the members have limited liability, in the absence of personal guarantees, and which the members can actively participate in management. The entity is created by making filings in the state where it is formed setting up a structure which conforms to that statute. In most instances the management structure and procedures for the LLC are fixed in an “operating “ agreement which meets the requirements of the applicable state structure.

The design build process contrasts with the “traditional “ building process in the following ways. On a “Traditional” project during and through the design process, conceptual to schematic to production and publication of a complete set of ready to construct drawings and specifications covering all of the design disciplines. At the conclusion of that effort, that owner then must go out to the marketplace for bids from contractors to do the construction work. After that selection process is complete the construction work is stated.

The building community created and marketed the “design build” concept in the commercial market as an alternative to the “traditional process.” A parallel movement took place in the industrial and power market where owners were encouraged to use the “EPC” process of contracting where one entity has the responsibility for engineering the project, procuring the major equipment and materials and performing the construction. In both cases the fundamental concept is the same: the owner engages one company which has the obligation to design and build. That engagement is made on the basis of outline plans and specifications. Design and construction thereafter proceed simultaneously, instead of serially, and the owner sits back to await receipt of a completed project. In the building context the metaphor is that it is a “turn key” project.

To learn more about LLC’s, Design/Build, and EPC Contracting please order **LLCS, Design/Build , and EPC Contracting** from NASBP Surety Education Department @ 1 202 686 3700.

Limit of Liability: The maximum amount which an insurance or surety company is obligated to pay in case of loss (also bond penalty or penal sum).

Limited Partnership: Partnership formed under legal controls having as many members one or more general partners and one or more limited partners. The limited partners are not bound by the obligations of the partnership beyond their respective contributions.

Line of Credit: Credit is the amount of indebtedness that a customer may incur. Institutions set up accounts for customers with credit lines (lines of credit) up to which a customer may purchase goods and services by charging them and paying later either in full or in installments. Some sureties will extend a line of credit to bond a contractor’s future projects. When a surety extends a line of credit for future jobs, periodic analysis of work in progress by the surety is necessary to monitor the credit line. The extra work associated with document preparation when a surety is necessary to monitor the credit line. The extra work associated with document preparation when a

surety provides a credit line makes credit line availability more attractive to large contractors who bid frequently and who regularly provide comprehensive work-in-progress information.

Liquid: Assets capable of being readily converted into cash .

Litigate: The act of carrying on a suit; to settle a dispute in a court of law.

Lost Instrument Bond Also Known As A Lost Trust Deed Note Bond: A bond given by the owner of a valuable security (stock, bond, promissory note, certified check, etc.) which is alleged to have been lost or destroyed. It protects the issuer of the security against loss which may result from the reissuance of a duplicate or, in some instances, payment of cash value thereof.

Maintenance Bond: The normal coverage provided by a maintenance bond is a guarantee against defective workmanship or materials. However, maintenance bonds sometimes incorporate an obligation guaranteeing “efficient or successful operation” or other obligations of like intent and purpose.

Manual , Rate: A book published by The Surety Association of America giving loss costs classifications for bonds and by an individual surety company giving end rates and classifications for bonds.

Mechanic S Lien: Charge on real property in favor of parties supplying labor, materials or professional services for a construction project , for value of labor, materials or professional services they supply; the lien prevents owner from obtaining clear title until the claim is settled. The right to file a lien is a legal right in the U.S.A. and Canada, except as prohibited, as many be the case on public works.

Mechanics Lien- Bond to Discharge: A lien against real estate may be filed for an amount calmed to be due for labor or materials furnished for the construction of a building or other improvement upon the property. Pending final determination of the owner’s liability, the owner may discharge the lien by giving A bond conditioned for payment of any amount that may be found due to claimant with interest and costs.

Miller Act: The Miller Act was enacted by Congress in 1935. This law replaced the Heard Act of 1894 which required contractors to obtain surety bonds on public works. The Miller Act requires federal government to require performance and payment bonds on its construction projects and extends the payment bond’s protection to certain subcontractors and suppliers. Most public bodies such as states , cities , and municipalities follow a bonding requirement similar to the Miller Act(called “the little Miller Act”).

Miller Act Bond: A performance bond and labor and material payment bond required by the Miller Act on public works of the U.S. as enacted August 24,1935 (Reference : US Code, Title 40, Section 270a.)

Minimum Premium: The least amount a surety company will charge for a particular bond for a designated period.

Miscellaneous Indemnity Bonds: Bonds which do not fit any of the well recognized categories. Bonds in which the obligation is a promise to pay contingent on some event occurring.

Name Schedule Bond: A fidelity bond which covers the employees listed by name in a schedule, each for a specified amount.

NASBP –National Association of Surety Bond Producers: The National Association of Surety Bond Producers is an organization of insurance agencies and brokerage firms that are recognized as specialists in providing surety bonding and insurance for construction contractors and other businesses. The individuals within these firms who work with businesses on their insurance and surety bonding needs are called agents, brokers, and producers.

Negligence: Failure to exercise the care that a reasonably careful and prudent person would be expected to exercise in similar circumstances.

Obligee: The party in who's favor a bond runs; the party protected by the bond against loss. An obligee may be a person, firm, corporation, government or an agency of a government.

Obligor: The person who has engaged to perform some obligation ; party liable under contract of suretyship.

Open Penalty Bond: A surety bond written without a limit on the liability of the principal or surety. Under the regulations of the federal government and the laws of many of the states, surety companies are not permitted to obligate themselves on any one bond for an amount greater than a specified percentage of their of their capital and surplus (qualifying power). Consequently, many open penalty bonds read to the effect that “ the surety hereunder obligates itself in an amount equal to the maximum amount of which it may legally bind itself.”

Ordinance: Regulation of a governmental body.

Outside Employee: An employee, such as a salesman , messenger, etc. whose duties keep him away from his headquarters.

Partnership, General: Joint enterprise, in which entities, each of whom is responsible for business acts of the other, combine resources to engage in business and commit all of their resources.

Partnership, Limited: Joint enterprise, organized under Uniform-Limited Partnership Act, in which limited partners, each with a cash or tangible property investment, have a liability to their individual investment only.

Payment Bond: See labor and Material Bond

Penal Sum: (also bond penalty) the maximum amount for which a surety company may normally be held liable under the bond. Also called the bond penalty. See also limit of liability

Performance Bond: A financial guarantee that the contract will be performed, but it is not an explicit undertaking by the surety to perform the contract. The performance bond is a joint and several promise by the surety and the bond principal to the obligee that the principal will fully and faithfully perform all it's obligations in the terms of a written contract for furnishing supplies or for construction of al kinds. Performance bonds frequently incorporate payment bond (labor and materials) and maintenance bond liability.

Permit Bond (also License Bond):Used interchangeably with the term “License Bond” to describe bonds required by state law, municipal ordinance or regulation, to be filed prior to the granting of a license to engage in a particular business or permit to exercise a particular privilege. Such bonds provide payment to the obligee for loss or damage resulting from violations by the licensee of duties and obligations imposed upon him.

Personal Surety: An individual who acts as a financial guarantor for another, who may or may not charge a fee for his/her guarantee, and usually is not regulated by any government agency , such as is the corporate surety.

Plaintiff: The party who files a complaint or sues to seek remedial relief for an injury

Plaintiff(S) Bonds: Bonds given by plaintiffs in litigation enabling them to exercise certain privileges with permission of the court , such as Attachment, Injunction, Replevin.

Position Schedule Bond: A fidelity bond which covers employees who may, while the bond is in force, occupy and perform the duties of the positions scheduled in the bond, each position being covered for a specific amount.

Power of Attorney: Instrument authorizing one person or corporation to act for and obligate another, to the extent expressed in the instrument creating the power. In corporate suretyship, an instrument under seal which appoints an individual as an attorney-in-fact to act on behalf of a surety in executing bonds

Prequalification Letter: Letter provided by Agent or Surety outlining the surety credit their customer has prequalified for.

Premium: the fee to be paid for the bond. The cost of the bond.

Principal: The one who is primarily bound on a furnished by a surety company. For example, in a contract bond, the principal is the contractor; for a public official bond, the principal is the public official; for a fiduciary bond, the principal is the administrator , executor or guardian. For a license bond, the principal is the one to whom the license is issued.

Probate: Court procedure by which a will is proved to be valid or invalid or if no will exists, appoint an administrator/administratrix to manage and dispute the estate.

Producer: Party who, for a fee or commission, arranges for the placement of bonds or insurance with a writing company on behalf of a customer; a producer may be an agent duly appointed by a writing company to represent it or a broker who represents the customer.

Probate Bond: One that guarantees an honest accounting and faithful performance of duties by administrators, trustees, guardians, executors and other fiduciaries. So called because such bonds are customarily filed in a probate court. Also see Fiduciary Bonds.

Pro Rata Cancellation: Cancellation of a bond when the portion of the premium returned is the full proportionate part due for the unexpired period Distinguished from short rate cancellation. Because surety companies have a minimum premium that they will refund, there may not be a return premium on pro rata cancellation. Typically the first years premium on bonds is fully earned.

Public Official Bond: A bond that guarantees faithful performance of duty official in a position of trust ; also provides for an honest accounting of all public funds handled by official. Such bond is given to comply with a statute and, therefore, carries whatever liability the statute imposes.

Rate: The cost of a unit of bond coverage. Such unit is usually in the denomination of \$1,000.(Given as Dollar per Thousand or as a % [i.e., \$10 = 1%.])

Rate Manual: A book published by The Surety Association of America giving loss costs classifications for bonds and by an individual surety company giving end rates and classifications.

Receiver: Person appointed to represent the court in holding in trust and in administering property under litigation.

Recovery: Reimbursement received by a surety from a reinsurer, or by subrogation, or from salvage following loss.

Reinsurance: The cession by a surety company(the reinsured) of a stated proportion or amount of risk and the assumption of such cession by another carrier or carries (the reinsurer) in consideration of a premium paid by the reinsured to the reinsurer. The proportion of the risk not ceded is referred to as the retention or net line. Reinsurance is effected under a contract called reinsurance agreement or treaty.

Release: The giving up or surrendering to another a right or claim or privilege; abandonment of a claim.

Release of Lien : removal of a lien if owner of the property settles hi/her debates or a transfer of a lien from the property to a bond through the filing of a *release of lien bond*.

Removal Bond: Where a case originally brought in a state court is removed to the federal court, the defendant is required to give bond for the payment of costs in federal court if the case is found to have been improperly removed. A similar bond may be required on removal of case from on estate court to another.

Replevin- Plaintiff's Bond To Secure: Replevin is an action to recover possession of specific articles or personal property . The replevin bond, which the plaintiff is required to furnish , conditioned for the return of the property, if return is ordered, and for the payment of all costs and damages adjudged to the defendant.

Retention: Amount's for liability held or retained. Retention in a contract is the amount the owner holds to mitigate any problems that might arise.

Rider: A form changing or adding special provisions to a bond. Sometimes called an endorsement.

Role and Value of a Construction Bond: See The Role and Value of a Construction Bond.

SAA: SAA is a nonprofit trade association that represents more than 650 United States surety bond companies that write surety and fidelity bonds. SAA provides its members with statistical, loss cost, and other advisory services, and it also interacts with Congress and governmental agencies to explain the surety industry's views on public policy issues.

Secured Loan: A loan that is backed by the borrower's pledge of assets or other collateral. In the event of default the lender can then recover the balance due by selling the borrower's pledged assets.

Sole Obligor "Bond": See Undertaking

Statute of Limitations: A law establishing limitations on the period within which action must be taken.

Statutory Bond: A term generally used describing a bond given in compliance with a statute. Such a bond must carry whatever liability the statute imposed on the principal and the surety.

Stay of Execution: A bond to stay or suspend execution on a judgment. It guarantees the payment of the judgment upon termination of the stay.

Stop Order(also stop notice): Formal written notification from owner to contractor to cease work on a project.

Subcontractor Bond: One required by a general contractor, guaranteeing that the subcontractor will faithfully perform the subcontract in accordance with its terms and conditions and will pay for labor and material incurred in the prosecution of the subcontracted work.

Subdivision Bond: Many municipalities provide by ordinance that a developer who undertakes to lay out a housing or industrial subdivision shall give bond with surety to guarantee that, within a specified time, improvements on the property, such as streets, sidewalks, curbs, gutters, and sewers will be constructed. There is considerable variation in circumstance under which such bond may be required, but the feature which is common to all is that the improvements are to be made at the expense of the developer; the principal on the bond.

Subordination: Belonging to a lower or inferior class or rank; secondary. Subject to the authority or control of another.

Subrogation: The legal or equitable process by which a surety company obtains from a third party recovery of an amount paid out by the surety to the obligee or a claimant under the bond.

Supercedeas Bond: See appeal bond.

Superseded Suretyship: When a company writes a bond to take to place another bond which is canceled on the effective date of the new bond, a rider is generally attached(unless the bond itself

contains a superseded suretyship provision) agreeing to pay losses that would have been recoverable under the first bond except for the expiration of the discovery period.

Supply Bond: A bond which guarantees faithful performance of a contract to furnish supplies or materials. In the event of a default by the supplier, the surety must indemnify the purchaser of the supplies against the loss.

Surety: A person or corporation bound or obligated for the payment of money or the performance of a act or duty to another.

Surety Agency Procedure Manual (SSPM): This **Surety Standard Procedure Manual** is designed to be used for guidance in setting Surety Standard Practice Operating Procedures. The emphasis is on the Agency Quality Control Program. Please contact SASBP for more information.

Surety Bond: An agreement providing for monetary compensation should there be a failure to perform specified acts within a stated period.

Suretyship: Refers to obligations to pay the debts of, or answer for, the default of another. It assumes a legal relationship based upon a contract in which one person (the surety) undertakes to answer to another (the obligee) for the debt, default or miscarriage of the third person (the principal), resulting from the third person's failure to pay or perform as required by an underlying contract or agreement.

Surety Underwriting One(SU1): A new, automated education & training program on contract surety. Produced on CD-ROM, this program puts a training facility right in your office. With this product, you have an interactive training tool that can introduce new employees to basic concepts and key terms or act as a refresher course for the more experienced. Topics :A Review of Surety; How Contractors Get Jobs; Bid, Performance and Payment Bonds; Elements of a Submission; The 3C's of Underwriting; Financial Analysis; Indemnity Agreements and Collateral. Sectional quizzes and case studies help reinforce the concepts learned. This program offers Continuing Education credit in most states. Contact NASBP Education Department @ 1-202-686-3700, for more information. {Complete kit includes: (1) CD-ROM, (1) set of Workbooks, and (1) C.E. filing.}

Syndicate: An association of individuals or companies that together promote a common interest, undertake a joint venture, or transact specific business that one person or company alone would be unable or unwilling to handle or finance. Invest bankers and stockholders, for example, may form a syndicate to market securities.

Teflon: A quality something or someone has of being immune to existing influences.

Term: A period of time for which a bond is issued and its liability outstanding.

The Role And Value Of A Construction Bond- a presentation in a kit

A presentation that is ready-to-go and ready-to-show!

The purpose of *The Role and Value of a Construction Bond* is to provide the surety industry's "constituency groups" with an in-depth understanding of the function and value of surety bonds used in construction today. By constituency groups we mean all who use, interpret, or recommend the use of surety bonds:

The clients of NASBP's members and affiliates—contractors, sub-contractors.

Those protected by construction bonds—project owners, construction lenders, subcontractors, suppliers and workers.

Those who interpret and judge the scope of the construction bond's protection through the legal and judicial systems, such as judges and attorneys.

Those in government who rely on construction bonds to keep public contracting honest, economical, and efficient—contracting officers and other officials who administer the use of surety bonds in the public sector.

The nation's taxpayers—who supply the funds for public construction and who are the ultimate beneficiaries of bonds on public works.

Those who can impact the use of construction bonds in the private sector—owners, lenders, architects, attorneys, risk managers.

These groups' accurate understanding of the role and value of surety bonds used in construction is critical to their proper and continued use. Your use of this presentation-in-a-kit can have a direct effect upon the perceived value of surety bonds, ensure their continued use and increase the frequency of bonds applied to private projects.

Your use of *The Role and Value of a Construction Bond* as the basis of your presentations will enable you to make an important contribution to our industry. You will provide the surety industry's "constituency groups" with an in-depth understanding of suretyship and of the value of surety bonds to the construction process in both the public and private sectors.

The Role and Value of a Construction Bond is your tool. A presentation that is ready-to-go and ready-to-show! This NASBP product is a complete, informative, and persuasive presentation that is packaged in six modules, beginning with the history of suretyship and concluding with information about surety claims.

Continuing Education credits for agent's licensing can be obtained for presenters of this program. Contact the NASBP Surety Education Department @ 1-202-686-3700 for more information.

Third Party Bond: A license bond which gives parties other than the named obligee a right of action (claim) in their own name to recover loss or damage resulting from a breach by the licensee of his obligations under the law, ordinance or regulations under which the bond is required.

Treasury Limits: These are qualifying limits imposed upon surety companies by the United States Treasury Department. To be an acceptable surety on bonds in favor of the United States, the surety must qualify financially under regulations of the Treasury Department. That department annually issues a list of companies so qualified, the underwriting limit of each, the states in which each is licensed, and other data. The underwriting limit is frequently referred to as the qualifying power, which is equal to 10% of the capital and surplus of the surety.

Treaty: A reissuance contract between surety companies.

Trustee: One named in a will or deed of trust to manage property for the benefit of another.

Ultra Vires: In law of corporations, acts beyond the scope of corporation's powers, as defined by the corporate charter.

Undertaking: A promise or engagement by one of the parties to a contract to the other, as distinguished from the mutual engagement of the parties to each other, not necessarily implying a

consideration; a surety may undertake to perform some action or guarantee the performance of another as a sole-obligor-as such, there are only two parties to the bond, the surety and the obligee.

Underwriter: Any individual officer or employee of an insurance company who has the responsibility of accepting risks and determining the amounts acceptable.

Unearned Premium: That part of the premium which has not yet been earned by the surety for the unexpired portion of the term of the bond.

Vendor: Person selling any property or merchandise or service.

Waiver: International or voluntary relinquishment of as known right.

WEB: Short for the “World Wide Web” (WWW)

White Knight: A corporation that comes to the aid of another in a takeover fight.

William J. Angell Surety School (WJA Surety School): The WJA Surety School is held twice per year in Houston, Texas. It is composed of :

Level 1 School which is designed to enhance the capabilities of you novice producer or in-house bond department support staff.

Level 2 School instruction for new (one year experience) in-the-field bond producers.

For more information on these highly acclaimed school programs please contact NASPB.

For information on the new, under development, intensive training experience program, the Surety Advanced Education Seminar please contact NASBP.

Contact NASBP Surety Education Department @ 1-202-686-3700 for more information.

Window: An opening or opportunity.

WIP: Work in process.

} Schedule prepared by contractor that outlines the costs, profits and billings on his/her work that is in process.

WHO: Work on hand.

WRIT: Written document a court issues requiring the performance of a specified act, or giving authority to have it done.