

CONTRACTOR'S PERFORMANCE BOND

under clause 9 of ABT 18

At the request of
(the contractor):

we hereby guarantee to
(the client):

the payment of a total amount of up to DKK
(in words: Danish kroner):

as security for the performance of all the contractor's
obligations under the construction contract of (date):

comprising the execution of
(the project):

The bond will not be affected by the client granting an extension of time for the performance of the contractor's obligations.

Claims covered under the bond will not lapse even if the client pays the contract sum or any part of it to the contractor after handover. If, despite its knowledge of material defects when paying the contract sum, the client has failed to retain an amount as security for the rectification of the defects, all bond claims pertaining to the defects will lapse to the extent that they could have been covered by way of ordinary retention.

I. Payment under the bond

If the client requests payment under this performance bond, such request must, in accordance with clause 9, subclause (9), of ABT 18, be made in writing and notified simultaneously to the contractor and the guarantor with a precise specification of the nature and extent of the alleged breach and the size of the amount claimed.

The amount claimed must be paid to the client within ten working days after receipt of the notification unless the Contractor has filed a request with the Danish Building and Construction Arbitration Board before then, asking the Board to issue a decision on the security provided, in particular with a view to determining whether the payment claim is justified; see clause 65 of ABT 18.

If the expert decides that payment must be made under the bond, the amount must be paid out no later than three working days after the parties and the guarantor have received written notification of the decision; see clause 65, subclause (9), of ABT 18.

The guarantee amount of this bond will be reduced by any amount paid out under the bond.

II. Reduction of the bond

When handover has taken place (see clause 43 of ABT 18), the bond is reduced to 10% of the contract sum; see clause 9, subclause (3), of ABT 18. To the extent requested by the client in the handover protocol, the bond must be calculated as 10% of the contract sum with addition or deduction of all extra or reduced work, and in such case the client must send the handover protocol to the guarantor as soon as possible after handover, stating the amount of the reduction.

One year after handover, the bond is reduced from 10% to 2%; see clause 9, subclause (4), of ABT 18. However, this does not apply if the client has submitted a prior written complaint of defects and has notified

the guarantor of this in writing. In such case, the bond is reduced when the defects have been rectified.

As soon as possible after the defects have been rectified, the client must notify the guarantor in writing that remedial action has been completed.

If works have been postponed for later handover, the reduction relating to the postponed works is made after the postponed works have been handed over; see clause 9, subclause (7), of ABT 18.

If the works are handed over in stages, the reduction is made proportionally according to the scope of the works stage handed over; see clause 9, subclause (8), of ABT 18.

If the parties have agreed to the Supplementary conditions regarding operational requirements in building and construction works (APP Operational Requirements) and the measurement is postponed as a result of late delivery of agreed operation and maintenance material, the effect of which is that the measurement cannot be concluded until more than one year after the handover of the works, the contractor's bond will not be reduced until the measurement has been concluded; see clause 4, subclause (4), of APP Operational Requirements.

The client must notify the guarantor in writing as soon as possible after conclusion of the measurement.

III. Cessation of the bond

The performance bond ceases five years after handover; see clause 9, subclause (5), of ABT 18. However, this does not apply if the client has submitted a prior written complaint of defects and has notified the guarantor of this in writing. In such case, the bond ceases when the defects have been rectified. As soon as possible after the defects have been rectified, the client must notify the guarantor in writing that remedial action has been completed.

IV. Disputes

Any dispute concerning payment under or reduction or cessation of this performance bond must be resolved by a decision on the security provided in accordance with clause 65 of ABT 18; see clause 9, subclauses (9) and (10), of ABT 18.

If the circumstances warranting a claim in accordance with clause 9, subclause (9) or (10), of ABT 18 are already the subject of a dispute between the parties in pending proceedings as set out in clause 66 or clause 67 of ABT 18, an introduction of the claim in the pending proceedings replaces the request for a decision on the security provided; see clause 9, subclause (11), of ABT 18.

If the contractor is declared bankrupt, the guarantor may file a request for a decision on the security provided in accordance with clause 65 of ABT 18, in which case the guarantor becomes a party to the case; see clause 9, subclauses (9) and (10), of ABT 18.

The guarantor accepts that all disputes arising out of or in connection with this performance bond are resolved in accordance with the provisions of chapter J of ABT 18, except for clause 62 of ABT 18.

Bond no/ref no:

Guarantor:

Date and signature: