

[PF 14]
Pro Forma 14
Performance bond liquidator

Policy Statement 33

Updated 7/2/1994, 2/5/1994, 21/6/2005

For use under Corporations Act 2001 Part 9.2 and Corporations Regulations Part 9.2.

To: Australian Securities & Investments Commission (the "Commission") of *[insert address of ASIC Regional Office]*

On account of: *[name and address of liquidator]* (the "Liquidator")

Amount of this Bond \$A *[amount]*

- 1 *[name and address of bank or insurance company]* (the "Issuer") at the request of the Liquidator and for valuable consideration hereby irrevocably and unconditionally undertakes to pay to the Commission upon demand by the Commission any sum or sums demanded in accordance with paragraph 2, without conditions, without reference to the Liquidator and notwithstanding any contrary request or instruction by the Liquidator.
- 2 Each demand by the Commission:
 - (a) shall be in writing signed on behalf of the Commission;
 - (b) shall state:
 - (i) the amount demanded (which shall not exceed the Amount of the Issuer's Liability); and
 - (ii) that the amount demanded is required in order to be applied as prescribed by the Corporations Regulations;
 - (c) shall be left at or posted to the address of the Issuer stated herein or currently recorded in the records kept by the Commission.
- 3 The Issuer's Liability at any time under this Bond shall be the Amount of this Bond reduced by the amount of each payment made by the Issuer under paragraph 2 up to that time.
- 4 This Bond is independent of any other security lodged or required to be lodged or maintained by the Liquidator with the Commission in accordance with the Corporations Act 2001.
- 5 This Bond may be discharged or released wholly or in part only as prescribed by the Corporations Regulations. Discharge or release of this Bond will not prejudice or adversely affect any other security lodged with the Commission in respect of the Liquidator.
- 6 The Issuer may, after giving 14 days notice in writing to the Commission, pay to the Commission an amount equal to the Issuer's Liability; upon receipt of such moneys by the Commission the same shall be paid to the credit of an account with a bank

which shall be the security lodged and required to be maintained by the Liquidator in accordance with the Corporations Act 2001 and the Corporations Regulations and:

- (a) on the Commission being satisfied that the payment by the Issuer is legally retainable and not refundable, the Issuer shall be discharged from liability under this Bond and both the Issuer and the Liquidator shall be entitled to written acknowledgment by the Commission of such discharge;
 - (b) the moneys from time to time to the credit of the account may be applied by the Commission at any time and from time to time in accordance with the Corporations Act 2001 and the Corporations Regulations;
 - (c) if at any time the credit balance of the account is less than the Amount of this Bond the Liquidator covenants to pay forthwith on demand by the Commission the amount of the deficiency to the Commission to be credited to the Account;
 - (d) if at any time the credit balance of the Account exceeds the Amount of this Bond above the Liquidator shall be entitled to payment of the excess;
 - (e) discharge of the Issuer shall not prejudice or adversely affect the obligations of the Liquidator at all times to lodge and maintain the security under the terms of the Corporations Act 2001 the Corporations Regulations and these presents.
- 7 In the event of discharge of the Issuer under clause 6 the Liquidator covenants with the Commission to lodge moneys and maintain the security account as required by clause 6 above.
- 8 A reference to the Corporations Regulations is a reference to any Act, Ordinance or Regulation from time to time prescribing the application discharge and/or release of this Bond; in the absence of any such prescription, “prescribed by the Corporations Regulations” shall mean according to the discretion of the Commission and the Bond shall be demanded and paid applied and discharged in accordance with the discretion of the Commission.
- 9 The proper law of this Deed shall be the law of the State or Territory in which is situated the address of the Commission herein.

In witness whereof this Bond has been duly executed as a deed by the Issuer and by the Liquidator the day of .

Signed sealed and delivered by)
) (signature of Liquidator)
 in the presence of:)

in the presence of:

.....

Witness

.....

Name of Witness (print)

[OR]

The common seal of)
 is affixed in accordance with its Articles of)
 Association and in the presence of:)

.....
 Director

.....
 Name of Director (print)

.....
 Secretary

.....
 Name of Secretary (print)

Signed sealed and delivered by)
) (signature)
 in the presence of:)

.....
 Witness

.....
 Name of Witness (print)

[OR]

The common seal of)
 is affixed in accordance with its Articles of)
 Association and in the presence of:)

.....
 Director

.....
 Name of Director (print)

.....
 Secretary

.....
 Name of Secretary (print)