

SURETY BOND FOR PAYMENT

GIVEN BY: _____

ON BEHALF OF: _____

**FOR OBLIGEE: INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL
825 EMPLOYEE BENEFIT FUNDS**

BOND NUMBER: _____

THIS SURETY BOND FOR PAYMENT (“Surety Bond”) is made on this _____ day of _____, 2017 by and between _____ (“Employer”), with a principal place of business at _____, _____, _____, and _____ (“Surety”), of the state of _____, a corporation duly organized under the laws of the State _____, with a principal place of business at _____, _____, _____ (collectively, the “Parties”).

WHEREAS, the Surety is held and firmly bound unto the International Union of Operating Engineers Local 825 Employee Benefit Funds, 65 Springfield Avenue, Second Floor, Springfield, New Jersey, 07081 (“Obligee”), in the penal sum of **(\$25,000.00) TWENTY-FIVE THOUSAND DOLLARS**, lawful money of the United States of America, for the payment of which sum, well and truly to be made; and

WHEREAS, the Principal has entered into a certain collective bargaining agreement (“CBA”) with the Obligee guaranteeing payment of assessments for Pension, Welfare, Annuity, Apprenticeship Training, Supplemental Unemployment Benefit and Vacation Funds (“Fringe Benefits”); and

WHEREAS, this surety bond is now given by the Surety on behalf of the Principal, and by the Principal, to the Obligee, to guarantee the payment of fringe benefits due on behalf of the Principal’s employees who perform covered work, as defined by the CBA between the International Union of Operating Engineers Local 825 and the Principal; and

NOW THEREFORE, the Parties having agreed to create this surety bond for the Obligee’s benefit, do hereby assent to the following terms:

1. **Binding Release / Bond Amount.** Parties do hereby bind themselves, jointly and severally, to Obligees, to all the terms contained in this surety bond for payment, in the amount of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)**, and so bind their successors, assigns, heirs, administrators and executors.

2. **Fringe Benefit Calculation.** The fringe benefits assured and guaranteed by this surety bond shall be calculated in the manner and by the rates delineated in the CBA.
3. **Time for Payment to Obligee.** The payment of fringe benefits assured and guaranteed herein shall be made to the Obligee within thirty (30) days after the Obligee notifies the Surety that the Principal is delinquent in remitting fringe benefits to its employees who performed covered work as delineated by the CBA.
4. **Notice.** All notices, requests, demands, including request for payment of fringe benefit funds as articulated in paragraph 3, *supra*, of this surety bond, and other communications hereunder must be in writing and shall be deemed to have been duly given if delivered by hand or mailed within the continental United States by first class, certified mail, return receipt requested, postage and registry fees prepaid, to the applicable party as follows:

If to the Obligee, 825 Fringe Benefit Funds:

Christine Medich, Fund Administrator
IUOE Local 825 Employee Benefits Funds
 65 Springfield Avenue, 2nd Floor
 Springfield, New Jersey 07081

With Copy to:

Vincent M. Giblin, Esq.
DeCotiis, Fitzpatrick, Cole & Giblin, LLP
 Glenpointe Centre West
 500 Frank W. Burr Boulevard
 Teaneck, New Jersey 07666

If to Principal:

NAME OF OFFICER: _____
NAME OF COMPANY: _____
 ADDRESS OF COMPANY: _____
 CITY, STATE, ZIP: _____

With Copy to:

ATTORNEY: _____
LAW FIRM: _____
 ADDRESS: _____
 CITY STATE ZIP: _____

If to Surety:

NAME OF SURETY: _____
NAME OF COMPANY: _____
 ADDRESS OF SURETY: _____

CITY STATE ZIP: _____

5. **Surety's Right to Terminate.** Surety may terminate this surety bond by serving written notice upon the Principal and the Obligee, no less than (30) days prior to the effective date of termination, in the manner delineated herein in paragraph 4. Surety shall remain liable for any of the Principal's fringe benefit delinquencies that accrued between the date of this surety bond's creation and the termination date of the same.
6. **Surety's Liability to Obligee.** Surety is bound hereunder independently of Principal in the maximum amount of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)**. Obligee may collect from Surety the principal amount of Principal's delinquent fringe benefits, in addition to any applicable interest, liquidated damages, fees, and costs awarded by an arbitrator with jurisdiction over the delinquency, or additional fees above on beyond the principal delinquency amount that are statutorily granted under any pertinent federal laws.
7. **Obligee's Notifications to Surety.** In the event of Principal's default to the Obligee, the Obligee shall notify the Surety within ninety (90) days after the Obligee shall have had knowledge of such default, and provided further than no suit, action or proceeding shall be brought hereunder, unless the same be instituted within one (1) year after the date of expiration or cancellation of this bond. If time limitations for notice of loss or institution of suit, action or legal proceeding is shorter than that permitted to be fixed by agreement under any statute controlling the construction of this Bond, the shortest permissible statutory limitation of time shall govern and shall supersede the time limitation stated herein. For the purposes of this Surety Bond, the Principal shall be deemed in default upon the issuance of an arbitration award declaring that it owes money to the Funds for contributions.
8. **Partial and Multiple Claims Against Surety Bond.** Partial and multiple claims are permitted under this surety bond as long as the claims in the aggregate do not exceed the value of this surety bond.
9. **Renewal or Modification of CBA's Effect on Surety Bond:** The renewal, extension or modification of the CBA shall not invalidate or otherwise modify this surety bond. The terms of the CBA or any successor agreement may be changed and modified without the knowledge or consent of the Surety. Surety may, however, request a copy of any modified CBA which alters the fringe benefits calculation rates.
10. **Estimation of Delinquent Benefits.** The Principal's failure to file employer remittance reports as it is required to do by the CBA, shall not impact the Obligee's rights to collect delinquent fringe benefit Funds from the Surety. Should the Principal fail to file its employer reports, the Benefit Funds are entitled to estimate and set the amount due and collect the same from the Surety.

11. **Authority.** The undersigned signatories represent and warrant that he, she, or it have the authority to create this surety bond and bind himself, herself, or itself thereto.
12. **Counterpart Originals.** This surety bond may be executed in their original version or in copies, counterparts, or other such duplicate versions. All signatures need not appear on the same copy, and the parties may execute different copies, so long as they contain identical provisions and all such executed copies shall constitute the complete agreement. Signatures made by facsimile copy shall have the same force and effect as original signatures.
13. **Entire Understanding.** This surety bond contains the entire understanding between the Parties and supersedes any and all prior agreements between the Parties concerning the subject matter contained herein. No representations, promises, understandings, covenants, or undertakings, oral or otherwise, shall have any force or effect except as set forth in this surety bond. The Parties acknowledge that they are not relying on any representations other than those expressly set forth herein. This surety bond may not be modified except by written instrument executed and acknowledged by all of the parties.
14. **Enumerations and Paragraph Titles.** The enumerations and boldface descriptions of each paragraph contained herein are for convenience only and have no legal meaning or significance whatsoever.
15. **Signatures.** This surety bond is hereby agreed to and accepted in substance and in form by and among the parties.

WHEREFORE, SURETY AND PRINCIPAL so bind themselves by signatures and seals:

FOR THE SURETY:

NAME
TITLE
SURETY COMPANY NAME

Dated: _____, _____, 2017

FOR THE PRINCIPAL:

NAME
TITLE

Dated: _____, _____, 2017

PRINCIPAL EMPLOYER'S NAME

CORPORATION ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____ in the year _____, before me personally came _____ to me known, who, being my duly sworn, did depose and say he or she resides in _____; that he or she is the _____ of _____, the entity described herein and which executed the foregoing instrument; that the seal affixed to said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of the said corporation, and that he or she signed his or her name thereto by like order.

NOTARY PUBLIC

SURETY ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____ in the year _____, before me personally came _____ to me known, who, being my duly sworn, did depose and say he or she resides in _____; that he or she is the _____, _____ the entity described herein and which executed the foregoing instrument; that the seal affixed to said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of the said corporation, and that he or she signed his or her name thereto by like order.

NOTARY PUBLIC