

State of New York *****
WORKERS' COMPENSATION BOARD

SURETY BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That _____ a company authorized to transact surety business in the State of New York, as Surety, is hereby held and bound to the Chair of the Workers' Compensation Board of the State of New York, and to the entitled employees and/or those claiming through such employees of _____, a self-insured employer, as Principal, in the Principal, in the aggregate sum of _____ Dollars () for the payment of which the Surety binds itself, its successors and assigns, jointly and severally with the Principal, by these presents:

WHEREAS, in accordance with the provisions of Section 50, Subd. 3 of the New York State Workers' Compensation Law, the Principal received or applied for the approval of the Chair to self-insure, and desires to file this Surety Bond to secure its liability as an employer under the said law,

NOW, THEREFORE, it is understood and agreed that:

1. In the event the Principal, as a self-insured employer under the Workers' Compensation Law, has failed or shall fail at any time for whatever reason to discharge and pay any or any part of its obligations of whatever character and nature within 30 days of becoming due, the Surety binds itself to be primarily liable for and on its own account shall pay and discharge any such obligations to the extent of its remaining liability under this Surety Bond, forthwith, after written demand by the Chair, served personally or by certified mail upon the Surety. The Chair in his/her sole discretion may direct in said demand the full amount of the penal sum or any part thereof as (s)he may deem necessary to secure or discharge any of the aforesaid obligations of the Principal. The right of the Chair to make such demand is superior and prior to the right of any interested party, beneficiary or recipient.

2. In the event of a demand as indicated in paragraph one the Chair shall, in his or her sole discretion, determine whether the burden of discharging the obligations under this Surety Bond will be assumed by the Workers' Compensation Board or the Surety. In the event that the Chair determines that said burden will be that of the Workers' Compensation Board, the Surety shall immediately pay over to the Chair or to a designated claimant or entitled beneficiary or recipient the sums demanded by the Chair. In the event that the Chair determines that said burden shall be the Surety's, the Surety, subject to approval by the Chair, shall discharge their obligations under this Surety Bond by adjusting its own claims or contracting with an adjusting company, risk management company, insurance company or other company that has expertise and capabilities in adjusting and paying workers' compensation claims. The company designated to handle claims shall be subject to approval by the Chair. The Chair shall be notified of the Surety's plan to handle claims no later than ten (10) days following the date of the demand as indicated in paragraph one. If an adjusting company other than the Surety is designated to handle claims, the cost of such adjusting company shall be borne by the Surety and not deducted from the penal amount of this Bond.

3. In the event that the Chair determines that the burden of discharging the obligations under this Surety Bond shall be that of the Surety, the Surety shall supply to the Chair quarterly a list of expenditures made in connection with the obligations under this Surety Bond and a listing of all open reserves or estimates of future losses maintained with respect to all remaining obligations under this Surety Bond. Nothing herein shall prevent the Chair from requesting more detailed information that the Chair, in his or her sole discretion, deems necessary.

4. The Surety undertakes and agrees that the obligations of this Surety Bond shall cover and extend to all past, present, and future liability of the Principal as a self-insured employer under the Workers' Compensation Law and pursuant to the rules and regulations issued thereunder, to the extent of and in no event greater than the aggregate sum herein named, without regard to specific injuries, date(s) of injuries, happenings or events, and as Surety hereby firmly binds itself to pay to the extent of its remaining liability under this Surety Bond. Such obligations for past, present, future, and existing and potential obligations shall extend to the payment for temporary and permanent compensation, medical compensation, death benefits, court costs, assessments and any other liability or assessment required or imposed on the Principal by the Workers' Compensation Law. The obligations of the Surety shall be in the manner set out in this Surety Bond subject to the penal amount of this bond. This Surety

Bond shall be an aggregate bond continuous in form and shall remain in full force and effect until the Surety is released as set out in this agreement.

5. The Surety can meet its obligations as set out in paragraph 4 and all other sections of this Bond without a formal award by the Workers Compensation Board and such payment will be a credit against the penal sum of this Bond. Administrative and legal costs, including attorney's defense costs on an individual claim, incurred by the Surety in discharging its obligations under this Surety Bond, shall not be charged against the penal sum of this Bond. Payments to workers or other obligations of the Principal under the Workers' Compensation Law will be paid in the same manner as the Principal would be required to make such payments. All obligations of the Principal under the Workers' Compensation Law will be met in a timely manner by the Surety.

6. This Bond may be terminated as of and on a specified date by the Surety by and in a written notice of termination filed in the Office of the Chair of the Workers' Compensation Board, and given by certified mail to the Principal. Such termination shall not be effective, however, unless the specified date thereof occurs at least 60 days after the date of such filing and mailing and not earlier and in no event unless and until the Surety has received an acknowledgement of such termination from the Chair. The liability of the Surety shall nevertheless continue as to any and all obligations of the Principal as a self-insured employer under the Workers' Compensation Law arising out of compensable accidents occurring prior to the effective date of termination, subject, however, to termination of all liability of the Surety under this Bond, upon the Chair's acceptance of any new bond or security or cash or irrevocable letters of credit from or in behalf of the Principal as a substitute for this bond. The Chair shall notify the Surety as to the date upon which the substitute new bond or security or cash or irrevocable letters of credit becomes subject to the claims of Principal's entitled employees or those claiming through such employees. Such substitute new bond or security or cash or irrevocable letters of credit shall assume and take over and be subject to the entire liability of this and any previous Bond except as to liability already paid or discharged, and the substitute new bond or security or cash or irrevocable letters of credit posted by the self-insurer shall be liable for all compensable claims presented against the self-insured employer thereafter, without right of contribution from any prior surety. In no event shall the Surety refuse to honor a legitimate and accurate claim against its Bond solely because of misrepresentations made to the Surety by a previous surety and/or by the Principal to induce the Surety to issue its Bond.

The liability of the Surety under this Bond shall not terminate upon the Chair's acceptance of any new bond or security from or in behalf of the Principal, which is in addition to this Bond. The Surety under this Bond shall continue obligated to the extent of its remaining liability under this bond prior to the Chair's resort to any such additional bond. However, the Surety under this Bond shall not be liable until all securities, cash and irrevocable letters of credit including those which were deposited as additional security subsequent to the effective date of this bond shall have been used.

7. This Bond and the obligations hereunder and herein, shall otherwise remain and continue in full force and effect so long as the liability of the Principal as a self-insured employer under the Workers' Compensation Law exists.

8. The Surety shall be liable, in addition to all other liability, and in amounts independent of and in addition to the face amount of and under this Bond, for the payment of all legal costs, including reasonable attorney fees, incurred in any and all actions or proceedings taken to enforce payment of this Bond, or payment of any award, judgment, assessment or penalty rendered against the Principal.

9. The purpose and function of this Surety Bond are to assure that at least the same rights, remedies, and protections to the Workers Compensation Board and to any other interested beneficiary, recipient or party are guaranteed, as if securities had been deposited by the Principal, in accordance with the provisions of the Workers' Compensation Law and were held in the name of the Chair as a security deposit in connection with the self-insured privilege.

11. If any part or provision of this Surety Bond shall be declared unenforceable or invalid by a court of competent jurisdiction, such determination in no way shall affect the validity or enforceability of the other parts or provisions of this Bond.

12. The Surety expressly recognizes that the intended purpose of this Surety Bond is to insure that aggregate obligations of the Principal are met if the Principal suspends payment of workers compensation benefits, becomes insolvent, appoints a receiver, or otherwise is financially unable to meet their obligations under the Workers' Compensation Law for any past, present, future and existing or potential obligations for temporary and permanent compensation, medical compensation, death benefits, court costs, assessments and any other liability or assessments required of or imposed on the Principal by the Workers' Compensation Law. This meaning and intent shall be given to the construction of the terms set out in this Surety Bond agreement.

13. In no event shall the Principal named herein and the Surety named herein have a common ownership or subsidiary-parent, brother-sister corporation, or any other direct affiliation with each other that could have a negative affect upon the Surety's ability to perform its obligations under this Surety Bond in the event of a default by the Principal.

14. The effective date of this Bond is _____

IN WITNESS WHEREOF the Principal has signed or caused this Bond to be duly signed, and its seal to be hereto affixed at _____ this _____ day of _____, _____.

PRINCIPAL

By _____

Title _____

Business Address _____

IN WITNESS WHEREOF the Surety has signed or caused this Bond to be duly signed, and its seal to be hereto affixed at _____ this _____ day of _____, _____.

SURETY

By _____

Title _____

Business Address _____

The above surety company, as an admitted/licensed surety in New York State, with NAIC# _____, hereby agrees to submit itself to the jurisdiction of the New York State Workers' Compensation Board and the New York State courts for the purpose of enforcing the liabilities and obligations arising from this agreement and further hereby agrees that service of process or any correspondence regarding this document/agreement may be effected on the surety by sending notice to _____ at _____ by registered or certified mail, return receipt requested.