

IRREVOCABLE LETTER OF CREDIT:

BANK'S LETTER OF CREDIT #: <INSERT NUMBER>

AMOUNT: \$25,000.00

EXPIRATION DATE: <INSERT EXPIRATION DATE AT LEAST 1 YEAR FROM DATE OF FORMATION>

ISSUING BANK:

<INSERT BANK NAME>
<BANK'S STREET ADDRESS>
<P.O. BOX>
<CITY, STATE, ZIP CODE>

ACCOUNT PARTY:

<SIGNATORY EMPLOYER>
<STREET ADDRESS>
<CITY, STATE, ZIP CODE>

BENEFICIARY:

Operating Engineers Local 825 Employee Benefit Funds
65 Springfield Avenue
Springfield, NJ 07081

Above-named Parties:

Please be advised that <INSERT BANK NAME> has established this Irrevocable Letter of Credit, <INSERT BANK'S LETTER OF CREDIT NUMBER> in favor of the Operating Engineers Local 825 Benefit Funds in the amount of \$25,000.00 to assure for the payment of fringe benefits due on behalf of <SIGNATORY EMPLOYER>'s employees who perform covered employment, as articulated by the collective bargaining agreement between <EMPLOYER> and the Operating Engineers Local 825, according to the following terms:

1. <BANK> hereby binds itself to the Operating Engineers Local 825 according to the within terms in the sum of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000)**, and does so bind its successors, assigns, heirs, administrators and executors.
2. The payment of fringe benefits assured by this Letter of Credit are at the rates set forth in the collective bargaining agreement ("CBA") entered into between <EMPLOYER> and the Operating Engineers, Local 825.

3. The payment of fringe benefits guaranteed herein shall be made to the Operating Engineers Local 825 within thirty (30) days after Operating Engineers Local 825 Funds notifies <BANK> of any delinquency by <EMPLOYER> in the payment of fringe benefits to its employees who are performing covered employment as articulated by the CBA.
4. Notice required herein shall be made in writing and served upon <BANK>'s offices located at <BANK'S ADDRESS>, by certified mail accompanied by the original of Letter of Credit <INSERT LETTER OF CREDIT NUMBER> and a sight draft. Draft drawn under this Letter of Credit <INSERT LETTER OF CREDIT NUMBER> must be marked "Drawn Under Letter of Credit <LETTER OF CREDIT NUMBER>, <BANK NAME & ADDRESS>. It must be accompanied by a written certification and a copy of the CBA between <EMPLOYER> and Operating Engineers Local 825. The certification must state that the Employer is delinquent in remitting fringe benefits to the Operating Engineers Local 825 Fringe Benefit Funds, along with a full description of the delinquency, and state that <EMPLOYER> was in fact notified of said delinquency.
5. <BANK NAME> may terminate its obligation hereunder by serving written notice upon <EMPLOYER> and Operating Engineers Local 825 Funds at least thirty (30) days prior to the effective date of termination, via certified mail, return receipt requested, to the office of the Operating Engineers Local 825 Fund Service Facilities, 65 Springfield Avenue, Springfield, New Jersey 07081. Such notice shall not eliminate liability hereunder incurred prior to the effective date of the termination.
6. <BANK NAME> is bound hereunder independently of <EMPLOYER> in the maximum amount of **Twenty-Five Thousand Dollars (\$25,000)** which may include any interest, liquidated damages, fees and costs as established by the CBA, rules and regulations of the Operating Engineers Local 825 and/or federal employee benefit laws.
7. This Letter of Credit shall expire on <DATE NOT LESS THAN ONE YEAR FROM DATE OF SIGNING>. The terms of this Letter of Credit may be changed or modified only upon the written consent of the parties thereto.
8. It is agreed that the failure by <EMPLOYER> to file required employer reports with any of the above Funds shall entitle the Funds, upon a reasonable basis, to estimate and set forth the amount due to each of the said Funds provided, however, that the total amount due and for which <BANK> may be liable shall not exceed the amount set forth in paragraph 1 above.

9. The exercise by the Union of its right to withdraw employees represented by the Union from <EMPLOYER>'s employment while <EMPLOYER> is in default or is delinquent under the terms of its CBA and other contracts with the Union, or with regard to the suspension of benefits by the Funds due to non-payment, shall neither limit or prevent any recovery by the Funds under this Letter of Credit, nor relieve either <EMPLOYER> or <BANK> of any obligation.
10. The failure of the Funds to notify <EMPLOYER> or <BANK> of the delinquencies shall not relieve <BANK> or <EMPLOYER> of any obligation under this Letter of Credit or limit or prevent any recovery hereunder.
11. The Beneficiary's certification that it is entitled to draw under this Letter of Credit shall be conclusive upon the Bank, as well as the Account Party, and shall be sufficient to cause the Bank to honor, forthwith, any sight drafts presented by the Beneficiary. The Bank shall make payment without any independent investigation or a determination of conditions or facts pertaining to the obligations of the Account Party, or to the authenticity of the official signing on behalf of the Beneficiary.
12. This Letter of Credit is irrevocable without the consent of both the Account Party and Beneficiary. This Letter of Credit shall continue until the earlier of (a) mutual consent of the Account Party and the Beneficiary to cancel this Letter of Credit and notice of such consent to the Bank or (b) <TERMINATION DATE>.
13. The Account Party may reduce the amount of the Letter of Credit at any time with the consent of the Beneficiary. Partial and multiple draws are permitted under this Letter of Credit as long as the draws in the aggregate do not exceed the value of this Letter of Credit (either the stated amount or the reduced amount, as the case may be). Charges for opening, maintenance, operation of the Letter of Credit, and charges for handling and negotiation of documents are to be borne by the Account Party. Any Beneficiary's banker's or other charges are to be borne by the Beneficiary.
14. Upon payment of the amount specified in a sight draft drawn hereunder, the Bank shall be fully discharged of its obligation under this Letter of Credit with respect to such sight draft and the amount of this Letter of Credit shall be reduced by the amount of such payment.
15. This Letter of Credit shall be governed by and construed in accordance with the New Jersey's State laws. All parties to this Letter of Credit consent to the exclusive jurisdiction of the New Jersey Superior Court

with respect to any claims or disputes arising under or relating to this Letter of Credit and consent to and submit to the jurisdiction of that Court.

Sincerely,

<BANK EXECUTIVE>
<BANK EXECUTIVE'S TITLE>

ATTEST:

<BANK EXECUTIVE>
<BANK EXECUTIVE'S TITLE>

This Letter of Credit is accepted by and approved by <EMPLOYER>

By: _____
<NAME>, PRESIDENT OF <EMPLOYER>

This Letter of Credit is accepted by and approved by Operating Engineers Local 825 Fund Service Facilities.

By: _____
Sherry Viso
Fund Administrator