

# COLLATERAL AGREEMENT AND RECEIPT

**Principal:**

**Surety:** U.S. Specialty Insurance Company and/or American Contractors Indemnity Company

**Various Bond(s) Including:**

**THIS AGREEMENT** is entered into by and between the Principal and INDEMCO, LP, located at 777 Post Oak, Suite 330, Houston, TX 77056 (“IndemCo”), for the benefit of the Surety, in order to establish some or all of the security which is contemplated in that certain Payment and Indemnity Agreement entered into by the Principal for the benefit of the Surety (the “Indemnity Agreement”) and pursuant to which the Surety has issued the Bond(s). IndemCo has been designated as an authorized agent of the Surety pursuant to an agreement which is on file in the offices of IndemCo and which is available for inspection upon written request. In order to implement the security contemplated in the Indemnity Agreement, IndemCo acknowledges receipt of the collateral described below from the Principal, which is deposited for the benefit of IndemCo, the Surety, and their respective sureties, reinsurers, successors and assigns, for good consideration and under the agreements and upon the conditions set forth below. The collateral received by IndemCo includes the following (including (a) the deposit account into which the same is initially deposited; (b) all subsequent deposits made by the Principal to one or more collateral accounts controlled by IndemCo or amounts delivered to IndemCo for deposit therein, and (c) all deposit accounts and investment property made or purchased with the proceeds therefrom (including earnings thereon), the “Collateral”):

The deposit of the sum of \$ \_\_\_\_\_ in cash in the account styled IndemCo, LP, Pledged Asset Account for \_\_\_\_\_, Account No. \_\_\_\_\_, with \_\_\_\_\_ (the “Bank”), which deposit was made by one wire transfer received on \_\_\_\_\_, in the amount set forth above, including all earnings thereon (no earnings on the Collateral shall be paid to Principal, but instead shall be reinvested in the Collateral).

The Collateral was (or, in the case of subsequent deposits, will be) deposited pursuant to the Indemnity Agreement and other agreements entered into between IndemCo and Principal related thereto, including any renewals, extensions, continuations and modifications thereof heretofore or hereafter executed by the Principal for the benefit of IndemCo or the Surety (collectively, the “Agreements”).

## AGREEMENTS AND CONDITIONS OF DEPOSIT

The Principal grants IndemCo a security interest in the Collateral, pledges the Collateral to IndemCo and deposits the Collateral with IndemCo as security for the following purposes:

1. To protect IndemCo and the Surety from any and all liability, loss, costs, damages, expenses and/or attorney’s fees arising in connection with the Bond(s) and, notwithstanding anything contained herein to the contrary, to protect IndemCo and the Surety from any and all liability, loss, costs, damages, expenses and/or attorney’s fee arising in connection with any other bond or bonds (together with the Bond(s), collectively referred to as the “Covered Bonds”) issued at any time on behalf of any principal (including the Principal) as named or defined in any indemnity agreement (including the Indemnity Agreement) arranged by IndemCo or through its services, including any renewal or extension thereof, and including any liability or obligation arising under any Agreement;
2. To protect IndemCo and the Surety with respect to the payment of all premiums on any Covered Bond or other financial obligations of the Principal for the benefit of IndemCo and/or the Surety;
3. To ensure the performance of all agreements and obligations guaranteed by the Covered Bonds, including any extensions, continuations or modifications of such agreements or obligations made with or without the consent of the Principal; and

- 4. To protect IndemCo and the Surety from and against any and all liability, loss, costs, expenses and attorneys' fees in connection with any claim made on the Collateral by any person claiming adversely to the Principal.

To effect the purposes of the deposit of the Collateral, IndemCo is authorized by the Principal, at any time and without notice to the Principal or other legal process, which are hereby expressly waived by the Principal, to use the Collateral, or any portion thereof, and to apply the same to the payment of or reimbursement for losses, costs, damages, expenses, attorneys' fees, unpaid premiums and other liabilities suffered by IndemCo or the Surety arising out of the items described above, as IndemCo may elect in its sole discretion.

The Principal warrants and represents that the Principal is the sole owner of the Collateral and agrees to protect and hold IndemCo and the Surety harmless from and against any loss, costs, expenses or attorney's fees arising out of any claim to any part of the Collateral by any person claiming adversely to Principal.

In the event that IndemCo, in its sole discretion, determines that the Principal's title to the Collateral is impaired, it shall so notify the Principal, and immediately upon receipt of such notice and demand from IndemCo for curative action by the Principal, the Principal shall deposit additional funds with IndemCo in an amount specified in such notice, failing which IndemCo shall have the rights to dispose of the Collateral set forth above.

IndemCo shall not be liable for any loss, diminution of value or depreciation of the Collateral, or the proceeds thereof, or damage thereto, unless the same is caused by the gross negligence or willful misconduct of IndemCo. To protect the value of the Collateral, IndemCo shall be authorized, in its sole discretion, to reinvest the same, or portions thereof, in certificates of deposit offered by the Bank for a term or terms not exceeding the term(s) of the Bond(s). IndemCo shall cause to be delivered to the Principal, no less often than quarterly and no later than 30 days following the end of a calendar quarter beginning at the end of the next ending calendar quarter which is more than 60 days from the date of this Agreement, a report setting forth the status of the Collateral and any additions thereto or reductions thereof during the preceding reporting period.

INDEMCO SHALL PROMPTLY RETURN THE COLLATERAL, OR THE REMAINDER THEREOF, TO THE PRINCIPAL UPON INDEMCO'S RECEIPT OF WRITTEN REQUEST THEREFOR AND EVIDENCE SATISFACTORY TO IT (IN ITS SOLE DISCRETION) THAT THE SURETY AND THE PRINCIPAL HAVE BEEN DISCHARGED FROM ALL LIABILITY OR OBLIGATION UNDER THE COVERED BONDS AND FOLLOWING PAYMENT OF ALL AMOUNTS DUE OR OWED BY THE PRINCIPAL TO INDEMCO, THE SURETY OR TO ANY THIRD PARTY CONSISTENT WITH THE PURPOSES SET FORTH IN THE AGREEMENTS AND CONDITIONS OF DEPOSIT, ABOVE; UNTIL INDEMCO RECEIVES SUCH REQUEST AND EVIDENCE, THE COLLATERAL SHALL REMAIN UNDER THE EXCLUSIVE CONTROL OF INDEMCO.

This receipt is *not* assignable or transferable to any party other than the Principal without the written consent of IndemCo.

WITNESS the agreement to and acceptance of the foregoing **AGREEMENTS AND CONDITIONS OF DEPOSIT** by the execution hereof by the parties named above.

EXECUTED effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**PRINCIPAL:**

**PRINCIPAL'S NAME**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**INDEMCO:**

**INDEMCO, LP**

By: \_\_\_\_\_