

FORM OF PERFORMANCE BOND

BOND NO: _____

_____ of _____, a corporation created and existing under the laws of the State of _____, ("Principal") and _____, a corporation created and existing under the laws of the State of _____ having its principal office in _____ and authorized to do business in the State of New York ("Surety") are held and firmly bound to The Long Island Rail Road Company, a New York Public Benefit Corporation ("LIRR"), and to its successors and assigns, in the sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which said sum of money, the Principal binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally;

WHEREAS, the Principal is about to enter, or has entered, into a Contract in writing with the LIRR for:

Contract No. and Description: _____

which is incorporated herein by reference as though fully set forth in this bond and which is made a part of this bond;

NOW, THEREFORE, the conditions of this obligation are such that, if the Principal, shall well and faithfully comply with and perform all of the terms of the Contract and all changes, modifications, amendments, additions and alterations to the Contract that may be made after the date of this Bond, according to its terms and its true intent and meaning, and shall fully indemnify and save harmless the LIRR from all cost and damage which it may suffer by reason of failure so to do, and shall fully reimburse and repay LIRR for all outlay and expense which the LIRR may incur in making good any such default, then this obligation shall be null and void, otherwise the same to remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees, if requested to do so by LIRR, to fully perform and complete all of the Work under the Contract, pursuant to all of the terms, conditions, and covenants thereof, if for any reason, the Principal fails or neglects to fully perform and complete such work. The Surety further agrees to commence Work of completion within twenty (20) days after written notice is sent by LIRR and to complete such Work with a Contractor other than the Principal within such time as the LIRR may reasonably fix.

The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition, or change in or to said Contract or the Work to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provision or condition precedent or subsequent thereof, or by settlement or compromise of any claim or dispute relating thereto, or by any assignment, subcontract or other transfer of the Work or any part thereof, or of any Work to be performed or any monies due or to become due thereunder; and the Surety hereby waives notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers.

The Surety, for value received expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to the Surety as though done or omitted to be done by or in relation to the Principal.

The Surety, for value received, hereby stipulates and agrees that the obligations of the Surety in this Bond shall be in no way impaired or affected by any winding up, insolvency, bankruptcy or reorganization of the Principal or by any other rearrangement of the Principal for the benefit of creditors. The Surety, for value received, hereby stipulates and agrees that no demand made under this Bond shall constitute a waiver of the right of the LIRR to make a subsequent demand under this Bond, subject to the limitation of the amount

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obligated.

This Bond shall be construed and enforced in accordance with the laws of the State of New York.

It is further expressly agreed that the acceptance of this Bond by the LIRR shall in no way, for any purpose, limit or be claimed to limit the liability of the principal under the Contract, but such liability shall remain in all respects to the same extent as its provided for in the Contract.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and signed by their proper officers, this _____ day of _____, 20____.

Corporate Seal of Principal

Signed and delivered by the

Principal in the presence of

Attest:

(Full legal name of Principal)

By: _____

Title: _____

(Corporate seal of Surety)

Signed and delivered by Surety

in the presence of

Attest:

(Full legal name of Surety)

By: _____

Title: _____

Title: _____

(Add Appropriate Acknowledgments)



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ACKNOWLEDGMENT BY PRINCIPAL, IF A CORPORATION

STATE OF _____)
) SS.:
COUNTY OF _____)

On the _____ day of _____, 20____,
before me personally came _____ resides at ____
that he/she is the _____
_____ of _____

_____ one of the corporations described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by the order of the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order.

Notary Public

ACKNOWLEDGMENT BY PRINCIPAL, IF A PARTNERSHIP

STATE OF _____)
) SS.:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally appeared _____, to me known and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument, and he acknowledged to me that he/she executed the same as and for the act and deed of said firm.

Notary Public

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ACKNOWLEDGMENT BY PRINCIPAL, IF AN INDIVIDUAL

STATE OF _____)

) SS.:

COUNTY OF _____)

On the _____ day of _____, 20_____, before me personally appeared _____ to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed same.

Notary Public

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Affix Acknowledgment and Justification of Sureties together with
Certificate of Qualification pursuant to Section 1111 of Insurance Law.