PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____________________________, as Principal (the “Principal”), and ________________________________________, a corporation organized and existing under laws of the _______________ of _______________, with a principal office at ________________________________________________________________, and authorized to do business in the Commonwealth of Pennsylvania, as Surety (the “Surety”), are held and firmly bound, jointly and severally, unto the MONTGOMERY COUNTY COMMUNITY COLLEGE as Obligee (the “Obligee”), as hereinafter set forth, in the full and just sum of ____________________________________________ Dollars ($____________________________) lawful money of the United States of America, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. If more than one surety is named above, said sureties shall be jointly and severally liable to Obligee.

WITNESSETH THAT:

WHEREAS, the Principal heretofore has submitted to the Obligee a certain bid (the “Bid”), to perform certain improvements for the Obligee, in connection with Montgomery County Community College, located at 101 College Drive, Pottstown, Montgomery County, Pennsylvania, pursuant to drawings, specifications and other related documents, which are incorporated into the Bid by reference and a part thereof (the “Contract Documents”), as prepared by Montgomery County Community College; and

WHEREAS, the Contract Documents are incorporated into this Bond by reference and made a part hereof; and

WHEREAS, The Obligee, is a “Contracting Body” under provisions of Act No. 385 of the General Assembly of the Commonwealth of Pennsylvania, approved by the Governor on December 20, 1967, known as and cited as the “Public Works Contractors’ Bond Law of 1967” (the “Act”); and
WHEREAS, Section 3(a) of the Act requires that, before an award shall be made to the Principal by the obligee in accordance with the Bid, the Principal shall furnish this Bond to the Obligee, with this Bond to become binding upon the award of a contract to the Principal by the Obligee in accordance with the Bid; and

WHEREAS, it also is a condition of the Contract Documents that this Bond shall be furnished by the Principal to the Obligee; and

WHEREAS, under the Contract Documents, it is provided, *inter alia*, that if the Principal shall furnish this Bond to the Obligee, and if the Obligee shall make an award to the Principal in accordance with the Bid, then the Principal and the Obligee shall enter into an agreement with respect to performance of such work (the “Agreement”), the form of which Agreement is set forth in the Contract Documents.

NOW, THEREFORE, the terms and conditions of this Bond are and shall be that if the Principal and any subcontractor of the Principal to whom any portion of the work under the Agreement shall be subcontracted, and if all assignees of the Principal and of any such subcontractor, promptly shall pay or shall cause to be paid, in full, all money which may be due any claimant supplying labor or materials in the prosecution and performance of the work in accordance with the Agreement and in accordance with the Contract Documents, including any amendment, extension or addition to the Agreement and/or to the Contract Documents, for material furnished or labor performed, then this Bond shall be void; otherwise, this Bond shall be and shall remain in force and effect.

This Bond, as provided by the Act, shall be solely for the protection of claimants supplying labor or materials to the Principal or to any subcontractor of the Principal in the prosecution of the work covered by the Agreement, including any amendment, extension or addition to the Agreement. The term “claimant,” when used herein and as required by the Act, shall mean any individual, firm, partnership, association or corporation. The phrase “labor or materials” when used herein and as required by the Act, shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site of the work covered by the Agreement. As required by the Act, the provisions of this Bond shall be applicable whether or not the material furnished or labor performed enters into and becomes a component part of the public building, public work or public improvement contemplated by the Contract Documents and the Agreement.

As provided and required by the Act, the Principal and the Surety agree that any claimant who has performed labor or furnished material in the prosecution of the work in accordance with the Agreement and in accordance with the Contract Documents, including any amendment, extension or addition to the Agreement and/or to the Contract Documents, and who has not been paid therefor, in full, before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which payment is claimed, may institute an action upon this Bond, in the name of the claimant, in assumpsit, to recover any amount due the claimant for such labor or material; and may prosecute such action to final judgment and may have execution upon the judgment; provided, however, that: (a) any claimant who has a direct contractual relationship with any subcontractor of the Principal, but has no contractual relationship, express or
implied, with the Principal, may institute an action upon this Bond only if such claimant first shall have given written notice, served in the manner provided in the Act, to the Principal, within ninety (90) days after the date upon which such claimant performed the last of the labor or furnished the last of the materials for which payment is claimed, stating, with substantial accuracy, the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished; and (b) no action upon this Bond shall be commenced after the expiration of one (1) year after the day upon which the last of the labor was performed or material was supplied, for the payment of which such action is instituted by the claimant; and (c) every action upon this Bond shall be instituted either in the appropriate court of the County where the Agreement is to be performed or of such other County as Pennsylvania statutes shall provide, or in the United States District Court for the district in which the project, to which the Agreement relates, is situated, and not elsewhere.

This Bond is executed and delivered under and subject to the Act, to which reference hereby is made.

The Principal and the Surety agree that any alterations, changes and/or additions to the Contract Documents, and/or any alterations, changes and/or additions to the work to be performed under the Agreement in accordance with the Contract Documents, and/or any alterations, changes and/or additions to the Agreement, and/or any giving by the Obligee of any extensions of time for the performance of the Agreement in accordance with the Contract Documents, and/or any act of forbearance of either the Principal or the Obligee toward the other with respect to the Contract Documents and the Agreement, and/or the reduction of any percentage to be retained by the Obligee as permitted by the Contract Documents and by the Agreement, shall not release, in any manner whatsoever, the Principal and the Surety, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this Bond; and the Surety, for value received, does waive notice of any such alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

Provided, that it is expressly agreed that this Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract Documents not increasing the contract price more than twenty percent (20%), so as to bind the Principal and the Surety to the full and faithful performance of the Contract Documents as so amended. The term “Amendment,” wherever used in this Bond and whether referring to this Bond, the Contract Documents, or the Agreement, shall include any alteration, addition, extension or modification of any character whatsoever.

Provided, further, that no final settlement between the Obligee and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

If the Principal is a foreign corporation (incorporated under any laws other than those of the Commonwealth of Pennsylvania) then further terms and conditions of this Bond are and shall be that the Principal or the Surety shall not be discharged from liability on this Bond, nor this Bond surrendered until such Principal files with the Obligee a certificate from the Pennsylvania Department of Revenue evidencing the payment in full of all bonus taxes, penalties and interest, and a certificate from the Bureau of Employment and Unemployment Compensation of the
Pennsylvania Department of Labor & Industry, evidencing the payment of all unemployment compensation, contributions, penalties and interest due the Commonwealth from said Principal or any foreign corporation, subcontractors thereunder or for which liability has accrued but the time for payment has not arrived, all in accordance with provisions of the Act of June 10, 1947, P.L. 493, of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the Principal and the Surety, intending to be legally bound, cause this Bond to be signed, sealed and delivered this _____ day of ______________, 20____.

(Individual Principal)

_________________________ (SEAL)
(Signature of Individual)

WITNESS: trading & doing business as

_____________________________________ ___________________________________

*************
(Partnership Principal)

WITNESS: (Name of Partnership)

_____________________________________ BY: _______________________(SEAL)
Partner

_____________________________________ BY: _______________________(SEAL)
Partner

_____________________________________ BY: _______________________(SEAL)
Partner

*************
(Corporate Principal)

ATTEST: (Name of Corporation)

____________________________________
Secretary (Assistant Secretary) President (Vice President)

(CORPORATE SEAL)
or (if appropriate)

WITNESS:  

(Name of Corporation)

____________________________________  *BY:________________________________

(Authorized Representative)

* Attach appropriate proof, with raised corporate seal, dated as of the same date as the Bond, evidencing authority to execute on behalf of the corporation.

* * * * * * *

(Limited Liability Company)

Witness:

(Name of Limited Liability Company)

By: __________________________ (SEAL)

Managing Member

By: __________________________ (SEAL)

Member

By: __________________________ (SEAL)

Member

or (if appropriate)

Witness:

(Name of Limited Liability Company)

**By: __________________________ (Authorized Representative)

**Attach appropriate proof, dated as of the same date as the Bond, evidencing authority to execute on behalf of the company.
WITNESS:

(Name of Corporation)

***BY:

(Attorney-in-fact)

*** Attach an appropriate power of attorney, with raised corporate seal, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act on behalf of the corporation.