

SAC LABOUR AND MATERIAL PAYMENT BOND 2021

No.(the “Bond”)

Bond Amount
\$

.....
(name of the principal*)

as a principal, hereinafter [collectively] called the “Principal”, and

.....
(name of the surety company**)

a corporation created and existing under the laws of
(place of incorporation)

as a surety, and duly authorized to transact the business of Suretyship in and hereinafter called
the “Surety”, are held and firmly bound unto
(name of the obligee)

as obligee, hereinafter called the “Obligee”, in the amount of \$ hereinafter called the “Bond Amount”,
(Bond Amount in figures)

for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators,
successors, and assigns, jointly and severally in accordance with the provisions of this Bond (the “Obligation”).

WHEREAS the Bond is for the benefit of the Obligee;

AND WHEREAS the Principal has entered into a written contract with the Obligee dated the day of
(name of month)

in the year for
(title or description of the contract)

(the “Original Contract”) and, for the purpose of specifying the conditions of the Obligation, this contract together with
amendments made in accordance with its terms are by reference made part hereof and are hereinafter referred to
collectively as the “Contract”;

NOW THEREFORE the condition of this Obligation is such that if the Principal shall make payment to all Claimants as
hereinafter defined in accordance with the terms of their respective subcontracts for all labour and material used or
reasonably required for use in the performance of the Contract then this Obligation shall be null and void, otherwise it shall
remain in full force and effect subject to the following conditions:

1. Every corporate or natural person having a direct contract with the Principal for labour, material or both used or
reasonably required for use in the performance of the Contract is a “Claimant” under this Bond. The terms “labour” and
“material” include that part of water, gas, power, light, heat, oil, gasoline, telephone or digital service or rental equipment
directly applicable to the Contract provided that a Claimant who rents equipment to the Principal to be used in the
performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the
purchase price thereof shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment
for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental
value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment
marketplace in which the work is taking place.
2. Every Claimant who has not been paid for labour, material or both used or reasonably required for use in the
performance of the Contract, after the date on which payment was due and payable under the terms of its contract with
the Principal may demand payment under this Bond by giving the Surety, with a copy to the Principal and the Obligee,
a written Notice of Claim, substantially in the form prescribed in Schedule A, hereinafter called the “Notice of Claim”.

3. In respect of any jurisdiction in which a Claimant is prohibited by law to commence any suit or action to enforce payment under this Bond, the Principal and the Surety hereby jointly and severally agree with the Obligee, as trustee, that the Obligee holds this Bond in trust for the purpose of allowing a Claimant to commence such suit or action.
4. The Bond or the trust under Section 0 does not impose on the Obligee any legal, equitable or other obligations or duties to any Claimant, including but not limited to any obligation to notify any Claimant of the existence of the Bond or the trust.
5. The Obligee is not obligated to do or take any action or proceeding against the Surety on behalf of the Claimant to enforce the Bond.
6. Where the Surety includes two or more companies a Notice of Claim may be delivered to the first listed Surety on behalf of all Sureties. The first listed Surety is hereby authorized to respond to a Notice of Claim on behalf of the Surety, and a Claimant is not required to make separate Notices of Claim to each Surety and is entitled to correspond with the first listed Surety on behalf of all Sureties.
7. It is a condition precedent to the liability of the Surety under this Bond that a Claimant shall have submitted a Notice of Claim
 - a. in respect of any amount required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal hereinafter and for the purposes of this Bond called the "**Holdback**", within one hundred and twenty (120) calendar days after the Claimant should have been paid in full under its contract with the Principal; and
 - b. in respect of any amount other than for Holdback within one hundred and twenty (120) calendar days after the date on which the Claimant last performed labour or provided materials for which the Notice of Claim was given.
8. For each Notice of Claim
 - a. No later than three (3) business days after receipt by the Surety of a Notice of Claim the Surety shall acknowledge receipt of the Notice of Claim, substantially in the form prescribed at Schedule B, and request from the Claimant any information and documentation the Surety requires to determine the Claimant's entitlement under this Bond (hereinafter called the "**Information**"); and
 - b. No later than the earlier of: (a) ten (10) business days after receipt by the Surety of the Information, (b) twenty-five (25) business days after receipt by the Surety of a Notice of Claim, or (c) such longer time as agreed by the Surety and the Claimant, the Surety shall provide a position in response to the Notice of Claim, substantially in the form prescribed at Schedule C, hereinafter called the "**Surety's Position**".
9. No later than ten (10) business days after the Surety's Position being provided to any Claimant the Surety shall pay such amounts included in the Notice of Claim that are undisputed by the Surety, except to the extent that the Surety makes an application to the Court with respect to such amounts in accordance with Section 11 below. This payment of undisputed amounts shall be without prejudice to the Surety's position regarding any disputed portions of a Notice of Claim.
10. The Surety shall not in any circumstances be liable for a greater sum than the Bond Amount.
11. The Bond Amount shall be reduced by and to the extent of any payment or payments made under this Bond. If the aggregate of all Notices of Claim exceed, or the aggregate of amounts for which Notices of Claim might be given are believed by the Surety to exceed, the Bond Amount then the Surety may apply to the Court for direction in the interest of all Claimants.
12. Upon payment to a Claimant under this Bond in respect of any indebtedness of the Principal, the Surety shall be subrogated to all of the rights of the Claimant in respect of any and all claims, causes of action and rights to recovery which the Claimant may have against any person, firm or corporation because of or in connection with or arising out of such indebtedness, and the Claimant undertakes to extend to the Surety or the Surety's designee any warranties and/or guarantees under the Contract in respect of all labour and materials for which the Claimant has been paid.
13. As a condition precedent, any suit or action under this Bond must be commenced within one (1) year after the date on which the Principal last performed work on the Contract, including work performed under any warranty or guarantees provided in the Contract. In the province of Québec, the coverage period of this bond expires one (1) year after the date on which the Principal last performed work on the Contract, including work performed under any warranty or guarantees provided in the Contract.
14. The parties to this Bond and a Claimant by providing a Notice of Claim agree that any suit or action is to be made to a court of competent jurisdiction in the location in which the work under the Contract is taking place and agree to submit to the jurisdiction of such court notwithstanding any terms to the contrary in the Contract.
15. The rights and obligations of the Obligee, the Principal, and the Surety under this Bond are in addition to their respective rights and obligations at common law and in equity.
16. This Bond shall be governed by the laws of the jurisdiction in which the work under the Contract is taking place..

17. All notices ("Notices") under this Bond shall be delivered by registered mail, facsimile, or electronic mail at the addresses set out below, subject to any change of address in accordance with this Section. Any Notice given by facsimile or electronic mail shall be deemed to have been received on the next business day or, if later, on the date actually received if the person to whom the Notice was given establishes that he or she did not, acting in good faith, receive the Notice until that later date. Any Notice given by registered mail shall be deemed to have been received five (5) days after the date on which it was mailed, exclusive of Saturdays and holidays or, if later, on the date actually received if the person to whom the Notice was mailed establishes that he or she did not, acting in good faith, receive the Notice until that later date. The address for the Surety, the Obligee or the Principal may be changed by giving Notice to the other parties setting out the new address in accordance with this Section.

The Surety:

[Surety corporate name]
[address]
[fax]
[email]

The Obligee:

[Obligee proper name]
[address]
[fax]
[email]

The Principal:

[Principal corporate name] [address]
[fax]
[email]

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated _____ day of _____, in the year _____.

[Principal proper name]

Witnessed by :

By: _____

Name: _____ Name of Witness: _____

Title: _____ Address of Witness: _____

I have authority to bind the corporation.

[Surety corporate name]

By: _____ By: _____

Name: _____ Name: _____

Attorney-in-fact: _____ Attorney-in-fact: _____

* IF THERE ARE TWO OR MORE COMPANIES IN PARTNERSHIP OR JOINT VENTURE, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH PARTNER OR JOINT VENTURE PARTY, AND INSERT THE WORD "COLLECTIVELY" AFTER THE WORD "HEREINAFTER" IN THE FIRST LINE.

** IF THERE ARE TWO OR MORE SURETY COMPANIES, JOINTLY AND SEVERALLY BOUND, INSERT THE "[Name of the surety company], a corporation created and existing under the laws of [Place of incorporation]," FOR EACH SURETY, FOLLOWED BY "each as a surety and each duly authorized to transact the business of Suretyship [Jurisdiction in which the work under the Contract is taking place] and hereinafter collectively called the "Surety".



SCHEDULE A
Notice of Claim

[date]

[Surety name] [Surety
address] [Surety
address]

[Surety's electronic/email address] **Attention:**

Re:

Bond No:

Principal:

Obligee:

Contract:

Dear Sir/Madam,

We have a contract with the Principal for
(title or description of the Contract)
(our "Subcontract") related to the Contract between the Obligee and the Principal for
in
(town/city, province)

We have given notice to the Principal as required under our Subcontract that an amount is due and payable under the Subcontract and remains unpaid contrary to the terms of the Subcontract.

For Holdback amounts we hereby demand payment of \$ under the captioned Bond.

For amounts other than Holdback we hereby demand payment of \$ under the captioned Bond for all labour and material used or reasonably required for use in the performance of the Contract.

To assist in your evaluation of this Notice of Claim we invite you to contact our representative as follows:

[Name] [Title]
[Company address]
[Phone (mobile)]
[Email address]

We also enclose the following documents supporting our Notice of Claim:

[The following is a suggested list of documents to be considered for delivery to the Surety. Please check off the documents (if any) that you are providing with this Notice of Claim.]

- Copy of full, executed Subcontract [or Purchase Order or Collective Bargaining Agreement], including approved changes and pending changes relevant to this Notice of Claim
- Copy of the prime contract between the Principal and the Obligee
- Copy of original schedule and latest approved schedule for the Subcontract
- Copies of all invoices submitted to the Principal
- Copies of all payments from the Principal to the Claimant

- Summary reconciliation of all invoices issued under the Subcontract
- Summary reconciliation of all payments received under the Subcontract
- Confirmation from the Obligee or Principal that the Claimant has completed all of its work including rectification of all identified deficiencies and the delivery of all required close-out documents
- Copy of any notice or correspondence to and from the Principal relevant to this Notice of Claim
- Confirmation of the last day the Claimant performed work pursuant to the Subcontract including proof thereof
- Copy of any claim for lien, legal proceeding or other documents to enforce your entitlement to payment
- Copy of the executed Labour and Material Payment Bond under which this Notice of Claim is being made
- [additional documents]

We look forward to receiving your acknowledgment of this Notice of Claim within three (3) business days of receipt and your request for any additional documentation or information you require to meet your obligations under the Bond.

Yours truly;

[Full corporate title]

By:

[Name]
[Title]
[Phone]
[Email address]

CC: **[Principal]**

Specimen

SCHEDULE B
Acknowledgement of Notice of Claim

[date]

[Name/corporate title of the Claimant] [Address]

[Address]

[E-mail address (if provided in the Notice of Claim)]

Attention:

Re:

Bond No:

Principal:

Obligee:

Contract:

Dear Sir/Madam,

We acknowledge receipt on of your Notice of Claim dated
(date of receipt)

Subject to a full reservation of all of our rights pursuant to the Bond and at law and to assist us in evaluating your Notice of Claim we ask that you provide the following information and/or documentation promptly:

This request for information is not an acknowledgement of the validity of your claim. We look forward to hearing from you.

Yours truly;

[Corporate name of the Surety]

By:

[Name]

[Title]

[Phone]

[Email address]

CC: [Principal]

SCHEDULE C
Surety's Position

[date]

[Name/corporate title of the Claimant] [Address]
[Address]
[E-mail address (if provided in the Notice of Claim)]

Attention:

Re:

Bond No:

Principal:

Obligee:

Contract:

Dear Sir/Madam,

Having reviewed the information and documentation provided to us in support of your Claim, we can advise as follows:

A – Disputed Amount(s)

The following amounts in your Claim are disputed at the present time for the reasons indicated:

With respect to any disputed amounts we invite you to contact us promptly with further information or documentation in support of your Claim.

B – Undisputed Amount(s)

The following amounts in your Claim are not disputed at the present time, however we reserve the right to dispute any amount should an ultimate determination find that amounts included in your Claim were not payable by the Principal:

We continue to reserve all of our rights pursuant to the Bond and at law.

If you have any questions or concerns, please do not hesitate to contact us.

Yours truly;

[Corporate name of the Surety]

By:

[Name]
[Title]
[Phone]
[Email address]

CC: [Principal]