

AGREEMENT TO REIMBURSE
GREATER ST. LOUIS CONSTRUCTION
LABORERS' WELFARE FUND

WHEREAS, _____ (hereinafter referred to as "promissor") sustained an injury, illness or condition on the job on or leading up to _____ while employed by _____ under circumstances which may entitle the promissor to a recovery or benefits pursuant to a Workers' Compensation Act or other similar law which provides for payments to persons with illnesses or injuries occurring on the job; and

WHEREAS, the promissor is currently proceeding with a claim or promises to initiate a claim for workers' compensation or similar benefits for the injury, illness or condition occurring on the above date, and his claim is disputed by his employer and/or compensation insurance carrier, and the promissor, by execution of this document, verifies his definite and immediate need for the payment of benefits from the Greater St. Louis Construction Laborers' Welfare Fund (hereinafter referred to as "the Welfare Fund"); and

WHEREAS, the promissor acknowledges that the Welfare Fund accepts no liability and pays no charges for any treatment or service caused by an injury, illness or condition which is sustained as a result of any enterprise or occupation for wage or profit or is an injury, illness or condition of the type covered by any applicable Workers' Compensation Act or similar law providing benefits to employees for on-the-job injuries; and

WHEREAS, the promissor specifically understands and agrees that any attorneys' fees incurred in the prosecution of his workers' compensation claim are his sole responsibility and that the Welfare Fund specifically disclaims any liability to the promissor or his attorney to pay any portion of any attorneys' fees incurred in the prosecution of the workers' compensation claim; and

WHEREAS, the promissor and his attorney, jointly and severally, agree that any rights which may inure to the benefit of the promissor and/or his attorney, under the application of a common fund doctrine or similar law of any state, which would result in the reduction of reimbursement to the Welfare Fund (by payment of a portion of attorneys' fees to the promissor's attorney by the Welfare Fund for services rendered by the promissor's attorney in creating any award or settlement fund which is used, in whole or in part, to reimburse the Welfare Fund) are hereby waived by the promissor and his attorney so that reimbursement to the Welfare Fund under the terms of this agreement shall not be reduced by attorneys' fees. If the promissor is not represented by an attorney at the time of the execution of this agreement, but thereafter becomes represented, the promissor agrees to promptly furnish this instrument to his attorney and agrees that this instrument shall act as an instruction to his attorney to waive the application of any common fund doctrine, so reimbursement to the Welfare Fund under the terms of this agreement shall not be reduced by the payment of attorneys' fees. If, notwithstanding the provisions of this paragraph, the Welfare Fund becomes obligated to pay attorneys' fees to promissor's attorney, the promissor personally agrees to reimburse the Welfare Fund (in addition to the amount of benefits advanced by the Welfare Fund on the promissor's behalf) attorneys' fees which the Welfare Fund becomes obligated to pay.

WHEREAS, the promissor, in order to effectuate full reimbursement to the Welfare Fund, pursuant to the terms of this agreement, understands and agrees that he will direct his attorney to hold any amounts received on behalf of the promissor, as a result of the promissor's workers' compensation claim, to be held by his attorney in trust for the Welfare Fund, in a sufficient amount to repay the Welfare Fund in full for any amounts advanced by the Welfare Fund on behalf of the promissor, pursuant to the terms of this agreement.

WHEREAS, the promissor requests that the Welfare Fund provide allowable benefits pursuant to the terms of the Welfare Fund Plan pending final disposition of his Workers' Compensation case; and

WHEREAS, as a condition of the provision of these benefits by the Welfare Fund, the promissor agrees and promises to fully prosecute his pending claim for Workers' Compensation or other similar benefits and not to abandon or settle his claim without the written approval of the Welfare Fund and to promptly inform the Welfare Fund in writing of the disposition of his claim and to make periodic written reports to the Welfare Fund regarding the status of his claim no later than every six (6) months.

WHEREFORE, in consideration of the advancement by the Welfare Fund of benefits to or on behalf of the promissor, pursuant to the terms of the Welfare Fund and based upon the promises contained within this document, the promissor agrees further as follows:

1. To repay and reimburse the Welfare Fund for all sums advanced by the Welfare Fund out of the proceeds of any settlement, redemption, stipulation, compromise, or award of his claim for workers' compensation benefits, even if any settlement, redemption, stipulation, compromise, or award is not designated as compensation for medical bills and/or Loss of Time benefit paid by the Welfare Fund or otherwise does not provide for or disallows reimbursement to the Welfare Fund. Specifically, the promissor agrees to repay and reimburse the Welfare Fund for:
 - (a) The amount the Fund pays for any and all comprehensive major medical benefits for the treatment of the above illness or injury, including, but not limited to, the amount the Fund pays for any and all prescription drug, dental, or medical insurance benefits for the treatment of the above illness or injury; and
 - (b) The amount the Fund pays for any and all weekly income or other Loss of Time benefits as a result of the above illness or injury.
2. The promissor agrees with the Welfare Fund that this agreement creates an equitable lien, as stated herein, by the Welfare Fund upon any present or future amount recovered by the promissor from a third party, pursuant to any settlement, redemption, stipulation, compromise or award of his claim for workers' compensation benefits, whether or not designated as payment for medical expenses, and said equitable lien remains in effect until the Welfare Fund is reimbursed for the full amount of its lien. And, the promissor agrees that any amounts, as stated in this subparagraph, shall be subject to a constructive trust, whether held by the promissor or his attorney, on behalf of the Welfare Fund.

The Welfare Fund's equitable lien shall be in the amount of the benefits paid by the Welfare Fund on behalf of the promissor pursuant to the terms of this agreement and, the constructive trust so established shall remain in effect until the Welfare Fund is paid in full, and constitute specifically identifiable funds belonging to the Welfare Fund, whether or not the promissor co-mingles said funds with any other funds or property belonging to the promissor. This equitable lien is created by agreement of the promissor and the Welfare Fund.

3. That all amounts recovered as a result of the promissor's workers' compensation claim (whether by settlement, stipulation, redemption, award, or in any other manner, including even a settlement wherein the employer or compensation insurance carrier disclaim liability for any benefits to the promissor or a settlement whereby a payment to the promissor is deemed to be compensation for something other than amounts paid on behalf of the promissor by the Welfare Fund) shall first be paid to the Welfare Fund to reimburse the Welfare Fund dollar for dollar for all monies paid to or on behalf of the promissor before any sums are paid to the promissor or his attorney.
4. That no attorneys' fees or costs of whatsoever amount may be deducted by the promissor or his attorney from the amount due to be reimbursed to the Welfare Fund pursuant to the terms of this agreement and the promissor and his attorney waive the application of the common fund doctrine of any state or any similar law which would reduce the amount of reimbursement required to be paid to the Welfare Fund pursuant to this agreement.
5. That the promissor agrees that Federal law applies to the terms of this agreement and any state laws that would act in any manner whatsoever so as to modify, change, diminish, affect, or reduce the reimbursement owed to the Welfare Fund are preempted by ERISA, the Employee Retirement Income Security Act, as amended, 29 U.S.C. §1001 et. seq.
6. That the promissor agrees to fully prosecute his pending claim for workers' compensation or similar benefits, and not to abandon or settle his claim without the written approval of the Welfare Fund and to promptly inform the Welfare Fund of the disposition of his claim and to make periodic written reports to the Welfare Fund regarding the status of his claim no later than every six (6) months.
7. That the promissor will not agree to any settlement of his workers' compensation or similar claim, or compromise the claim in any way unless the settlement or compromise is approved in writing by the Welfare Fund and provides for full reimbursement to the Welfare Fund with no reduction for attorneys' fees or costs or expenses.
8. That if there is a trial or hearing relating to any of the promissor's claims for workers' compensation or similar benefits, then the promissor agrees to submit to the applicable court, commission, or other body, evidence of all medical bills and/or Loss of Time benefits paid by the Welfare Fund on behalf of the promissor

and make good faith efforts to secure full reimbursement to the Welfare Fund, and agrees that no attorneys' fees or costs will be charged to the Welfare Fund or deducted from the reimbursement to the Welfare Fund for submitting said evidence.

9. That, in addition to the Welfare Fund's rights to reimbursement as stated herein, the Welfare Fund, in its sole discretion, shall, to the extent necessary to effectuate the terms of this agreement, be subrogated to the promissor's rights of recovery in the workers' compensation or similar proceeding to the extent necessary to satisfy the amount equal to benefits paid by the Welfare Fund on behalf of the promissor and the promissor will take no action to impair the Welfare Fund's right of subrogation.
10. That this agreement is given for good and sufficient consideration and that all statements made by the promissor to the Welfare Fund, are made to induce the Welfare Fund to enter into this agreement and are true to the best of the promissor's knowledge and the promissor acknowledges that the Welfare Fund has relied on the promissor's statements herein in paying benefits to or on behalf of the promissor.
11. That the promissor will protect the Welfare Fund's right to reimbursement in any proceedings, either in a settlement or by way of litigation before the applicable compensation commission or similar tribunal, and no attorneys' fees will be charged to the Welfare Fund for the promissor's undertaking to protect the Welfare Fund's right to reimbursement in any proceedings.
12. That this is a personal agreement between the promissor and the Welfare Fund and the promissor agrees to honor its terms personally, and the promissor is not discharged from his obligations under the terms of the agreement until full reimbursement is made to the Welfare Fund or the Welfare Fund agrees in writing to discharge the promissor. The promissor also agrees that the promises made herein are binding upon his agents, attorneys, assignees, heirs, estate or any other person who may pursue his workers' compensation or similar claim in his name or on his behalf.
13. That if any controversies arise between the promissor and the Welfare Fund regarding the interpretation of this agreement, then those controversies shall be resolved by the Welfare Fund Trustees, and their resolution is binding upon the promissor and anyone acting on his behalf.
14. That the promissor agrees that the Welfare Fund Trustees have discretionary and final authority to interpret the terms of the Welfare Fund's Plan Documents and this agreement, and have discretionary and final authority to resolve any disputes regarding Plan benefits, including any disputes arising under the terms of this agreement. All decisions of the Trustees, including all interpretations by the Trustees of any said documents, shall be binding upon the promissor and his attorney.

15. That in reliance upon the promises made in this agreement and upon acceptance of this agreement by the Welfare Fund, the Welfare Fund will advance covered medical and/or Loss of Time payments to or on behalf of the promissor in accordance with the terms of the Welfare Fund's Plan Document.
16. That no settlement or agreement of whatsoever nature, between the promissor and any other party shall impair any rights of the Welfare Fund, pursuant to the terms of this agreement to reimbursement for amounts paid to or on behalf of the promissor by the Welfare Fund.
17. That, if the Welfare Fund incurs any costs or legal fees or expenses to enforce any terms of this agreement, the promissor shall be liable to the Welfare Fund for those costs or fees or expenses, and said costs, fees, or expenses shall be included in the Welfare Fund's lien.
18. That, by execution of this agreement, the promissor hereby authorizes the Welfare Fund, without further notice to the promissor, to request and receive medical records from any medical service provider, workers' compensation insurer, self-insured employer or State Workers' Compensation Commission and releases the medical service provider, workers' compensation insurer, self-insured employer or State Workers' Compensation Commission from any duty to hold the requested medical records.
19. That, if the Welfare Fund seeks medical records of the promissor from any health plan, employer or health care provider, to the extent said medical records may be considered Protected Health Information under any applicable law or regulation, including but not limited to the Health Insurance Portability and Accountability Act ("HIPAA"), then the promissor agrees that medical records requested by the Welfare Fund pursuant to the terms of this agreement, are necessary for a determination of the promissor's coverage under the Plan, including payments to be made by the Welfare Fund under the Plan and/or health care operations activities of the Plan, and including, but not limited to, the Welfare Fund's rights to reimbursement and subrogation, and to the extent necessary to effectuate the terms of this agreement, the promissor appoints the Welfare Fund as the promissor's personal representative agent and authorizes the Welfare Fund to request and receive in the name of, and on behalf of the promissor, any documents referred to in paragraphs 18 and 19. This agency terminates when the Welfare Fund receives full reimbursement under this agreement.
20. In the event, that the promissor does not provide full reimbursement as provided in this agreement, then the Welfare Fund, in addition to any other remedies it might have, shall have the right to offset any future benefit payments to the promissor and/or the promissor's beneficiaries in the full amount of the monies not reimbursed.

21. The promissor agrees that the Welfare Fund's equitable lien, which is created by this agreement, and described herein, may be enforced by the Welfare Fund in a civil enforcement proceeding under §502(a)(3) of ERISA, 29 U.S.C. §1132(a)(3).
22. The promissor understands and agrees that the "make whole doctrine" has no application to this agreement.
23. The promissor understands and agrees that the Welfare Fund shall have no obligation whatsoever to cover or pay for any expenses in connection with the injury, illness or condition covered by this agreement which are incurred after the resolution of the promissor's claim for workers' compensation or similar benefits.

This Agreement to Reimburse shall not be considered accepted and approved by the Welfare Fund unless and until this agreement is signed by an authorized representative of the Welfare Fund.

 Promissor (Print)

 Promissor (Signature)

 Date

 Address

 Telephone Number

Subscribed and sworn to before me, a Notary Public,
 this _____ day of _____, 20____.

 NOTARY PUBLIC

I represent the promissor, named herein, in connection with an injury, illness or condition which was incurred by the promissor as a result of an activity for wage or profit or covered by a Worker's Compensation Act or similar law. At the request of the promissor, and as a condition for payment by the Welfare Fund of medical expenses to or on behalf of the promissor, which would otherwise be excluded pursuant to the workers' compensation limitation contained in the Welfare Fund's Plan Document, I agree to hold proceeds received in connection therewith, in the amount equal to the amount that the Welfare Fund has paid on behalf of the promissor, in trust for the benefit of the Welfare Fund. I agree not to distribute such proceeds until arrangements to repay the Welfare Fund have been approved by the Welfare Fund. I agree that any amounts held by me, as stated herein, constitute a specifically identifiable fund, held for the benefit of the Welfare Fund and that said fund is limited to the amount of benefits paid by the Welfare Fund to or on behalf of the promissor, pursuant to the promissor's agreement stated herein. I acknowledge the promissor's direction contained herein, to hold said funds in trust for the benefit of the Welfare Fund.

Attorney for Promissor (Print)

Attorney for Promissor (Signature)

Date

Address

Telephone Number

ACCEPTED AND APPROVED BY:

GREATER ST. LOUIS CONSTRUCTION
LABORERS' WELFARE FUND

Effective Date:_____