

SUBCONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

as Principal,

(Here insert the name and address, or legal title, of the Subcontractor)

hereinafter called Principal, and

a

corporation, with its

(Here insert the name and address of the Surety)

Home Office in

hereinafter called Surety, are held and firmly bound unto

CAPSTONE BUILDING CORPORATION
3415 Independence Drive
Birmingham, AL 35209

as Obligee, hereinafter called Obligee, in the amount of

Dollars (\$ _____), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated

entered into a subcontract with Obligee for

_____ in accordance with drawings and specifications which subcontract is by reference made a part hereof, and is hereinafter referred to as the subcontract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly and faithfully perform said subcontract as required by the contract documents, including all modifications thereto, within the time provided and during the life of any guaranty required under the subcontract or the contract documents and shall indemnify and save harmless Obligee from any and all loss, damage, and expense including costs and attorneys' fees, which Obligee may sustain by reason of Principal's failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and be declared by Obligee to be in default under the subcontract:

- (1) Surety may promptly remedy the default subject to the provisions of paragraph 3 herein, or;
- (2) Obligee after reasonable notice to Surety may, or surety upon demand of Obligee, may arrange for the performance of Principal's obligation under the subcontract subject to the provisions of paragraph 3 herein;
- (3) The balance of the subcontract price, as defined below, shall be credited against the cost of completing performance of the subcontract. If completed by the Obligee, and the cost exceeds the balance of the subcontract price the Surety shall pay the Obligee such excess, but in no event shall the aggregate liability of the Surety exceed the amount of this bond. If the Surety arranges completion or remedies the default, that portion of the balance of the subcontract price as may be required to complete the subcontract or remedy the default and to reimburse the Surety for its outlays shall be paid to the Surety at the times and in the manner as said sums would have been payable to Principal had there been no default under the subcontract. The term "balance of the subcontract price," as used in this paragraph, shall mean the total amount payable by Obligee to Principal under the subcontract and any amendments thereto, less the amounts heretofore properly paid by Obligee under the subcontract.

Surety agrees that no change, extension of time, alteration, addition, omission, or other modification of the terms or parties of either the subcontract or the prime contract, or both, or in the work to be performed, or in any of the contract documents, shall affect its obligation under this Performance Bond, and it does hereby waive notice of all such changes, extensions of time, alterations, additions, omissions, or other modifications.

Signed and sealed this _____ day of _____, _____.

IN THE PRESENCE OF:

(Seal)
Principal

By _____

Surety

By _____
Attorney-in-Fact

[Attach Power of Attorney]