

DANIS

SUPPLY BOND

PRINCIPAL (SUPPLIER)

(Name and Address):

SURETY (Name and Address of Surety

Company Office):

OBLIGEE (CONTRACTOR)

Danis Building Construction Company
3233 Newmark Dr
Miamisburg OH 45342

PURCHASE ORDER

Danis Purchase Order Number:

Date:

Name and Location of project:

BOND

Date (Not earlier than Purchase Order Date):

Penal Amount (Purchase Order Price): \$

Supplier AS PRINCIPAL

Company:

Signature: _____

Name: _____

Title: _____

Witness: _____

SURETY

Company:

Signature: _____

Name: _____

Title: _____

Attach Power of Attorney

Witness: _____

FOR INFORMATION ONLY-

SURETY AGENT or BROKER:

(Name, Address and Telephone)

ARTICLES

1. **SCOPE OF BOND.** The Principal and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Obligee (a) for the performance of the Purchase Order, including all undertakings, covenants, terms, conditions, warranties and all other obligations

contained in or arising out of the Purchase Order, and (b) to pay for labor, materials, equipment, supplies, services and the like used or reasonably required for use in the performance of the Purchase Order, which is incorporated in this bond by reference and pursuant to which this bond is issued.

2. **EFFECT OF OBLIGATION.** If the Principal performs the Purchase Order and promptly makes payment directly or indirectly to all Claimants, as defined in this bond, for all labor, material or equipment used or reasonably required for use in the performance of the Purchase Order, then this bond shall be null and void; otherwise it shall remain in full force and effect. The Principal and the Surety agree that this bond shall inure to the benefit of (a) the Obligee and (b) all individuals or entities supplying labor, material, equipment, supplies, services and the like used or reasonably required for use in the performance of the Purchase Order ("Claimants"), that unpaid Claimants may maintain independent actions upon the bond in their own names and that the Obligee shall have the right, but not the obligation to bring an action against the Principal and the Surety on behalf of unpaid Claimants.
3. **ALTERATION NOTICE WAIVER.** The Surety waives notice of any change, alteration or extension of the Purchase Order, including but not limited to the Purchase Order scope, price and/or time, made by the Obligee, or any forbearance on the part of either the Obligee or the Principal to the other. No such change, alteration, extension or forbearance shall in any way release the principal or the Surety from liability hereunder. Any increase in the Purchase Order Price shall automatically result in a corresponding increase in the penal amount of this bond; decreases in the Purchase Order Price shall not, however, reduce the penal amount of the bond unless specifically provided in a written change order.
4. **PRINCIPAL DEFAULT.** Whenever the Principal is declared by the Obligee to be in default in its performance under the Purchase Order, with the Obligee having performed its obligations in the Purchase Order, the Surety must promptly:
 - 4.1 **REMEDY DEFAULT.** Remedy the default in all respects; or
 - 4.2 **COMPLETE PURCHASE ORDER.** Complete the Purchase Order in accordance with its terms and conditions; or
 - 4.3 **OBTAIN NEW SUPPLIER.** Obtain a bid or bids formally, informally or negotiated for completing the Purchase Order in accordance with its terms and conditions, and upon determination by the Surety of the lowest responsible bidder, or negotiated proposal, or, if the Obligee elects, upon determination by the Obligee and the Surety jointly of the lowest responsible bidder or negotiated proposal, arrange for a contract between such party and the Obligee. The Surety will make available as work progresses sufficient funds to pay the costs incurred, or
 - 4.4 **PAY OBLIGEE.** Determine the amount of which it is liable to the Obligee and pay the Obligee that amount within fifteen days thereafter.
5. **RIGHT TO IMMEDIATE CURE.** Notwithstanding any provision of Article 4 to the contrary, should the Obligee reasonably determine that job progress will be delayed or that delay damages will be assessed unless immediate action is taken to cure the Principal's default, the Obligee may upon three days written notice to the Surety, relet or complete the Purchase Order. The reasonable cost of such reletting or completion shall be considered as part of the cost of completion.
6. **SURETY DEFAULT.** Should Surety not proceed as provided in Article 4 with reasonable promptness, the Surety shall be deemed to be in default on this bond fifteen days after receipt of an additional written notice from the Obligee to the Surety demanding that the Surety perform its obligations under this bond, and the Obligee shall be entitled to enforce any remedy available to the Obligee. If the Surety proceeds as provided in Article 4.4 and the Obligee refuses the payment tendered or if the Surety has denied liability in whole or in part, the Obligee, without further notice, shall be entitled to enforce any remedy available to the Obligee.
7. **EXTENT OF SURETY OBLIGATION.** To the limit of the penal amount of this bond, the Surety is obligated without duplication for:
 - 7.1 All costs associated with performing responsibilities of the Principal for furnishing materials and completion of the Purchase Order;
 - 7.2 Additional legal, design professional, and delay costs associated with the Principal's default, or resulting from the actions or the failure to act of the Surety under Article 4;
 - 7.3 Consequential and liquidated damages, or if no liquidated damages exist under the Purchase Order, actual damages caused by delayed performance or non-performance of the Principal or the Surety; and
 - 7.4 Payment to unpaid Claimants.
8. **DENIAL OF LIABILITY.** Should the Surety deny liability in whole or in part on any claim asserted hereunder, it shall notify the Obligee within thirty days of the declaration of default and state all reasons for the denial of liability.
9. **RIGHT OF ACTION.** Any suit under this bond may be instituted any time prior to the expiration of the later of (a) two years from the date on which final payment under the Purchase Order is made or (b) the statute of limitations applicable to the Purchase Order, it being agreed and intended that the statute of limitations applicable to action on this bond is coextensive with the statute of limitations applicable to the Purchase Order. No right of action shall accrue on this bond to or for the use of any person or entity other than (a) the Obligee, its heirs, executors, administrators, assigns or successors and (b) unpaid Claimants. Any suit must be brought only in the court of the jurisdiction in which the Obligee office shown on page one of this bond is located or in a court in Montgomery County, Ohio. The Principal, Obligee, Surety and Claimants consent and agree to the exclusive jurisdiction and venue of those courts.
10. **STATUTORY BOND.** When this bond has been furnished to comply with a statutory or other legal requirement in the location where the construction is or was to be performed, any provision in this bond conflicting with such statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that in such situations this bond shall be construed as a statutory bond and not as a common law bond. Specifically, where required, this bond incorporates the provisions of Section 255.05 or Section 713.23 Florida Statutes, whichever is applicable, and all notice, time, and party limitations provided therein are incorporated herein by reference.
11. **NOTICE.** Notice to the Principal, the Surety, or the Obligee shall be mailed or delivered to the address shown on the signature page.
12. **MULTIPLE PARTIES.** Any singular reference to the Principal, the Surety, the Obligee, or other party shall be considered plural where applicable.

Form: Supply Bond DBCC Midwest ~ August 2007

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