



NEW MILLENNIUM

A Steel Dynamics Company

STANDARD EXCLUSIONS & QUALIFICATIONS	
The Quote is subject to the following exclusions and qualifications:	
<p>1. New Millennium Building Systems, Inc., ("Seller") specifically excludes the following:</p> <ul style="list-style-type: none"> a. Holes, clips, plates or other mechanisms for attachment of work by any other trades or any other third parties; b. Shear studs or shear stud layouts; c. Deck accessories unless noted on face of this Quote; and d. Weld washers for 22-gauge deck and thicker. 	<ul style="list-style-type: none"> 2. No consideration for effects of UL Ratings for specified deck. 3. Seller will only include bolts to connect Seller's Product. Seller's bolts shall not be used to connect to any other product. 4. The parties agree that any changes to the Exclusions and Qualifications must be agreed to in writing either on the face of Seller's Quotation or specifically set forth in Section 17 below.

BRIDGE DECK GENERAL SALE TERMS AND CONDITIONS

1. **BUY AMERICA.** Seller will comply with Federal Highway Administration (FHWA) 23 U.S.C § 313 – Buy America; 23 C.F.R. § 635.410 (100% Domestic Content for iron and steel products and their coatings that are to be permanently incorporated into the project). Seller does not warrant or certify that its Products comply with any other federal, state, or local "Buy America" or "Buy American" law, or any similar statute, act or ordinance that requires the use of domestically produced steel products in publicly funded projects. Seller expressly and specifically disclaims any liability to Buyer, Buyer's customer, any owner or agent of owner and any governmental entity for any loss, expense or cost (including attorney's fees) arising out of any failure to comply with any other "Buy American" provisions, except as otherwise agreed to in this Section 1..

2. **EQUAL OPPORTUNITY.** Seller agrees to comply with the provisions of the Equal Opportunity Clause, as set forth in paragraph 60-1.4 of the regulations of the Secretary of Labor (41 CFR Chapter 60), issued pursuant to Executive Order 11246 of Sept. 24, 1965. Vendor is aware and fully informed of its responsibilities under the Rehabilitation Act of 1973 Section 503 (41 CFR 60-741), Executive Order 11758 dated January 15, 1974 (41 CFR 60-250), and CFR 60-300.5 and hereby agrees that it shall comply with the requirements of said orders.

3. **GENERAL TOLERANCES AND VARIATIONS; INFORMATION PROVIDED BY OTHERS.** All bridge deck ("Products"), shall be subject to tolerances and variations consistent with usages of the trade and regular practices, regardless of the exactness of the specification. Seller shall not be responsible for the correctness, adequacy or consistency of any specifications or other information furnished by Buyer or other third parties (including, without limitation, the project architect and/or project engineer) regardless of how the specification is communicated.

4. **CONTROLLING TERMS.** These General Sale Terms and Conditions ("General Terms") are incorporated into, and become a part of, each quote, purchase order, release, work order, sale, invoice, and other agreement, whether expressed in written form, by electronic data exchange or other format, relating to the Products and/or services to be provided by Seller (collectively referred to as the "Quote"). Seller agrees to sell to Buyer only on the condition that Buyer assents to all of the terms and conditions set forth herein. Shipments by Seller shall not be deemed acceptance of any provision of Buyer's purchase order, confirmation, or any other Buyer communication, which is different from, inconsistent with, a modification of or in addition to the terms in this Quote and these General Terms. All prior proposals, negotiations, course of dealings, representations, and agreements, if any, are superseded and merged herein, unless amended in a separate written agreement signed by authorized representatives of Seller and Buyer stating that it is intended to amend these Terms and Conditions. These General Terms will apply except to the extent inconsistent with any such amendment. If Buyer accepts this Quote and/or Buyer issues a purchase order to Seller, Buyer will be deemed to have agreed that these General Terms are incorporated into the contract of sale and any additions to, changes in, modifications of, or revisions of these General Terms which Buyer proposes or includes in any purchase order or other document or procedure in use by Buyer will be deemed to have been rejected by Seller.

5. **QUANTITIES AND PRICES.** All quantities shown in the Quote for the Products are Seller's good-faith estimate of the product needed to complete the Buyer's project per the plans and specifications reviewed and acknowledged by Seller. Seller's price is not conditioned on the quantities shown on the Quote, unless Seller agrees on the face of the Quote to provide the specific Products in Buyer's estimate list. Prices quoted herein shall be valid for up to 30 days from the date of the proposal. Products that are requested by Buyer to be shipped 6 months or more after Buyer signs and accepts this Quote will be subject to a price escalation.

6. **TERMS OF PAYMENT.** Subject to Seller's credit approval, and unless Buyer is notified to the contrary by Seller's Credit Department, Buyer shall be allowed a discount of 1/2% if payment in full is received by Seller within ten (10) days of invoice date. The net invoice amount shall be paid in full without setoff or defense within thirty (30) days from date of invoice. Buyer shall not be allowed retainage. Buyer is responsible for payment for any sales, use, value added or other tax applicable on purchases that are not exempt



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under proper exemption certificates delivered by Buyer. If Buyer fails to make payments as set forth herein, in a manner that reasonably indicates Buyer's inability to pay for the Products, Seller is entitled to terminate this Quote and any other orders pending between the parties until and unless Buyer provides evidence of financial solvency deemed acceptable to Seller. Seller shall have the right to employ an attorney to collect all balances due, and Buyer agrees to pay all collection costs incurred by Seller, including its reasonable attorney's fees. Buyer hereby agrees to provide any and all information necessary to file, perfect, and/or record a security interest, lien and/or bond within five (5) days of a request for such information by Seller.

7. **CREDIT APPROVAL.** Performance of work and shipment of the Products is subject to approval by Seller's Credit Department. Seller may at any time condition its performance upon receipt of advanced payment, acceptable security, or Buyer's agreement to other reasonable credit-related terms and conditions. Buyer shall be responsible for payment to Seller of damages arising out of Seller's performances to date if Buyer's failure to provide acceptable assurance of payment results in termination of this Quote. Buyer represents that by placing its order, it is not insolvent as that term is defined in the Uniform Commercial Code, and, should it become insolvent before delivery of the Products, it will notify Seller. Failure to notify Seller shall be deemed to constitute a written representation of Buyer's solvency as of the date of shipment.

8. **ORDER MODIFICATION.** If Buyer requests changes to the signed Quote, the delivery date, or any other changes which, in Seller's judgment, impacts its costs, risks or other matters, then Buyer and Seller must agree to the changes in writing or the order shall be deemed cancelled in accordance with Section 9. The parties shall have a reasonable time to agree to any changes proposed by Buyer and to agree upon a new delivery date caused by these changes.

9. **ORDER CANCELLATION.** In the event Buyer cancels or is deemed to have cancelled its order as set forth above under Section 8, Seller shall be entitled to payment for Seller's work and material to the date of Buyer's cancellation.

10. **SHIPMENT/RISK OF LOSS.** The cost of shipping is included in the price of this Quote. Risk of loss shall be borne by the party responsible for the selection of the carrier. If Seller selects the carrier then risk of loss shall pass upon delivery to the job site location; however, if Buyer selects the carrier, then risk of loss shall pass to Buyer upon delivery to Buyer's carrier. The parties acknowledge that shipping may expose the Products to road salt and agree that Seller is not responsible for any resulting damage to the Products regardless of which party selects the carrier.

11. **DELIVERY.** Seller will exercise all reasonable diligence to deliver the Products by the date specified but shall not be responsible for any delays due to any cause beyond Seller's reasonable control. If Buyer (a) requests deferral of shipment of the Products that have already been manufactured, and Seller, in its discretion, agrees to the same, or (b) Buyer or third parties otherwise fail to provide information or documentation necessary for Seller to proceed with shipment of the Products in the ordinary course, Seller reserves the right to charge Buyer reasonable storage fees on delayed shipments and, further, Seller may invoice Buyer when and as fabrication of the Products is completed, notwithstanding that the Products have not shipped.

12. **WARRANTIES AND LIMITATION OF LIABILITY.** Seller warrants that the Products are transferred to Buyer free and clear of any monetary liens or encumbrances, other than the lien or bond claim or rights held by Seller under applicable law as to any portion of the purchase price not paid by Buyer. Seller further warrants that for a period of 1 year following date of delivery the Products shall be free from defects in workmanship and material. Subject to, where Buyer has provided Seller with written specifications and Seller has expressly listed those specifications on the face of the Quote, then and only in such case does the Seller also warrant that the Products will meet those specifications, subject to the terms and conditions set forth herein. Seller is not responsible for any revisions to the contract structural drawings and/or specifications unless the proposed revision is both provided to Seller and agreed upon in writing. SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS OTHERWISE PROVIDED HEREIN, NEITHER SELLER NOR BUYER SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR LIQUIDATED DAMAGES. Seller is not involved in the placement of the Products and shall not be liable to Buyer for any loss, claim, or damage relating to the improper placement of the Products. Seller shall be given the opportunity to repair any Products which do not meet Seller's warranty ("Defective Products"), and if the Defective Products have been delivered to the site, Seller has the right to perform the repairs at the site. Seller shall have no obligation for costs which could have been avoided had Seller been given the opportunity to repair. If Seller fails to timely repair any Defective Products after receiving written notice from Buyer, then Buyer shall have the right to conduct reasonable repairs to the Defective Products and charge Seller for the cost of such reasonable repairs. Nothing herein precludes Seller from disputing whether or not the Products are Defective Products.

13. **INSPECTION OF PRODUCTS.** Buyer shall promptly inspect the Products upon delivery. Any errors with respect to quantity of Products must be identified by Buyer at the time of delivery and immediately brought to Seller's attention. Acceptance of the Products shall constitute a waiver of any error with respect to shortages. Any shipping related loss or damage (other than damages and loss arising out of delay in delivery as set forth in paragraph 11 above) to the Products must be reported to Seller within three (3) business days of the Products arriving at the delivery location. All other problems or concerns with the Products and their conformity with this Quote's requirements must be communicated in writing to Seller within three (3) business days of the earlier of discovery or when the same could have been discovered through the exercise of reasonable diligence. Seller and its agents and insurers shall be allowed a reasonable opportunity to inspect the Products due to Buyer's concerns with conformity with the Quote. The Products may not be returned without Seller's prior consent. Buyer's failure to notify Seller in writing by the time periods called for by this Section 13 shall be deemed acceptance of the Products, but the Section 12 warranties remain in effect. Seller will not be responsible for any inspection, testing fees or costs conducted by third parties.



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14. ENTIRE AGREEMENT; SUCCESSORS. This Quote constitutes the entire and exclusive agreement between the parties; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein in writing. The terms of this Quote shall be binding on, and inure to the benefit of Buyer, Seller, and their respective successors and assigns. Buyer agrees that it may not assign this Quote without the prior written consent of Seller which consent Seller shall not unreasonably withhold.

15. CHOICE OF LAW AND VENUE. This agreement shall be governed by the laws of the State of Indiana. Buyer consents to the exclusive jurisdiction of the state courts of Allen County, Indiana in the United States District for the Northern District of Indiana, Fort Wayne Division. Buyer waives any objection based on forum non conveniens or any objection to venue of any such action.

16. TRIBAL LANDS. In the event that Seller's Products are being used in a project on any federally-recognized lands owned by any Native American tribe or organization, Buyer agrees to provide a letter of credit, personal guarantee, partial or full pre-payment, payment on delivery, or any other payment terms acceptable to Seller to assure payment for Seller's Products.

17. ADDITIONAL TERMS.

Thank you for the opportunity to quote this project.

Quoted by: _____ Purchase Order # _____

BUYER HEREBY ACCEPTS SELLER'S QUOTE, INCLUDING THE PRICING, EXCLUSIONS, QUALIFICATIONS, TERMS AND CONDITIONS STATED ABOVE AND ON THE FACE OF THE QUOTE.

Dated: _____

Signature of Buyer's Duly Authorized Agent

Printed Name of Authorized Agent

Corporate Name of Buyer

NOTE: WILL NOT PROCEED UNTIL WRITTEN AUTHORIZATION IS RECEIVED.