



800.737.2800

fax 417.862.1232

Post Office Box 1565

Springfield, Missouri 65801

boydaluminum.com

Additional Terms and Conditions of Sale Incorporated in Each Boyd Quotation

1. SALE AGREEMENT. The goods or products shall be sold in accordance with the terms and conditions in Boyd's Quotation ("Seller") and these additional terms and conditions ("Terms"), and such other terms as Seller agrees to in writing, all of which shall be the Agreement of the parties with respect to the sale of goods. In the event of any conflict in the terms stated in the Quotation, and these Terms the Quotation shall control.

2. ACCEPTANCE. This sale is conditioned upon Purchaser's written acceptance of all terms and conditions of this Quotation. Seller rejects any and all terms in any purchase order or other document of Purchaser which are in addition to, different from, or inconsistent with this Quotation. This Quotation is an offer to sell, subject to final approval by Seller. The offer may be withdrawn at any time prior to Seller's final approval, and shall expire automatically if not accepted within thirty (30) days from the date hereof, unless otherwise agreed to by Seller.

3. PAYMENT. Purchaser shall, within thirty (30) days after Seller ships the goods, pay the full purchase price for the goods shipped (or the final installment of the purchase price if Purchaser has made progress payments prior to the shipment date); except that if Seller delays shipment as requested by Purchaser under paragraph 6 hereof, Purchaser shall pay the full purchase price (or the final installment) within thirty (30) days after the goods have been completed, and, in addition, shall pay a reasonable storage charge as determined by the Seller. Any balance not paid when due shall draw interest at the rate of 1.5% per month (18% A.P.R.) on the average daily balance until paid or the highest rate allowed by applicable law, whichever is less.

Notwithstanding paragraph 14 hereof, the parties agree that Seller may bring suit to collect any unpaid balance due from Purchaser (or arbitrate at Seller's option), and Purchaser shall pay all attorney fees and court costs incurred by Seller in connection with the suit to collect such unpaid balance. Any suit brought by Seller shall not be stayed by virtue of any arbitration proceeding between the parties, shall proceed to judgment by the Court, and all of Purchaser's defenses, avoidances and counterclaims (other than the defense of payment) shall be submitted to arbitration as provided in paragraph 14. All payments shall be made in U.S. currency.

4. CREDIT APPROVAL. If Seller allows credit terms to Purchaser, the obligations of Seller hereunder, shall be subject to the condition precedent that Seller's credit department approves the credit of Purchaser.

5. DRAWINGS. Seller's drawings are its interpretation of drawings and specifications provided by the Purchaser. If Seller submits any drawings or other specifications to Purchaser for approval, and Purchaser does not approve or disapprove the same within the time specified by Seller, Seller may ship the goods at a later date and may increase the purchase price, as reasonably necessitated by Purchaser's delay. Drawings approved by Purchaser and its agents and representatives, shall be deemed to be in conformance with all project drawings and specifications provided by the Purchaser.

6. SHIPMENT. If Purchaser is not in default, Seller shall ship the goods upon completion, except that, subject to paragraph 3 hereof, shipment may be delayed if requested by Purchaser in writing. The goods are to be manufactured to special order, and the shipment date designated on the face hereof is estimated and not guaranteed; Seller may ship the goods within a reasonable period either before or after the designated shipment date. Seller may ship the goods by any mode, and in full or partial shipments. Seller shall not be liable for any failure or delay to manufacture or ship the goods due to causes beyond its control, including without limitation, acts of God, wars, terrorism, sabotage, casualties, accidents, labor disputes or shortages, governmental laws, ordinances, rules or regulations (such as priorities, requisitions, allocations

and price adjustment restrictions), or an inability to obtain material, equipment or transportation.

7. TITLE, RISK OF LOSS. The goods shall be shipped FOB Seller's plant, and title to the goods and all risks of loss with respect to the goods shall transfer to the Purchaser after they have been placed in the possession of a carrier.

8. INSPECTION. Purchaser shall inspect the goods at the time and place of delivery and Purchaser agrees that such occasion shall constitute a reasonable opportunity for its full inspection. The parties agree that Purchaser's failure to reject the goods within three (3) business days shall constitute acceptance of the goods. After Purchaser inspects and accepts the goods, Purchaser shall, except as provided in paragraph 10 hereof, be deemed to have acknowledged that the goods comply with all specifications, representations and warranties of Seller, and to have waived any claim or cause of action against Seller with respect to the goods. Purchaser is encouraged to visit Seller's plant prior to shipment to inspect and, when possible, witness testing of the goods. If return of the goods is impractical Purchaser may be required to inspect the goods at Seller's plant prior to shipment, which shall be deemed to be a reasonable opportunity to inspect and, upon satisfactory completion, shall constitute Purchaser's acceptance of the goods.

9. TAXES AND DUTIES. Purchaser shall pay, in addition to the purchase price, all sales, use and excise taxes, tariffs, duties and other charges imposed by any country, state, locality or other political subdivision in connection with the sale of the goods. For tax purposes, title to the goods shall pass from Seller to Purchaser upon being loaded for shipment

10. WARRANTIES. Unless Seller provides a written warranty signed by Seller and Purchaser, the goods are sold AS IS without any warranty express or implied.

SELLER DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTY, WHETHER EXPRESSED OR IMPLIED.

Oral statements by seller's employees or representatives do not constitute warranties, shall not be relied upon by Purchaser, and are not part of this Agreement. If Seller provides a written warranty, it is conditioned upon Purchaser's payment in full. Any warranty offered by Purchaser to its customers, in excess of that offered by Seller, shall be the responsibility of Purchaser.

11. LIMITATION OF LIABILITY. Purchaser's exclusive remedy for claims arising hereunder shall be for damages. Seller shall not under any circumstances be liable for special or consequential damages, such as, but not limited to: loss of use; loss of profits; loss of rents or revenue; inconvenience or loss of time; costs of capital; facility shutdowns or slowdown; claims by Purchaser's customers; loss or damage to other property or equipment, loss or damage to other products or materials; loss or damage caused by leakage, mold, fungi, or bacteria; or loss or damage occurring during the repair or replacement of goods, all of which are expressly excluded unless covered by policies of insurance issued to Seller, from time to time, and in such cases damages are limited to Purchaser's direct cost, fair market value, or the limits of any insurance coverage in effect for Seller, whichever is less. The remedies of the Purchaser, and any other party, arising out of or related to the goods set forth herein are exclusive, and the liability of the Seller with respect to the goods, or anything done in connection therewith, or from the manufacture, sale, delivery, resale, installation or use of any of the goods sold by Seller, whether arising out of contract, negligence, strict liability, tort, or under any warranty, or otherwise, shall not, exceed the price charged by Seller for the portion of the goods upon which such liability is based. Seller is not responsible for pitting, corrosion or suitability of use for any products, materials, or finishes in any particular application. The corrosion resistance and suitability for

use of any product, material, or finish is dependent on environmental conditions, cleaning practices and many other factors beyond the control of Seller. Seller is not responsible for loss of functionality of moving portions of goods, and pitting and corrosion caused by environmental conditions and the performance of, or absence of cleaning/maintenance practices. Purchaser and its customers assume all responsibility and risk for pitting, corrosion, or suitability for use of all products, materials, or finishes in their particular application.

12. CANCELLATION, CHANGES. Purchaser may not cancel this agreement without the prior consent of Seller, and without paying Seller a cancellation charge equal to total selling price less the estimated direct labor and materials not expended less the salvage value of materials already purchased. Purchaser may not change this agreement without the prior consent of Seller and without payment of a charge equal to the cost of the change to Seller, including overhead and profit. Seller's approval in each case must be in writing signed by an officer of Seller.

13. REMEDIES. If Purchaser fails to make timely payment, or breaches any of the other terms or conditions hereof or any other agreement with Seller, Seller shall have the right to terminate this Agreement and withhold further shipments on this or any other order. The remedies provided herein are cumulative and in addition to any other remedies allowed by law or in equity. The failure of Seller to exercise any right or remedy shall not constitute a waiver of the right to exercise that, or any other remedy; and no waiver of any breach or non-compliance of any provision herein shall operate as a waiver of any other breach or non-compliance of the same or any other provision.

14. APPLICABLE LAW, ARBITRATION. This Agreement is to be governed by the internal laws of the State of Missouri. The parties agree that any proceedings in court or in arbitration shall be brought exclusively in Springfield, Missouri. THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY. Except as provided in paragraph 3 hereof, any dispute, controversy or claim arising out of or relating to this Agreement or any purchase order issued by Purchaser and accepted by Seller hereunder (including, but not limited to, any dispute relating to the existence, interpretation, breach or termination hereof or thereof) that cannot be resolved by the parties shall be resolved by binding arbitration administered by, and in accordance with the Construction Industry Rules of the American Arbitration Association. The arbitration award may be reduced to judgment by any court having jurisdiction thereof. The cost of the arbitration shall be shared equally between the parties, and each party shall bear its own attorney fees and expenses.

15. MISCELLANEOUS. This Agreement is a complete and exclusive statement of the terms of the Parties' agreement. No course of prior dealings between the parties and no usage of trade shall be relevant to supplement or explain any term used herein, and no modification shall be binding on Seller unless made in a writing signed by Seller. No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by separate consideration and is in a writing signed by Seller. Purchaser shall not assign its rights or delegate its duties under this Agreement. Facsimile and E-mail signatures of the parties shall constitute original signatures for all purposes. The invalidity of any portion of this Agreement shall not affect the validity of any remaining portions thereof.

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION,
WHICH MAY BE ENFORCED BY THE PARTIES.**

Rev. 02/2012