BESCO STRUCTURE'S STANDARD TERMS OF SALE

All sales of goods and services by **Besco Structures™** are made on the following terms and conditions, (collectively, "Terms of Sale"). In these Terms of Sale, any building materials, building systems, buildings, or other goods or items sold by **Besco Structures™** to the original customer or original purchaser (collectively, **"Customer")** are referred to individually and collectively as the **"Materials",** and any design services or other services provided by **Besco Structures™** to Customer are referred to as **"Services".** The Services provided by **Besco Structures™** may be included in the price of the Materials or **Besco Structures™** may charge separately for the Services.

1. **Agreement. If** Customer has not otherwise agreed to these Terms of Sale, then Customer's acceptance of delivery of, or Customer's payment for, the Materials or Services shall constitute Customer's agreement to these Terms of Sale and this Agreement (as "Agreement" is defined in Paragraph 29 below). **Besco Structures™** objects to and does not agree to any terms that add to or differ from these Terms of Sale or this Agreement. Terms that are printed on or contained in a purchase order or other form prepared by Customer are inapplicable and shall have no force or effect.

2. Payment Terms.

a. Unless otherwise specified in **Besco Structures™** quotation, proposal, or order acknowledgment, or otherwise agreed to by **Besco Structures™** in writing, 30% of the price shall be due upon placement of the order for Materials and/or Services, and the remaining 70% shall be due no later than four (4) weeks prior to the shipment date of those Materials/start of performance of those Services. All invoices are due within 30 days of the invoice date. Interest of one and one-half percent (1.5%) per month, 18 percent (18%) per year, will be charged on all past due accounts. Payment shall be made to **Besco Structures™** at the address specified in **Besco Structures™** invoice. Customer may not offset or recoup any claim against amounts due **Besco Structures™**. Unless otherwise agreed to in a writing signed by Customer and **Besco Structures™**, all payments shall be made in U.S. Dollars. If Customer defaults on any payment due from Customer to **Besco Structures™**, **Besco Structures™** may accelerate all amounts then owing and those to be owed in the future, and all such amounts shall be immediately due and payable on demand. **Besco Structures™** shall be entitled to recover from Customer all of **Besco Structures™** attorneys' fees and other costs and expenses incurred (a) in collecting any amounts owed by Customer to **Besco Structures™**, or (b) in enforcing **Besco Structures™** rights under these Terms of Sale or this Agreement.

b. Due to the volatility in steel, wood, and fuel prices, **Besco Structures™** may adjust the price for shipments to be made in a time exceeding three (3) months from date of deposit or from date of accepted payment method, when a price change plus (+) or minus (-) 5% occurs from the date of deposit or from date of accepted payment method.

c. Reference metal costs are determined pursuant to the following source: Platts McGraw Hill Financial, www.steelbb.com (Sheet metal Flat Products, N. Europe, domestic HDG Ex Works).

d. All freight, insurance, and import costs are based on costs at time of quotation. **Besco Structures™** has the right to adjust these costs if, at time of shipment, these costs have changed. **Besco Structures™** has the right to re-calculate these costs prior to proceeding with each shipment. The charges shall be adjusted up or down accordingly, at the sole discretion of **Besco Structures™**. Customer agrees to the adjusted amount due, as determined by **Besco Structures™**.

3. **Delivery, Risk of Loss, and Transfer of Title.** Unless **Besco Structures™** agrees in writing to deliver and/or install the Materials or unless **Besco Structures™** agrees otherwise in writing, Materials shall be shipped according to the terms of the Agreement by the parties. Title to and risk of loss of each item of Materials shall pass to Customer upon commencement of shipment to Customer, according to the terms of the Agreement. Shipping, delivery, and performance dates are estimates only, and time is not of the essence for **Besco Structures™** obligations hereunder. **Besco Structures™** may deliver all the Materials at one time or in portions from time to time.

4. Taxes. Unless otherwise agreed to by **Besco Structures™** in writing, **Besco Structures™** price does not include any privilege, occupation, personal property, value-added, sales, excise, use, or any other taxes, and Customer shall be liable for all such taxes.

5. **Force Majeure. If Besco Structures™** is not able to finish and deliver the Materials to Customer, or to perform the Services, by the estimated times of delivery or performance, because of anything **Besco Structures™** cannot control (including, but not limited to, acts of God; flood, fire, earthquake, epidemics, or explosion; war, invasion, hostilities, terrorist threats or acts, riots, or other civil unrest; government order, law, or actions; embargoes or blockades in effect on or after the date of a particular quotation/agreement; national or regional emergency; strikes, labor stoppages or slowdowns, or other industrial disturbances; telecommunications breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and actions of Customer or those under its control), then the estimated delivery or performance time shall be extended in an amount reasonably specified by **Besco Structures™**. **Besco Structures™** shall not be deemed to have defaulted under or breached this Agreement, and **Besco Structures™** shall not be liable to Customer or any third party for any damages caused by the delay. In view of the current freight problems, the delivery data given are expressly subject to change. **Besco Structures™** expressly reserves the right to adjust the delivery dates.

6. Changes. **Besco Structures™** shall have the right to make design or engineering changes in the Materials, processes, and methods of manufacture, but **Besco Structures™** will not, without Customer's prior approval, make any changes in operational or dimensional specifications that Customer submits. **Besco Structures™** is not required to accept any changes from Customer. If **Besco Structures™** does accept changes from Customer, however, **Besco Structures™** shall be entitled to additional compensation in the amount specified by **Besco Structures™**, which amount shall not be less than **Besco Structures™** additional costs plus profit margin. The preceding sentence shall apply regardless of whether Customer issues a change order or not. In the event that Customer or any of those under its control causes a delay or other increased costs to **Besco Structures™**, then **Besco Structures™** shall be entitled to additional compensation in the amount specified by **Besco Structures™**, which amount shall not be less than **Besco Structures™** additional costs plus profit margin.

7. Typographical, clerical, or calculation errors by **Besco Structures™** in quotations, proposals, or other documents are subject to correction by **Besco Structures™**, and **Besco Structures™** shall be given a reasonable amount of time to correct such errors without incurring any additional liability or obligation.

8. **Solvency, Security Interest, and Mechanic's Lien.**

a. Customer represents and warrants that Customer is solvent. Such representation is deemed made at each time that Customer orders Materials or Services and at the time that such Materials or Services are delivered or provided.

b. In order to secure payment of all amounts which or may become due in the future from Customer to **Besco Structures™**, Customer hereby grants to **Besco Structures™** (i) a continuing purchase money security interest in the Materials now or hereafter purchased by Customer from **Besco Structures™**, together with all proceeds of the foregoing; and (ii) a continuing security interest in all of Customer's equipment, fixtures, inventory, accounts, contract rights, chattel paper, instruments, investment property, general intangibles, letters of credit, and deposit accounts, now or hereafter acquired, together with all proceeds of the foregoing.

C. Customer agrees that **Besco Structures™** may file and record a mechanic's lien and/or construction lien against the real property on which any of the Materials is located or against the property on which any of the Materials will be used to build (if different from the property on which any of the Materials is located).

d. Customer agrees to execute any necessary instruments to perfect **Besco Structures™** security interest and lien rights in Sections 8(b) and 8(c) above. **Besco Structures™** shall be entitled to all rights and remedies of a secured party under applicable law.

9. **Permits, Compliance, and Licensing. Besco Structures™** is not responsible for obtaining any permit, inspection, license, authorization, or approval for installation or erection of the Materials, all of which are the sole responsibilities of Customer or Customer's licensed engineer, architect, or contractor. It shall be Customer's sole responsibility (a) to have all drawings that have been prepared by **Besco Structures™** signed and/or sealed by a licensed professional engineer or architect where the Materials are to be installed or erected; and (b) to have the Materials installed or erected by a licensed contractor. Customer acknowledges and agrees that any Services provided by **Besco Structures™** are being rendered as a manufacturer or seller of the Materials and, although **Besco Structures™** may provide drawings, plans, specifications, or information to Customer in connection with the design, engineering, installation, or erection of the Materials, **Besco Structures™** does so solely in a consultant capacity knowledgeable about the Materials, notwithstanding that some **Besco Structures™** employees may be licensed in certain jurisdictions.

10. **Installation and Erection; Safety.** Customer shall install and erect the Materials properly and according to **Besco Structures™** written installation manual; however, the means and methods of installation and erection are the sole responsibility of Customer. **Besco Structures™** may provide supervision of installation or erection but Customer shall remain solely responsible for proper installation and erection. Customer shall not remove or change any safety device, warning, or operating instructions that **Besco Structures™** placed on the Materials. Any such actions shall void any warranties that **Besco Structures™** provides herein.

11. **Inspection and Rejection of Non-Conforming Materials:** Customer shall inspect the goods at the time of delivery of the Materials to the Customer. Customer will be deemed to have accepted the Materials unless it notifies **Besco Structures™** within 14 days of inspection, and furnishes such written evidence or other documentation as required by **Besco Structures™**. "Nonconforming Materials" means only the following: Materials delivered to the Customer are different than identified in this Agreement.
12. If Customer timely notifies **Besco Structures™** of any Nonconforming Materials, **Besco Structures™** shall, in its sole discretion, (i) replace the Nonconforming Materials with conforming materials, or (ii) credit or refund the price for such Nonconforming Materials. Customer shall ship, at **Besco Structures™** expense and risk of loss, the Nonconforming Materials to **Besco Structures™** facility located at 3823 W. 1800 S. Remington, IN 47977. If **Besco Structures™** exercises its option to replace Nonconforming Materials, **Besco Structures™** shall, after receiving Customer's shipment of Nonconforming Materials, ship to Customer, at **Besco Structures™** expense and risk of loss, the replaced goods to an address reasonably designated by the Customer. Customer acknowledges and agrees that the remedies set forth in this Section 12 are Customer's exclusive remedies for Nonconforming Materials.

13. **Besco Structures™** makes no warranty for the following: (i) any Materials that are not manufactured by **Besco Structures™** (such as roofs, sidewall panels, doors, and windows), although such Materials may be covered by separate warranties of the respective manufacturers, and upon request, **Besco Structures™** agrees to assign whatever rights it may have under such warranties to Customer); or (ii) designs or services not provided by **Besco Structures™**; or (iii) any installation or erection of the Materials; or (iv) any Materials that are sold or transferred by Customer to a third party.

14. The remedies set forth in Section 12 of this Agreement are void and do not apply if: (i) the Materials were not purchased directly from **Besco Structures™**; (ii) the Materials were not installed or erected in accordance with **Besco Structures™** written installation manual; (iii) there was any alteration, repair, or modification of the Materials by any person or entity other than with **Besco Structures™** prior written consent; (iv) the Materials were subject to abuse, misuse, mishandling, accident, or damage; (v) the building's foundation was defective; (vi) Customer used the Materials in connection with non-approved items; (vii) Customer has breached any of the terms of this Agreement or any other agreement with **Besco Structures™**; (viii) Customer has failed to fulfill its obligations set forth in **Besco Structures™** quotation, proposal, or order acknowledgment; (ix) Customer or those under Customer's control have provided incorrect or defective materials, components, installation, welding, engineering, design, anchor locations, concrete, foundation, or other defective items or services; or (x) radiation, fumes, or foreign substances were in the atmosphere or inside the building and they caused damage or harm to the Materials.

15. Unless **Besco Structures™** otherwise agrees in writing, **Besco Structures™** does not warrant that the Materials will conform to any laws, ordinances, regulations, codes, or standards.

16. **Besco Structures™** warrants to the Customer that the Services will comply with all applicable laws and regulations in effect at the time **Besco Structures™** accepted Customer's order for the Services. Notwithstanding the foregoing, it shall be solely the Customer's responsibility:
(a) to have all drawings that have been prepared by **Besco Structures™** signed and/or sealed by a licensed professional engineer or architect where the Materials are to be installed or erected; and (b) to have the Materials installed or erected by a licensed contractor. Further, Customer or Customer's licensed engineer, architect, or contractor shall be solely responsible for obtaining all permits, inspections, licenses, authorizations, or approvals necessary to install or erect the Materials.

17. In the event that **Besco Structures™** provides Services constituting a breach of the warranty provided in Section 16 above, as determined by **Besco Structures™** in its sole discretion, **Besco Structures™** will at its option either (i) correct or redo the defective Services at no charge; or (ii) refund to the Customer the purchase price paid by the Customer for the defective Services (or, in the event that Customer was not charged separately for the defective Services, then **Besco Structures™** will refund to Customer the amount paid by Customer to **Besco Structures™** for the Materials directly related to the defective Services).

18. EXCEPT AS EXPRESSLY STATED IN THESE TERMS OF SALE, **Besco Structures™** MAKES NO WARRANTY AS TO THE MATERIALS (INCLUDING THE **Besco Structures™** MANUFACTURED MATERIALS) OR **Besco Structures™** SERVICES. IN PARTICULAR, **Besco Structures™** MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. CUSTOMER IS SOLELY RESPONSIBLE FOR INSTALLING AND ERECTING THE MATERIALS AND FOR DETERMINING THE PROPER APPLICATION AND USE OF THE MATERIALS AND SERVICES.

19. Neither Customer nor any other person or entity (including without limitation any Reseller, as defined in this Agreement) may modify or expand the warranty provided herein, change or waive any of the exclusions or limitations, or make any different or additional warranties with respect to the Materials or the Services. Any statements to the contrary are hereby rendered null and void unless expressly agreed to in writing by an authorized officer of **Besco Structures™**.

20. Customer shall install and erect the Materials properly and according to **Besco Structures™** written installation manual; however, the means and methods of installation and erection are the sole responsibility of Customer. **Besco Structures™** may provide supervision of installation or erection only upon request of the Customer and written agreement by **Besco Structures™**, but Customer shall remain solely responsible for proper installation and erection. Customer shall not remove or change any safety device, warning, or operating instructions that **Besco Structures™** placed on the Materials, and any damages that result from such removal or change are the sole responsibility of the Customer.

21. **Intellectual Property and Confidentiality.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, software, and other works and matters that **Besco Structures™** creates or develops in the course of **Besco Structures™** design, development, or manufacture of the Materials or performance of the Services and all drawings and specifications that **Besco Structures™** provides to Customer are **Besco Structures™**'s Confidential Information, and shall be **Besco Structures™** s sole and exclusive property ("Intellectual Property"). Customer assigns, and agrees to assign, to **Besco Structures™** all right, title, and interest that Customer now has or in the future acquires in the Intellectual Property. Customer shall not disclose or use any of the Confidential Information or Intellectual Property or any other information about **Besco Structures™** business, operations, or activities, except to the extent necessary to only those who have a need to know for Customer to use the Materials or Services, and for the Customer and its representatives to perform this Agreement. Upon **Besco Structures™** request, Customer shall promptly return all Confidential Information and Intellectual Property and other materials received from **Besco Structures™**. **Besco Structures™** shall be entitled to injunctive relief for any violation of this Section 21.

22. **Termination.**

a. Customer does not have any right to terminate or cancel its order or this Agreement to purchase the Materials or Services from **Besco Structures™**. If, however, **Besco Structures™** agrees in writing to permit termination or cancellation, then Customer shall immediately pay to **Besco Structures™** a termination/cancellation charge in the amount specified by **Besco Structures™**, which amount shall not be less than **Besco Structures™**calculation of its losses and damages (including lost profit and lost revenue) due to the termination/cancellation. **Besco Structures™** may also retain any deposit that Customer has paid to **Besco Structures™**.

b. In addition to any remedies that may be provided in this Agreement, **Besco Structures™** may terminate this Agreement with immediate effect upon written notice to Customer, and without liability to Customer, if Customer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. **Besco Structures™** shall be entitled to recover from Customer within a reasonable period of time following termination, payment for all Materials delivered but not yet paid for, including reasonable overhead and profit. Further, **Besco Structures™** may, without liability to Customer, terminate any or all of those outstanding contracts or orders between **Besco Structures™** and the Customer, in addition to pursuing all other rights and remedies available to **Besco Structures™**.

23. **Indemnity.** Customer shall defend, indemnify, and hold harmless **Besco Structures™**, and its officers, directors, employees, agents, parent companies, affiliates, successors, and assigns and all of their respective employees, agents, and representatives (collectively, the **"Besco Structures™** Parties") from and against all third-party claims, damages, losses, liabilities, and expenses (including without limitation attorneys' fees) that the **Besco Structures™** Parties incur arising out of or relating to any claim of a third party in connection with the Materials or Services purchased from **Besco Structures™**, or Customer's negligence, recklessness, willful misconduct, or breach of this Agreement. Customer shall not enter into any settlement without the **Besco Structures™** Parties' prior written consent.

24. **Limitation of Liability.**

a. **Besco Structures™** SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY IN CONTRACT, TORT, OR OTHERWISE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE, OR ENHANCED DAMAGES, OR ANY LOST PROFITS, LOST REVENUE, LOSS OF GOOD\MLL, DIMINUITION IN VALUE, OR BUSINESS INTERRUPTION, ARISING OUT OF OR RELATED TO THE MATERIALS, THE SERVICES, OR THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORSEEABLE, (B) WHETHER OR NOT **Besco Structures™** WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (C) THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

b. IN ADDITION TO THE LIMITATIONS SET FORTH IN SUBPARAGRAPH (a) ABOVE, THE AGGREGATE AMOUNT OF **Besco Structures™** LIABILITY TO CUSTOMER RELATED TO THE MATERIALS, THE SERVICES, OR THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER TO **Besco Structures™** FOR THE SPECIFIC ITEM(S) OF MATERIALS OR THE SPECIFIC SERVICES GIVING RISE TO THE CLAIM BY CUSTOMER AGAINST **Besco Structures™** (SUCH AMOUNT SHALL BE REFERRED TO AS THE "CAP"). IN THE EVENT THAT CUSTOMER WAS NOT CHARGED SEPARATELY FOR THE SERVICES OUT OF WHICH CUSTOMER'S CLAIM AROSE, THEN THE CAP SET FORTH IN THE PRECEDING SENTENCE SHALL BE THE AMOUNT PAID BY CUSTOMER TO **Besco Structures™** FOR THE MATERIALS DIRECTLY RELATED TO THE SPECIFIC SERVICES GIVING RISE TO CUSTOMER'S CLAIM. THE LIMITATION OF LIABILITY IN THIS SUBPARAGRAPH (b) APPLIES REGARDLESS OF ANY THEORY OF RECOVERY BY CUSTOMER, INCLUDING CLAIMS BASED ON CONTRACT, TORT, OR OTHERWISE.

25. **Time for Bringing Action.** Any claim that Customer brings against **Besco Structures™** for breach of this Agreement or for any other claim that arises out of or relates to the Materials, the Services, or this Agreement must be filed in the court specified in Paragraph 26 below on or before the earlier of (a) twelve (12) months after the claim accrues; or (b) twenty-four (24) months after the shipment (or the providing of} the particular item of Materials or Services giving rise to the claim. Any claim that is not filed in compliance with the preceding sentence is deemed waived and shall be forever barred.

26. Governing Law; Venue. **Besco Structures™** is headquartered in Indiana. This Agreement between **Besco Structures™** and Customer shall be considered to have been made in the State of Indiana, and it shall be governed by and interpreted according to Indiana law, excluding conflict of law principles and also excluding the United Nations Convention on Contracts for the International Sale of Goods. Any dispute that arises out of or relates to the Materials, the Services, or this Agreement shall be brought exclusively in any federal or state court located in, or whose jurisdiction includes, Jasper County, Indiana that has jurisdiction of the subject matter. Customer irrevocably consents and agrees that any such court shall have personal jurisdiction and venue over Customer and waives any objection that such court is an inconvenient forum.

27. WAIVER OF JURY TRIAL. CUSTOMER AND Besco Structures™ **WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL ARISING OUT OF OR RELATED TO THE MATERIALS, THE SERVICES, OR THIS AGREEMENT. THIS WAIVER OF A JURY TRIAL IS IRREVOCABLE.**

28. Independent Contractor Issues. Besco Structures™ is and shall remain an independent contractor. **Besco Structures™** is not responsible for any of Customer's obligations or liabilities.

29. **Complete Agreement; Amendment; No Assignment.** No representation, warranty, condition, or agreement of any kind or nature whatsoever shall be binding upon **Besco Structures™** unless it is incorporated in this Agreement. Neither party is bound by any oral agreement. The terms in **Besco Structures™** quotation/proposal, order acknowledgment (if any), and these Standard Terms of Sale contain the entire agreement between Customer and **Besco Structures™**, all of which will be referred to collectively as this "Agreement". None of the terms on Customer's purchase order or any other Customer document shall be incorporated into the Agreement, and none of those terms have any legal force or effect. Any amendment or change to this Agreement must be by a writing signed by duly authorized representatives of both **Besco Structures™** and the Customer. Customer shall not assign or transfer any of its rights or obligations under these Standard Terms of Sale or this Agreement without the prior written consent of **Besco Structures™**, which may be withheld or conditioned in **Besco Structures™** sole discretion. Any purported assignment, transfer, delegation, or subcontract in violation of this Section 29 shall be null and void. No assignment, transfer, delegation, or subcontract shall relieve **Besco Structures™** of any of its obligations hereunder.

If Customer is a distributor, dealer, general contractor, or other intermediary (collectively, a "Reseller") and resells the Materials as new and unused to a first end user/end customer (the first end user/end customer will be referred to as the "End User"), then **Besco Structures™** Standard Terms of Sale will apply to the End User as well as to the Reseller. On or before the resale of such Materials to the End User, the Reseller shall obtain a written consent from the End User agreeing that the End User accepts and is bound by the terms of **Besco Structures™** Standard Terms of Sale. If Reseller does not obtain such written consent from the End User on a timely basis, then (a) the Reseller shall be solely liable for all liabilities and obligations related to the resold Materials or related to the End User; and (b) the Reseller shall defend, indemnify, and hold harmless **Besco Structures™** from all liabilities, damages, and costs (including attorneys' fees) arising out of or related to the resold Materials and any claims asserted by the End User.

---END OF **Besco Structures™** STANDARD TERMS OF SALE ----