

STANDARD FORM PROPOSAL

JOB NO: JOB#

PROJECT: PROJECT NAME
PROJECT LOCATION

DATE: April 15, 2005

GENERAL CONTRACTOR: GC NAME
ADDRESS
CITY, STATE & ZIP

Phone # 000-000-0000
Fax # 000-000-0000
Contact: XXXXXX

MISCELLANEOUS FABRICATOR: NAME
ADDRESS

WHEREAS, General Contractor, _____, has requested a Proposal from Miscellaneous Fabricator, (hereinafter Fabricator), _____, Fabricator does hereby submit this written proposal (the "Proposal") for the performance of work as indicated below. This Proposal shall be valid for ten (10) days from the date indicated above, after such time it shall become voidable at the sole option of Fabricator. This Proposal shall be deemed accepted and binding upon its signature by General Contractor and/or the issuance of a Purchase Order or Subcontract by General Contractor to Fabricator. In the event that this Proposal is accepted through the issuance of a Purchase Order or Subcontract by the General Contractor to Fabricator, such Purchase Order or Subcontract shall not be construed as a counteroffer, but shall be incorporated into this Proposal by reference. To the extent that there is any conflict between such Purchase Order or Subcontract and this Proposal, this Proposal shall govern.

Fabricator agrees to perform the following work, subject to the Terms and Conditions set forth below:

Fabricate, Deliver only where indicated, and Erect where indicated, Miscellaneous Metal, as specifically listed below, as shown on Drawings listed below:

[Insert Fabrication List, Drawing List, or Exhibit indicating applicable documents, making sure to include the dates of all such documents or drawings]

The Miscellaneous Metals included in this Proposal shall be limited to those Items as listed herein.

[Here specifically list each item that you intend to furnish]

The fabrication and erection of the foregoing materials shall be in accordance with the following listed Specifications:

[Insert Spec Sections with dates or Exhibits indicating Scope of Work]

Including the following Addenda:

[Insert any applicable Addenda with dates]

The work shall proceed pursuant to the following schedule:

[Insert applicable schedule with dates or version #]

Such work shall be done in accordance with, and pursuant to, the "Contract Documents" which shall consist of this Proposal; the documents indicated above, which were in the possession of Fabricator as of the date of this Proposal and upon which this Proposal was based and the Code of Standard Practice for the Architectural Metal Industry (the "Code") as promulgated by the National Association of Architectural Metal Manufacturers (NAAMM). Should there be any inconsistency or ambiguity between this Proposal and the Contract Documents or Contract Specifications as to the Scope of the Work to be performed by the Fabricator, this Proposal shall govern. Should there be any conflict between the above referenced Code and the Contract Drawings or Specifications, the provisions of the aforementioned Code shall govern.

The Lump Sum Price for furnishing and erecting the foregoing materials in accordance with this Proposal is:

[Insert applicable lump sum price]

Unit Prices, not including Sales Tax, which may be applicable to this Proposal are as follows:

[Insert applicable Unit Prices]

Alternates which may be applicable to this Proposal and their corresponding impact on price, not including Sales Tax, are as follows:

[Insert applicable alternates and their cost impact]

Expressly excluded from the aforementioned Work and Price is the following:

All Structural Steel shown on the above listed Drawings or as listed in the Specification Section under Structural Steel or as defined as Structural Steel under Section 2 of the Code of Standard Practice for Steel Buildings and Bridges as promulgated by the American Institute Of Steel Construction (AISC) latest edition.

In addition to the foregoing exclusions, the Fabricator specifically excludes the following:

[Insert additional Exclusions]

Terms & Conditions

1. **Payment.** Fabricator shall invoice Buyer for monthly progress payments, which shall include costs associated with engineering, detailing, material procurement, fabrication and delivery. Such invoices shall be paid net within 30 days of receipt and such payment shall not be conditioned upon receipt of funds from any other source. Interest on late payments shall accrue at the rate of 1.5% per month. To the extent that any amounts due or to become due under this Proposal are sent by the Fabricator for collection for non-payment as set forth herein, Fabricator shall be entitled to all costs associated with such collection including, but not limited to, attorneys fees.
2. **Delivery.** Delivery and erection of the materials covered by this Subcontract shall be performed during normal working hours. General Contractor agrees to take delivery and/or allow Fabricator to unload Miscellaneous Metal prior to the erection of said steel for the purposes of creating float which can be used to maintain any applicable erection schedule and eliminate downtime.
3. **Claims.** No claim, backcharge, or deduction, including those related to time, shall be valid unless it is made, in writing, to the party being charged within ten (10) days of the event giving rise to such claim. In the event of a claim, dispute, or any other matter in question arising out of or related

to the work covered hereunder the parties hereby agree that the Fabricator shall continue the performance of the work which is the subject of the claim or dispute under protest, provided that the General Contractor signs daily time and material slips, or other records, as provided by Fabricator. The signature of such records shall be for verification of time and materials only and shall not constitute an acknowledgment that the work is an extra. General Contractor's failure or refusal to sign such records upon presentation shall be deemed a material breach of contract and shall entitle Fabricator to cease performance of such work and any amounts then due.

4. **Delay.** It is expressly understood that this proposal is based upon the work being performed in a timely and orderly fashion. To the extent that Fabricator is delayed in the performance of the work called for under this Proposal, for any reason which is not the fault of Fabricator, Fabricator shall be entitled to recover any additional expense incurred as a result of such delay including, but not limited to, material escalation and/or labor escalation in Fabricator's shop or on behalf of Fabricator's Erector, increased overhead costs, and any other delay damage, provided that Fabricator gives timely written notice to the General Contractor of such a delay claim. Should the project be delayed for a period exceeding ninety (90) days, Fabricator shall be entitled to terminate its performance hereunder with no remedy to General Contractor and shall be entitled to all amounts then due hereunder.
5. **Retainage.** To the extent that any retainage is to be withheld from the payments contemplated hereunder, it is expressly understood that all such retainage shall become due and payable to Fabricator upon substantial completion of the Miscellaneous Metal or upon the expiration of 60 days from the date Fabricator, or any subcontractor to Fabricator, last performed work on the project, whichever occurs first.
6. **Warranties.** The only warranties that shall apply to the performance of the work called for under this Proposal are those set forth in the Contract Documents referred to above. Fabricator expressly disclaims all other warranties, express or implied, and the warranties of merchantability and/or fitness for a particular purpose.
7. **Damages.** Fabricator is not responsible for special, incidental, or consequential damages. Fabricator is not responsible for damage to its work by other parties, and any repair work necessitated by such damage shall be extra work for which Fabricator shall be entitled to additional compensation.
8. **Waivers of Lien.** Waivers of lien or bond rights shall exclude retainage, unbilled changes, claims which have been asserted in writing or which have not yet become known to Fabricator, and shall only apply through the date of work for which Fabricator has been paid in full or shall be conditional upon receipt of funds to Fabricator's account.
9. **Indemnification.** To the fullest extent permitted by law, the Fabricator shall indemnify and hold harmless the Owner, General Contractor, and Architect/Engineer from and against all claims, damages, losses and expenses arising out of or resulting from performance of the Fabricator's work under this Proposal, provided that any such claim, damage, loss, or expense is attributable to bodily injury or to the injury to or destruction of tangible property (other than the work itself), but only to the extent caused by the negligent acts or omissions of Fabricator, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

FABRICATOR

By:

GENERAL CONTRACTOR

By:

DISCLAIMER

This Document has been prepared by the Steel Fabricators Of New England for the sole use of its Members. It is strongly recommended that Members using this Document consult with an Attorney familiar with Construction Law.