



REQUEST FOR PROPOSAL
LEE COUNTY BOILER REPLACEMENT

BID PROPOSAL FORM

COMPANY Loescher Heating & Air Conditioning Co. PHONE 815-625-4822
ADDRESS 1705 Westwood Dr C/S/Z Sterling, IL 61081
COMPANY WEBSITE www.loescherhvac.com
AUTHORIZED REPRESENTATIVE Kevin Rauch
EMAIL krauch@loescherhvac.com PHONE 815-625-4822

BID AMOUNT

The undersigned, being a duly authorized agent of the BIDDING FIRM, having carefully examined and thoroughly reviewed the specifications for the above named project; and being fully familiar with all the conditions affecting the work required by those specifications, including the Services (Scope of Work) required, hereby proposes to provide all services, equipment, and materials required for the proposed project for the FEE of:

BID \$ 209,800.00

Alternative Bid (if applicable) \$ N/A

Comments:

CONTRACT

The undersigned agrees to execute and deliver a contract in the prescribed form, for work covered by this Proposal in accordance with the Specifications, within sixty (60) days after due date of bid opening, provided he is notified in writing of the proposal's acceptance. The undersigned further agrees this proposal shall remain open during such sixty (60) day period. The undersigned further acknowledges that LEE COUNTY reserves the right to accept or reject any and all bids and to waive any and all technicalities.

BIDDING FIRM NAME Loescher Heating & Air Conditioning Co. Date 3/16/2022

Authorized Representative (Signature) [Handwritten Signature]

Authorized Representative Title Manager



For Lee County Use Only

Bid Opened/Publicly Read on (date) 3-16-2022 At (time) 10:33

By (Lee County Representative/Title)

GS/WR

Date: March 16, 2022
To: Lee County
Re: Boiler Replacement RFP

Firm Profile:

1. 27 years operating under current ownership, over 50 years in business
2. We have been providing HVAC, Plumbing and Electrical since incorporation
3. We service 1,000 plus commercial customers in the Northwest portion of Illinois
4. We employ around 75 employees currently
 - a. 15 Managers and Office Staff
 - b. 60 Field employees
5. We are a C Corporation and 100% Women Owned
 - a. Linda Fortney, President
 - b. Sean Lane, Vice President
 - c. Beth Lane, Corporate Secretary
 - d. Jim Brannick, Treasure

Vendor Experience:

We have completed several project similar in scope or more complicated than this project.

1. LaSalle Veterans Home Boiler Replacement
 - a. Replacement of boiler with new high efficient boiler, re-pipe system
 - b. Completed in 2020
2. Whiteside Area Career Center Boiler Replacement
 - a. Replacement of 80% boiler, upgrade to 95% boiler, re-pipe system
 - b. Completed in 2020
3. Center School Boiler Replacement, Freeport School District
 - a. Replacement of (2) boilers, pumps, piping with new boilers, pumps, piping
 - b. Completed in 2019
4. Sauk Valley College
 - a. AHU & Hot Water Replacement, Replacement of 8 AHUs and (2) steam hot water heaters
 - b. Completed 2019
5. Washington and Jefferson Schools, Dixon
 - a. Installation of Geothermal HVAC system
 - b. Completed 2018 and 2019

Scope of Work:

1. Remove (2) boilers with inline pumps
2. Remove (2) base mounted pumps
3. Remove existing exhaust vent complete for each boiler
4. Remove existing intake vent as required
5. Furnish and Install (2) Benchmark BMK 1000 boilers
 - a. Install inline pump with triple duty valve for each boiler
 - b. Flex connectors at each pump
6. Furnish and install (2) secondary pumps
 - a. Include triple duty valves and flexes
 - b. Furnish and install VFD for each pump
 - c. Flex connectors at each pump
7. Rework piping to create primary secondary system
 - a. Replace Air Separator
 - b. Replace Expansion tank
 - c. Replace Air Vent
 - d. Schedule 40 black pipe
 - e. New valves at each boiler and each secondary pump
 - f. Includes thermometers and pressure gauges for pumps and boilers
8. Insulate new piping per energy code
9. Install PVC venting for each boiler
10. Install insulated sheet metal intake piping for each boiler
11. Electrical work as required for boilers and pumps
 - a. Reuse disconnects for boiler and boiler pumps
 - b. Replace fuses or breakers as required
12. Temperature Controls using Applied Controls, LLC
13. Boiler startup
14. Test and balance of new pumps
15. 1 year workmanship warranty
16. 1 year parts warranty for pipe and pumps
17. Boiler warranty, see attached

Loescher

HEATING AND AIR CONDITIONING, FBE

The single source. The right choice.

Heating • Air Conditioning • Sheet Metal • Refrigeration • Plumbing
Electrical Contracting • Duct Cleaning • Thermal Diagnostics

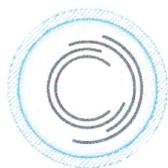
SAMPLE CONTRACT

Freeport, IL 61032
815.232.6166

Sterling, IL 61081
815.625.4822

Monroe, WI 53566
608.328.4328

www.loescherhvac.com



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BUILDING A BETTER WAY

ConsensusDocs™ 205
STANDARD SHORT FORM AGREEMENT BETWEEN OWNER AND CONSTRUCTOR
(Lump Sum Price)

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ConsensusDocs 205

STANDARD SHORT FORM AGREEMENT BETWEEN OWNER AND CONSTRUCTOR (Lump Sum Price)

This Agreement is made this 15th day of November 2021, by and between

OWNER, SAMPLE

and

CONSTRUCTOR, Loescher Heating & Air Conditioning, Co.
1705 Westwood Dr
Sterling, IL 61081

The Owner and Constructor are collectively the "Parties." Notice to the Parties shall be given at the above addresses.

PROJECT: SAMPLE

1. **THE WORK** The Constructor shall furnish construction administration and management services and use the Constructor's diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. The Constructor shall provide all labor, materials, equipment and services necessary to complete the Work, as described in Exhibit A "The Work", all of which shall be provided in full accord with and reasonably inferable from the Contract Documents.

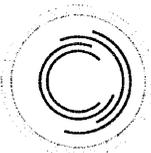
2. **PRICE** As full compensation for performance by the Constructor of the Work, the Owner shall pay the Constructor Not to Exceed the amount SAMPLE. The Not to Exceed price is hereinafter referred to as the Contract Price, which shall be subject to increase or decrease as provided in this Agreement.

3. **EXHIBITS** The following attached exhibits are made part of this Agreement:

- A. EXHIBIT A: The Scope of Work, 1 page.
- B. EXHIBIT B: Project Plans, 1 pages.

4. **ETHICS** The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoids conflicts of interest and promptly discloses any to the other Party; and (b) warrants that it has not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including its agents, officers, and employees, subcontractors, or others for whom they may be liable, to secure preferential treatment.

5. **CONSTRUCTOR'S RESPONSIBILITIES** The Constructor shall be responsible for supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized, unless the Contract Documents give other specific instructions.



5.1. Except for permits and fees that are the responsibility of the Owner pursuant to this Agreement, the Constructor shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work.

5.2. The Constructor shall pay all applicable taxes legally enacted when bids are received or negotiations concluded for the Work provided by the Constructor.

5.3. In the event that the Owner elects to perform work at the Worksite directly or by others retained by the Owner, the Constructor and Owner shall coordinate the activities of all forces at the Worksite and shall agree upon fair and reasonable schedules and operational procedures for Worksite activities. The Owner shall require each separate contractor to cooperate with the Constructor and assist with the coordination of activities and the review of construction schedules and operations. The Contract Price and Contract Time shall be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the construction schedule shall be revised accordingly.

5.4. In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, the Constructor shall examine and compare the drawings and specifications with information furnished by the Owner pursuant to section 6.2; relevant field measurements made by the Constructor; and any visible conditions at the Worksite affecting the Work.

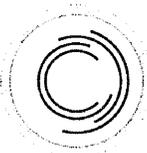
5.5. **COMPLIANCE WITH LAWS** The Constructor shall comply with all laws at its own costs. The Constructor shall be liable to the Owner for all loss, cost, or expense, attributable to any acts or omissions by the Constructor, its employees, subcontractors, and agents for failure to comply with laws, including, fines, penalties, or corrective measures.

5.6. WARRANTY

5.6.1. The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. The Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. The Constructor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. The Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the Owner or others retained by Owner, or abuse.

5.6.2. If, prior to the Date of Substantial Completion and within one year after the date of Substantial Completion of the Work, any portion of the Work is found to be not in conformance with the Contract Documents ("Defective Work"), the Owner shall promptly notify the Constructor in writing. Unless the Owner provides written acceptance of the condition, the Constructor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible.

5.6.3. Extended equipment warranties if applicable and selected by the owner will be provided during project closeout on forms provided by the manufacture. The extended equipment warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the Owner or others retained by Owner, or abuse.



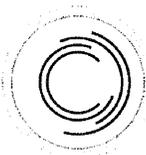
5.7. **SAFETY** The Constructor shall have overall responsibility for safety precautions and programs in the performance of the Work, except that the Constructor's subcontractors shall also be responsible for the safety of persons or property in the performance of their work, and for compliance with the provisions of laws. The Constructor shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect its employees and other persons at the Worksite; materials and equipment stored at on-site or off-site locations for use in the Work; and property located at the Worksite and adjacent to Work areas, whether or not the property is part of the Work.

5.8. **HAZARDOUS MATERIALS** A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or clean-up. The Constructor shall not be obligated to commence or continue work until any Hazardous Material discovered at the Worksite has been removed, or rendered or determined to be harmless by the Owner as certified by an independent testing laboratory and approved by the appropriate government agency. If the Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, the Constructor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time.

5.9. **MATERIALS BROUGHT TO THE WORKSITE** The Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by the Constructor or furnished by the owner in accordance with the Contract Documents and used or consumed in the performance of the Work.

5.10. **SUBMITTALS** The Constructor shall submit to the Owner for review and approval all shop drawings, samples, product data, and similar submittals required by the Contract Documents. Submittals may be submitted in electronic form. The Constructor shall be responsible to the Owner for the accuracy and conformity of its submittals to the Contract Documents. The Constructor shall prepare and deliver its submittals to the Owner in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of the Owner and others retained by the Owner. The Constructor submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize deviations, substitutions, or changes in the requirements of the Contract Documents unless express written approval is obtained from the Owner specifically authorizing such deviation, substitution, or change. Further, the Owner shall not make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to the Constructor. The Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay. The Constructor shall perform all Work strictly in accordance with approved submittals. The Owner's approval does not relieve the Constructor from responsibility for Defective Work resulting from errors or omissions of any kind on the approved shop drawings.

5.11. **WORKSITE CONDITIONS** If the conditions at the Worksite are (a) subsurface or other physical conditions which are materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions which are materially different from conditions ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract Documents, the Constructor shall stop Work and give prompt written notice of the condition to the Owner. The Constructor shall not be required to perform any work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or Contract Time as a result of the unknown condition shall be made by Change Order.



5.12. **CUTTING, FITTING, AND PATCHING** The Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of the Owner or others retained by the Owner.

5.13. **CLEANING UP** The Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing Work in an area, the Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. The Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, the Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

6. **OWNER'S RESPONSIBILITIES** Any information or services to be provided by the Owner shall be provided in a timely manner.

6.1. **FINANCIAL INFORMATION** Before commencing the Work and thereafter at the written request of the Constructor, the Owner shall provide the Constructor with evidence of Project financing. Evidence of such financing shall be a condition precedent to the Constructor's commencing or continuing the Work. The Constructor shall be notified prior to any material change in Project financing.

6.2. **WORKSITE INFORMATION** The Owner shall provide at the Owner's expense and with reasonable promptness the following, which the Constructor shall be entitled to rely upon for its accuracy and completeness:

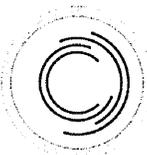
6.2.1. information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface, and environmental studies, reports and investigations;

6.2.2. tests, inspections and other reports dealing with environmental matters, hazardous material and other existing conditions, including structural, mechanical, and chemical tests required by the Contract Documents or by law; and

6.2.3. any other information or services requested in writing by the Constructor that are relevant to the Constructor's performance of the Work and under the Owner's control. The information required by this subsection shall be provided in reasonable detail. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent Worksite conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by the Constructor in laying out the Work.

6.3. **MECHANICS AND CONSTRUCTION LIEN INFORMATION** Within seven (7) days after receiving the Constructor's written request, the Owner shall provide the Constructor with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include the Owner's interest in the real property on which the Project is located and the record legal title.

6.4. **BUILDING PERMIT, FEES, AND APPROVALS** Except for those required of the Constructor pursuant to this Agreement, the Owner shall secure and pay for all other permits, approvals,



easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

7. SUBCONTRACTS Work not performed by the Constructor with its own forces shall be performed by subcontractors. The Constructor agrees to bind every subcontractor and material supplier (and require every subcontractor to so bind its subcontractors and material suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the subcontractor's and material supplier's portions of the Work.

8. CONTRACT TIME

8.1. DATE OF COMMENCEMENT The Date of Commencement is the Agreement date on page one.

8.2. TIME Substantial Completion of the Work shall be achieved as outlined in the project schedule from the Date of Commencement. Unless otherwise specified in the Certificate of Substantial Completion, the Work shall be finally complete within ten (10) days after the date of Substantial Completion, subject to adjustments as provided for in the Contract Documents. Time is of the essence for this Agreement.

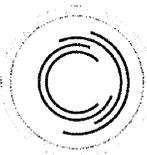
9. SCHEDULE OF THE WORK Before submitting the first application for payment, the Constructor shall submit, for review and approval by the Owner, a Schedule of the Work that shall show the dates on which the Constructor plans to begin and to complete various parts of the Work, including dates on which information and approvals are required from the Owner. The Constructor reserves the right to adjust the schedule as required based on equipment lead times, weather, and other events.

9.1. The Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. The Owner may require the Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by the Owner or others. To the extent such changes increase the Constructor's time and costs, the Contract Price and Contract Time shall be equitably adjusted.

10. DELAYS AND EXTENSIONS OF TIME

10.1. If the Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of the Constructor, the Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of the Constructor include, but are not limited to, the following: acts or omissions of the Owner or others; changes in the Work or the sequencing of the Work ordered by the Owner or arising from decisions of the Owner that impact the time of performance of the Work; transportation delays not reasonably foreseeable; labor disputes not involving the Constructor; general labor disputes impacting the Project but not specifically related to the Worksite; fire; terrorism, epidemics, adverse governmental actions, unavoidable accidents or circumstances; adverse weather conditions not reasonably anticipated; encountering Hazardous Materials; concealed or unknown conditions; and delay authorized by the Owner pending dispute resolution. The Constructor shall process any requests for equitable extensions of Contract Time in accordance with the provisions of article 11.

10.2. In the event delays to the Work are encountered for any reason, the Constructor shall provide prompt written notice to the Owner of the cause of such delays after the Constructor first recognizes the delay. The Owner and Constructor agree to undertake reasonable steps to mitigate the effect of such delays.



10.3. NOTICE OF DELAY CLAIMS If the Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay, the Constructor shall give the Owner written notice of the claim. If the Constructor causes delay in the completion of the Work, the Owner shall be entitled to recover its additional costs, subject to the mutual waiver of consequential damages herein.

11. CHANGES

11.1. The Constructor may request or the Owner may order changes in the Work or the timing or sequencing of performance of the Work that impacts the Contract Price or the Contract Time. All such changes in the Work that affect the Contract Time or Contract Price shall be formalized in a Change Order.

11.2. The Owner and Constructor shall negotiate in good faith an appropriate adjustment to the Contract Price or the Contract Time and shall conclude these negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price or Contract Time shall not be unreasonably withheld.

11.3. INTERIM DIRECTED CHANGE

11.3.1. The Constructor shall not be obligated to perform changes in the Work that impact the Contract Price or the Contract Time until a Change Order has been executed or a written Interim Directed Change has been issued. The Owner may issue a written Interim Directed Change directing a change in the Work prior to reaching agreement with the Constructor on the adjustment, if any, in the Contract Price or the Contract Time.

11.3.2. The Owner and the Constructor shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Contract Price or the Contract Time arising out of an Interim Directed Change. As the changed work is performed, the Constructor shall submit its costs for such work with its application for payment. If there is a dispute as to the cost of the Work, the Owner shall pay the Constructor fifty percent (50%) of its estimated cost to perform the work. In such event, the Parties reserve their rights as to the disputed amount, submitted to the requirements of article 18.

11.3.3. When the Owner and the Constructor agree upon the adjustment in the Contract Price or the Contract Time, for a change in the Work directed by an Interim Directed Change, such agreement shall be the subject of a Change Order.

11.4. COST OR CREDIT DETERMINATION

11.4.1. An increase or decrease in the Contract Price or the Contract Time resulting from a change in the Work shall be determined by one or more of the following methods:

11.4.1.1. a mutually accepted, itemized lump sum;

11.4.1.2. costs calculated on a basis agreed upon by the Owner and Constructor plus 10% overhead and profit.

11.4.1.3. If a cost or credit determination cannot be agreed to above, the cost of the change in the Work shall be determined by the reasonable actual expense incurred or savings realized in the performance of the Work resulting from the change. If there is a net increase in



the Contract Price, the Constructor's overhead and profit shall be adjusted accordingly. In case of a net decrease in the Contract Price, the Constructor's overhead and profit shall not be adjusted. The Constructor shall maintain a documented itemized accounting evidencing the expenses and savings.

11.5. PERFORMANCE OF CHANGED WORK The Constructor shall not be obligated to perform Changed Work until a Change Order has been executed by the Owner and Constructor.

12. PAYMENT

12.1. Contractor shall submit invoice for work completed through the 30th of the month or submit one invoice at the completion on the Work unless otherwise mutually acceptable.

12.2. Payments will be made by the owner net 30 days in accordance with their claims policy

13. INDEMNITY

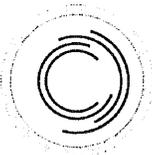
13.1. To the fullest extent permitted by law, the Constructor shall indemnify and hold harmless the Owner, Owner's officers, directors, members, consultants, agents, and employees (the Indemnitees) from all claims for bodily injury and property damage, other than to the Work itself and other property insured under section 1.1, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of the Work but only to the extent caused by the negligent acts or omissions of the Constructor, subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. The Constructor shall be entitled to reimbursement of any defense costs paid above the Constructor's percentage of liability for the underlying claim to the extent provided in the section immediately below.

13.2. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Constructor, its officers, directors, or members, subcontractors, or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured under section 1.1, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by the Owner or others retained by the Owner, but only to the extent caused by the negligent acts or omissions of the Owner or others retained by the Owner. The Owner shall be entitled to reimbursement of any defense costs paid above the Owner's percentage of liability for the underlying claim to the extent provided in the section immediately above.

13.3. NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of the Constructor, anyone directly or indirectly employed by the Constructor or anyone for whose acts the Constructor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Constructor under Workers' Compensation acts, disability benefit acts, or other employment benefit acts.

14. INSURANCE

14.1. Before commencing the Work and as a condition precedent to payment, the Constructor shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors,



products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. The Constructor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. If requested, the Constructor shall provide the Owner with certificates of the insurance coverage required. The Constructor's Employers' Liability, Business Automobile Liability, and CGL policies, as required in this article, shall be written with at least the following limits of liability:

14.1.1. Employers' Liability Insurance:

- a. \$1,000,000 bodily injury by accident per accident;
- b. \$1,000,000 bodily injury by disease policy limit
- c. \$1,000,000 bodily injury by disease per employee.

14.1.2. Business Automobile Liability Insurance:

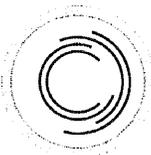
- a. \$1,000,000 per accident.

14.1.3. CGL Insurance:

- a. \$1,000,000 per occurrence;
- b. \$2,000,000 general aggregate;
- c. \$2,000,000 products/completed operations aggregate;
- d. \$1,000,000 personal and advertising injury limit.

14.2. Employers' Liability, Business Automobile Liability, and CGL coverage required in the subsection above may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies. The Constructor shall maintain in effect all insurance coverage required in the section immediately above with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If the Constructor fails to obtain or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and charge the expense to the Constructor, or terminate this Agreement. To the extent commercially available to the Constructor from its current insurance company, insurance policies required under section 14.1 shall contain a provision that the insurance company or its designee must give the Owner written notice transmitted in paper or electronic format: (a) 30 days before coverage is nonrenewed by the insurance company and (b) within 10 business days after cancelation of coverage by the insurance company. Prior to commencing the Work and upon renewal or replacement of the insurance policies, the Constructor shall furnish the Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under section 14.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, the Constructor shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

14.3. OWNER'S INSURANCE The Owner may procure and maintain insurance against loss of use of the Owner's property caused by fire or other casualty loss. The Owner shall either self-insure or obtain and maintain its own liability insurance for protection against claims arising out of the performance of



this Agreement, including without limitation, loss of use and claims, losses and expenses arising out of the Owner's errors or omissions.

14.4. ADDITIONAL LIABILITY COVERAGE Owner X shall/ _____ shall not (indicate one) require Constructor to purchase and maintain liability coverage, primary to Owner's coverage in the section immediately above.

14.4.1. If required by section immediately above, the additional liability coverage required of the Constructor shall be:

1. ADDITIONAL INSURED. The Owner shall be named as an additional insured on Constructor's CGL insurance specified, for operations and completed operations, but only with respect to liability for bodily injury, property damage or personal and advertising injury to the extent caused by the negligent acts or omissions of the Constructor, or those acting on the Constructor's behalf, in the performance of the Constructor's Work for the Owner at the Worksite.

15. BONDS Performance and Payment Bonds [_____] are/ X are not required of the Constructor. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to the Owner. The Owner's acceptance shall not be withheld without reasonable cause. The penal sum of the Payment Bond shall equal the penal sum of the Performance Bond.

16. RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss or damage to the Work shall be upon the Constructor until the Date of Substantial Completion, unless otherwise agreed to by the Parties.

17. NOTICE TO CURE AND TERMINATION

17.1. NOTICE TO CURE A DEFAULT If the Constructor persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work in accordance with article 9, or fails to make prompt payment to its workers, subcontractors, or material suppliers, disregards law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, the Constructor may be deemed in default. If the Constructor fails within seven (7) business days after written notification to commence and continue satisfactory correction of such default with diligence and promptness, then the Owner shall give the Constructor a second written notice to correct the default within a three (3) business day period. If the Constructor fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, the Owner, without prejudice to any other rights or remedies, shall have the right to take reasonable steps it deems necessary to correct deficiencies and charge the cost to the Constructor, who shall be liable for such payments including reasonable overhead, profit, and attorneys' fees.

17.2. TERMINATION BY OWNER If, within seven (7) days of receipt of a notice to cure pursuant to section immediately above, the Constructor fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the Owner may notify the Constructor that it intends to terminate this Agreement for default absent appropriate corrective action within fourteen (14) additional days. After the expiration of the additional fourteen (14) day period, the Owner may terminate this Agreement by written notice absent appropriate corrective action. Termination for default is in addition to any other remedies available to the Owner. If the Owner's costs arising out of the Constructor's failure to cure, including the cost of completing the Work and reasonable attorney fees, exceed the unpaid Contract Price, the Constructor shall be liable to the Owner for such excess



costs. If the Owner's costs are less than the unpaid Contract Price, the Owner shall pay the difference to the Constructor. In the event the Owner exercises its rights under this section, upon the request of the Constructor, the Owner shall furnish to Constructor a detailed accounting of the costs incurred by the Owner.

17.2.1. The Owner shall make reasonable efforts to mitigate damages arising from the Constructor default and shall promptly invoice the Constructor for all amounts due.

17.3. TERMINATION BY CONSTRUCTOR Upon seven (7) days' written notice to the Owner, the Constructor may terminate this Agreement if the Work has been stopped for a thirty (30) day period through no fault of the Constructor for any of the following reasons: (a) under court order or order of other governmental authorities having jurisdiction; (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Constructor, materials are not available.

17.3.1. In addition, upon seven (7) days' written notice to Owner, Constructor may terminate the Agreement if the Owner does any of the following: (a) fails to furnish reasonable evidence that sufficient funds are available and committed for the entire cost of the Project in accordance with section 6.1; (b) assigns this Agreement over the Constructor's reasonable objection; (c) fails to pay the Constructor in accordance with this Agreement and the Constructor has complied with the notice provisions of section 0; or (d) otherwise materially breaches this Agreement.

17.3.2. Upon termination by the Constructor pursuant to this Agreement, the Constructor shall be entitled to recover from the Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work, including all demobilization costs plus reasonable overhead and profit.

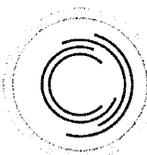
17.4. OBLIGATIONS ARISING BEFORE TERMINATION Even after termination the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

18. CLAIMS AND DISPUTE RESOLUTION

18.1. CLAIMS FOR ADDITIONAL COST OR TIME Except as provided in sections 10.2 and 10.3 for any claim for an increase in the Contract Price or the Contract Time, the Constructor shall give the Owner written notice of the claim within fourteen (14) days after the occurrence giving rise to the claim or within fourteen (14) days after the Constructor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order.

18.2. WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the Constructor shall continue the Work and maintain the Schedule of the Work during any dispute resolution proceedings. If the Constructor continues to perform, the Owner shall continue to make payments in accordance with the Agreement.

18.3. DISPUTE MITIGATION THROUGH DIRECT DISCUSSIONS If a dispute arises out of or relates to this Agreement or its breach, the Parties shall endeavor to settle the dispute through direct discussions. Within five (5) business days, the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions shall conduct direct discussions and make a good faith effort to resolve such dispute.



18.4. **MEDIATION** Disputes between the Owner and Constructor not resolved by direct discussion shall be submitted to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (AAA). The Parties shall select the mediator within fifteen (15) days of the request for mediation. Engaging in mediation is a condition precedent to any form of binding dispute resolution.

18.5. **BINDING DISPUTE RESOLUTION** If neither direct discussions nor mediation successfully resolves the dispute, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

ARBITRATION Unless the Parties mutually agree otherwise in writing, all claims, disputes and matters in question arising out of, or relating to, this Agreement shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. An award entered in an arbitration proceeding shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

LITIGATION in either the state or federal court having jurisdiction of the matter in the location of the Project.

18.5.1. **COSTS** The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

18.5.2. **VENUE** The venue of any binding dispute resolution procedure shall be the location of the Project, unless the Parties agree on a mutually convenient location.

18.5.3. Neither Party may commence arbitration if the claim or cause of action would be barred by the applicable statute of limitations had the claim or cause of action been filed in a state or federal court. Receipt of a demand for arbitration by the person or entity administering the arbitration shall constitute the commencement of legal proceedings for the purposes of determining whether a claim or cause of action is barred by the applicable statute of limitations.

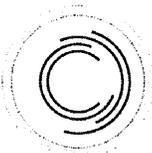
18.5.4. An award entered in an arbitration proceeding pursuant to this Agreement shall be final and binding upon the Parties, and judgment may be entered upon an award in any court having jurisdiction.

19. MISCELLANEOUS

19.1. **EXTENT OF AGREEMENT** Except as expressly provided, this Agreement is for the exclusive benefit of the Parties and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

19.2. **ASSIGNMENT** Except as to the assignment of proceeds, neither Party shall assign its interest in this Agreement, in whole or in part, without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives.

19.3. **GOVERNING LAW** This Agreement shall be governed by the law in effect at the location of the Project.



19.4. JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

OWNER: SAMPLE

BY: _____

CONSTRUCTOR: Loescher Heating & Air Conditioning, Co.

BY: _____

PRINT NAME Sample _____

PRINT TITLE _____

END OF DOCUMENT.



BENCHMARK LIMITED WARRANTY

The following warranty applies to all Benchmark boilers sold by AERCO International, Inc. This document supersedes the warranty page in all Benchmark Operation and Maintenance Manuals (OMMs).

THERMAL SHOCK WARRANTY

The Benchmark pressure vessel is warranted against failure due to Thermal Shock for 20 years from date of shipment provided the boiler is installed, controlled, operated and maintained in accordance with the Operation and Maintenance Manual. This warranty does not cover damage due to corrosion, scaling, sooting and/or improper installation, operation and maintenance. Thermal Shock is defined as a pressure vessel failure determined, by AERCO International, to be caused by uneven expansion of the materials of construction during a single, rapidly applied thermal load.

SHIPMENT DATE	THERMAL SHOCK WARRANTY PERIOD
11/01/2016 - 04/04/2021	10 year
04/05/2021 - Present	20 year

PRESSURE VESSEL/HEAT EXCHANGER

The pressure vessel/heat exchanger shall carry the following limited warranty from the date of shipment against any condensate corrosion, thermal stress failure, mechanical defects or workmanship:

SHIPMENT DATE	COMPONENT	WARRANTY	PRORATED DISCOUNT (from original list price)
All units shipped prior to 12/31/2004	Pressure vessel/ Heat exchanger	7 year, prorated	5 th Year – 100% 6 th year – 70% 7 th Year – 40%
01/01/2005 – 12/31/2007	Pressure vessel/ Heat exchanger	7 year, non-prorated	
01/01/2008 – 04/09/2012	Pressure vessel/ Heat exchanger	10 year, prorated	1 st year through 7 th – 100% 8 th year – 70% 9 th year – 40% 10 th year – 25%
04/10/2012 – Present	Pressure vessel/ Heat exchanger	10 year, non-prorated	

Operation of the boiler using contaminated air will void the warranty. The pressure vessel/heat exchanger shall not be warranted from failure due to scaling, liming, corrosion, or erosion due to water or installation conditions. AERCO will repair, rebuild or exchange, at its option the pressure vessel/heat exchanger.

EDGE OR C-MORE CONTROL PANEL: 2 YEARS FROM SHIPMENT

AERCO labeled control panels are conditionally warranted against failure for (2) two years from shipment.

BURNER: 5 YEARS FROM SHIPMENT

Warranted against failure for (5) five years from shipment.



LIMITED WARRANTY: BENCHMARK® GAS-FIRED BOILERS

OTHER COMPONENTS: 18 MONTHS FROM SHIPMENT

All other components, with the exception of the igniter and flame detector, are conditionally warranted against any failure for 18 months from shipment.

The warranty set forth herein is in lieu of and not in addition to any other express or implied warranties in any documents, or under any law. No salesman or other representative of **AERCO** has any authority to expand warranties beyond the face of this warranty and purchaser shall not rely on any oral statement except as stated in this warranty. **AERCO MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTIES.**

AERCO disclaims all responsibility for any special, incidental or consequential damages. Any claim relating to the product must be filed with **AERCO** not later than 14 days after the event-giving rise to such claim. Any claims relating to this product shall be limited to the sale price of the product at the time of sale. The sale of the product is specifically conditioned upon acceptance of these terms.

CONDITIONS OF WARRANTY:

Under no circumstances will **AERCO** pay for, or be responsible for, overtime pay (nights, weekends, or holidays) for the owner's convenience or desires. Labor cost covered by this warranty is limited to installations with normal access to the equipment. All additional cost resulting from uncommonly restrictive ingress or egress requiring intricate rigging and/or unusual building or machinery alterations will be the owner's responsibility.

Should an **AERCO** gas-fired (natural gas, propane, or natural gas/propane dual fuel) boiler fail for any of the above reasons within the specified time period from the date of original shipment(s), **AERCO** shall at its option modify, repair or exchange the defective item. **AERCO** shall have the option of having the item returned, FOB its factory, or to make field replacements at the point of installation. **AERCO** shall be entitled to inspect the product prior to repair or replacement. **In no event shall AERCO be held liable for replacement labor charges (except as provided under the First Year Limited Service Policy below)** or for freight or handling charges.

AERCO shall accept no responsibility if such item has been improperly installed, operated, or maintained – as defined in the applicable **AERCO** O&M manual, or if the buyer has permitted any unauthorized modification, adjustment, and/or repairs to the item. The use of replacement parts not manufactured or sold by **AERCO** will void any warranty, express or limited.

AERCO shall accept no responsibility if such item has been damaged due to contaminated combustion air containing but not limited to sheetrock particles, plaster board particles, dirt, dust, lint, and corrosive chemicals such as chlorine gas, halogenated hydrocarbons, and Freon.

In order to process a warranty claim a formal purchase order number is required prior to shipment of any warranty item. In addition, the returned item must include a Returned Goods Authorization (RGA) label, attached to the shipping carton, which identifies the item's return address, register number and factory authorized RGA number.

Warranty coverage for all components and equipment mentioned this warranty are not valid unless the boiler is started up by a factory certified SST (Service, Start-Up and Troubleshooting) Technician and an **AERCO** start-up sheet is completed.

This warranty coverage is only applicable within the United States, Canada and Mexico. All other geographical areas carry a limited warranty of 18 months from date of shipment or 12 months from startup, whichever comes first.

FIRST-YEAR LIMITED SERVICE POLICY

Applicable to United States and Canadian installations only

For one year from the start of this service policy, **AERCO** will, if the heat exchanger or a component part fails due to a defect in material or workmanship, replace or repair the defective component and return the product to operating condition.



LIMITED WARRANTY: BENCHMARK® GAS-FIRED BOILERS

Conditions and Exceptions (all installations):

1. All general conditions, as stipulated in the Limited Warranty, will apply to this one-year cost-free service policy.
2. The installation must be accessible for service, must comply with all applicable federal, state, and local regulations, and must be in accordance with AERCO's installation and maintenance manual.
3. Normal maintenance and repair will be the responsibility of the owner.
4. This policy is valid during the first installation only.

Conditions and Exceptions (Alaska, Hawaii and Canadian installations):

1. Labor cost covered by this service policy is limited to installations with normal access to the equipment, and travel distance not to exceed 150 miles from the nearest factory authorized service agency.

The First Year Limited Service Policy is effective as of the date of shipment.
