



9780 Industrial Dr
Horace, ND 58047
Phone: (701) 997-2901
(701) 941-0951

J-Tech Mechanical – Contract Terms & Conditions – Fargo Cass Public Health Boiler Replacement

TERMS AND CONDITIONS

The following Terms and Conditions shall apply to all Proposals/Contracts offered by Seller (J-Tech Mechanical, LLC).

INCORPORATION IN CONTRACT - Execution and performance of this contract shall be governed and construed under the laws of the State of North Dakota. This contract constitutes the entire agreement between the parties hereto, and there are no other terms and conditions, understandings, representations or warranties of any kind, expressed, implied, statutory or otherwise (including, but without limitations, the implied warranties of merchantability and fitness for a particular purpose), not expressly set forth herein.

If substitute or additional equipment, repair parts or labor are purchased by the Buyer from the Seller, they will be billed as an addendum or addition to the Contract and the terms and conditions of this Contract shall be applicable thereto, the same as if such substitution, additional equipment, repair parts or labor had been originally purchased hereunder.

The Seller reserves the right to do partial shipments.

The Seller reserves the right to implement progress payments on Contracts involving work that is anticipated and/or scheduled to be of longer than 30 days duration from Contract date to date of final completion; and/or involves the purchase or procurement of special materials or equipment. Further, it is herein agreed that materials and/or equipment suitably stored, maintained, and insured by Seller on behalf of Buyer, at Sellers place of business and/or at other locations under Sellers control, shall qualify for inclusion in progress payments as if delivered to Buyers site. In this event, Buyer shall have the right to inspect said materials and/or equipment at the storage site(s), should Buyer so desire.

All salvage material shall become the property of the Seller and will be removed from the premises or jobsite, unless otherwise noted in the Contract.

PROPRIETARY AGREEMENT - All drawings, memoranda, ideas and information furnished by Seller shall remain its property and shall be considered its business and trade secrets, received in trust and confidence for the sole purpose of installing, maintaining, repairing and operating said specific equipment. Buyer shall not share, copy or provide any of said information to any third party without the written consent of the Seller.

WARRANTY - Seller warrants, for a period of one (1) year after initial repair (on repair work) or for a period of one (1) year after initial operation or eighteen (18) months after shipment or readiness to ship (on new equipment), whichever comes first, that the equipment of its own manufacture sold under this agreement is free from defects in material and workmanship. During the first ninety (90) days of the warranty period, during normal working hours, Seller will (at Sellers expense) deliver and install replacement parts or effect repairs, at Seller's option. Any defective parts reported after the first ninety (90) days, but before the warranty expiration date, will be shipped to Buyers plant at no charge to Buyer. However, the cost of installing such parts will be the Buyers responsibility. Material and equipment which is not manufactured by Seller shall be covered only by the warranty of its respective manufacturer. Warranty does not include routine maintenance items, airfreight and/or special handling charges on replacement parts, or overtime work to replace parts or effect repairs. Repair or replacement does not alter or extend limits of liability or warranty established at time of sale. Routine maintenance and normal wear and tear is not covered by this warranty. The Sellers warranty is conditional upon the Buyer operating and maintaining the equipment according to the manner prescribed by the Seller, without alteration or substitution to the equipment, the Buyer providing Seller (and others appointed by Seller) free and unlimited access to the equipment at all times, and

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the terms of payment and other contractual obligations of the Buyer having been strictly met. Abuse or neglect of a system or its components, lack of proper or prescribed maintenance, or improper use of the equipment will void the warranty. There shall be no warranty provided on used materials or equipment, unless expressly stated herein. -Unauthorized work performed by others on Sellers equipment will immediately void the warranty. The Seller will not pay any expenses for work performed by others upon Sellers equipment sold under this Contract unless prior written authorization is given by the Seller.

CHANGES AND/OR ADDITIONS - Changes and/or additions to the scope of work shall be by Change Order/Supplement, agreed to by Buyer and accepted by Seller before Seller assumes the responsibility for same. Any Change Order/Supplement shall describe work, materials, price adjustment and time extension applicable to the change or addition. Any change and/or addition shall cause Seller sufficient additional time to complete the project.

DELAYS - In the event that Sellers personnel arrive on site to perform work or to start-up a system as planned, and then, for reasons outside of Sellers control, this cannot be accomplished, it will be the responsibility of the Buyer to pay additional monies for Sellers personnel to wait or to return at a time when the work can be performed, whichever the case may be. In case Sellers personnel must return to perform the work, this then will be rescheduled by Seller within its normal schedule.

OVERTIME WORK - The prices are based on work being done during normal working hours. Should overtime work be required and authorized, the overtime premium in effect at the time will be applied.

SUBSTITUTION - The Seller reserves the right to substitute equipment and/or components which are considered to be of equal or superior quality or performance. In the event such substitutions are made necessary by circumstances beyond Sellers control relative to availability or procurement, Buyer shall be notified.

PAYMENTS - Payments are due upon submission, Net 30 days. Interest on deferred balances shall be paid by the Buyer at the highest legal rate per annum from the date of delivery until paid, such interest to be payable along with the deferred balance.

EVENTS OF DEFAULT - Buyer is in default upon the happening of any one or more of the following: (a) Failure to make payment when due, or (b) A change hereafter in the present financial conditions, credit-worthiness or ability to pay Seller, or (c) A breach by Buyer of any responsibility of warranty

REMEDIES OF DEFAULT - Upon the happening of one or more events of default, Seller at his option, may exercise or perform one or more of the following remedies: (a) Cease manufacture, fabrication, delivery, installation and performance or any other obligation under this Contract, or (b) Exercise any remedy under the Uniform Commercial Code of the state where the remedy is being exercised, or (c) Exercise any remedy available under the laws of the jurisdiction where such remedy is sought to be exercised, or (d) Take possession of all equipment and work wherever located, or (e) Void all warranties and refuse start-up, or (f) Declare all sums owed immediately payable, or (g) Act as attorney-in-fact for Buyer to take possession of the property wherever located and sell the same at the best price obtainable.

All remedies exercised by Seller shall be free and clear of any liability to Buyer and the exercise of one or more of said remedies by Seller shall not eliminate or waive its right to exercise any other legal or equitable remedy it may have.

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CANCELLATION - This Contract is subject to cancellation by Buyer only upon payment to Seller of reasonable cancellation charges which shall consist of the value of work performed but not paid for, Sellers commitments to material suppliers and/or subcontractors, cancellation charges for the Sellers disruption, cost of demobilization of the site, general and administrative expenses, and anticipated Contract profit. All cancellation costs shall be due and payable immediately upon Sellers consent to cancellation.

FORCE MAJEURE & DELAYS - The Seller shall not be liable for any expense, loss or damage suffered by Buyer, directly or indirectly, resulting from any delay or failure to make delivery or complete the work within the time specified of all or any part of the equipment or installation due to Acts of God; war; Acts of Public Enemy; riot; civil commotion; sabotage; Government action or regulation; strikes or other labor trouble or disputes; fire; flood; thefts; accidents; explosions; epidemics; quarantine restrictions; disruption of utility services; embargoes; non-availability of appropriate transportation; transportation delays; material lost in transit; breakdown, damage or destruction in whole or in part of the manufacturing equipment or plant; labor shortages; inability to obtain materials, fuel or supplies for any reason including delays by or default of suppliers or sub-contractors; failure on the part of the Buyer or his representative to approve or comment on drawings or other technical documents within the period of time specified by the Seller; or any other cause, contingency, or circumstance whether similar or dissimilar to those enumerated above, beyond the reasonable control of the Seller which may delay or prevent the Sellers performance. In the event of any delay arising by any of the foregoing events, the work schedule shall be extended by the length of delays occasioned thereby, including delays reasonably incident to the resumption of formal productions.

CONTINGENCIES - If the Work is delayed through no fault of Seller for more than ninety (90) consecutive days, the Parties shall meet in good faith to negotiate an equitable adjustment to the schedule and, if appropriate, the Contract Price. Neither Party may terminate this Contract except as otherwise expressly provided herein.

If the Buyer requests a change or causes a change in the Sellers planned schedule of engineering, fabrication, shipment of equipment or materials, or erection and such change results in additional expenses to the Seller an equitable adjustment in the price and schedule shall be negotiated and the Contract amended accordingly. If such change involves a suspension or postponement of the work, in addition to any aforementioned adjustment, there shall immediately become due and payable to the Seller an amount of the total Contract price proportional to the total work performed as of the time of such suspense, as it bears to the total Contract requirements.

If, due to delinquent or untimely remittance of invoices or progress payments by the Buyer, Seller is caused to stop work, the additional costs of demobilization and/or remobilization shall be borne by the Buyer as an extra to the Contract price.

Title to equipment and materials incorporated into the Project shall pass to Buyer upon payment for such equipment or incorporation into the Work, whichever occurs first, subject only to Buyer's rights under this Contract. Seller shall have no right to remove installed equipment except as authorized by law or court order.

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LIMITATION OF LIABILITY - The Seller shall, in no event, be liable for (a) Any other losses, damages, or injuries sustained by anyone due to the misuse of equipment furnished by the Seller.

The Seller cannot be held liable for the availability or supply of any required installation, use or operating permits or licenses as may be required for the installation and/or operation of the equipment provided, beyond that specifically identified and agreed to as being provided by Seller in the Contract.

RISK OF LOSS - Seller shall bear all risk of loss or damage to the Work, equipment, and materials until the Work has been fully installed, tested, accepted by Fargo Cass Public Health, and final acceptance has occurred. Seller shall be responsible for repairing or replacing any Work, equipment, or materials damaged or destroyed prior to final acceptance, regardless of whether such loss occurs during transportation, storage, or installation, except to the extent caused by the negligence or intentional misconduct of Buyer. Seller shall maintain insurance sufficient to cover such risk until final acceptance. Thereafter, risk of loss shall pass to Buyer.

CITY OF FARGO

J-Tech Mechanical LLC

BY _____
Josh Boschee, Mayor

BY _____
Jason Jundt, Owner

DATE: _____

DATE: 07/01/2026

ATTEST:

BY _____
Angie Bear, Deputy Auditor