



BABIONE'S
AIR CONDITIONING & HEATING
CAC058697
820 N. Main St. - A
Williston, FL 32696

COMMERCIAL HVAC INSTALLATION AGREEMENT

This COMMERCIAL HVAC INSTALLATION AGREEMENT (the "Agreement") is made and entered into effective the date fully executed below by and between **Babione's Air Conditioning & Heating** ("Contractor") whose address is 820 N. Main St. – A, Williston, FL 32696, and **Levy County Commissioners** (hereinafter the "Customer") whose address is 355 South Court Street, Bronson, Florida 32621.

Contractor and Customer hereby agree as follows:

Article 1: Definitions

"Agreement" or "Contract" or "Contract Documents" means this document; all exhibits attached thereto; any Limited Workmanship Warranty; and all other documents incorporated therein as subsequently modified or altered per the terms of the Agreement.

"Customer's Representative" means any person who has authority to act as or on behalf of the Customer, including, any engineer or architect retained by the Customer.

"Person" includes any business entity, group, trust, syndicate, corporation, cooperative, association, partnership, business trust, joint venture, limited liability company, unincorporated organization, and governmental authority, as well as a natural person.

"Plans and Specifications" means the plans, specifications, and/or design documents, including drawings, shop drawings, schematics, instruments of service, and drafts.

"Project" means the improvements made to the Property.

"Property" means the real property and improvements located at the Levy County Court House Annex, 310 School St., Bronson, FL 32621.

"Substantial Completion" means the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents, and when the Customer can occupy and utilize the Work for its intended purpose. The Contractor shall secure and deliver to the Customer written warranties and guarantees from its subcontractors, sub-subcontractors and their agents bearing the date of Substantial Completion or some other date as may be agreed upon by the Customer and starting the period of warranty as required by the Contract Documents.

"Work" means the construction and services required and reasonably inferable from the Contract Documents whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by Contractor to fulfill the Contractor's obligations.

Article 2: Recurring Words

As used in this Agreement, (a) the word "or" is not exclusive, (b) the words "consent" and "approval" are synonymous, (c) the word "including" is always without limitation, (d) all monetary amounts are denominated in United States dollars, (e) neutral words should be construed to include correlative feminine and masculine words, (f) words in the singular number include words in the plural number and vice versa.

Article 3: Contract Documents

The Contract Documents consist of this Agreement and all exhibits attached hereto, including but not limited to:

- 1) **Exhibit "A" – Babione's Air Conditioning & Heating Commercial HVAC Installation Proposal**
- 2) **Exhibit "B" – All Plans, Specifications, and Design Documents**

- 3) **Exhibit “C” – Change Order Form**
- 4) **Exhibit “D” – Commercial Warranties**
- 5) **Exhibit “E” – Statutory Warnings**

All documents noted herein shall be provided to the Customer upon request. These Contract Documents represent the entire agreement of both parties and supersede any prior oral or written agreement.

Article 4: Work Description

The scope of work is contained and limited to the work contained in **Exhibit “A” – Babione’s Air Conditioning & Heating, Commercial HVAC Installation Proposal** and **Exhibit “B” – All Plans, Specifications, and Design Documents**. All work shall be performed by Contractor in a workman like manner and shall meet or exceed all state and local building codes. Contractor shall obtain all permits necessary for the work to be completed. Contractor shall remove all construction debris and leave the project in a broom clean condition.

Manufactured materials shall be installed in accordance with manufacturer’s recommendations.

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. On a daily basis, the Contractor shall remove rubbish and waste materials from the premises and surrounding areas and shall remove all spillage and tracking of dirt arising from the performance of the Work from such areas. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor’s tools, construction equipment, machinery and surplus material from and about the Project.

Article 5: Time of Completion

The completion date of the project shall be a date mutually agreed to by the parties; such date shall not exceed 120 days from the date of commencement. However, any change orders and/or inclement weather may delay or otherwise affect the completion date; any change in completion date shall be agreed to by the parties. If the commencement date differs from the date of this Agreement, the commencement date shall occur within a reasonable amount of time necessary for the Contractor to acquire specially fabricated HVAC units from the manufacturer, mobilize equipment, and any delays/extensions resulting from shipping timeframes. Contractor shall not be liable for any damages, and Customer waives all damages associated with delays in the completion of the work due to permitting or inspection issues, delays caused by Acts of God or delays caused by Customer. Payment to Contractor is an absolute and independent obligation, and Customer shall not withhold any part of the Agreement amount for which payment is due under the Agreement on account of alleged charge backs or set offs unless previously authorized by Contractor in writing. The total Agreement price, including the reasonable and pre-approved charges for changes/extras, shall be payable to Contractor in accordance with the agreed upon terms.

Article 6: Customership/Authority

Customer represents and warrants that it has the authority to enter into this Agreement. Contractor is relying on the Customer’s representations contained within this section of the Agreement.

Article 7: The Contract Price

For completion of the Work, Customer shall pay Contractor the total contract price outlined in Babione’s Air Conditioning & Heating Commercial HVAC Installation Proposal attached hereto as Exhibit A. Upon receipt of the Contractor’s written notice that the Work is ready for final inspection and acceptance and upon receipt of an Application for Payment, the Customer will promptly make such inspection and, when the Customer finds the Work acceptable under the Contract Documents and the Contract fully performed, the Customer will timely make a full payment in accordance with Section 218.735, Florida Statutes. Specifically, and as memorialized within Section 218.735, Florida Statutes, “[i]f an agent must approve the payment request or invoice before the payment request or invoice is submitted to the local governmental entity, payment is due 25 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1).” Payments not timely made shall accrue interest daily at the rate of one and a half percent (1.5%) per month or eighteen percent (18%) per annum, not to exceed the maximum amount of interest allowed by law.

Customer recognizes that the construction industry is currently experiencing price and availability volatility with regard to the materials used for this Project. Because of market fluctuations, the prices of these materials are subject to sudden and significant changes and firm prices cannot be obtained from suppliers. Therefore, if there is an increase in the actual cost of the products charged to the Contractor in excess of 5% subsequent to making this Agreement, the price set forth in this Agreement shall be increased without the

need for a written change order or amendment to the contract to reflect the price increase and additional direct cost to the Contractor. Contractor will submit written documentation of the increased charges to the Customer upon request.

Article 8: Change Orders

A change order is any change to the original and initially permitted set of plans and specifications. All change orders shall be billed to the Customer at the direct cost to the Contractor plus the greater of \$100 additional charge or twenty percent (20%) of change order. Additional time needed to complete change orders shall increase the time needed for Project completion.

Article 9: Final Completion

Customer shall be entitled to conduct a walkthrough with Contractor and issue a punch-list for any repairs or corrections necessary to complete the Project in accordance with the Plans and Specifications. Any items identified within the punch-list that consist of work beyond the scope of the Plans and Specifications shall be treated as a change order.

Upon satisfactory completion of the punch-list items, Contractor shall notify Customer of final completion of the Project and Contractor shall submit to Customer its payment application; determination of satisfactory completion of punch-list items shall be at sole discretion of Customer. Upon receipt of the payment application, Customer shall pay or cause to be paid the amount of the payment request to Contractor within the timeframes provided within Section 218.735, Florida Statutes. Payments not timely made shall accrue interest on a daily basis at the rate of eighteen percent (18%) per annum, not to exceed the maximum amount of interest allowed by law. Including its waiver and final release of lien to Customer; the proper completion of waiver and release of liens and claims shall be a condition precedent to Customer's obligation to make final payment to Contractor. Customer agrees that its receipt of the payment application is sufficient notice of final completion of the Project.

Article 10: Construction Variation

(a) Unless stated otherwise herein, the design of the Project is dictated by the Customer or the Customer's design professional(s). Contractor is not responsible or liable for the design of the Project. Contractor does not provide engineering, consulting, or architectural services. It is the Customer's responsibility to retain a licensed architect or engineer to determine proper design and code compliance. Contractor assumes no responsibility for structural integrity, compliance with building codes, or design. If plans, specifications, or other design documents have been furnished to Contractor, Customer warrants that they are sufficient and conform to all applicable laws and building codes. Contractor is not responsible for loss, damage, or expense due to defects in plans or specifications, unless such damage results from deviation by Contractor from the contract documents. Customer warrants all structures to be in sound condition capable of withstanding normal construction equipment and operations.

(b) Customer acknowledges that in the course of construction, certain changes, deviations or omissions in the design of the Project may occur or may result because of the particular conditions of the job, lender requirements, and/or governmental authorities having jurisdiction over the Project. In the event that Federal, state, local, county, or municipal codes, regulations or permitting authorities require work not expressly set forth in this Agreement or that differs materially from that generally recognized as inherent in work provided for in this Agreement, Customer shall pay for all extra costs incurred by Contractor as a result of the required additional work in addition to the Agreement price.

(c) Both parties agree that dealing with hazardous materials, waste or asbestos requires specialized training, processes, precautions and licenses. Therefore, unless the scope of this agreement includes the specific handling, disturbance, removal or transportation of hazardous materials, waste or asbestos, upon discovery of such hazardous materials, the Contractor shall notify the Customer immediately and allow the Customer/Contractor to contract with a properly licensed and qualified hazardous material contractor. Any such work shall be treated as a Change Order resulting in additional costs and time considerations.

(d) Customer further certifies that it has not relied upon the accuracy of the representations of the Contractor with respect to the Plans and Specifications.

(e) The Contractor acknowledges that during the performances of the Work, the Customer or its guests or its invitees may be using or occupying the Property and areas adjacent thereto. The Contractor shall schedule and coordinate the Work with the operations and activities of the Customer to avoid and minimize any interference, disturbance, or disruption to its operations or activities. If the Contractor is required to interrupt any utility services to perform the Work, the Contractor shall coordinate in advance such interruption with the Customer and any tenants or other parties that may be affected by such interruption. Customer explicitly agrees to indemnify, defend and hold Contractor harmless for any damages incurred to Customer or third parties as a result of such activities at the Property unless such damages are a direct result of Contractor's gross negligence, fraud or criminal misconduct, act or omission. Customer further agrees to toll the time required for Substantial Completion for any delays resulting from ongoing activities of the Customer or third parties at the Property.

Article 11: Insurance

Contractor shall maintain comprehensive general and automobile liability insurance coverage and workers' compensation insurance coverage with properly licensed insurance companies with coverage amounts, in Contractor's reasonable estimation, adequate to cover the risk exposure of the Project contemplated by this Agreement. Customer may secure additional insurance to protect itself from liability from claims which may arise during the performance of this Agreement, and Contractor encourages Customer to do so if Customer is uncomfortable with Customer's or Contractor's existing coverages.

Customer shall obtain, prior to performing any work under this Agreement, and shall maintain until the Substantial Completion of construction and final payment of the contract price, property insurance commonly referred to as "Builder's Risk" insurance, in the amount of the full insurable value of the work performed at any point during construction, insuring on an all-risk policy form against the perils of fire and extended coverage and physical loss or damage, including coverage for theft, vandalism, and malicious mischief. This insurance shall name Customer as the insured and shall include Contractor and, if applicable, Customer's lender as "additional insureds."

Customer is responsible for all security and protection of the Project and will be solely liable for all physical loss or damage, including loss or damage caused by theft, vandalism, and malicious mischief.

Customer and Contractor waive all subrogation rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, for damages to the extent covered by insurance. Notwithstanding anything to the contrary herein, Contractor shall obtain and maintain all insurance coverage as indicated in the Contract Documents.

Article 12: Contractor's Default

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents referenced herein, or repeatedly and materially fails to carry out the Work or perform its obligations in accordance with the Contract Documents, the Customer may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Customer to stop the Work shall not give rise to a duty on the part of the Customer to exercise this right for the benefit of the Contractor or any other person or entity.

If the Contractor defaults or neglects to carry out the Work or perform its obligations in accordance with the Contract Documents, and fails within a ten (10) day period after receipt of written notice from the Customer to commence and continue correction of such default or neglect with diligence and promptness, the Customer, without prejudice to any other remedy the Customer may have, may correct such deficiencies and may deduct the reasonable cost thereof, including Customer's expenses and compensation for the Customer's design professional's services made necessary thereby, from the payment then or thereafter due the Contractor. Notwithstanding any provision to the contrary in the Contract Documents, the Customer may, without prior notice to the Contractor, correct such deficiencies if the deficiencies pose an immediate threat of damage, injury or loss to property, including the Work, or personal injury or death. The right of the Customer to carry out the Work pursuant to this section shall not give rise to any duty on the part of the Customer to exercise this right for the benefit of the Contractor or any other person or entity.

The Contractor shall not stop performance of its Work during the pendency of a bona fide dispute between Customer and Contractor, so long as such dispute is resolved in a reasonable amount of time, and so long as Customer pays Contractor the undisputed portions of Contractor's progress payments.

Article 13: Customer's Default or Early Cessation of Work

Customer shall be in default of this Agreement upon any of the following occurrences: (a) Customer fails to provide access to the job site or materially interferes with construction; (b) Customer fails to make timely payment under the terms of this Agreement; or (c) Customer otherwise violates a material provision of this Agreement.

Upon a default by Customer, after providing seven (7) days written notice and opportunity to cure to Customer (such opportunity to cure required only where the default is of an ongoing nature capable of being cured), Contractor may terminate the Agreement and/or pursue all applicable legal or equitable remedies.

If Customer terminates Contractor prior to commencement of the Project, Customer agrees that Contractor is harmed to the extent that Contractor has provided pre-construction services to Customer. Customer further agrees that exact damages caused are not reasonably

ascertainable and therefore, Customer shall owe to Contractor ten percent (10%) of the value of this Agreement upon demand. Customer agrees that said amount is not a penalty.

Article 14: Subcontractors

Contractor may elect to utilize subcontractors to complete certain scopes of work. Subcontractors shall be licensed and capable of completing the work in a safe, expeditious, and qualified manner.

Article 15: Third Party Beneficiaries

This Agreement is intended to benefit only the parties hereto and their successors and assigns. Nothing in this Agreement is intended to create rights in any third party beneficiary. Notwithstanding the foregoing, Contractor agrees to list the Customer as a primary, intended third party beneficiary in all subcontracts entered into in connection with the Work.

Article 16: Act of God

Contractor shall not be liable for any damage, whether actual or consequential, or claim arising out of or relating to Acts of God, accidents, civil disturbances, delays in obtaining materials, fires, hurricanes and other weather conditions, strikes, war or other causes beyond Contractor's reasonable control.

Article 17: Warranty

Contractor's work is warranted in accordance with Babione's Air Conditioning & Heating, standard warranty which is incorporated by reference herein and included as Exhibit D. No agent or representative of the Contractor is authorized to make any representation or promise on behalf of the Contractor other than those contained herein. The Contractor disclaims and excludes all other warranties, express or implied, including but not limited to the warranties of habitability, merchantability and fitness for a particular purpose. The Contractor also disclaims and excludes recovery by the Customer of any incidental or consequential damages in any action relating to the Project. This warranty is not transferable.

Article 18: Disclaimer

Customer acknowledges that Contractor may be repairing work that was previously damaged by mold, water, termites, or other conditions ("Pre-Existing Conditions") unrelated to the work performed by Contractor on the Project. Accordingly, Contractor disclaims all liability for all claims, disputes, rights, losses, damages, causes of action or controversies ("Claims") pertaining to Pre-Existing Conditions, whether those Claims arise in law, equity, contract, warranty, tort, or federal or state statutory claims. The Customer is solely liable and responsible for all damages, whether actual or consequential, arising out of or relating to Pre-Existing Conditions. Contractor disclaims all liability for all claims, disputes, rights, losses, damages, causes of action or controversies pertaining to Mold, including claims arising out of or relating to the detection, removal, disposal, or remediation of Mold, whether those claims arise in law, equity, contract, warranty, tort, or federal or state statutory claims, and whether those claims are based on the acts or omissions of Contractor or individuals or entities under Contractor's control. The Customer is solely liable and responsible for all damages, whether actual or consequential, caused by mold and incurred by Customer, Contractor or third parties. The Customer acknowledges that if conditions are encountered at the site which are (1) sub-surface, or otherwise concealed physical conditions which materially differ from those contemplated or indicated by this Agreement or the related contract documents, or (2) unknown physical conditions of an unusual nature, and such conditions materially differ from those indicated in this Agreement or the related contract documents and cause an increase in the Contractor's cost or, or time required for, performance of any part of the work, the Contractor shall be entitled to an equitable adjustment to the contract price and/or an appropriate extension to the completion date.

Article 19: Indemnification

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold Customer and the officers, directors, members, managers, shareholders, employees, and agents of Customer (collectively the "Indemnified Parties"), harmless from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (collectively, "Claims") to the extent caused in whole or in part by any material act, omission, or default by Contractor arising from the Agreement or performance under the Agreement by Contractor. Notwithstanding the foregoing, Contractor shall not be obligated to indemnify and defend the Indemnified Parties for claims found to be due as a result of the gross negligence or willful, wanton, fraudulent or intentional misconduct of the Indemnified Parties, or for statutory violation or

punitive damages except and to the extent the statutory violation(s) or punitive damages are caused by or result from the acts or omissions of Contractor its subcontractors, materialmen, employees or agents.

Pursuant to Section 725.06, Florida Statutes, the following shall apply: (i) This indemnification provision is incorporated by reference into the Contract Documents, (ii) the indemnification as provided in this Contract shall be subject to a monetary limitation of One Million Dollars (\$1,000,000.00) and (iii) the Customer and Contractor both acknowledge that the monetary limitation referenced above bears a reasonable commercial relationship to this Contract. The Contractor shall promptly remedy all damage or loss of property caused in whole or in part by the Contractor or its employees, any of its subcontractors, and any sub-subcontractor, or anyone directly or indirectly employed by any of them, or anyone who Contractor may be liable for. The foregoing obligations of the Contractor are in addition to its other obligations under this Contract. This indemnification provision, and its related provisions, shall survive the termination or expiration of this Contract.

Article 20: Miscellaneous Provisions

(a) Time: Time is of the essence for all purposes of this Agreement unless expressly provided to the contrary.

(b) **WAIVER OF JURY TRIAL: EACH PARTY AGREES THAT AS A MATERIAL PART OF THE CONSIDERATION HEREUNDER AND AS AN INDUCEMENT TO ENTER INTO THIS AGREEMENT, EACH PARTY HEREBY WAIVES THE RIGHT TO A JURY TRIAL.**

(c) Any express warranty provided (if any) by Contractor is the sole and exclusive remedy for alleged construction defects, in lieu of all other remedies, implied or statutory. Unless otherwise provided: **THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** All warranties and guarantees if any, provided under the Agreement are solely for the original Customer and are non-transferable, unless otherwise agreed to by Contractor and Customer in writing.

(d) Assignment: Neither party may assign this contract without the written consent of the other party. The Contractor reserves the right to subcontract to specialized trades for any portion of the Project.

(e) Complete Agreement: The Agreement and the Contract Documents (including all exhibits, addenda and modifications thereto) constitute the sole and entire agreement between the parties. No modification, written or verbal, shall be binding upon either party unless agreed to in writing signed by both parties. Each provision of this Agreement and/or the Contract Documents are severable from every other provision, and if any provision is unenforceable, the remainder of the Agreement and/or Contract Documents will remain valid and enforceable. This Agreement and the Contract Documents shall inure to the benefit of the heirs, personal representatives, successors and assigns of Contractor and Customer respectively as permitted. Each provision of the Agreement and the Contract Documents shall be construed as if both parties mutually drafted it. In the event of a conflict between this Agreement and any other Contract Document, this Agreement controls, governs and takes precedence.

(f) Effective Date: The effective date of this Agreement (“Effective Date”) will be the date when the last one of the Customer and Contractor has executed this Agreement, provided that the Agreement is fully executed and delivered by Customer and Contractor. This Agreement may be executed in counterparts, and the counterparts collectively shall constitute the Agreement. A scanned or facsimile copy of this Agreement and any signatures on this Agreement shall be considered for all purposes as originals, but any party executing by a facsimile agrees to deliver a copy containing original signatures following such scanned or facsimile transmission at the request of the other party.

(g) Governing Law: This Agreement shall be governed by the laws of the State of Florida, and the venue of any action brought to enforce the provisions of this Agreement, or otherwise arising out of or relating to the Agreement, shall be Levy County, Florida.

(h) Notices: Any notice required or permitted to be delivered under this Agreement shall be personally delivered or mailed by certified mail, return receipt requested, to the parties at the addresses set forth in the introductory paragraph of this Agreement and shall be effective upon personal delivery or two days after deposit of the notice with the United States Postal Service.

(i) This Agreement incorporates by reference the exhibits and all other documents identified in the definition of “Agreement.” In the event of a conflict between the terms of the Agreement and exhibits, the exhibits control, govern and take precedence. Customer acknowledges that it has received and reviewed all the documents referenced in the Agreement.

(j) Access. Customer agrees to provide Contractor with adequate access to electricity and other utilities as needed, the work site, and the work area adjacent to the structure. Contractor is not liable and Customer is solely liable for the work installed by any person other than Contractor, unless otherwise specified by Contractor in this Agreement. Customer authorizes Contractor to use photographs of the subject property for advertising purposes and advertise at property during construction.

(k) Site Conditions. Should concealed or unknown conditions in an existing structure be at variance with conditions indicated in the description of the work to be performed from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, the Agreement price shall be equitably adjusted upon notice thereof from the Contractor to the Customer.

(l) **Restrictions and Requirements.** In the event that state, county, or municipal codes or regulations require work not expressly set forth in this Agreement or differ materially from that generally recognized as inherent in work of the character provided for in this Agreement, all extra cost for Contractor's labor and materials shall be the sole obligation of the Customer. It shall be the sole obligation of the Customer to determine the existence of restrictions contained in deeds, subdivision or neighborhood regulations which might relate to or restrict the improvements under this Agreement. Contractor shall have no liability or responsibility for any such non-conformity with such restrictions/requirements. Contractor shall be entitled to payment from Customer of all sums due hereunder notwithstanding any injunction/prohibition against the work as a result of any violation of such restriction/requirement. Due to the nature of the construction to be done at Customer's request, the Customer takes sole responsibility for any damage done to curbs, walkways, driveways, structures, septic tanks, utility lines, landscaping, appurtenances, person(s) or personal property at the job location.

(m) **Damage Limitation.** In no event, whether based on the Agreement, warranty (express or implied), tort, federal or state statute or otherwise arising from or relating to the work and services performed under the Agreement, shall Contractor be liable for special, consequential, or indirect damages, including loss of use or loss of profits. Contractor and Customer agree to allocate certain risks so that, to the fullest extent permitted by law, Contractor's total aggregate liability to Customer is limited to the dollar amount of the Agreement for any and all injuries, damages, claims, expenses or claim expenses including attorneys' fees arising out of or relating to this Agreement regardless of whether it is based in warranty, tort, contract, strict liability, negligence, errors, omissions, or from any other cause or causes. Contractor shall perform a pre-commencement assessment of the job location and submit such report to Customer. Customer and Contractor shall agree on the contents of such report and Contractor pledges to repair any damage caused by work done at the site. The cost for testing/abatement for asbestos is the sole responsibility of the Customer. Customer shall be responsible for indoor air quality and shall hold Contractor harmless, indemnify and defend Contractor from claims relating to fumes, odors, and/or noises that are emitted during the normal construction process. Contractor will not be responsible for damage to walkways, driveways, and/or landscaping. Customer agrees to and is fully aware that delivery and/or waste removal vehicles will be on the premises/driveways.

(n) **Working Hours.** The proposal is based upon the performance of all work during Contractor's regular working hours, excluding weekends and National holidays.

(o) **Materials.** All materials and work shall be furnished in accordance with normal industry tolerances for size, weight, and performance standards. Contractor is not responsible for the actual verification of technical specifications of product manufacturers. Customer is a tax exempt entity, who upon reasonable request, shall supply Contractor with its tax exempt certificate. As such, Customer reserves the right, in its sole discretion, to delete certain material purchases from this Agreement, and purchase same directly, so as to save on any tax. In doing so, Contractor shall work in good faith with Customer to effectuate the deletion of said materials from this Agreement and shall provide Customer with a copy of the necessary purchase order, noting all specifics, including pricing of the material, to be purchased directly by the Customer. The Customer shall have the right to use the Contractor's purchase order to purchase the tax exempt materials directly.

(p) **Headings.** Any titles or headings are provided for convenience purposes only.

(q) **Intellectual Property.** Everything created, developed or produced by or through Contractor during its performance of the Project, including, without limitation, all drawings (pre-construction or otherwise), plans, specifications, reports, records, files, documents, memoranda, schedules, recordings, information and other materials or data (collectively, "Data") in any form, prepared, or in the process of being prepared, are owned by the Contractor and are the sole property of the Contractor until such time as Customer issues final payment for the Project. The Contractor owns all of the rights, titles and interests, in and to the Data, including, without limitation, all trademarks, copyrights, trade secrets, patents, and any and all other intellectual property rights therein (collectively, the "Intellectual Property Rights"). Any such Data in the possession of the Customer or in the possession of any agent, representative or contractor of Customer shall immediately be returned to Contractor upon demand unless and until full and final payment has been issued by Customer under the terms of the Agreement. In the event of Customer or its agents, representatives or contractor's improper use of Contractor's Data or Intellectual Property Rights, Contractor shall be entitled to pursue all of its legal and equitable rights including, without limitation, both temporary and permanent injunctive relief against Customer or any other person using Contractor's Data or Intellectual Property Rights. Contractor shall be entitled to its attorney's fees, costs, and expenses to enforce the terms of this provision.

(r) **ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.**

(s) **Authority.** The person signing on behalf of Customer acknowledges that s/he has the requisite authority to bind the Customer.

(t) **Attorney's Fees.** Should either party employ an attorney to institute litigation or arbitration to enforce any of the provisions hereof, to protect its interest in any matter arising under, arising out of, or related to this Agreement, the prevailing party shall be entitled to recover from the other party all of its reasonable attorney's fees, costs and expenses, incurred therein through trial and/or arbitration, appeals, and any bankruptcy proceeding.

[Signature Page Follows]

The undersigned have read and understand and agree to each of the provisions of this Agreement.

Babione's Air Conditioning & Heating

Customer

Print Name: _____

As Its: _____

Date: _____

Print Name: _____

As its: _____

Date: _____

EXHIBITS:

Exhibit A – Babione's Air Conditioning & Heating, Commercial HVAC Installation Proposal

Exhibit B – All Plans, Specifications, and Design Documents

Exhibit C – Change Order Form

Exhibit D – Commercial Warranties

Exhibit E – Statutory Warnings

Incorporated (Y/N):

EXHIBITS

[this page is intentionally left blank]

EXHIBIT A



**BABIONE'S
AIR CONDITIONING & HEATING
CAC058697
820 N. Main St. - A
Williston, FL 32696**

COMMERCIAL HVAC INSTALLATION PROPOSAL

<u>Date of Proposal:</u>	January 19, 2021
<u>Customer:</u>	Levy County Commissioners
<u>Customer Address:</u>	310 School Street Bronson, Florida 32621
<u>Customer Phone:</u>	352.221.5700
<u>Customer Email:</u>	jones-jimmy@leveycounty.org

PROPOSAL

Install one Trane 30-Ton modular air handler with two 15-Ton heat pump condensers

- Air handler installed in mechanical room
- Use existing smoke detector & fire stat
- Refrigerant piping, four circuits
- Lift rental, crane service
- Materials
- Permit
- 1-year manufacturers parts warranty
- Filters installed in air handler (12) 16x25x2
- Condensers installed in the same location
- Sight glass drier ¾" thick insulation
- Programmable Thermostat
- Labor
- 1-year labor warranty
- 5-year compressor warranty

Total \$58,649.00

Extended warranty only covers the condensers \$10,000.00

Payment terms:

Approved purchase order from county official 100% due upon installation of 30-Ton system

Notes:

1. Standard parts warranty does not cover labor, diagnostic fees, freon, S&H and warranty handling fees which would be covered under the **optional extended warranty contract available for \$10,000.00 10-year parts and labor on condensers only (Customer Initial _____)**. Maintenance, duct work, breakers, electrical wires and refrigerant lines are not covered. We also offer maintenance contracts.
2. Change orders are required for all additions, alterations, and/or revisions which modify the scope of work. *(See Article 8 of the Commercial HVAC Installation Agreement)*.
3. We appreciate the opportunity to serve you and look forward to hearing from you soon.

Babione's Air Conditioning & Heating

Customer

Print Name: _____
As Its: _____
Date: _____

Print Name: _____
As its: _____
Date: _____

EXHIBIT B
Project Plans and Specifications
[As Provided by Customer]

EXHIBIT C
Change Order Form



BABIONE'S
AIR CONDITIONING & HEATING
CAC058697
820 N. Main St. - A
Williston, FL 32696

CHANGE ORDER FORM

Project: _____

Project No.: _____

Project Address: _____

The Project is changed as follows:

The **Original Contract Sum**: \$ _____
The net change by previously authorized Change Orders \$ _____
The **Modified Contract Sum** prior to this Change Order was \$ _____
The modified contract sum will be **increased** by this Change Order in the amount of \$ _____
New to-date Contract Sum including this Change Order will be \$ _____

The Contract time shall be **increased** by _____ days
This Change Order shall be completed no later than _____.
Contract Completion shall be _____.

The undersigned have read and understand and agree to each of the provisions of this Change Order, and further acknowledge that this Change Order is incorporated into and governed by the Agreement entered into between the parties.

Babione's Air Conditioning & Heating

Customer

Print Name: _____
As Its: _____
Date: _____

Print Name: _____
As its: _____
Date: _____

EXHIBIT D

Manufacturer and Workmanship Warranties

EXHIBIT E

STATUTORY WARNINGS

LIEN LAW

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001 -- 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

CHAPTER 558 NOTICE OF CLAIM

ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

RADON GAS WARNING

RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT.

FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND

PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS: (850) 487-1395, 2601 BLAIRSTONE ROAD, TALLAHASSEE, FL 32399-1039.

CUSTOMER(S) SIGNATURE: _____

DATE: _____