

MARGIE R IBARRA  
COUNTY CLERK  
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WEBB COUNTY, TEXAS

BY All DEPUTY

THE STATE OF TEXAS §  
COUNTY OF WEBB §

### AGREEMENT

This is an AGREEMENT made by and between Webb County, a political subdivision of the State of Texas (hereinafter referred to as "County" or "Customer"), and Waukesha-Pearce Industries, Inc. (hereinafter referred to as "Contractor"), a construction contractor, 12320 South Main Street, Houston, Texas 77035.

#### Recitals

**Whereas**, Webb County seeks to have the provision, installation, and startup of Two (2) Industrial Size 50KW and 25KW Generac Diesel Generators along with accompanying automatic transfer switches (2) for each Generator, along with all labor, materials, and all incidentals to be located at the Justice of the Peace and Constable Building (50 KW Generator) and the Quad City Fire Station (25KW Generator) located in Bruni, Webb County, Texas; and,

**Whereas**, Contractor represents that it is qualified and capable of providing the materials and performing the services called for in this agreement and is willing to perform these services; and

**Whereas**, Webb County desires that Contractor provide the materials and the services as set forth herein;

**Now, Therefore**, Webb County and Contractor, in consideration of their mutual promises and benefits, do mutually agree as follows:

#### Section 1. Scope of Services.

Contractor agrees to furnish all supervision, labor, materials, supplies, equipment, and subcontracting necessary and required for the provision, installation, and startup of Two (2) Industrial Size 50- and 25-KW Generac Diesel Generators along with automatic transfer switches, with all labor, materials, and all incidentals. The materials, services, and additional conditions/requirements under which they are to be provided are more particularly described in **Exhibit A**, "General Contract Requirements, Scope of Services, and Pricing" attached hereto and incorporated hereinabove reference as if set forth in full for all intents and purposes. Further, this Agreement is subject to the equipment, materials, and labor to be provided by Contractor along with Contractor's "Bill of Material" and "standard terms and conditions of sale" which are all set out in Exhibit "B" which is incorporated by reference as set forth in full for all intents and purposes.

#### Section 2. Compensation.

For and in consideration of the material's provided and services rendered by Contractor, the County shall pay Contractor **ONE HUNDRED FIFTY-SIX THOUSAND ONE HUNDRED TWELVE DOLLARS (\$156,112.00)**. Said payment is intended to compensate Contractor for all

time, materials, and expenses. All equipment, tools and supplies necessary in the provision of services hereunder shall be supplied by Contractor at its own expense. Notwithstanding the above, the County shall have no obligation to pay for any work, services, or expenditures hereunder which have been rendered or incurred without prior authorization as described in Section 3. Furthermore, in no event will the County be obligated to compensate Contractor more than **\$156,112.00** or shall Contractor be required to provide services, which would entitle Contractor to compensation in excess of **\$156,112.00** such amount is subject to Section 10, "Limit of Appropriation".

### Section 3. Authorization and Supervision.

The County representative, as assigned by Webb County on a project-by-project basis, will be the contact person for Contractor. The County Representative for this Project is **Luis Perez-Garcia, P.E., Webb County Engineer, and/or Guillermo Cuellar, P.E., Webb County Engineering Department**. Prior to the commencement of work under this agreement; Contractor shall obtain authorization to commence work hereunder from the County Representative. Contractor shall provide competent, full-time supervision of the work at all times during the term of this Agreement.

### Section 4. Method of Payment.

Under the payment terms set out in **Exhibit "B"** (10 pages dated September 2, 2022), the County shall pay fifty (50%) percent of the contract price or Seventy-Eight Thousand Fifty-Six Dollars (\$78,056.00) upon order of the Equipment itemized in Exhibit "B" and the remaining balance of Seventy-Eight Thousand Fifty-Six Dollars (\$78,056.00) upon delivery and installation of said equipment by Contractor. The County shall pay Contractor upon submittal of invoice statement within thirty (30) days after the County Auditor approves same:

### Section 5. Term.

This agreement is effective January 18, 2023 and, unless terminated sooner in accordance with the provisions hereof, shall terminate January 17, 2024. The Agreement is for three hundred sixty-four days which accounts for the lead time for order and delivery of the equipment by Contractor to County and to install said equipment.

### Section 6. Compliance.

Contractor agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services performed hereunder. Contractor shall not access any information which they are not authorized to receive, and under no circumstances shall Contractor at any time, during the term of this Agreement or thereafter, release or divulge any confidential material, information or documents received during the performance of their services hereunder without the express written consent of the County, nor shall Contractor copy, recreate or use any such confidential information or documents other than for the performance of this agreement. Contractor shall obtain, at its own expense, all permits, certificates, and licenses as may be required in the performance of the services required hereunder.

Section 7. Indemnity.

**CONTRACTOR SHALL DEFEND, INDEMNIFY, AND SAVE WHOLE AND HARMLESS THE COUNTY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER, NAME, AND DESCRIPTION BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES, INCLUDING DEATH, RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF, ARISING OUT OF, OR IN CONNECTION WITH, ANY NEGLIGENT ACT OR OMISSION OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL ALSO DEFEND AND INDEMNIFY THE COUNTY AGAINST CLAIMS BY ANY SUBCONTRACTOR, SUPPLIER, LABORER, MATERIALMAN, OR MECHANIC FOR PAYMENT FOR WORK OR MATERIALS PROVIDED ON BEHALF OF CONTRACTOR IN THE PERFORMANCE OF THE SERVICES HEREUNDER; AND ALL SUCH CLAIMANTS SHALL LOOK SOLELY TO CONTRACTOR AND NOT TO THE COUNTY FOR SATISFACTION OF ALL SUCH CLAIMS.**

Section 8. Assignment.

Other than as contemplated in Exhibits "A", and "B", Contractor shall not sell, assign, transfer or convey this Agreement, in whole or in part, without the prior written consent of the County. As a condition of such consent, Contractor shall remain liable for completion of the services in the event of default by the successor contractor or assignee.

Section 9. Insurance.

Prior to the beginning of any work hereunder, Contractor shall provide proof and maintain the following insurance policies:

Workmen's Compensation -Texas Statutory limits

Employer's liability insurance with limits of not less than \$100,000.00 for accidental injury to one or more persons in any one accident or occurrence

Commerical General Liability with limits of not less than \$300,000 per occurrence for bodily injury and limits of not less than \$300,000 per occurrence of property damage and name Webb County as an additional insured.

This proof is in the form of a letter or certificate from Contractor's insurance company, and must be maintained as current by Contractor throughout the term of this agreement. The certificate of insurance shall include sixty (60) day notice of cancellation.

Section 10. Payment and Performance Bonds

Contractor shall provide a payment bond and a performance bond in the penal amount of the contract price that being One Hundred Fifty-Six Thousand One Hundred Twelve Dollars (\$156,112.00). Bonds must be issued by companies authorized and admitted to do business in the State of Texas and rated A-:VII or better by A.M. Best Company (Best's Key Rating Guide, current Edition, and as amended) and/or otherwise acceptable to the County. Contractor shall supply the required Performance/Payment bonds to the County within Seven (7) days of execution of this Contract or not later than Ten (10) working days prior the date of the scheduled installation of materials under this contract which shall be the "DEADLINE" for compliance herewith and which both parties have mutually agreed to as an "Express Condition Precedent" to this contract.

Section 11. Limit of Appropriation.

Contractor has been advised by the County, and Contractor understands and agrees, such understanding and agreement being of the absolute essence of this agreement, that the County shall have available the sum of \$156,112.00 specifically allocated to fully discharge any and all liabilities of the County under this Contract, and that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the County shall become liable to pay to Contractor hereunder, shall not exceed under any conditions, circumstances or interpretations thereof the amount certified for the applicable fiscal year.

Section 12. Termination.

Either party hereto may terminate this agreement at any time, either with or without cause, by giving the other party at least thirty days advance written notice. As soon as practicable after termination, Contractor shall submit, in accordance with Section 4, its statement showing in detail the services performed hereunder to the date of termination.

Section 13. Address of Notices.

Any notice required or permitted to be given by one party to the other party under this Agreement may be given by certified or registered U. S. mail, postage prepaid, addressed to the appropriate party as follows:

Webb County

Tano E. Tijerina  
Webb County Judge  
1000 Houston Street  
Laredo, Texas 78040

Waukesha-Pearce Industries, Inc.  
Virgilio E. Aniceto, New Unit Sales  
12320 South Main Street  
Houston, Texas 77035  
E-Mail: [Virgilio.aniceto@wpi.com](mailto:Virgilio.aniceto@wpi.com)

Copy to:

Luis Perez-Garcia, P.E.  
Webb County Engineer  
Webb County Engineering Department  
1620 Santa Ursula

Laredo, Texas 78040  
[lperezgarcia@webbcountytx.gov](mailto:lperezgarcia@webbcountytx.gov)

Any notice given as herein provided shall be deemed given and received upon deposit in the U.S. mail.

#### Section 15. Inconsistencies.

Where there exists any inconsistency between this Contract and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Contract shall control.

#### Section 16 Severability.

Each paragraph and provision hereof is severable from the entire Contract and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

#### Section 17 Law of Texas/Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regards to choice of law rules of any jurisdiction and shall be enforced in the Webb County, Texas. County and Contractor agree that any litigation regarding this Contract shall take place in the State Court of Webb County, Texas.

#### Section 18 Entire Agreement.

This Agreement, which includes Exhibits "A" and "B", incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.

#### Section 19 Amendment.

No changes to this Contract shall be made except upon written agreement of both parties.

#### Section 20 Headings.

The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

#### Section 21 Waiver.

The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single

or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

**Section 22 Counterparts.**

This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same document.

**Section 23 Terminology and Definitions.**

All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.

**Section 24 Rule of Construction.**

The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement or any amendments or exhibits hereto.

**Section 25 Immunity.**

Webb County does not waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, offices, employees and agents as a result of the execution of this Agreement and performance of the functions and obligations described herein.

**Section 26 Legal Compliance.**

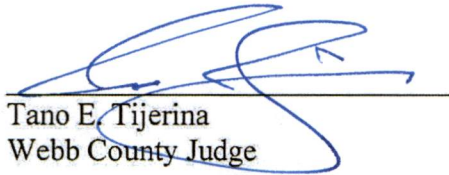
The parties hereto agree to comply fully with all applicable federal, state and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this agreement. In the event that any of the parties hereto are required by law or regulation to perform any act inconsistent with this agreement, or to cease performing any act required by this agreement, this agreement shall be deemed to have been modified to conform with the requirements of such law, regulation or rule.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

**IN WITNESS WHEREOF**, the parties aforesaid have duly executed the foregoing instrument, or caused the same to be executed in duplicate originals on the dates set forth below.

**WEBB COUNTY**

**CONTRACTOR**  
**WAUKESHA-PEARCE INDUSTRIES, INC.**


  
Tano E. Tijerina  
Webb County Judge

Sheila Adams  
By: Sr Sales Supervisor , Title

Date: \_\_\_\_\_, 2023

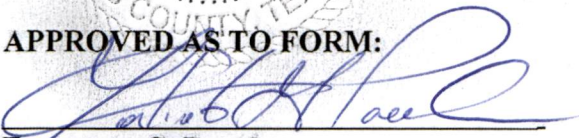
Date: February 20, 2023

**ATTESTED:**

  
Margie Ramirez-Ibarra  
Webb County Clerk

The Buy Board Contract No. 657-21 governs this Agreement and indicate WPI payment terms net 30 days

**APPROVED AS TO FORM:**

  
**Fortunato G. Paredes**  
**Webb County Civil Legal Division**

\*By law, this office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

## EXHIBIT A

### GENERAL CONTRACT REQUIREMENTS, SCOPE OF SERVICES AND PRICING

#### Article 1 GENERAL CONTRACT REQUIREMENTS

##### Section 1.01 Description of Work.

The purpose of this Contract is for the Contractor to furnish all labor, equipment, materials, and incidentals necessary to install two generators, transfer switches and as more specifically set out in the attached Exhibit B.

##### Section 1.02 Location.

At the County Representative request the Contractor shall provide a construction schedule. The construction schedule will be a bar-type schedule and shall be of sufficient detail to show construction sequence for different items of work.

##### Section 1.03 Payment.

Payment under this contract will be under the terms as set out in Exhibit "B" and pursuant to Section 4 of this Contract.

##### Section 1.04 Acceptances and Final Payment.

The Contractor shall, as soon as practicable after the completion of the project shall submit for payment an invoice to pay the balance of what is owed Contractor under the Contract. Within thirty (30) days after approval by the Commissioners' Court and the County Auditor, the County shall pay the Contractor the amount No payment by the County shall be construed to be an acceptance of any defective Work or improper materials, or a release from any claim for damages. The payment of the final amount due under the Contract, and the adjustment and payment of the bill rendered for any Work done in accordance with any alterations of the Contract by a Change Order, shall release the County and all Representatives from any and all claims or liability on account of Work performed under the Contract or alterations thereof. The Contractor will examine the Final Estimate and if correct will certify under oath to the payment by the Contractor of all claims against the Contractor for labor, materials, and supplies, furnished the Contractor by all persons and firms in the performance of the Contract.

##### Section 1.05 Permits & Licenses.

If required, the Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the work.

##### Section 1.06 Construction Manager.

A full-time designated Construction Manager must be present at all times that work is in progress, and must be capable of making decisions on the Contractor's behalf.



Section 1.07 Subcontractors.

At the request of the County Representative, the Contractor must submit a list of all subcontractors prior to commencing work. During the course of this project, the County Representative must be notified of any changes in subcontractors.

Article II. PROSECUTION OF THE PROJECT

Section 2.01 Parking.

The Contractor shall be responsible for the parking of his vehicles in a legal manner at no additional expense or inconvenience to Webb County.

Section 2.02 Storage.

1. General - The Contractor shall be fully responsible for the security and safe keeping of any stored materials.
2. The Contractor may use approximate open areas of the site for storage of materials at his own risk. The County must approve of storage areas.
3. The Contractor may not use any existing part of any existing Webb County building for storage of materials unless approved in writing to do so by the County Representative.
4. Remote - The Contractor may use a location "on" or "off" the job site for storage of materials. However, if he intends to submit requests for payment for stored materials, then Webb County, at its discretion, may pay for actual cost of material stored (less stipulated retainage) under the following conditions:
  - a. The Contractor shall apply for and receive advanced written approval from the County Representative.
  - b. The intended location must be judged suitable and secure by the County Representative and the materials shall be fully insured.
  - c. The Contractor shall pay all costs related to the storage including loading, unloading, transportation, warehouse rent, and insurance.
  - d. The quantity and quality of material shall be inspected by the County representative, to ascertain compliance with the Contract Documents, paid invoices and materials list.

Section 2.03 Hours of Work.

1. The building/site will be occupied by Webb County during the course of the project.
2. The County Representative shall establish time/hours that work shall be executed as best to suit the facility function and/or activity.
3. If it becomes necessary to work on weekends, holidays, and after the hours established by

the County Representative, a written request to work shall be submitted for approval to the County, twenty-four (24) hours prior to performing the work. Access to the site during these hours shall be coordinated through the County Representative.

4. Work shall be performed so as to not interfere with normal activities occurring outside the work area.
  - a. Building Projects - If inclement weather impacts any portion of the project such that the project completion date is delayed (regardless of whether work is being performed on any other scheduled portion of the project during that time), then that day shall be deemed an Inclement Weather Day or Rain Day.

#### Section 2.04 Work Commencement.

If requested by the County Representative, the Contractor shall notify the County Representative forty-eight (48) hours prior to starting or restarting work on the project.

#### Section 2.05 Cover-up Inspection

The Contractor shall notify the County Representative a minimum of forty-eight (48) hours prior to any cover-up inspection. Any work covered-up prior to inspection and sign off shall be considered non-conforming to contract requirements.

#### Section 2.06 Wage Scale Posting.

If requested by the County Representative, the Contractor shall post the wage scale at all times at the site of work in a prominent place where it can be easily seen by the workers.

#### Section 2.07 Pay Estimate Posting.

If requested by the County Representative, the Contractor shall post the most current processed monthly pay estimate for the project at the site of work in a prominent place where it can be easily seen by the subcontractors.

### Article III. CONTRACT ADMINISTRATION PROCEDURES

#### Section 3.01 Clarifications.

All clarifications required by the Contractor shall be requested in an expeditious manner from the County Representative in the written form of a Request for Information (RFI). No additional compensation to the Contractor will be allowed for delays resulting from late requests for clarifications. Responses to RFI's will not be binding on Webb County until confirmed in writing by the County Representative.

#### Section 3.02 Field Modifications.

No person shall have the authority to verbally alter the requirements of the contract documents. No field modifications will be binding on Webb County unless confirmed in writing from the County Representative, or documented, signed and dated by the Representative on the set of "Record Drawings" in the field office.

### Section 3.03 Changes in Contract:

All proposed costs for a change in contract must be supported by itemized accounting of material, equipment and labor in sufficient detail to allow value analysis by the County Representative. Webb County shall have up to ten (10) calendar days from date of receipt of written proposal for review and approval by the County Representative.

On changes involving both additions and deletions, percentages for overhead and profit will be allowed only on the net addition.

### Section 3.04 Separate Construction by Webb County.

Webb County may administer separate construction contract(s) on this project site simultaneously. Webb County may coordinate the separate contracts and the Contractor shall extend full cooperation towards successful execution of all separate contracts.

### Preservation and Restoration of Property.

Webb County reserves the right to repair damages to existing property made necessary through an act, omission or misconduct, or in consequence of the non-performance of the Work on the part of the Contractor, his employees or subcontractors, if the Contractor fails to respond to written demand for the repair within 24 hours of such notification; Repairs made by the County on the Contractor's behalf shall be reimbursed by the Contractor to the County or said costs of repairs may be deducted from amounts owed to the Contractor.

### Section 3.05 Substantial Completion.

Substantial Completion occurs when the project can be used for its intended purpose. Substantial completion occurs when all mechanical, and electrical systems and fixtures are operational. The County Representative shall issue a substantial completion certificate setting forth a time limit for remedying the punch list items, as determined by the County Representative. The substantial completion certificate effectively stops the contract time. Failure of the Contractor to complete punch list items within the time limit shall result in the assessment of liquidated damages being assessed against the contract in an amount equal to one half of the liquidated damages applicable to delays prior to substantial completion. Warranty periods and dates for the owner to assume responsibility for utilities, shall be the date of substantial completion.

### Section 3.06 Warranties.

I. All items having a manufacturer's warranty installed under this contract shall be installed by or under the directive of the manufacturer or his certified agent in order to conform with the manufacturer's warranty requirements. All work involving manufacturer's products shall be performed in accordance with manufacturer's recommendations in order to maintain all warranties.

Immediately prior to expiration of any applicable one (1) year standard warranty period, or any extended warranty such as roofing, the Contractor shall inspect the Work in the company of the County Representative. The County shall be given not less than fourteen (14) calendar days

notice prior to the anticipated date of warranty expiration. Where any portion of the Work has proven to be defective and requires replacement, repair or adjustment, the Contractor shall immediately provide materials and labor necessary to remedy such defective Work and shall prosecute such Work without delay until completed to the satisfaction of the County Representative, even though the date of completion of the corrective work may extend beyond the expiration date of the warranty period.

#### Section 3.07 Emergencies.

In emergencies affecting the safety or protection of persons, or the Work, or Property at the site, or adjacent thereto, the Contractor, without special instruction or authorization from the County or the County Representative, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the County Representative prompt written notice if the Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby.

#### Barricades, Warning Lights & Signs on All Projects.

Unless provided otherwise in the Contract Documents, the Contractor is Solely responsible for furnishing, erecting and maintaining, suitable barricades, warning signs, flares, barriers, cones, lights, flags, signals, flagmen and other traffic control devices as are or may be necessary to adequately protect the Work and shall warn, advise and safeguard the public over the entire project, including, but not limited to, sections of the project which the Contractor closes to traffic.

The Contractor's responsibility in this regard extends for the entire duration of the Work, from the start of construction until acceptance by the County. All barricades, signs and other types of devices necessary for traffic control and to protect the Work shall be in accordance with the "Texas Manual on Uniform Traffic Control Devices".

#### Section 3.08 Sanitary Provisions.

The Contractor shall provide and maintain in a neat, sanitary condition, such accommodations for the use of its employees as may be necessary to comply with the requirements of any Federal, State, County or City laws, ordinances or regulations.

#### Section 3.09 Safety & Health Standards.

The Contractor shall observe and comply with all safety and health standards and to all legislation and amendments enacted for the safety and health of Contractor's employees. Such safety and health standards shall apply to all Subcontractors, and the Contractor shall be responsible for initiating, maintaining, supervising and inspecting safety programs, safety systems and safety precautions, including, but not limited to, trench safety requirements, in connection with the Work.

#### Authority of County Representative:

The Work shall be done under the direct observation of the County Representative and to the Representative's satisfaction. The County Representative shall decide any and all questions

which may arise as to the quality or acceptability of materials furnished, work performed, and rate of progress of the Work, and shall decide all questions which may arise as to the interpretation of the Drawings and Specifications and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor. The County Representative's decisions under this provision shall be final and binding on both parties hereto.

#### Section 3.10 Contractor's Responsibility for Work.

Until the acceptance of the Work by the County Representative as evidenced in writing, the Work shall be under the charge and care of the Contractor. The Contractor shall take every necessary precaution against injury or damage to any part thereof by the action of the elements or from any cause, whether arising from the execution or non-execution of the Work. The Contractor shall rebuild, repair, restore and make good at the Contractor's own expense all injuries or damages to any portion of the Work before its completion and acceptance. The Contractor shall keep the premises free from accumulation of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work, the Contractor shall leave the site clean and ready for its use by the County.

#### Section 3.11 Preservation & Restoration of Property.

The Contractor shall be responsible for the preservation of the County's property adjacent to the project. When or where any direct or indirect damage is done to the County's, or adjacent, property by or on account of any act, omission, neglect or misconduct in the performance of the Work or in consequence of the nonperformance thereof on the part of the Contractor, the Contractor shall restore, at the Contractor's own expense, such property to a condition equal to that existing before such damage was done by repairing, rebuilding or otherwise restoring same, or the Contractor will make good such damage in an acceptable manner.

Protection against Claims of Subcontractors, Laborers, Material & Furnishers of Machinery. The Contractor shall indemnify and save the County harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, power tools and all supplies, including commissary, incurred in the furtherance of the performance of the Contract. When so desired by the County, the Contractor shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged or waived.

#### Section 3.12 Inspection.

Inspectors/County Representative shall be authorized to inspect all work in progress, all Work completed and all materials furnished. The Inspector/County Representative shall not be authorized to revoke, alter, enlarge, relax or release any requirements of these Specifications. If requested by the County Representative, the Contractor shall also furnish the County Representative a statement from the Subcontractor that the Subcontractor understands the Drawings and Specifications and is properly qualified to perform such Work. No Subcontract will in any way affect the terms of the Contract between the County and the Contractor or relieve the Contractor of any of its obligations thereunder.

The Inspector/County Representative shall at all times have access to all parts of the shop where

material under this Contract is being manufactured. Material that does not conform to the Specifications accepted through oversight or otherwise; may be rejected at any stage of the Work. The Contractor shall remove and rebuild at the Contractor's own expense any part of the project that has been improperly executed, even if it has been included in the monthly estimates. If the Contractor refuses or neglects to correct any defective work, it may be corrected by the County, at the Contractor's expense:

Whenever the Contractor is permitted or directed to do night work, or to vary the period during which the Work is carried on each day, the Contractor shall give the County Representative due notice so that inspections may be performed. Such Work shall be done without extra compensation. The Contractor will furnish the County Representative a schedule for this night work.

Should the County Representative require it, the Contractor shall at any time during the construction of Work, make openings for inspection through any part of said Work to such extent as the County Representative may direct, and the Contractor shall make the same good again to the satisfaction of the County Representative. Should the Work, from the opinion of the County Representative, be found to be faulty in any respect, the Contractor at the Contractor's expense shall replace all such faulty Work.

#### Section 3.13 Record Drawings.

The Contractor shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These Record documents, together with all approved Samples and a counterpart of all approved Shop Drawings, will be available to County Representative for reference. Upon completion of the Work, these Record documents, along with all Samples and Shop Drawings, must be delivered to the County Representative.

#### Section 3.14 Abandonment of Work.

If the Contractor fails to begin the work within the time specified; or fails to make deliveries on to provide sufficient workmen and equipment or sufficient materials to insure the prompt completion; or performs the Contract unsuitably; or neglects or refuses to remove materials or perform a new such Work as shall have been rejected as defective or unsuitable; or discontinues the prosecution of the Work; or becomes insolvent or is declared bankrupt; or commits any act of bankruptcy or insolvency; or allows any final judgment to stand against the Contractor unsatisfied for a period of forty-eight (48) hours or longer; or makes an assignment for the benefit of creditors; or fails to comply with any of the conditions of the Contract to such an extent that the Contract is forfeited or abandoned by the Contractor, or declared abandoned or suspended by the County; or if the Contractor for any other cause whatsoever shall not carry on the Work or perform the Contract in an acceptable manner, then and in that event, the Surety on the Contractor's Performance Bond shall have the right and privilege, within seven (7) calendar days after the date of notice of such action from the County, to assume control of the Contract and all Work thereunder and to sublet or complete the Work in strict conformity with the provisions of said Contract. Failure of the Surety to do so within said seven (7) calendar days will result in an immediate forfeiture of all right to thereafter assume control of the

Contract and the Work thereunder, in which event the County shall have the right to take the prosecution of the Work out of the hands of the Contractor and to appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and enter into an agreement for the completion of the Contract according to the terms and provisions thereof or use such other methods as in the County Representative's opinion may be required or desirable for the completion of the Contract in an acceptable manner. All costs and charges incurred by the County, together with the costs of completing the Work, shall be deducted from any money due or which may become due said Contractor. In the event the cost and expense so incurred by the County is less than the sum which would have been payable under the Contract if it had been completed by said Contractor, then the said Contractor and/or Surety shall be entitled to receive the difference. In the event such cost shall exceed the amount which would have been payable under the Contract, then the Contractor and Surety shall be liable and shall pay to the County the amount of said excess.

#### Section 3.15 Termination for Convenience of the County.

The County may terminate this Agreement at any time by notice in writing to the Contractor. Upon receipt of such notice, the Contractor shall stop all work. Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the work performed under this Agreement to the date of termination. The County shall then pay the Contractor that proportion of the contract price which the work actually performed under this Agreement bears to the total work called for under this Agreement, less such payments as have been previously made. The County suggests that the Contractor have a similar termination provision in all its contracts inasmuch as the County will not compensate the Contractor for loss of profits or any other damage resulting from such termination.

#### Section 3.16 Guarantee.

The Contractor agrees to replace, without cost to the County, any Work found to be improper or defective and to make good all damage or other Work caused by such replacement. The guarantee period for the Work is one year from substantial completion of the project. Additional guarantees for specific items may also be required by the Specifications. The guarantees must be presented to, and approved by, the County Representative before project acceptance and Final Payment is made.

The Contractor will supply the County with copies of all guarantees and warranties, which have been made to the Contractor by suppliers or Subcontractors, with an assignment of these guarantees and warranties to the County. Assignments will not relieve the Contractor of the Contractor's responsibility in the case of a supplier's or Subcontractor's failure to fulfill guarantee or warranty provisions. If the Contractor is prevented for any reason from making any such assignment to the County, the Contractor hereby gives the County permission to enforce any and all non-assignable guarantees and warranties in the Contractor's name, and the Contractor shall pass on to the County any benefits derived therein.

Neither final completion of the project, nor any provision in the Contract Documents relieves the Contractor of responsibility for faulty materials or workmanship during guarantee periods.



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

Date: Friday, September 2, 2022  
 Company: Webb County  
 Attention: Joe Lopez  
 Quote Number: 090222-001 VA  
 Reference: Quad City Diesel Option Two Generators 2 ATS

Thank you for considering WPI for your Power Generation needs. We are pleased to offer the following bill of material based on your recent request and the above referenced project.

<b>Generac Diesel Generators, Generac TX Series Automatic Transfer Switches, Installation, Freight, &amp; Start-up</b>	<b>\$156,112.00</b>
--	---------------------

Quantity 1 - Generac Industrial diesel engine-driven generator set with turbocharged 4-cylinder 4.5L engine, consisting of the following features and accessories:

- Stationary Emergency-Standby rated
- 50 kW Rating, wired for 120/240 VAC single phase, 60 Hz
- Permanent Magnet Excitation
- UL2200
- EPA Certified
- Level 1 Acoustic Enclosure, Steel
  - Industrial Grey Baked-On Powder Coat Finish
- 36" 211 Gallon Double-Wall UL142 Basetank
  - Mechanical fuel level indicator gauge
  - Electronic fuel level sender
- Power Zone 410 Digital Control Panel for Single Generators
  - NFPA 110 Capable
  - Temp Range -40 to 70 degrees C
  - UL6200
  - C-ETL-US
  - CE
  - 128 X 64 Graphical Display with Heater
    - Auto/Manual/Off modes
    - Optional Emergency Stop, key switch (Auto/Off/Manual) and audible alarm horn within a single add on module
    - RS-485, RS-232 and CANbus ports
    - Sensors: Oil Pressure, optional Oil Temp, Coolant Temp, Fuel Level/Pressure (where applicable), Engine Speed, DC Battery Voltage, Run-time Hours, Generator Voltages, Amps, Frequency, Power, Power Factor





## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- Alarm Status: Low or High AC Voltage, Low or High Battery Voltage, Low or High Frequency, Pre-low or Low Oil Pressure, Pre-high or High Oil Temp (optional), Low Water Level and Temp, High, Low, and Critical-low Fuel Level/Pressure (where applicable), Overload, Overcrank, Over and Under Speed, Unit Not in Automatic
- Optional Programmable I/O module
- Engine function monitoring and control:
  - Full range standby operation; programmable auto crank, Emergency Stop (optional), Auto-Off-Manual
  - 3 Phase RMS Voltage Sensing
    - +/-0.5% digital voltage regulation with: soft-start voltage ramping - adjustable, loss of sensing protection - adjustable, negative power limit - adjustable, Hi/Lo voltage limit - adjustable, V/F slope and gain - adjustable, fault protection
  - Service reminders, fault history (alarm log)
  - I2T function for full generator protection
  - Selectable low-speed exercise
  - 2 and 3-wire start controls for any 2 or 3-wire transfer switch
- Standard MLCB, 80% rated thermal-magnetic
  - 250 Amp
- 21 Light Remote Annunciator
- Remote Emergency Stop Switch, Surface-Mount, shipped loose
- Battery Charger, 10 Amp, NFPA 110 compliant, installed
- 110 AH, 925 CCA Group 31 Battery, with rack, installed
- Coolant Heater, 1500W, 120VAC
- 120v GFCI and 240V Outlet
- 8 Position Load Center
- Alternator Strip Heater
- Flush Mount Annunciator Kit
- 3 Owner's Manuals
- Standard 2-Year Limited Warranty
- SD0050AG174.5D18DPSY3

### Quantity 1 - TRANSFER SWITCH - TX SERIES

- 200 Amp, 2 pole, 120/240 VAC single phase, 60 Hz, with 2-Wire Start Circuit
  - Utility Voltage Sensing Controls:
    - Adjustable Drop-out and Pick-up
    - Adjustable Utility Interrupt Delay



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- Adjustable Logic Controls:
  - Minimum Standby Voltage
  - Minimum Standby Frequency
  - Engine Warmup
  - Return to Utility
  - Engine Cooldown
  - Transfer on Exercise
- 3 Owner's Manuals
- Double Set of Form C Aux Cont
- IBC Seismic Certified
- Enclosure Heater
- CSA - C22.2 No.178
- UL Listed 1008 by ETL
- Controller Cover, Padlockable, Black
- NEMA 3R Enclosure
- Non Service Entrance Rated
- In Phase Only Transfer
- Standard two year basic warranty
- TX611NN0200A2CH

Quantity 1- Installation

### JP/Constable Office Scope of Work:

1. Install (1) WPI provided Generac 50kW 120/240v 1p Diesel Generator.
2. Install (1) WPI provided Generac 200A 120/240v 1p N3R NSER Transfer Switch
3. Furnish and Install underground conduits from generator to ATS.
4. Furnish and Install copper feeders from generator to ATS.
5. Furnish and Install copper feeders from utility meter base to ATS.
6. Furnish and Install low voltage conductors for battery charger and block heater circuits.
7. Furnish and Install control circuit between generator and ATS.
8. Provide 6 inch pour in place concrete pad for generator in accordance with manufacturer specifications.
9. Provide plumbing from LP tank to generator within 25'
10. Provide crane service to offload and set equipment at jobsite.
11. Make all final terminations and connections for an operational system.



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

Quantity 1 - Generac Industrial diesel engine-driven generator set with turbocharged/aftercooled 4-cylinder 2.2L engine, consisting of the following features and accessories:

- Stationary Emergency-Standby rated
- 25 kW Rating, wired for 120/240 VAC single phase, 60 Hz
- Permanent Magnet Excitation
- Level 1 Acoustic Enclosure, Steel
  - Industrial Grey Baked-On Powder Coat Finish
- UL2200
- EPA Certified
- H-100 Control Panel
  - Meets NFPA 99 and 110 requirements
  - Temp Range -40 to 70 degrees C
  - Digital Microprocessor:
    - Two 4-line x 20 displays, full system status
    - 3 Phase sensing, +/-0.25% digital voltage regulation
    - RS232, RS485 and Canbus remote ports
    - Waterproof connections
    - All engine sensors are 4-20ma for minimal interference
    - Programmable I/O
    - Built-in PLC for special applications
  - Engine function monitoring and control:
    - Full range standby operation; programmable auto crank, Emergency Stop, Auto-Off-Manual switch
    - Isochronous Governor, +/-0.25% frequency regulation
    - Full system status on all AC output and engine function parameters
    - Service reminders, trending, fault history (alarm log)
    - I2T function for full generator protection
    - Selectable low-speed exercise
  - 2-wire start controls for any 2-wire transfer switch
- 21-Light Remote Annunciator, Surface Mount
- Remote Emergency Stop Switch, Surface-Mount, shipped loose
- 90 AH, 700 CCA Group 27F Battery, with rack, installed
- Standard MLCB, 80% rated thermal-magnetic
  - 125 Amp
- Air Filter Restriction Indicator
- Battery Charger, 10 Amp, NFPA 110 compliant, installed
- Coolant Heater, 1500W, 120VAC
- 24" 132 Gallon Double-Wall UL142 Basetank



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- Mechanical fuel level indicator gauge
- Electronic fuel level sender
- 3 Owner's Manuals
- 120V GFI Receptacle and 240V Receptacle
- 8-Position Load Panel, Genset Mounted
- Alternator Strip Heaters
- Flush Mount Kit for Remote Annunciator
- Standard 2-Year Limited Warranty
- SD0025AG222.2D18HPSY3

### Quantity 1 - TRANSFER SWITCH - TX SERIES

- 100 Amp, 2 pole, 120/240 VAC single phase, 60 Hz, with 2-Wire Start Circuit
  - Utility Voltage Sensing Controls:
    - Adjustable Drop-out and Pick-up
    - Adjustable Utility Interrupt Delay
  - Adjustable Logic Controls:
    - Minimum Standby Voltage
    - Minimum Standby Frequency
    - Engine Warmup
    - Return to Utility
    - Engine Cooldown
    - Transfer on Exercise
- 3 Owner's Manuals
- Double Set of Form C Aux Cont
- IBC Seismic Certified
- Enclosure Heater
- CSA - C22.2 No.178
- UL Listed 1008 by ETL
- Controller Cover, Padlockable, Black
- NEMA 3R Enclosure
- Non Service Entrance Rated
- In Phase Only Transfer
- Standard two year basic warranty
- TX611NN0100A2CH

### Quantity 1 – Installation

#### Fire Station Scope of Work:

1. Install (1) WPI provided Generac 25kW 120/240v 1p Diesel generator.



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

2. Install (1) WPI provided Generac 100A 120/240v 1p N3R NSER Transfer Switch
3. Furnish and Install underground conduits from generator to ATS.
4. Furnish and Install copper feeders from generator to ATS.
5. Furnish and Install copper feeders from utility meter base to ATS.
6. Furnish and Install low voltage conductors for battery charger and block heater circuits.
7. Furnish and Install control circuit between generator and ATS.
8. Provide 6 inch pour in place concrete pad for generator in accordance with manufacturer specifications.
9. Provide crane service to offload and set equipment at jobsite.
10. Make all final terminations and connections for an operational system.

### Installation Specific Clarifications:

- Assumes work is to be completed during normal business hours 8AM – 5PM
- Customer is responsible for providing diesel fuel above 80% for start up
- Does not include Utility Co. charges and fees
- Does include applicable Permit fees
- Does not include repair or replacement of any existing code violations
- Does not include third party testing
- Does not include underground obstructions, rock, utilities and hazardous or contaminated materials
- Does not include over-excavation, compaction, or replacement of unsatisfactory sub-grade soils
- Does not include Startup and commissioning
- Quotation is limited to the quantity and description listed above
- Due to the volatility of the copper commodity markets, pricing is Valid for 30 days from the date to this quotation. Copper pricing is based on the LME spot price as of the date of the quotation. Commitments received after the expiration of 30 days shall be revised up or down based on the LME Spot price.
- In accordance with acceptable state laws, we may impose a surcharge on credit cards that is not greater than our cost of acceptance

Quantity 1 – WPI Standard Startup & Warranty Registration

FOB Shipping Point – Bruni, TX

### Project Specific Clarifications:

- Quotation based on email communication only.
- Payment and performance bond included.



# Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

### Standard Clarifications:

- All gas train accessories by others.
- Any Factory witness test expenses by others.
- Offering manufacturers standard materials of construction.
- Offering manufacturers' standard field testing, Startup & Warranty Registration unless specifically noted above only.
- Quotation is limited to the quantity and description listed above.
- External plumbing & required Primary Gas Pressure Reducing Regulator by others. Recommended gas supply guidelines available at [www.energy.wpi.com](http://www.energy.wpi.com)
- Sales Tax is NOT Included.
- All Fuel to be provided by others.
- Startup/commissioning must be done within 1 year of factory shipment.
- Responsibility of freight claims to be done by others.
- Jobsite Offloading/Setting is to be done by others.
- Installation & External Wiring is to be done by others.
- Assumes that all work will be done during Normal Business Hours (M-F 8-5)
- Manufacturers' standard literature available upon request.
- This quotation is subject to WPI Terms & Conditions.
- Quotation is valid for 30 days.

**Current estimated lead time is 20 to 26 weeks from release to order by WPI Credit department. All lead times are updated periodically and are subject to change.**

**Taxable customers are subject to 1.5% Diesel Surcharge Tax on diesel units 50 HP and up.**

Best Regards,

Virgilio E. Aniceto  
 New Unit Sales - Power Generation  
**Waukesha-Pearce Industries**  
 Mobile: 956-272-2784  
 Email: [virgilio.aniceto@wpi.com](mailto:virgilio.aniceto@wpi.com)  
[www.wpi.com](http://www.wpi.com)

Accepted:

\_\_\_\_\_

Print Name

\_\_\_\_\_

Signature

EXHIBIT "B"



## Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

Please contact your representative to learn more about our Optional Remote Monitoring Systems, Paralleling, Turnkey Services, Preventative Maintenance Agreements, Fuel Maintenance Services, Annual Load Testing, Multi-Purpose Docking Stations and other Power Generation Needs.

## EXHIBIT "B"

### Waukesha-Pearce Industries, Inc. (WPI) Standard Terms and Conditions of Sale

#### 1. Acceptance

All quotations offered by WPI are subject to acceptance within thirty (30) days from the quoted date.

#### 2. Payment Terms

Subject to WPI Credit Department approval, WPI's payment terms are Net-30 Days from date of invoice. WPI does NOT allow for the buyer to withhold "Retainage" from final payment. In the event that WPI requires progress payments the following milestone achievements are:

- 50% upon submittal approval and release of order to the factory
- 50% upon completion of equipment, shipment from the factory and installation at customer site by WPI

#### 3. Cancellation or Termination

The Buyer, only upon payment of reasonable cancellation charges related to expenses already incurred and/or commitments made by WPI, may cancel any order placed with WPI. Cancellation charges for Generac Power Systems equipment purchases are subject to the following charges:

- 8+ weeks prior to ship date ..... 25%
- 6-8 weeks prior to ship date ..... 40%
- 4-6 weeks prior to ship date ..... 50%
- 2-4 weeks prior to ship date ..... 75%
- At scheduled ship date ..... 100%

Product purchased with special engineering requirements or discontinued engines are subject to 100% cancellation charge.

#### 4. Change Orders

No alterations in specifications, either for total quantity, delivery, mechanical, electrical or other details may be made without written consent of WPI and readjustment of price and estimated delivery. Change order requests are subject to the following fees and based on factory shipping windows:

- 4-6 weeks prior to ship date ..... 4%
- 2-3 weeks prior to ship date ..... 6%
- Less than 2 weeks ..... No Changes Accepted

Depending on the nature and timing of the changes requested, it may be necessary to reschedule production to a later date.

#### 5. Taxes

Buyer is a body corporate politic under the laws of the State of Texas and claims exemption from sales and use taxes, including diesel surcharges under Texas Tax Code Ann. §151.309, as amended, and the equipment are being secured by Buyer. Exemption Certificates will be provided to WPI upon request.

#### 6. Shipping Dates

Any shipment date provided in the quote is approximate and is estimated based on the advised lead-times provided by the manufacturer(s) of the equipment quoted. Upon receipt of a Purchase Order from Buyer, along with complete specifications and drawings approval, if required, and after receipt of WPI's Purchase Order to the manufacturer the estimated delivery will again be advised by the manufacturer to WPI and WPI will update Buyer on the new estimated delivery. WPI shall not be liable for any loss or damage for delay or non-delivery due to the acts of civil or military authority, acts of the Buyer or by reason of Force Majeure, which shall be deemed to mean all other causes whatsoever not reasonably within the control of WPI, including, but not limited to Acts of God, war, riots or insurrection, blockades, embargoes, sabotage, epidemics, fires, strikes, lockouts or other industrial disturbances, delays of carriers, the inability to secure materials, labor shortages or manufacturing delays. Any delay resulting from any such cause shall extend shipping dates correspondingly. WPI shall in no event be liable for any special, direct or indirect or consequential damages arising from delay(s) irrespective of the reason.

#### 7. Shipping and Delivery Acceptance

It is the responsibility of the buyer or the buyer's representative to inspect all equipment at time of delivery for visible or concealed freight damage. Apparent and concealed damage must be noted on the driver's delivery ticket and subsequent freight claims must be completed and filed directly with the drayage company by the Buyer. In most cases, buyer has up to 30 days to file freight claims when damage is noted with the freight carrier at time of delivery. In most cases, buyer has up to 5 days to file freight claims on damage found after equipment is delivered but not noted at time of delivery. WPI is NOT responsible for damages incurred to equipment during shipment nor is responsible for filing freight claims on damaged equipment incurred in shipment.

#### 8. Equipment Storage

It is hereby understood and agreed that the customer will accept delivery of all purchased equipment within 30 days of fabrication completion. WPI may, at the customer's written request, store or stage all or part of, the customer's purchased equipment at one of our strategic facilities provided the customer submits an acceptable "Bill & Hold" letter to WPI Inventory Control Department. Buyer hereby agrees to pay WPI in full for all stored equipment within the terms of the contract (Net 30) otherwise the order will subject to incur storage fees of 3% of the contracted sales price per month.



## EXHIBIT "B"

*Waukesha-Pearce Industries, Inc. (WPI)  
Standard Terms and Conditions of Sale*

### 9. Indemnity

Intentionally Deleted.

### 10. Consequential Damages and Other Charges

WPI will not be responsible or liable for any special, direct, indirect or consequential damages or for any operational interruptions or delays, production loss, or other damages or claims of whatever kind caused by or arising out of the fabrication, manufacture, sale, delivery, installation, use, breakage or performance of equipment sold or any part thereof, except only to the extent and in the manner set out in Item 12 below having to do with warranty.

### 11. Performance Guarantee

Performance is subject to manufacturer's guarantees for horsepower and capacities and is subject to de-rating for actual site conditions.

### 12. Comments and Exceptions

When Buyer's specifications are attached to or referenced in an invitation to quote, WPI makes a thorough and sincere effort to review these and provide a quote based on WPI's interpretation of the Buyer's specification. WPI's quote will clearly state what is included and what our interpretation is of Buyer's requirements. It is the Buyer's responsibility to review WPI's quote carefully and advise WPI of any discrepancies between Buyer's specification and WPI's quote. WPI's quote constitutes WPI's total offer and only those items; procedures, scope and content clearly stated in the quote are included and WPI makes no guarantee that the products quoted will meet the Buyer's specifications.

### 13. Warranty

WPI warrants that the equipment of its own fabrication shall be free from defects in design, material, workmanship and title, under normal use, service, and operating conditions, for the period of one (1) year from date of start-up or commissioning or eighteen (18) months from date of shipment. WPI's exclusive remedy for breach of this warranty shall be repair or replacement of any defective parts packaged by WPI, F.O.B. Houston, Texas. Accessories or equipment furnished by WPI, but manufactured by others, shall carry that manufacturer's warranty, which will be passed-on to Buyer. WPI shall not be liable for any repairs, replacements, or adjustments to the equipment or any costs of labor performed by the Buyer or others without WPI's prior written approval. WPI will serve the Buyer by acting as Buyer's representative in regard to warranty claims for items not manufactured by WPI. However, warranty in all cases is limited to the manufacturer's warranty. Any part(s) found to be defective will be replaced at no charge, subject to each manufacturer's respective warranty policy, which WPI will administer. Any part(s) replaced that are not subsequently found to be defective by the manufacturer will be charged to the Buyer. Warranty labor for replacement or repair is on site only. Buyer is responsible for travel time, transportation and expenses to and from the closest WPI location, to the location of the subjected equipment. Should WPI travel to the location and find that the cause is not warrantable, all expenses incurred by WPI, to include travel and labor, will be billed to the Buyer at WPI's posted rates. WPI will not be responsible for crane, barge, or special transportation charges associated with warranty repairs.

### 14. Literature

WPI will provide Buyer the manufacturer's standard literature. This includes Spec Sheets, Bill of Materials, Drawings, Operation and Maintenance Manuals and/or Factory Test Reports. WPI takes exception to all specification requirements & requests for non-standard factory literature.

### 15. Hours of Operation

This bid assumes all work will be done during normal business hours. Normal hours of operation for WPI are 8 am - 5 pm Monday-Friday. Any work performed outside of the normal operating hours will be billed at 1.5 times our current labor rate.

### 16. Start-Up

When factory start-up services and field testing are included as part of a quoted package it is understood that the equipment will be made available by the buyer for WPI to perform the factory services within six (6) months of shipment. Additional charges may be required for factory services performed beyond the six (6) month window. Customer has one year (365 days) from the initial ship date of a Generac generator to be started up/commissioned and filed online via GEN service. Registration will then activate the warranty start date. If the product is not started up/commissioned within the first year of the ship date, the warranty start date will revert back to the initial ship date. In addition, any product not started up in the first year must have the Long-Term Preservation and Storage Procedure performed and the form completed. Forms must be submitted BEFORE the first year after the initial ship date has expired.

## EXHIBIT "B"

### Waukesha-Pearce Industries, Inc. (WPI) Standard Terms and Conditions of Sale

#### 1. Acceptance

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- 6-8 weeks prior to ship date ..... 40%
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- 2-4 weeks prior to ship date ..... 75%
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Product purchased with special engineering requirements or discontinued engines are subject to 100% cancellation charge.

#### 4. Change Orders

No alterations in specifications, either for total quantity, delivery, mechanical, electrical or other details may be made without written consent of WPI and readjustment of price and estimated delivery. Change order requests are subject to the following fees and based on factory shipping windows:

- 4-6 weeks prior to ship date ..... 4%
- 2-3 weeks prior to ship date ..... 6%
- Less than 2 weeks ..... No Changes Accepted

Depending on the nature and timing of the changes requested, it may be necessary to reschedule production to a later date.

#### 5. Taxes

Buyer is a body corporate politic under the laws of the State of Texas and claims exemption from sales and use taxes, including diesel surcharges under Texas Tax Code Ann. §151.309, as amended, and the equipment are being secured by Buyer. Exemption Certificates will be provided to WPI upon request.

#### 6. Shipping Dates

Any shipment date provided in the quote is approximate and is estimated based on the advised lead-times provided by the manufacturer(s) of the equipment quoted. Upon receipt of a Purchase Order from Buyer, along with complete specifications and drawings approval, if required, and after receipt of WPI's Purchase Order to the manufacturer the estimated delivery will again be advised by the manufacturer to WPI and WPI will update Buyer on the new estimated delivery. WPI shall not be liable for any loss or damage for delay or non-delivery due to the acts of civil or military authority, acts of the Buyer or by reason of Force Majeure, which shall be deemed to mean all other causes whatsoever not reasonably within the control of WPI, including, but not limited to Acts of God, war, riots or insurrection, blockades, embargoes, sabotage, epidemics, fires, strikes, lockouts or other industrial disturbances, delays of carriers, the inability to secure materials, labor shortages or manufacturing delays. Any delay resulting from any such cause shall extend shipping dates correspondingly. WPI shall in no event be liable for any special, direct or indirect or consequential damages arising from delay(s) irrespective of the reason.

#### 7. Shipping and Delivery Acceptance

It is the responsibility of the buyer or the buyer's representative to inspect all equipment at time of delivery for visible or concealed freight damage. Apparent and concealed damage must be noted on the driver's delivery ticket and subsequent freight claims must be completed and filed directly with the drayage company by the Buyer. In most cases, buyer has up to 30 days to file freight claims when damage is noted with the freight carrier at time of delivery. In most cases, buyer has up to 5 days to file freight claims on damage found after equipment is delivered but not noted at time of delivery. WPI is NOT responsible for damages incurred to equipment during shipment nor is responsible for filing freight claims on damaged equipment incurred in shipment.

#### 8. Equipment Storage

It is hereby understood and agreed that the customer will accept delivery of all purchased equipment within 30 days of fabrication completion. WPI may, at the customers written request, store or stage all or part of, the customers purchased equipment at one of our strategic facilities provided the customer submits an acceptable "Bill & Hold" letter to WPI Inventory Control Department. Buyer hereby agrees to pay WPI in full for all stored equipment within the terms of the contract (Net 30) otherwise the order will subject to incur storage fees of 3% of the contracted sales price per month.

## EXHIBIT "B"

Waukesha-Pearce Industries, Inc. (WPI)  
Standard Terms and Conditions of Sale

### 9. Indemnity

Intentionally Deleted.

### 10. Consequential Damages and Other Charges

WPI will not be responsible or liable for any special, direct, indirect or consequential damages or for any operational interruptions or delays, production loss, or other damages or claims of whatever kind caused by or arising out of the fabrication, manufacture, sale, delivery, installation, use, breakage or performance of equipment sold or any part thereof, except only to the extent and in the manner set out in Item 12 below having to do with warranty.

### 11. Performance Guarantee

Performance is subject to manufacturer's guarantees for horsepower and capacities and is subject to de-rating for actual site conditions.

### 12. Comments and Exceptions

When Buyer's specifications are attached to or referenced in an invitation to quote, WPI makes a thorough and sincere effort to review these and provide a quote based on WPI's interpretation of the Buyer's specification. WPI's quote will clearly state what is included and what our interpretation is of Buyer's requirements. It is the Buyer's responsibility to review WPI's quote carefully and advise WPI of any discrepancies between Buyer's specification and WPI's quote. WPI's quote constitutes WPI's total offer and only those items; procedures, scope and content clearly stated in the quote are included and WPI makes no guarantee that the products quoted will meet the Buyer's specifications.

### 13. Warranty

WPI warrants that the equipment of its own fabrication shall be free from defects in design, material, workmanship and title, under normal use, service, and operating conditions, for the period of one (1) year from date of start-up or commissioning or eighteen (18) months from date of shipment. WPI's exclusive remedy for breach of this warranty shall be repair or replacement of any defective parts packaged by WPI, F.O.B. Houston, Texas. Accessories or equipment furnished by WPI, but manufactured by others, shall carry that manufacturer's warranty, which will be passed-on to Buyer. WPI shall not be liable for any repairs, replacements, or adjustments to the equipment or any costs of labor performed by the Buyer or others without WPI's prior written approval. WPI will serve the Buyer by acting as Buyer's representative in regard to warranty claims for items not manufactured by WPI. However, warranty in all cases is limited to the manufacturers' warranty. Any part(s) found to be defective will be replaced at no charge subject to each manufacturer's respective warranty policy, which WPI will administer. Any part(s) replaced that are not subsequently found to be defective by the manufacturer will be charged to the Buyer. Warranty labor for replacement or repair is on site only. Buyer is responsible for travel time, transportation and expenses to and from the closest WPI location, to the location of the subjected equipment. Should WPI travel to the location and find that the cause is not warrantable, all expenses incurred by WPI, to include travel and labor, will be billed to the Buyer at WPI's posted rates. WPI will not be responsible for crane, barge, or special transportation charges associated with warranty repairs.

### 14. Literature

WPI will provide Buyer the manufacturers standard literature. This includes Spec Sheets, Bill of Materials, Drawings, Operation and Maintenance Manuals and/or Factory Test Reports. WPI takes exception to all specification requirements & requests for non-standard factory literature.

### 15. Hours of Operation

This bid assumes all work will be done during normal business hours. Normal hours of operation for WPI are 8 am - 5 pm Monday-Friday. Any work performed outside of the normal operating hours will be billed at 1.5 times our current labor rate.

### 16. Start-Up

When factory start-up services and field testing are included as part of a quoted package it is understood that the equipment will be made available by the buyer for WPI to perform the factory services within six (6) months of shipment. Additional charges may be required for factory services performed beyond the six (6) month window. Customer has one year (365 days) from the initial ship date of a Generac generator to be started up/commissioned and filed online via GEN service. Registration will then activate the warranty start date. If the product is not started up/commissioned within the first year of the ship date, the warranty start date will revert back to the initial ship date. In addition, any product not started up in the first year must have the Long-Term Preservation and Storage Procedure performed and the form completed. Forms must be submitted BEFORE the first year after the initial ship date has expired.