





# Proposal

Trane  
A Division of American Standard Inc.

**Prepared For: Garry Grosen**  
M.Contractors: Trotter & Morton Fac Services

**Date:** May 31, 2005  
**Proposal Number:** Q2-25487-4

**Job Name:**  
Machine Labs RTU Replacements  
8040 Bond  
Lenexa, KS 66214

**Engineer: NONE**

**Delivery Terms:**  
Freight Allowed and Prepaid - F.O.B. Factory

**Payment Terms:**  
Net 30 Days

Trane is pleased to provide the enclosed proposal for your review and approval.

### Tag Data - Packaged Cooling Rooftop Units (Qty: 4)

Item	Tag(s)	Qty	Description	Model Number
A1	No Tag	4	25 Ton Packaged Unitary Cooling R	TCH300B400

### Product Data - Packaged Cooling Rooftop Units

**Item: A1 Qty: 4**

- Horizontal airflow
- 25 ton Nominal Cooling Capacity
- 460 Volt 60 Hertz 3 Phase
- 0-100% Economizer, dry bulb control (Fld)
- Dual Setpoint Manual or Auto Changeover Sensor (Fld)
- Flat Roofcurb (Fld)

**NOT INCLUDING:**

- Hail Guards
- Convenience Outlets
- Disconnect

Total Net Price (Excluding Sales Tax) .....\$ 32,074.00

**Trane is pleased to offer you an opportunity to maximize the value of your purchase by offering you savings with the Anticipation Discount Program (ADP). Contact your Trane representative for more details or an ADP discount calculation.**

Sincerely,  
**Ellen Edwards - Trane**  
8014 Flint St.  
Lenexa, KS 66214-3334  
Phone: (913)599-4664  
Fax: (913)599-4669

**Trane Standard New Equipment Terms and Conditions**

**Acceptance and Prices** – These terms and conditions are an integral part of Trane, a division of American Standard, Inc. ("Seller")'s firm offer and form the basis of any agreement resulting from Seller's proposal. The proposal is subject to acceptance within thirty days from its date, and after that the prices are subject to change without notice prior to acceptance by the party to whom this offer is made, or its authorized agent ("Buyer"). Following acceptance without addition of any other terms and conditions of sale or any other modification by Buyer, the prices stated are firm provided that notification of release for immediate production and shipment is received at Seller's factory not later than five months from order receipt. If such release is received later than five months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the five-month firm price period up to the date of receipt of such release. If such release is not received within eight months after the date of order receipt, at Seller's option, the order may be cancelled. Any delay in shipment caused by Buyer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay. In no event will prices be decreased.

Acceptance will have occurred if Buyer: signs Seller's proposal; issues written order pursuant to submission of proposal; or permits or accepts performance; or other commercially reasonable manner. If Buyer's order is an acceptance of Seller's proposal, Seller's return of such order with these terms and conditions attached serves as an acknowledgement and confirmation of receipt of order. If order is expressly conditioned upon Seller's acceptance or assent to terms other than those expressed herein, return of order by Seller with these terms and conditions attached serves as notice of objection to such terms and a counter-offer to provide equipment in accordance with scope and terms of the original proposal. If Buyer does not reject or object within ten days, counter-offer will be deemed accepted. If Buyer permits or accepts performance, such terms will be deemed accepted. In order for Seller's acknowledgement of order to be valid it must be made at the corporate level.

**Performance** - Seller shall be obligated to furnish only the goods described in Seller's proposal, and submittal data (if such data is issued in connection with this order), and Seller may rely on the acceptance of proposal and submittal data as acceptance of the suitability of the equipment for the particular project. Seller's duty to perform under any order and the price thereof is dependent upon Seller's corporate approval of the order and Seller shall not be responsible for delays in contract formation caused by inclusion of new or different terms by Buyer, or delays in credit approval due to delayed or incomplete credit information by Buyer. Seller's duty to perform is contingent upon strikes, accidents, delays in transit, fires, the inability to procure materials from the usual sources of supply, the requirements of the United States Government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the Government, or upon any other cause beyond the reasonable control of Seller. If the order is not approved at the corporate level, or upon occurrence of any of the foregoing events, Seller may elect to delay performance or to renegotiate with Buyer. If Seller and Buyer are unable to agree on revised prices or terms, the order may be canceled without any liability.

**Taxes** - To the prices and terms quoted, add any manufacturer's gross receipts, sales, or use tax, either Federal, State, or Local, payable on the transaction under any applicable statute, code, or regulation.

**Warranty and Liability** - Seller's warranty obligation is limited to the following: Seller warrants for a period of 12 months from initial start-up or 18 months from date of shipment, whichever is less, that products manufactured by Seller covered by Buyer's order (1) are free from defects in material and manufacture and (2) have the capacities and ratings set forth in Seller's catalogs and bulletins ("Warranty"). Exclusions from this Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Buyer's failure to follow the Seller-provided maintenance plan; modifications made by others to Seller's equipment. Seller shall not be obligated to pay for the cost of lost refrigerant. Seller's obligations and liabilities under this Warranty are limited to furnishing replacement equipment or parts, at its option, f.o.b. factory or warehouse at Seller-designated shipping point, freight-allowed to Seller's warranty agent's stock location, for all non-conforming Seller-manufactured products which have been returned by Buyer to Seller. Returns must have prior written approval by Seller and are subject to restocking charge where applicable. **SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING PREVENTION OF MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES.**

No liability whatever shall attach to Seller until products have been paid for and Seller's liability under this Warranty shall be limited to the purchase price of the equipment shown to be defective. This Warranty is voidable in the event of non-payment. Further warranty protection is available on an extra-cost basis. Any further warranty must be in writing and agreed to by an authorized signatory of the Seller.

**Warranty Disclaimer** - This warranty is given in lieu of all other warranties, express or implied, including IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE and/or others arising from course of dealing or trade.

**Indemnity.** Buyer and Seller shall mutually, in proportion to their respective degree of fault, indemnify, defend and hold each other harmless from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or agents. With respect to any claims based on facts or conditions that occurred prior to expiration or termination of this agreement the duty to indemnify will continue in full force and effect notwithstanding expiration or early termination.

**Insurance.** Seller agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Buyer, provide a Certificate of Insurance evidencing this coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

In the event Seller agrees to name Buyer or others as an additional insured, Seller will do so but only under its primary Commercial General Liability policies to the extent of the indemnity obligation assumed herein. In no event does Seller waive its right of subrogation.

**Liability Disclaimer** - In no event shall Seller be liable for any incidental, consequential, or punitive damages. This exclusion applies regardless of whether such damages are sought based on breach of warranty, breach of contract, negligence, strict liability in tort, or any other legal theory. Should Seller nevertheless be found liable for any damages they shall be limited to the purchase price of the equipment under the order. **SELLER DISCLAIMS ANY LIABILITY FOR DAMAGES OF ANY KIND ARISING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES.**

**Patent Indemnity** - The Seller shall protect and indemnify the Buyer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the articles or material delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Seller shall promptly be notified and given full opportunity to negotiate a settlement. Seller does not warrant against infringement by reason of Buyer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation Buyer agrees to reasonably cooperate with Seller. In connection with any proceeding under the provisions of this Article all parties concerned shall be entitled to be represented by counsel at their own expense.

**Shipment Dates** - Shipment dates are estimates only. No valid contract may be made to ship within or at a specified time unless in writing, signed by an authorized signatory of Seller. Shipments shall be f.o.b. factory or warehouse at named shipping point with title and risk of loss passing to Buyer upon delivery to the carrier.

**Cancellation** - If, following acceptance of proposal by Buyer, all or any portion of the resulting order is canceled by Buyer without default on the part of Seller or without Seller's written consent, Buyer shall be liable to Seller for cancellation charges including but not limited to Seller's incurred costs and such profit as would have been realized by Seller from the transaction had the agreement not been breached by Buyer.

**Payment** - Payment terms are 100% net 30 days of shipment unless otherwise expressly agreed to in writing by Seller. Seller reserves the right to add to any account outstanding for more than 30 days a service charge the lesser of 1-1/2% of the principal amount due at the end of each month, or the maximum allowable legal interest rate. Customer shall pay Trane \$25 for any check or other item returned unpaid to Trane. Buyer shall be liable to Seller for all collection expenses, including reasonable attorney's fees and court costs, incurred by Seller in attempting to collect any amounts due from Buyer. If requested, Seller will provide appropriate lien waivers upon receipt of payment. Seller reserves the right to suspend or terminate performance in the event of Buyer's non-payment.

**Returns** - Products may be returned only with permission of Seller and may be subject to discount.

**Applicable Law** - Any agreement resulting from Seller's proposal will be governed and construed according to Wisconsin law.

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