

1. **Warranty.** SOUTHLAND INDUSTRIES shall furnish to Customer all manufacturers' parts and equipment warranties received by SOUTHLAND INDUSTRIES. SOUTHLAND INDUSTRIES warrants materials only to the extent and for the time period said materials are warranted to SOUTHLAND INDUSTRIES by the manufacturer(s) of the same. SOUTHLAND INDUSTRIES' liability, if any, upon any warranty, either expressed or implied, shall be limited to replacement of defective materials and correction of faulty workmanship which is in violation of local, state, or federal building codes at the time of performance of the work by SOUTHLAND INDUSTRIES. SOUTHLAND INDUSTRIES warrants to Customer that all labor performed or provided shall be performed by licensed personnel, if required by applicable law, and will be performed in a good workman like manner. For a period of ninety (90) days from the date of the respective work, repair or installation performed by SOUTHLAND INDUSTRIES, SOUTHLAND INDUSTRIES agrees to repair, replace or otherwise make good to the satisfaction of Customer, any defects in workmanship that is adversely affecting the performance of the equipment installed by SOUTHLAND INDUSTRIES, if any. Repair or replacement of any such defects in a) parts or materials supplied by Southland; or b) defects in workmanship by Southland shall be Customer's sole remedy. No other warranty expressed or other liability is given and no other affirmation by SOUTHLAND INDUSTRIES, by word or action, shall constitute a warranty. This warranty is expressly in lieu of any other expressed or implied warranty including any implied warranty of merchantability of fitness, and any other obligation on the part of SOUTHLAND INDUSTRIES.
2. **Insurance.** So long as any of the Work remains to be completed, SOUTHLAND INDUSTRIES shall, at SOUTHLAND INDUSTRIES' sole cost and expense, carry and maintain in full force and effect, the following insurance coverages:
 - (A) Workers' compensation insurance coverage on all individuals employed upon or about the Property in accordance with applicable law;
 - B) General Liability insurance coverage with the limits maintained by SOUTHLAND INDUSTRIES at the time of this Proposal (which are: \$2M each occurrence; \$2M personal/advertising injury; \$4M General and Products/Completed Operations Aggregate; \$10,000 Medical Payments (any one person) with a \$10M Umbrella excess primary policies).
 - (C) SOUTHLAND INDUSTRIES and Customer mutually agree to a waiver by their respective insurer(s) of any and all rights to subrogation.
3. **General Limitations on Scope of Work.** Notwithstanding any other provision to the contrary in this Contract, including the incorporated Proposal, the Mechanical Service scope excludes:
 - (a) Maintenance or repair of Equipment cabinets;
 - (b) Ductwork and air distribution devices;
 - (c) Water supply or drain beyond the Equipment;
 - (d) Repair or replacement of heat exchangers in gas fired furnaces and duct heaters;
 - (e) Repair or replacement of metal tubes in condensers, chiller, boilers or any other heat exchanger;
 - (f) Moving or relocation of the subject equipment;
 - (g) Repairs due to freezing;
 - (h) Work made necessary by the enforcement of government codes, building and union regulations or as recommended by insurance companies;
 - (i) Damage of any kind due to corrosion, erosion, electrolytic actions, acts of God, power failure, vandalism, or any other cause whatsoever beyond the control of SOUTHLAND INDUSTRIES;
 - (j) Electrical components associated with the Equipment including: disconnect switches, fuses, circuit breakers, and electrical wiring not specifically identified within the scope of work;
 - (k) Water treatment;
 - (l) Piping systems of any nature; and
 - (m) the identification, removal, handling or disposal of asbestos or other hazardous substances.
4. **Hoisting/Rigging Operations.** Prior to the use of heavy commercial hoisting or rigging equipment that could potentially cause damage to the Property or injury, SOUTHLAND INDUSTRIES will notify Customer in writing and shall not proceed without Customer's prior written consent. While all precautions will be exercised to protect Customer's Property, SOUTHLAND INDUSTRIES will not accept any responsibility for damage to parking lots, driveways, or landscaping that may occur as a result of normal hoisting and rigging operations, except to the extent that the damage is caused by SOUTHLAND INDUSTRIES' gross negligence or willful misconduct.

5. **Work Hours.** Unless indicated otherwise, all pricing is based upon work being performed during regular working hours of 8:00 am to 5:00 pm, Monday through Friday, except holidays. If work is required at times other than normal working hours, Customer agrees to pay the SOUTHLAND INDUSTRIES' standard overtime charge rates.
6. **Payments.** Customer agrees to pay SOUTHLAND INDUSTRIES all sums due with respect to this Proposal in accordance with the terms specified. Payments are due upon receipt of invoice. In the event payment is not received by SOUTHLAND INDUSTRIES within thirty (30) days following billing, such payment shall be considered past due. Beginning with the thirty-first (31st) day following billing, such payment shall bear interest at the maximum rate allowable by law until payment is received. Customer agrees to pay to SOUTHLAND INDUSTRIES all costs of collection, including reasonable attorneys' fees, resulting from Customer's default in payment hereunder. SOUTHLAND INDUSTRIES reserves the right to stop all work until such balances are made current or cancel this Contract at any time, upon five (5) business days' written notice, if payments as called for herein are not made. In addition to the Contract fee detailed in this Proposal, Customer shall pay and be responsible for the gross amount of any present or future sales, use, excise, value-added, or other similar tax, however designated, applicable to the price, sale or delivery of any products, services or the work furnished hereunder or for their use by SOUTHLAND INDUSTRIES on behalf of the Customer whether such tax shall be local, state, or federal in nature. This includes, but is not limited to the recovery, recycling, reclamation, handling and disposal of all refrigerants and the additional costs incurred for refrigerant tax and/or increased costs due to shortages.
7. **Cancellation.** This Contract may be cancelled by either party upon thirty (30) day written notice. In the event of cancellation by the Customer, SOUTHLAND INDUSTRIES reserves the right to invoice and be paid for work performed thru cancellation date. SOUTHLAND INDUSTRIES reserves the right to adjust and or terminate this Contract in the event the systems and/or equipment covered hereunder are altered, modified, changed or moved, including but not limited to any direct changes in application or architectural modifications resulting in changes to the mechanical systems and/or equipment performance. If persons other than representatives of SOUTHLAND INDUSTRIES performs maintenance or repair of equipment covered under this agreement, and as a result further repair by SOUTHLAND INDUSTRIES is required, such repairs will be made and charges billed to the Customer at SOUTHLAND INDUSTRIES' applicable labor and material rates then in effect.
8. **No Liability from System Design or Existing Equipment Installation.** Unless SOUTHLAND INDUSTRIES was the engineer of record for the existing system design under a prior and separate construction/design-build contract or system design is expressly included within the scope of the Proposal (and, in either case, to the extent of that design), Customer acknowledges and stipulates that SOUTHLAND INDUSTRIES did not select, advise Customer regarding, engineer, design or install the system, equipment or any component part thereof to be maintained under this Contract. Accordingly, SOUTHLAND INDUSTRIES shall not be liable in any capacity, under any theory of recovery for any claims or damages related to or originating from prior or existing defects, deficiencies, injuries, or damage (whether to the system, equipment or Property) associated therewith or as a result of prior ineffective maintenance. SOUTHLAND INDUSTRIES agrees, however, to advise the Customer about the existence of such conditions upon discovery in accordance with the terms of the Contract.
9. **No Liability for Incidental Microbiological Growth/Mold.** Customer acknowledges that the Heating, Ventilation, and Air-Conditioning equipment and systems repaired or serviced as a part of this Contract may, under certain conditions, become conducive to or incidentally support microbiological growth. SOUTHLAND INDUSTRIES assumes no liability for nor warrants its work to protect against, eliminate or inhibit any type of incidental microbiological growth including, but not limited to, molds, fungi and other related matter, in or around duct systems, HVAC and related equipment or areas. SOUTHLAND INDUSTRIES agrees, however, to advise the Customer about the existence of such conditions upon discovery and to take measures to discourage such growth as required and in accordance with the terms of the Contract.
10. **Limitation of Damages for Breach of Contract.** The full extent of SOUTHLAND INDUSTRIES' liability in the aggregate and Customer's exclusive remedy for damages from any breach of this Contract, including, but not limited to, nonperformance or misrepresentation, and regardless of the form of action, shall be limited to the annual Contract fee of the current year.

11. **Mutual Waiver of Consequential and Punitive Damages.** Notwithstanding any other provision to the contrary, SOUTHLAND INDUSTRIES and Customer mutually waive all claims against each other for any and all consequential/special/indirect/incidental and, to the extent allowable by law, all punitive/exemplary damages arising out of or relating to this Contract. This mutual waiver includes, but is not limited to, damages incurred for rental expenses, loss of use, lost revenue or profit, lost opportunity, loss of goodwill, loss of management or employee productivity, cost of capital, and cost of substitute facilities, services or goods regardless of the foreseeability of such damages.
12. **Indemnity.** To the fullest extent permitted by law, to the PROPORTIONATE extent OF CUSTOMER'S AND SOUTHLAND INDUSTRIES' RESPECTIVE negligence and except as otherwise limited herein, CUSTOMER AND SOUTHLAND INDUSTRIES agree to indemnify, defend, and hold ONE ANOTHER AND THEIR RESPECTIVE officers, directors, agents, assigns, successors and employees HARMLESS against all claims and damages, losses and expenses (including, but not limited to, REASONABLE attorney's fees) resulting from the negligence or willful misconduct or breach of this Contract by the indemnifying party or its employees, contractors or agents. NOTWITHSTANDING THE FOREGOING PROVISION, THIS INDEMNITY IS SUBJECT TO THE LIMITATIONS OF LIABILITY IN SECTIONS 8-11 ABOVE.
13. **Hazardous Materials.** If SOUTHLAND INDUSTRIES encounters asbestos, polychlorinated biphenyl (PCB) or other hazardous materials on the Property, SOUTHLAND INDUSTRIES will immediately stop work and report in writing the evidence of such to Customer. SOUTHLAND INDUSTRIES will not resume work in the affected area until the hazardous material has been removed or determined harmless by a qualified laboratory at Customer's expense.
14. **Dispute Resolution and Governing Law.** This Contract shall be interpreted and construed according to the laws of the state where the Services are performed. SOUTHLAND INDUSTRIES and Customer agree to seek to avoid litigation as a resolution of any disputes. However, should either party commence legal action against the other, the prevailing party shall be entitled to recover from the other party all court costs, disbursements and reasonable attorneys' fees. Any disputes arising out of or related to this Contract will be resolved by agreement through a meeting of executive representatives of each party. If no resolution can be reached, the dispute will be resolved through binding arbitration before an arbitrator experienced in construction law and according to the rules promulgated by the American Arbitration Association. The parties agree that the arbitration will be commenced within sixty (60) days of occurrence of the meeting of executive representatives.
15. **Property Manager.** If Customer is a property manager or other legal agent or representative of the property owner, Customer represents and warrants that it has the express requisite authority to enter into all of the terms of this Contract including, without limitation, the authority to waive claims for and recovery of consequential (special/indirect/incidental) and punitive damages on behalf of the property owner as well as for itself.
16. **Entire Agreement.** This Contract constitutes the entire agreement and is not assignable by either party without the express written consent of the other party. This Contract may be modified or amended only by written agreement of both parties.
17. **Price Adjustments.** Notwithstanding anything herein to the contrary, SOUTHLAND INDUSTRIES shall be entitled to an equitable adjustment to the Contract Price for products, materials and equipment supplied hereunder to reflect any increase in SOUTHLAND INDUSTRIES' procurement costs that were unforeseen at the time this Proposal was submitted to the Customer, due changes in law or taxes, government action, or Trade Restrictions. "Trade Restrictions" is defined as any additional or new tariff/duty, quota, tariff-rate quota, or cost associated with the products, materials or equipment supplied by SOUTHLAND INDUSTRIES hereunder.