

## TERMS AND CONDITIONS OF CONTRACT

The service provider set forth on the cover page of this Agreement (“Company”, “We” or “Us”) and the person(s) or business(es) named in the Service Address Section on such cover page (“You” or “Customer”), agree to the following terms and conditions (such cover page is referred to as the “Cover Page, and these terms and conditions are referred to as these “Terms and Conditions”). If you are accepting these Terms and Conditions on behalf of a business entity, you represent and warrant that you have appropriate authority to accept these Terms and Conditions and the Cover Page on behalf of the business entity.

**IMPORTANT – PLEASE REVIEW THESE TERMS AND CONDITIONS CAREFULLY, AS THEY CONTAIN AN ARBITRATION AGREEMENT, A WAIVER OF CLASS ACTION AND JURY TRIAL, AND OTHER LIMITATIONS WHICH AFFECT YOUR LEGAL RIGHTS.**

1. Services and Payment. Customer hereby accepts the equipment and service described on the Cover Page and agrees to pay any fees, taxes, or other amounts set forth on the Cover Page, including amounts over any initial estimate listed on the Cover Page if reasonably necessary for completion of the services in Company’s judgment and agreed to by Customer. Payment in full is due from Customer promptly upon completion of the work in all cases. By accepting the service or making a payment for all or part of the service, Customer accepts the service pursuant to these Terms and Conditions and the provisions of the Cover Page to which these Terms and Conditions are attached. Notwithstanding the foregoing, non-residential customers who have a pre-approved credit application on file with the Company prior to the date a given job has commenced shall have thirty (30) days from receipt of the applicable invoice to pay the same in full. Any deviation from these payment terms, including, without limitation, any financing arranged through third parties, must be agreed in writing prior to the commencement of a given job and all associated and necessary documents must be fully executed and delivered to the applicable parties before the job has commenced. For any service to be performed on multiple service calls or over a specified term, including without limitation any service plan purchased by Customer (as described in Section 4(c) below), Company and Customer may mutually agree to payment by “Automatic Bank Account Debit” or “Automatic Credit Card Debit”, whereby Customer authorizes Company to automatically charge the amount designated on the Cover Page for those services, including for the designated yearly autorenewing service plan, from Customer’s bank or credit card account as follows:

- **Standalone Services:** If the charge is not associated with a service plan, that charge will occur promptly upon completion of the services.
- **Yearly Autorenewing Service Plans:** If the charge is for a yearly autorenewing service plan, the charges will begin one (1) month after the application is approved and, for service plans purchased with the lump sum option, will be automatically charged on an annual basis thereafter unless and until you cancel, and for service plans set up with monthly installments, will be automatically charged monthly thereafter unless and until you cancel. For both service plan arrangements, the service plan will automatically renew after twelve (12) months for another one-year term and again after each consecutive one-year renewal term unless and until you cancel.

To cancel such services, including a service plan, you must notify Company either by telephone, email, or in writing using the contact information listed on the Cover Page. As permitted by applicable law, and to the extent applicable, Company may change or increase the charges associated with a yearly autorenewing service plan by providing Customer with notice of such

changes, and those changes will be effective as of the next annual renewal period unless Customer cancels prior to the start of such renewal term. Cancellation of any service plan will entitle Customer to a pro-rata refund for the remainder of the then-current term or renewal term, calculated as of the end of the month in which Company receives notice of cancellation.

2. Complete Agreement. These Terms and Conditions, together with the Cover Page, any state-specific addenda noted below, and the terms of any service plan purchased by Customer, shall constitute the entire agreement of the parties (the "Contract") and shall not be modified except by written change order issued and signed by Customer and Company. No prior representations, inducements, promises, or agreements between the parties, whether oral or written, shall be of any force or effect whatsoever. No terms stated by Customer in accepting or acknowledging this offer or otherwise shall be binding except as expressly incorporated herein.
3. Scope of Work. All work will be completed in a workmanlike manner according to generally accepted industry practices. Materials and work in addition to that described herein will be furnished only on Customer's authorization and will be paid by Customer as a separate charge. The pricing that Company provided to Customer does not include any costs or expenses that may be incurred in relation to the removal or disposal of any lead, asbestos, microorganisms, or any other hazardous material(s). To the extent Customer requests Company to perform such removal or disposal services and Company agrees to perform the same, such services shall be provided at an additional charge to Customer.
4. Satisfaction Guarantee.
  - a. Warranty. If Customer is not satisfied at any time during the twelve (12) months following the date the services are completed by Company, Customer shall provide written notice addressed to the Company (as listed on the Cover Page hereof) providing reasonably sufficient detail to verify the particular concerns, and upon reasonable verification, Company will (i) for service concerns, promptly address issues regarding work performed by Company by re-performance of the applicable services to Customer's reasonable satisfaction, or refund the service fee actually paid by Customer and, (ii) for equipment concerns, remove the installed equipment and issue a refund of the purchase amount actually paid by Customer. In order to take advantage of the foregoing: (x) the entire HVAC system (the "System") must be maintained by Company's Authorized Service Technician; (y) all repairs recommended by Company are performed; and (z) the product(s) have been used solely for the purpose and under the conditions for which it was designed and has not been subjected to misuse, alteration, accident or abuse. The remedies provided in this paragraph for any concerns identified by the Customer are exclusive and are conditioned upon Customer providing notification of such concerns to Company as provided above. Such remedies are given by Company and accepted by Customer in lieu of any other remedies, warranties, and guarantees, express or implied, and in lieu of merchantability and warranty of fitness for a particular purpose. COMPANY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
  - b. Exclusions. The Company provides the limited remedies above for all Customers. Equipment or system failure due to lack of proper maintenance service or abuse is expressly excluded. Damage, failure or breakdown resulting from malfunctions or operations caused by internet connected management systems, electronic or computerized energy management or lighting and appliance management systems, smart devices, or smart

phone applications that can interface with a covered system or product is expressly excluded. Normal maintenance, filter replacements, and regular drain line maintenance are the sole responsibility of Customer. All warranties with respect to any equipment, parts, or materials used in connection with the services, expressed or implied, are the responsibility of the manufacturer of the equipment, parts, or materials.

- c. Service Plans. In addition to the warranty above, Customer may purchase an autorenewing service plan (such as Home Comfort Club) from Company, which will be listed on the Cover Page. The details of such service plan will be provided to Customer prior to purchase.
5. Customer's Obligations. Company's obligations are strictly conditioned on Customer providing the Company reasonable access to the property on which equipment is to be installed and the services are to be performed. Title to all provided equipment remains with Company until Customer pays in full all amounts due thereon, whether such equipment is affixed to the realty or not, and shall remain personal property and be deemed severable without injury to the freehold. On any payment default by Customer, or if in the Company's judgment, reasonably exercised, its equity appears to be imperiled, then, the Company may without further notice enter the premises and remove or resell the equipment, and Customer shall be liable for any deficiency or loss sustained by the Company in connection therewith.
6. Assumption of Risk. Once equipment is connected at Customer's property, Customer assumes all risk of loss or damage to such equipment and shall insure same fully to protect all interests of the Company, cost of insurance to be paid by Customer.
7. Delinquency. Upon failure to pay any sums due hereunder, Customer agrees to pay the Company interest at the rate of 1.5% per month simple interest (but not in excess of the maximum rate permitted under applicable law) for any overdue payment and to reimburse the Company for its reasonable attorneys' fees and other costs incurred in the collection of unpaid balances. Furthermore, failure to pay in full for any work shall allow the Company to cease work on this or any other work for Customer and to post notice at all work sites without liability. In the event of non-payment, the Company, without prior notice, may remove all workmen and stored material from the project site. No credit or offset by Customer shall be permitted when service or work is refused for non-payment. All work furnished, lost profit, and costs of handling shall be due immediately upon invoice by the Company without liability to replace any equipment. Company hereby notifies Customer that persons or companies furnishing labor or materials for the construction on Customer's land may have lien rights on Customer's land and buildings if not paid. Company's waiver of any breach by Customer of any of the provisions contained herein shall not constitute a waiver of any other breach of the same or any other provision. Company's rights and remedies under any provision contained herein shall be in addition to and not in substitution or limitation of any other rights and remedies available to Company under applicable law.
8. Force Majeure. The Company shall not be liable for any default or delay caused by any events beyond its reasonable control, including but not limited to an act of God, war, utility or communication failures, fire, flood, strikes or other labor stoppages, accidents, or epidemic, pandemic, or other public health emergency.
9. Customer's Failure to Schedule Services. With regard to preventative service calls, whether included within a service plan or purchased separately by Customer, when the Company is required to contact Customer to schedule such a service call, to the fullest extent permitted by applicable law, in the event Company cannot reach Customer after two (2) reasonable attempts

or is otherwise prevented by Customer from performing the service call after two (2) attempts to schedule or perform such service call, as applicable, then Customer agrees that Company shall have fulfilled its obligations as to such service call hereunder, Company shall retain all funds that Customer previously paid to Company for such service call, and Company shall be relieved of any further obligations to provide the service call.

10. Limitations. Notwithstanding anything to the contrary set forth herein, this Contract does not cover: (a) any maintenance plan and/or extended warranty plan governed by a separate agreement between Customer and a third party; (b) existing equipment, ductwork, electrical wiring, refrigerant lines, circuit breakers, service disconnects, or other materials not installed by the Company, unless expressly agreed in writing that for an additional annual fee to cover same; (c) any maintenance to equipment that has been altered or repaired by anyone other than an authorized service technician pursuant to this Contract, including any unauthorized alterations made by Customer or any agent of Customer; (d) damage or other equipment failure due to causes beyond Company's control including, but not limited to, repairs necessary due to operator negligence, Customer's failure to maintain the equipment according to the applicable owner's manual instructions, abuse, vandalism, theft, fire, flood, wind, freezing, power failure, inadequate power supply, moisture or other unusual atmospheric conditions, acts of war or acts of nature; (e) consumable items defined as any part that is considered consumable by the manufacturer; (f) damage or failure caused by animals or insects; (g) regular maintenance, maintenance parts such as filters, lubricants, or refrigerant gases, unless specifically included in the description of the applicable service provided by Company; (h) failure and replacement caused by contamination of the sealed system such as by Green Slime, Dirty Sock Syndrome, or similar matters; (i) corrosive conditions caused by location or moisture; (j) leaks in the equipment in the evaporator, Schrader cores, condenser and/or metering device or other connections resulting from loose valves and/or loose valve caps, interconnecting fittings and/or field piping (line sets/tubing); (k) miscellaneous items such as nitrogen that are used to detect or diagnosis failures unless specifically included in the description of the applicable service; (l) alteration of the equipment to meet changes in federal, state or local codes and regulations, or repairs which require additional parts and labor to bring the equipment into working condition as a result of such government regulations; (m) manual or digital thermostats unless specifically included in the description of the applicable service and/or (n) any damage, failure or breakdown resulting from malfunctions or operations caused by internet connected management systems, electronic or computerized energy management or lighting and appliance management systems, smart devices, or smart phone applications that can interface with a covered system or product.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES, WHETHER ARISING IN CONTRACT, EQUITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL COMPANY, ITS AGENTS, ITS INDEPENDENT CONTRACTORS, AND/OR ITS EMPLOYEES BE RESPONSIBLE OR LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, PROPERTY DAMAGE, LOSS OF PROFIT, LOST DATA, LOSS OF OPERATING TIME OR LOSS OF, OR REDUCTION IN USE OF, ANY FACILITIES (INCLUDING EXISTING FACILITIES) OR ANY PORTION THEREOF, INCREASED EXPENSE OF OPERATION OR MAINTENANCE, OR EXPENSE OR REPLACEMENT PRODUCTS RESULTING FROM THE BREAKDOWN OR FAILURE OF ANY EQUIPMENT OR FROM DELAYS IN OR THE INABILITY TO RENDER ANY SERVICE. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL COMPANY BE RESPONSIBLE OR LIABLE FOR ANY LOSS, COST, OR

DAMAGE ARISING FROM ANY SOURCE WHATSOEVER, INCLUDING NEGLIGENCE, IN EXCESS OF THE PRICE PAID BY CUSTOMER TO COMPANY FOR THE SERVICE AND/OR EQUIPMENT WHICH GIVES RISE TO THE LOSS, COST, OR DAMAGE.

11. Communications. By providing Company with a phone number in connection with the acceptance of these Terms and Conditions, Customer expressly consents and permits Company to contact Customer by phone (via live operator, automated call, and/or SMS/text message) to schedule and provide products and services associated with the purchase or service. In addition, Customer consents to receiving electronic communications related to the services via email, web site message platforms, or other electronic platforms. You also agree that Company may call or send text or SMS messages via automated technology or prerecorded messages (including through the use of third parties) to provide marketing information. Consent to receipt of these marketing messages is not a condition of purchase.
12. Governing Law. This Contract shall be governed and construed solely according to the internal laws of the State in which the services are performed, without reference to any conflicts of laws principles.
13. Class Action Waiver. To the fullest extent permitted by applicable law, both you and Company waive the right to bring any dispute as a class, consolidated, representative, collective, or private attorney general action, or to participate in a class, consolidated, representative, collective, or private attorney general action regarding any dispute brought by anyone else. Notwithstanding the arbitration provision set forth below, if the provision regarding waiver of class, collective, representative, and private attorney general claims of this section is found to be void or otherwise unenforceable, any such class, collective, representative, or private attorney general claims must be heard and determined through an appropriate court proceeding, and not in arbitration.
14. Waiver of Jury Trial. TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY WAIVE THEIR RIGHT TO JURY TRIAL WITH RESPECT TO ALL CLAIMS AND ISSUES ARISING UNDER, IN CONNECTION WITH, TOUCHING UPON OR RELATING TO THESE TERMS, THE BREACH THEREOF AND/OR THE SCOPE OF THE PROVISIONS OF THIS SECTION, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT THEREOF.
15. Arbitration. UNLESS OTHERWISE PROHIBITED BY LAW, ANY DISPUTE BETWEEN US WILL BE DECIDED BY BINDING ARBITRATION AND NOT IN COURT. DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.
  - a. In accordance with this section, any dispute, claim, or controversy arising out of or relating to these Terms and Conditions, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of these Terms and Conditions to arbitrate, or relating to any of the subject matter of these Terms and Conditions shall be resolved by neutral, binding arbitration and not by a court action. If federal law provides that a claim or dispute is not subject to binding arbitration, this Arbitration Clause shall not apply to such claim or dispute. Any claim or dispute is to be arbitrated by a single arbitrator on an individual basis and not as a class action. You expressly waive any right you may have to arbitrate a class action. The party filing a demand for arbitration may choose one of the following arbitration organizations, and its applicable rules, to conduct the arbitration: JAMS (800 352-5267, [www.jamsadr.com](http://www.jamsadr.com)), the American Arbitration Association (800 778-7879, [www.adr.org](http://www.adr.org)), or any other organization subject to

the parties' mutual approval. You may get a copy of the rules of an arbitration organization by contacting the organization or visiting its website.

- b. Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. The arbitrator shall apply governing substantive law and the applicable statutes of limitation. Unless applicable law provides otherwise, the arbitration hearing shall be conducted in the federal district in which you reside. We will pay your filing, administration, service and case management fee, your arbitrator and hearing fee and any arbitration appeal fees you incur all up to a maximum of \$5,000, unless the law requires us to pay more. The amount we pay may be reimbursed in whole or in part by decision of the arbitrator if the arbitrator finds that any of your claims are frivolous under applicable law. Each party shall be responsible for its own attorney, expert, and other fees, unless awarded by the arbitrator under applicable law. If the chosen arbitration organization's rules conflict with this clause, then the provisions of this clause shall control. The arbitrator's award shall be final and binding on all parties, except that you may appeal any arbitrator's award pursuant to the rules of the arbitration organization, and we may only appeal an award against us exceeding \$100,000. Any arbitration under this Arbitration Clause shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et. seq.) and not by any state law concerning arbitration.
- c. You retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction, and we agree to reimburse your filing fees for such proceedings. You also retain the right to seek individual injunctive relief in court. Neither you nor we waive the right to arbitrate by filing suit. Any court having jurisdiction may enter judgment on the arbitrator's award. This Arbitration Clause shall survive any termination of these Terms and Conditions. If any part of this Arbitration Clause, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable. If a waiver of class action rights is deemed or found to be unenforceable for any reason in a case in which class action allegations have been made, the remainder of this Arbitration Clause shall be unenforceable.

16. State-Specific Addendum. If and to the extent required by applicable State law, one or more addenda may be attached hereto or below and if so, such addenda are hereby incorporated herein.