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**DATE:** October 14, 2021

**PRESENTED TO:**

**American Public University**

111 W. Congress Street

Charles Town , WV 25414

**JOB LOCATION:**

**APUS**

393 N. Lawrence

Charles Town , WV 25414

**Model Number: AG150**

**Serial Number: TBD**

**SCOPE OF WORK:**

Place the unit in standby.

Plug into the controller and create a system backup.

Remove the existing the (2) AG-150 Controllers.

Mount and Install the Trane/Mitsubishi TE-200 Centralized Controller.

Mount and Install the Trane/Mitsubishi TW-50 Expansion Module.

Program and Configure the new controllers.

Start up and Commision the controllers.

Clean and remove any trash and debris from the above services.

Taxes are included

**EXCLUSIONS:**

• Extraordinary and or unusual failures are not covered unless specifically stated in this proposal. If Boland encounters latent defects and/or unusual failures etc., we will stop work and advise you of our recommendation.

**Price: \$17,057.00**

**#NAME?**

**CLIENT ACCEPTANCE:**

**SIGNATURE:**

**PRINT NAME:**

**TITLE:**

**PO:**

**DATE:**

**BOLAND CONTACT:**

**SIGNATURE**

**PRINT NAME:**

**TITLE:**

**DATE:**

*We Are Not Comfortable Until You Are*

# **BOLAND TERMS & CONDITIONS**

## **1. General Conditions**

1.1 Boland agrees to perform the Work specified in the Proposal ("the Work"), incorporated herein by reference.

1.2 Customer agrees to provide reasonable and timely access to all equipment related to the Work. Unless otherwise specified in the Proposal, the Work shall be performed during normal working hours (Monday – Friday, 7:00 a.m. – 4:00 p.m.).

1.3 For Service Contracts, Boland will provide recommended repair proposals after the first running inspection. For Full Service (Parts & Labor) Contracts, completion of these repairs is a prerequisite for coverage under the contract.

1.4 Assignment/Transfer of Ownership. This agreement may not be assigned in whole or in part, nor may the service(s) or equipment provided hereunder be resold, sublet, or otherwise transferred to any third party without the express, prior written consent of Boland. Customer agrees, in the event of sale or transfer of ownership or management of the premises at which the equipment is located, to remain liable for the total annual cost of the contract, unless the transferee, subject to Boland credit approval, agrees in writing to Boland to assume all Customer's obligations under this contract.

1.5 Choice of Law/Forum Selection. Should any dispute arise under this agreement, it shall be interpreted pursuant to the laws of the state of Maryland. Any such dispute requiring litigation shall be decided in the state of Maryland in a court of competent jurisdiction located in Montgomery County, Maryland.

1.6 Entire Agreement. All prior representations or agreements not incorporated herein are superseded. This agreement, together with the Proposal and any exhibits, shall constitute the entire agreement between Boland and Customer.

1.7 If the conditions at the Work site differ materially and cause an increase in Boland's cost of, or time required for, performance of any part of the Work, Boland shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

## **2. Payment**

2.1 Unless otherwise specified in the Proposal, payment in full shall be due within 30 days of receipt of the merchandise and/or services. Boland reserves the right to issue progress billings at a minimum of once per month. Failure of the Customer to make timely payment shall release Boland of its obligations under this the Proposal and Agreement.

2.2 For any accounts outstanding for more than 30 days, Boland reserves the right to add a service charge of 1.5% per month or 18% per year.

2.3 Maintenance Agreements. As to maintenance agreements with monthly or quarterly payment obligations, the parties agree that the payments terms of these contracts are determined by Boland based on the annual payment amount and the monthly payments are offered as a courtesy to the Customer; accordingly, upon any termination by Customer, an Amount proportional to the work performed to date will be due to Boland.

2.4 Emergency Services. Unless otherwise specified in the Proposal, Customer will be responsible for additional invoicing for any emergency services provided by Boland. If work performed outside of the hours set forth in Section 1.2 is requested by customer or reasonably required to remediate any emergency, Boland will charge "time and a half" for work on Saturday and after normal hours Monday through Friday; Boland will charge "double time" for work on Sunday and holidays and after normal hours on Saturday.

## **3. Warranty**

3.1 Unless otherwise specified in the Proposal, Boland will complete all work in a workmanlike manner according to standard trade practices and will guarantee service for 90 days following the completion date, subject to the conditions and exclusions set forth in Section 4.

3.2 Subject to the exclusions specified in Section 4, Boland will pass to Customer any and all manufacturer warranties that apply to any materials supplied by Boland.

THIS WARRANTY AND LIABILITY SET FORTH IN THE PRIOR PARAGRAPHS IS IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, EXPRESSED OR IMPLIED IN LAW OR FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR USE.

#### **4. Exclusions**

4.1 Warranty Exclusions. The following exclusions shall void any warranty otherwise in place:

- (a) Corrosion or other deterioration resulting from forces not within Boland's control;
- (b) Substitution of materials for any reason including, but not limited to, government regulations;
- (c) Failure to properly operate equipment according to the manufacturer's Installation, Operation, and Maintenance Manual;
- (d) Failure to supply adequate power to the equipment; and/or
- (e) Repair or any alteration made by anyone other than Boland.

4.2 Unless otherwise specified in the Proposal, Boland does not assume responsibility for the following:

- (a) Any item set forth in Section 4.1;
- (b) Normal day-to-day operation of the equipment;
- (c) Duct work, heat exchangers, electrical disconnect switches, air filters, recording instruments, gauges or thermometers, chilled or condenser water piping;
- (d) Water treatment;
- (e) Maintenance and repair of ancillary equipment; and/or
- (f) Equipment failure, except where damages are directly due to the sole negligence of Boland.

4.3 Force Majeure. Boland shall not be responsible for any damages, including but not limited to damages for delay or inability to perform the Work owing to the following reasons:

- (a) Flood, fire, lightning, riots, civil unrest, or any other force of nature;
- (b) Strikes or labor troubles affecting Boland's employees or agents who perform the services related to the Work;
- (c) Delays in transportation that are outside of Boland's control;
- (d) Orders or regulations established by government authority;
- (e) Any utility or power service connected to the equipment involved in the Work, including any failure or disruption thereof; and/or
- (f) Any other reasonably unforeseeable cause outside of Boland's control, including but not limited to Boland's inability to obtain necessary parts despite reasonable efforts.

It is expressly agreed that any unauthorized alteration of the equipment shall further release and terminate all obligations of Boland pursuant to this agreement.

#### **5. Indemnification**

5.1 To the fullest extent permitted by law, Customer shall indemnify, defend, and hold harmless Boland 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 property not caused by the sole negligence or intentional misconduct of Boland. This duty to indemnify shall continue in full force and effect, notwithstanding the expiration or early termination of this agreement.

5.2 In addition to the indemnity provision set forth above, Customer agrees to indemnify and save Boland, its employees, and subcontractors harmless from and against any loss, injury, or liability of any nature arising out of or resulting from exposure to any person or property to hazardous conditions and/ or materials at the job site.

5.3 In no event shall Boland be liable to Customer for any special, indirect, consequential, punitive, or exemplary damages, including but not limited to business interruption or lost profits, arising out of or relating to this Agreement or the performance or breach thereof. Any liability on the part of Boland shall be limited to the purchase price for products or services agreed upon with the Customer.

#### **6. Hazardous Conditions and/or Materials**

6.1 Unless otherwise specified in the Proposal, Customer shall be responsible for proper disposal of hazardous materials including but not limited to used oil and contaminated refrigerant.

6.2 Boland shall not be responsible for the detection, abatement, encapsulation, or removal of any hazardous conditions and/or materials, including but not limited to asbestos, lead, mold, mildew and the growth of hazardous microbic organism or mycotoxins.

If Boland encounters hazardous conditions and/or materials at the Work site Boland shall immediately stop work and notify Customer of such conditions promptly.

6.3 If any such hazardous conditions and/or materials are discovered, Customer shall immediately endeavor to:

- (a) Abate and/or remove any such hazardous materials and/or remediate any other hazardous condition(s); and
- (b) Protect Boland, its employees, agents, and subcontractors from any such hazardous materials if Boland reasonably deems it necessary to perform the Work.

## **7. Energy Policy Act Design Allocation**

7.1 For projects in government-owned buildings, Customer agrees that for the Work on the Project hereunder, Boland Trane Services, Inc. shall be the "designer" as that term is identified in the Energy Policy Act of 2005, and Boland Trane Services, Inc. shall have the exclusive right to report to any federal, state, or local agency, authority or other party, including without limitation under Section 179(b) of the Energy Policy Act of 2005, any tax benefit associated with the Work.

Upon FinalCompletion, Customer agrees to execute a Written Allocation including a Declaration related to Section 1790 of the Internal Revenue Code. Boland Trane Services, Inc. will prepare the Declaration and all accompanying documentation. Boland Trane Services, Inc. will be designated the Section 1790 beneficiary