

Agenda Item Request Form

BURNET COUNTY COMMISSIONER'S COURT

Meetings – 9:00am – 2nd and 4th Tuesday of Every Month

**NO ITEM WILL BE ON AN AGENDA
WITHOUT PRIOR APPROVAL BY A MEMBER OF COMMISSIONER'S COURT**

All **Contracts** must be approved by County Auditor's
And County Attorney's office prior to being on the Agenda

Agenda items and supporting documents are due to Court Coordinator's Office (Rm. 201) no later than noon on Thursday prior to the meeting date requested.

Ph: 512-715-5276 Fax: 512-715-5217 email: comcrt@burnetcountytexas.org

Presenters are to limit presentation time to no more than 5 minutes.

Today's Date: ~~6/14/23~~ 7/7/23

Requested by: Richard Gumbert

AGENDA ITEM(S):

Discussion and/or action regarding the maintenance agreements with price increases from The Brandt Co. for services at the Courthouse and Burnet County Jail.

Meeting Date Requested: (required) ~~6/27/23~~ 7/11/23

Agenda Item Approved by: (required)

County Judge Oakley

Commissioner Pct. 1 Luther

Commissioner Pct. 2 Beierle

Commissioner Pct. 3 Wall

Commissioner Pct. 4 Dockery



Planned Maintenance Agreement

PREPARED FOR: BURNET COUNTY
MAY 3, 2023

The Brandt Companies, LLC
19001 N Heatherwilde Boulevard, Suite 120
Pflugerville, TX 78660
Office:

SYSTEMS	512-638-1010	alan.jarouy@brandt.com
Austin	19001 N. Heatherwilde Blvd., Pflugerville, TX 78660	512.491.9100 TACLA30430C/TECL20109/M41312
Dallas	1728 Briercroft Ct., Carrollton, TX 75006	972.395.6000 TACLA19981C/TECL20109/M40211
Fort Worth	1001 NE Loop 820 Ste 300, Fort Worth, TX 76131	817.626.0033 TACLA64706R/TECL20109/M40211
Houston	8848 N Sam Houston Pkwy W, Houston, TX 77064	832.714.3200 TACLA15221C/TECL20109/M40245
San Antonio	6023 Corridor Pkwy, Ste 100, Schertz, TX 78154	210.599.6120 TACLA18441C/TECL20109/M41312
Waco	205 Schroeder Dr., Waco, TX 76710	254.772.1693 TACLA26979C/TECL20109/M40211

Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, TX 78711, 1-800-803-9202, 512-463-6599,
www.license.state.texas.gov

This AGREEMENT ("Agreement") is made by and between:

BURNET COUNTY, with an office address at 111 BURNET, BURNET, TX 78653, (hereby known as the "**Client**").

and

The Brandt Companies, LLC, with an office address at 19001 N Heatherwilde Boulevard, Suite 120 in Pflugerville, TX 78660, (hereby known as the "**Company**" or "**Brandt**").

Whereas:

The Client wishes the Company to provide a comprehensive professional maintenance services program for the equipment listed on the "Equipment Inventory" and within the schedules, terms, and conditions of the Agreement. The Company shall provide the services described herein for the following location(s):

BURNET COUNTY COURTHOUSE

COURTHOUSE RD BURNET, TX 78653

SCOPE OF SERVICES:

Company has developed the following customized integrated services program for your authorization. We are confident that the services included will meet the operational and financial objectives discussed. The Agreement may be modified from time to time based on your requirements and the mutual consent of both parties.

Company shall provide the following services as described herein to meet the Clients objectives:

- | | |
|---|---|
| ☒ HVAC Services | ☐ Boiler Inspections |
| ☐ Building Automation Services | ☐ Plumbing Services |
| ☐ Electrical Services | |

This annual Planned Maintenance Agreement includes the following comprehensive services for the "Equipment Inventory" listed within this Agreement:

- | | |
|--|--|
| ☒ Building Assessment | ☐ Corrective Maintenance |
| ☒ Physical Test & Inspection | ☐ Repair Labor (24/7) |
| ☒ Planned Maintenance | ☐ Repair & Replacement Components |

Agreement Authorization

This agreement describes the rights and obligations of the Company and the Client and constitutes the entire agreement between the parties and shall not be altered except in writing. This Agreement sets forth all of the terms and conditions binding upon the parties hereto, and no person has authority to make any claim, representation, promise, or condition on behalf of the Company which is not expressed herein.

This proposal is the proprietary property of the Company and is provided for the Client's use only. The Company guarantees the price stated in this Agreement for thirty (30) days from the proposal date above. This proposal will become a binding Agreement only after acceptance by the Client and approval by an authorized representative of the Company as evidenced by their signatures.

In addition to the descriptions of the services provided, the following Agreement Attachments are included:

- Exhibit One: Equipment Inventory
- Exhibit Two: Agreement Tasking by Equipment
- Exhibit Three: Special Services and Provisions
- Exhibit Four: Task Frequencies
- Exhibit Five: Agreement Terms and Conditions

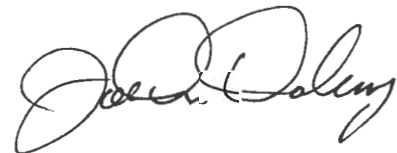
The initial term of this Agreement will commence on June 1, 2023 and shall continue through May 31, 2024. This Agreement shall continue in effect from year to year thereafter unless either party gives written notice to the other of intention not to renew thirty (30) days prior to the anniversary date.

The Planned Maintenance Agreement price is \$6,700.00 for the first year. This Agreement is payable \$1,675.00 per quarter in advance from June 1, 2023 May 31, 2024.

Offered By:
The Brandt Companies, LLC

Susie Lumus
Inside Sales Support
Date:

Accepted by:
BURNET COUNTY



RICHARD GUMBERT
FACILITIES MANAGER
Date:

Scope of Services

Brandt provides a comprehensive range of Heating, Ventilating, Air Conditioning (HVAC), Electrical, and Plumbing services. This includes maintenance, retrofits, and repairs by one of our reliable and professional service technicians. When a Brandt expert arrives, facility managers and operations staff can breathe easy knowing that our employees are factory-trained on all major manufacturers' equipment and facility systems.



HVAC Services

Extend the life of key mechanical equipment. Brandt helps you proactively manage HVAC and building systems to enhance performance, minimize downtime and reduce operating costs. The health of your mechanical systems directly impacts the profitability and productivity of your building. That's why we offer a single point of contact with factory-trained HVAC service technicians for all equipment manufacturers, bringing knowledge, safety and experience to every service engagement.

Planned Maintenance

The Agreement includes all travel and jobsite labor, vehicles, and living expenses to perform the Planned Maintenance Services as described herein. Company shall perform the preventive maintenance on an ongoing basis as scheduled within the CMMS tasking program with little or no equipment downtime.

Air Filter Services

The air filter services apply to the attached Inventory included within the Agreement. Company will provide all required labor to install and dispose of the filter media PER the frequency and type of filter defined in the contract.

Coil Cleaning Services

Coil cleaning for the condenser coils and heat exchangers will be completed in accordance with the contract. Unless otherwise specified in the 'Special Services' section of this agreement, evaporator coils are excluded from the services of this contract.

Available Added Services

Chillers and cooling towers (including but not limited to belts changes and anode replacements not typical to annual maintenance schedules) *(unless otherwise specified in the Special Services section of this proposal)*.



Plumbing Services

Your facility comprises a wide range of plumbing systems that you count on every day of the week. Brandt's plumbing services help keep your daily operations flowing smoothly.

Our comprehensive plumbing services include backflow testing, drain cleaning, hydro jetting, and medical gas piping systems.

Backflow Testing

Annual backflow testing of all identified backflow devices will be tested annually to comply with Texas state regulations and local city codes. Work shall be completed by Brandt plumbers, licensed through TEQC (Texas Environmental Quality Commission). We will perform the required testing and advise you if repairs are needed on any of your devices to ensure they are working properly.

Hydro jetting Services

Our hydro jetting services include powerful equipment that can cut through grease lines and even tough jobs like storm sewers, parking deck lines, condenser water piping and more. Brandt helps you resolve plumbing issues quickly without compromising the comfort and productivity of building occupants.

Scope of Services (continued)



Electrical Services

Our dedicated electrical service team can evaluate your facility using our in-house engineering and technology to provide you with scheduled solutions that help ensure reliable operations and safety.

Standard scheduled maintenance can keep your systems running and allow our trained technicians to recognize small problems before they become big ones.

ARC Flash Analysis

Our ARC flash analysis services identify electrical arc flash hazards to help protect your employees and to meet the NFPA 70E requirements. The assessment determines the incident energy to which a worker may be exposed and how to protect the worker from an arc flash accident and other electrical hazards. Studies need to be updated every 5 years at a minimum or anytime a change is made to your electrical system per NFPA 70.

Infrared Testing

Infrared thermographic testing detects thermal waves that are invisible to the naked eye. It can aid in predictive maintenance by using data about temperature fluctuations to identify potential maintenance issues that might lead to equipment failure and shutdown.

Preventative Maintenance

Customized electrical maintenance plans help keep your electrical equipment reliable, operating safe. Regular inspections, tightening and cleaning reduces energy loss and can prevent future costly repairs or disruption of service to your business



Boiler Services

Brandt can help you meet local, national, and international codes while running at peak efficiency. we have the experience to manage and maintain your boilers over time.

Scheduled boiler services available for fire tube or water tube boilers, electric or gas energy source boilers designed to manage and maintain your systems per manufacturers recommendations for annually planned maintenance.



Industrial Refrigeration

Brandt provides a full range of emergency and non-emergency refrigeration repair and installation services. Our relationships with major manufacturers of industrial refrigeration equipment allow us to meet your needs.

Brandt's goal is to provide our customers with the broad support of refrigeration repair services, including rebuild and replacement

Scope of Services (continued)



Building Automation Services

Company shall integrate the Client's existing control devices and HVAC equipment into a unified solution to meet the requirements of the Client's facility if the existing systems have the available technology to be integrated. Company shall establish the standard operating procedures and energy efficiency protocols while providing occupants a superior workplace environment.

Planned Maintenance and Consulting Services

The Agreement includes all travel and Jobsite labor, vehicles, and living expenses to perform the Planned Maintenance Services as described herein. Company shall provide the recommendations to integrate a platform solution that is customized with an open protocol to monitor and control the building's systems.

Operator Training

Company shall provide eight (8) hours of Client operator training per year to manage the Building Automation System. Additional training is available upon request to ensure the facility operation staff knows how to use the technologies to protect the Client investments.

Planned Maintenance Program Inclusions

Building Assessment

Company shall provide a Building Assessment to evaluate the current condition of the equipment listed in this Agreement. This assessment establishes a baseline of information for future planning requirements. The report is periodically updated and reviewed. Equipment status is updated to reflect the improvement in operational performance, reliability, and efficiency.

Physical Test & Inspection Services

Company shall provide all travel and Jobsite labor, vehicles, living expenses, and materials necessary to test the existing operations and performance of the equipment. Inspections in the form of routine visual inspections and physical testing will be performed to ensure the system(s) are in the proper operating condition as well as to identify any impending system(s) failures.

Planned Maintenance Services

Company shall provide all travel and Jobsite labor, vehicles, and living expenses to perform the Planned Maintenance Services as described herein. Preventive maintenance services will be scheduled within the CMMS program to accommodate as little equipment downtime as possible. Predictive maintenance will be completed in tandem with preventive maintenance to identify early signs of deterioration and potential system(s) failures.

The Agreement includes all consumable materials and supplies such as oil, lubricants, belts, cleaning supplies, tools, and equipment necessary to perform the Planned Maintenance services. These services are intended to diagnose and solve equipment problems before they occur and are essential to ensure the system(s) proper operational performance, reliability, efficiency, and extend the equipment service life.

EXHIBIT ONE - EQUIPMENT INVENTORY

The responsibilities of the Company shall not be limited to the major components of the equipment listed, but shall include all appurtenant devices and systems that are related to the equipment (e.g. controls, sensors, compressors, pumps, fans, etc.)

Equipment Inventory - BURNET COUNTY COURTHOUSE

Unit ID	Equipment Description ¹	Manufacturer	Model Number	Serial Number	Size
BLR-1	Boiler - Domestic Hot Water	RBI	DW600		502500 BTU
CH-001	Chiller - Reciprocating Air Cooled	Carrier	30GTN045-520EV		45 TON
CHP PUMP 1	Pump - Master	Taco	FE1207E2C1F4LO A		2 HP
CHW PUMP 2	Pump - Master	Taco	FE1207E2C1F4LO A	undefined COPY-2	2 HP
HW PUMP 1	Pump - Master	Taco	FE1207E2C1F4LO A	1	2 HP
HW PUMP 2	Pump - Master	Taco	FE1207E2C1F4LO A	undefined COPY-3	2 HP
TRAVEL	TRAVEL				0

¹ Equipment and/or components may be added or deleted based on the mutual agreement of BURNET COUNTY and The Brandt Companies, LLC. Upon written authorization, the Agreement price will be amended accordingly.

EXHIBIT TWO: AGREEMENT TASKING BY EQUIPMENT

EQUIPMENT TASKING - BURNET COUNTY COURTHOUSE

BOILER - DOMESTIC HOT WATER

PMS:

- CHECK IGNITER AND AIR/FUEL VALVE POSITION.
- CHECK FLAME DETECTOR.
- CHECK FLUE, VENT, STACK OR INTAKE AIR DUCT FOR CONDITION AND OBSTRUCTIONS.
- TEST ALL SAFETY INTERLOCKS.
- SPOT CHECK COMBUSTION AT CURRENT AVAILABLE LOAD RATE AND VISUALLY OBSERVE FLAME APPEARANCE.
- CHECK CONDENSATE DRAIN AND VERIFY OPERATION.
- CHECK THE BOILER FOR GASKET LEAKS.
- CHECK THE PRESSURE RELIEF VALVES-SIGNS OF LEAKAGE, WEEPING, AND CORROSION.
- TEST OPERATING TEMPERATURE CONTROLS TO CHECK BURNER OPERATION.
- CHECK POWER & WIRING CONNECTIONS FOR INTEGRITY AND PROPER GROUNDING.
- CHECK BTU TRANSMITTER PUMP AND LUBRICATE WITH OIL.
- CHECK AND CLEAN LOW WATER CUTOFF PROBE.

CHILLER - RECIPROCATING AIR COOLED

PMS:

- COMPLETE OPERATING LOG AND RECORD OPERATING TEMPERATURES, PRESSURE, VOLTAGE AND AMPERAGES.
- CHECK OPERATING CONTROLS.
- CHECK REFRIGERANT CHARGE.
- CHECK COMPRESSOR OIL LEVELS, PRESSURE AND TEMPERATURE.
- CHECK OPERATION OF CRANKCASE HEATER.
- CHECK CONDENSER COILS.
- CHECK FAN BLADES.
- VISUALLY CHECK FOR OIL AND REFRIGERANT LEAKS.
- REVIEW OPERATING LOG WITH OPERATOR, INSTRUCT AND ADVISE TROUBLESHOOTING TECHNIQUES.
- LOG OPERATION OF EQUIPMENT.

ANNUALS:

- CHECK OIL LEVEL.
- PERFORM OIL ANALYSIS ON EACH REFRIGERANT CIRCUIT.
- TEST AND CALIBRATE ALL SAFETY AND OPERATING CONTROLS.
- MEG COMPRESSOR MOTOR AND RECORD FOR OWNER RECORDS.
- LEAK TEST MACHINE.
- TIGHTEN ALL ELECTRICAL CONNECTIONS.
- CHECK AND CALIBRATE SUPERHEAT AND SUB-COOLING ON EACH REFRIGERANT CIRCUIT.
- CHECK CONDENSER FAN MOTORS AND LUBRICATE.

- CHECK CONDENSER COILS.
- CHECK REFRIGERANT CHARGE.
- LOG OPERATION OF EQUIPMENT.

OPTIONS:

ANNUALLY CONDENSER COIL CLEANING

PUMP - MASTER

PMS:

- LUBRICATE PUMP BEARINGS PRE MANUFACTURER'S RECOMMENDATIONS.
- LUBRICATE MOTOR BEARINGS PER MANUFACTURER'S RECOMMENDATIONS.
- CHECK SUCTION AND DISCHARGE PRESSURES.
- CHECK MECHANICAL SEAL FOR VISUAL LEAKS.
- CHECK MOTOR VOLTAGE AND AMPERAGE.
- CHECK MOTOR OPERATING CONDITIONS.
- CHECK ELECTRICAL CONNECTIONS AND CONTACTORS.
- OPERATE PUMPS AND CHECK OPERATION.
- LOG OPERATION OF EQUIPMENT.

OPTIONS:

NOT INCLUDED STRAINER CLEANING
ANNUALLY CHECK ALIGNMENT
NOT INCLUDED REPLACE INSERT
NOT INCLUDED VFD SERVICE

*ANNUALS APPLY ONLY TO BOILERS, CHILLERS AND COOLING TOWERS.

EXHIBIT THREE - SPECIAL SERVICES AND PROVISIONS

In addition to the service and provisions outlined in the agreement, the following special services, provisions and terms will apply to this agreement:

Extra Boiler options included in contract

Annually	Open Boiler Waterside and Clean	
Annually	Open Boiler Fireside and Clean	.
Annually	Clean Main Burner	
Annually	Clean Pilot Assembly	
Annually	Clean Heat Exchanger	
Annually	Inspect the Venting System for Obstruction, Leakage and Corrosion	
Annually	Check and Calibrate Safety Controls	
Annually	Record Flue and Stack Gases	

EXHIBIT FOUR: TASK FREQUENCIES**AGREEMENT TASKING BY EQUIPMENT****BURNET COUNTY COURTHOUSE**

Unit ID/Description	Ins/Yr	PM/Yr	Annual/Yr	P/Filter	S/Filter	Belts	Coils
BLR-1	0	1	0	0	0	0	1
CH-001	0	4	1	0	0	0	1
CHP PUMP 1	0	4	0	0	0	0	0
CHW PUMP 2	0	4	0	0	0	0	0
HW PUMP 1	0	4	0	0	0	0	0
HW PUMP 2	0	4	0	0	0	0	0
TRAVEL	0	4	0	0	0	0	0

EXHIBIT FIVE - TERMS AND CONDITIONS

Brandt's Service Maintenance Proposal P-20230502-0020 ("Proposal") is conditioned upon the following terms and conditions, which are incorporated by reference and, together with the Proposal, form the Contract between the parties:

1. **Term.** The commencement date of this Contract is June 1, 2023. This Contract shall continue for a period of 1 year(s) from the commencement date and, if so indicated in the Proposal, shall be automatically renewed for each successive year unless cancelled in writing by either party.

2. **Cancellation.** This Contract may be cancelled by either party upon thirty (30) day written notice. In the event of cancellation by the Customer, Brandt reserves the right to invoice and be paid for work performed thru cancellation date.

3. **Insurance.** So long as any of the Work remains to be completed, Brandt shall, at Brandt's 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 according to the requirements of the laws of the State of Texas;

(B) (B) General liability insurance coverage with the limits maintained by Brandt at the time of this Proposal (which are: \$1M each occurrence; \$1M personal/advertising injury; \$10M general aggregate; \$2M products/completed operations aggregate; \$10,000 medical expense (any one person)).

The policies will be issued by companies reasonably acceptable to Customer. In the event of any covered loss, or upon Customer's reasonable request, Brandt shall deliver to Customer copies of the insurance policies. Brandt and Customer mutually agree to a waiver by their respective insurer(s) of any and all rights to subrogation.

4. **Warranty.** Brandt shall furnish to Customer all manufacturers' parts and equipment warranties received by Brandt. For a period of one (1) year from the date of the respective work, repair or installation performed by Brandt, Brandt agrees to repair, replace or otherwise make good to the satisfaction of Customer, any defects in parts or materials supplied by Brandt that are not covered under a manufacturer's warranty and that are adversely affecting the performance of the equipment installed by Brandt, if any. Brandt 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 Brandt, Brandt 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 Brandt, if any.

5. **Service Covenants**

Brandt will:

- (a.) Regularly inspect the Equipment at intervals as specified in the Scope of Work
- (b.) Furnish Customer with a written copy of the Service Technician's report indicating what repairs, if any, are necessary resulting from each inspection;
- (c.) Improve or repair the Equipment upon proper written authorization from Customer;
- (d.) Improve or repair the Equipment upon proper written authorization from Customer;

Customer will:

- (a.) Operate the Equipment in accordance with Brandt's and manufacturer's instructions;
- (b.) Perform all manufacturer-recommended maintenance (including, but not limited to, teardown) and provide verification of performance of this maintenance upon Brandt's reasonable request;
- (c.) Promptly notify Brandt of any unusual operating conditions;
- (d.) Permit only Brandt personnel or Brandt's designated subcontractors to repair or maintain the Equipment; and
- (e.) Provide reasonable access to all Equipment during normal working hours and after hours in the case of an emergency repair.

6. **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 Brandt;
- (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; and
- (l.) Piping systems of any nature.

7. **Hoisting/Rigging Operations.** Prior to the use of heavy commercial hoisting or rigging equipment that could potentially cause damage to the Property or injury, Brandt 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, Brandt 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 Brandt's gross negligence or willful misconduct.

8. **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 Brandt's standard overtime charge rates.

9. **Payments.** Customer agrees to pay Brandt 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 Brandt 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. If default is made in the payment of any sums due hereunder and it becomes necessary that this Contract be placed in the hands of an attorney for collection, Customer agrees to pay to Brandt all costs of collection, including reasonable attorney's fee. Brandt shall have the right to cancel this Contract at any time, upon five (5) business days' written notice, if payments as called for herein are not made.

10. **No Liability from System Design or Existing Equipment Installation.** Unless Brandt 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 Brandt 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, Brandt 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. Brandt agrees, however, to advise the Customer about the existence of such conditions upon discovery in accordance with the terms of the Contract.

11. **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. Brandt 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. Brandt 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.

12. **Limitation of Damages for Breach of Contract.** The full extent of Brandt's liability 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.

13. **Mutual Waiver of Consequential and Punitive Damages.** Notwithstanding any other provision to the contrary, Brandt 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.

14. Indemnity. TO THE FULLEST EXTENT PERMITTED BY LAW, TO THE PROPORTIONATE EXTENT OF CUSTOMER'S AND BRANDT'S RESPECTIVE NEGLIGENCE AND EXCEPT AS OTHERWISE LIMITED HEREIN, CUSTOMER AND BRANDT 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) ARISING OUT OF OR RELATED TO THE PERFORMANCE OF THIS CONTRACT. NOTWITHSTANDING THE FOREGOING PROVISION, THIS INDEMNITY IS SUBJECT TO THE LIMITATIONS OF LIABILITY IN SECTIONS 10-13 ABOVE.

15. Hazardous Materials. If Brandt encounters asbestos, polychlorinated biphenyl (PCB) or other hazardous materials on the Property, Brandt will immediately stop work and report in writing the evidence of such to Customer. Brandt 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.

16. Dispute Resolution and Governing Law. This Contract shall be interpreted and construed according to the laws of the State of Texas. 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. This Contract shall be governed by the laws of the State of Texas without regard to conflicts of laws principles.

17. 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.

18. 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.