



# Trane US Communities Turnkey Proposal

**Turnkey Proposal For:**

Ernest Marquez, Jr.  
Principal Engineer  
City of Riverside  
5950 Acorn St.  
RIVERSIDE, CA 92522 U.S.A.

**Local Trane Office:**

Trane U.S. Inc. dba Trane  
3253 E Imperial Highway  
Brea, CA 92821

**Local Trane Representative:**

Kerry Frank  
Senior Account Manager  
Cell: (818) 391-4656  
Office: (714) 983-0505

**Proposal ID:** 2539538

**USC Quote Number:** 35-385493-18-004

**Co-op Contract Number:** USC 15-JLP-023

**Date:** September 5, 2018



## TRANE US COMMUNITIES TURNKEY PROPOSAL

# Executive Summary

Trane is pleased to present a solution to help City of Riverside reach its performance goals and objectives. This proposed project will enhance your operation by helping you to optimize your resources, improve the comfort in your facility, and reduce energy costs.

We appreciate the effort from City of Riverside to assist in the HVAC system analysis and business discussions. Because of your efforts, we were able to develop a proposal that offers Turnkey retrofit service solutions to your specific concerns, based on Trane system knowledge and application expertise.

As your partner, Trane is committed to providing Turnkey retrofit services to help achieve a comfortable building environment for the people who occupy the building. For the people who own, manage and maintain the building, Trane is committed to providing reliable HVAC systems and products that improve performance.

Some key features and benefits City of Riverside should expect from this project are highlighted below.

- US Communities Program Pricing and Quality Assurance
- Comprehensive Project Management
- Single Source Execution
- Chilled Water System Expertise – depth of technical knowledge and experience.
- Full local service support
- Significant reduction in service and repair costs
- Reliable and Efficient Operation.

Trane is proud to be a qualified company under the US Communities NIGP certification. US Communities is the only cooperative purchasing entity to achieve this certification.

Lastly as part of our long term customer focus we have included Trane's exclusive Intelligent Services™ support and service for the first year of chiller plant operation. This give the City of Riverside the confidence that the investment in this project is operating at its peak.

Trane appreciates the opportunity to earn your business. Your investment in the proposed project is \$671,990. This investment will provide City of Riverside with the capability to significantly reduce operating and repair costs while improve comfort conditions in your facility.

We look forward to partnering with City of Riverside for your Turnkey retrofit service needs. I will be contacting you soon to discuss the proposal and to schedule the next steps

**WE VALUE THE CONFIDENCE YOU HAVE PLACED IN TRANE AND LOOK FORWARD TO PARTNERING WITH YOU.**

Kerry Frank

A handwritten signature in black ink, appearing to read "Kerry Frank", written over a light gray rectangular background.

Senior Account Manager, Trane U.S. Inc. dba Trane



## TRANE SERVICE AGREEMENT FOR YOUR TURNKEY PROJECT

# Added Value

Proper maintenance can save an estimated 12-18%\* of your budget compared to a run-to-fail approach. A Trane Service Agreement is structured to help you manage your lifecycle costs and capture those savings.



### Research has shown that regular maintenance can:

Cut unexpected breakdowns by .....	70-75%*
Reduce downtime by .....	35-45%*
Lower equipment repairs and maintenance costs by .....	25-30%*
Reduce energy consumption by .....	5-20%*

\*Source: FEMP O&M Guide—August 2010

In addition to financial value, when you partner with Trane you can expect:

## Contract and Financial Benefits

**Assigned Service Team** - Your service team will consist of a professional Service Coordinator, Service Technicians and an Account Manager, all with extensive HVAC systems experience.

**Priority Response** - As a Trane Service Agreement customer, you will receive service priority over time and materials customers.

**Automated Scheduling System** - Trane utilizes a computerized scheduling program to ensure that all services included in the Agreement are performed as stated.

**Financial Benefits** - The implementation of this support agreement from Trane can help control the costs of operating your building in several ways: Lower energy consumption; reduction in the costs and disruptions caused by downtime; planned, budgeted and controlled operating costs; and reduced maintenance. All of these benefits can be gained through a structured contract for support.

## Trane Intelligent Services – 24 x 7 Support

With an active Trane service agreement, you are eligible for Trane Intelligent Services (TIS). A revolutionary integration of technology and Trane professionals, TIS monitors, analyzes and acts to improve the performance of building systems to support your business mission. Three levels of TIS serve a range of needs: Alarm Notification is exclusive to Trane and is included in this agreement. Active Monitoring and Building Performance are optional service levels that may be customized to meet your unique requirements.



## Superior Service Delivery

### Trane's original equipment manufacturer (OEM) Service Delivery Process

Ensures consistent quality through:

- Focus on building environments
- Uniform service delivery
- Pre-job parts planning
- Documented work procedures
- Efficient and economical delivery of services
- Emphasis on safety

**Service Work Flow** - Trane utilizes an industry-exclusive service flow process that includes detailed procedures and identified steps for: safety, parts, materials, tools and sequence for execution. Trane procedures also include steps for safety, quality control, work validation, and environmental compliance.

This process assures a complete service event. No critical steps are skipped or lost. Systems serviced in this way offer a higher degree of reliability and operational longevity. These exclusive service procedures deliver superior service and most reliable outcomes at the most cost-effective price.

Where applicable, the Trane service process meets or exceeds ASHRAE 180-2008 Standard Practice for Inspection and Maintenance of Commercial Building HVAC Systems.

## Knowledge Transfer

**Documentation** - Work performed on your equipment will be documented by the technician and reviewed with you at the completion of each visit.

**Operational System Optimization** - Trane Service Technicians will review operating sequences and practices for the equipment covered by the Agreement and advise you of operational improvement opportunities.

**Training for Facility Staff** – Operator training and coaching is available per the service Agreement. Additional training can be customized to meet your site specific needs.

## Health and Safety

**Safety Management Program** - Trane Building Services employs several full-time Occupational Safety and Health Administration (OSHA) 30-hour certified safety managers who are available to perform safety consultations relating to the service performed at your site. Our Safety Management Program includes monthly safety training for all Trane Building Services field personnel, field supervisor jobsite audits, technician job safety analyses and other key risk assessments and control strategies.

**Personal Safety** - Trane service technicians are, at a minimum, OSHA 10-hour certified, or equivalent with yearly retraining on all key occupational safety and health topics. Many of our technicians have participated in "Smith Safe" driver training and some are Department of Transportation (DOT) Hazmat certified. They are provided with up-to-date personal protective equipment (PPE), training on its use and limitations, and FR protective apparel. Trane maintains an industry-leading position in National Fire Protection Agency (NFPA) 70E Electrical Safety, technician ergonomics and fall protection programs.

**Drug-Free Workplace** - Trane Building Services maintains a Drug-Free Workplace, with a robust drug and alcohol testing program.



**Prepared For:**  
Ernest Marquez, Jr.

**Date:**  
September 4, 2018

**Job Name:**  
Riverside Water Treatment Chiller Replacement

**Proposal Number:**  
2539538

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

**Payment Terms:**  
Net 30

**State Contractor License Number:**  
561796

**Proposal Expiration Date:**  
30 Days

## Scope of Work

"Scope of Work" and notations within are based on the following negotiated scope of work with Ernest Marquez, Jr. and based on the site surveys performed on 8/21/2018, 8/27/2018 and 9/4/2018.

**Pricing contained in this proposal is in accordance with US Communities Contract RFP# 15-JLP-023.**

### Turnkey Design and Management Service

- Gather and review existing drawings of the chilled water system, the electrical system that serves the chiller, pumps and cooling tower and the structural drawings to become familiar with the existing systems and as-built conditions.
- Selection of the replacement chiller.
- Size and select new chilled water pumps;
- Create new AutoCAD background drawings from provided hard copy as-built drawings;
- Provide mechanical engineering and design for the installation of a new air-cooled chiller and new chilled water pumps and tie into the existing chilled water system serving the facility;
- Create California Energy Commission Title 24 Energy Compliance forms for the project and provide compliance forms on the construction documents;
- Provide electrical engineering and design for the reconnection of the new chiller to the existing electrical service and provide required documentation to ensure the existing electrical system can serve the replacement equipment;
- Perform structural analysis for the anchoring of the chiller to the existing to remain housekeeping pad or expanded pad and expand existing pad as necessary;
- Develop stamped and signed mechanical, electrical and structural construction documentation for plan check approval;
- Provide structural calculations for the anchoring of the replacement chiller;
- Submit mechanical, electrical and structural designs to submittal to Authority Having Jurisdiction for plan check approval and permitting;
- Trane will provide the following list of deliverables as part of this scope of work:
- Three (3) full size sets of engineer stamped and signed mechanical, electrical and structural construction documentation drawings;
- Two (2) sets of structural engineer stamped and signed structural calculations for the anchoring of the replacement equipment;
- One (1) copy of electronic construction documentation drawings in pdf format provided on compact disc or sent electronically;
- Provide project management services for all scope items listed in this proposal.



## Mechanical Installation

- Recover chemicals from existing absorption chiller.
- Deliver one new Trane 250-RTAC Air-Cooled Chiller which includes factory coating for corrosion proofing and prepare for installation.
- Isolate all equipment in central plant from building, drain and prep for removal, close valves and install blind flanges at HW lines from Co-Gen at plate and frame heat exchanger.
- Demolish, remove and dispose of existing equipment as follows:  
Trane absorption chiller, cooling tower, condenser water pumps, hot water pumps for absorber, associated piping. All salvage rights reserved
- Furnish crane and rigging as needed to set and anchor new chiller on existing cooling tower pad. Chiller to be mounted on factory supplied Elastomeric Isolators.
- Furnish and install 2 new chilled water pumps to serve new chiller and administration building.
- Provide labor and material to install new 4" welded steel piping connecting existing CHW lines to new chiller, including; butterfly valves, pressure gauges, thermometers, drains and vents per design.
- Modify existing pipe supports and add new supports per design.
- Paint all new support steel.
- Insulate all new CHW piping and patch existing, all insulation to have metal jacketing.

## Electrical Installation

- Lock-out and tag electrical systems serving existing equipment.
- Disconnect existing electrical supply serving the listed equipment demolished.
- Provide labor and material to re-work existing electrical and connect to new Chiller:
- Furnish and install new breaker in Co-Gen plant
- Saw cut driveway move rocks, excavate trench from co-gen building to chiller yard.
- Install conduit from point of connection in co-gen plant to chiller yard.
- Cover trench with concrete slurry as per City of Riverside requirements.
- Backfill, compact, move rocks back, re-pour concrete curb and patch asphalt driveway.
- Pull wire, connect to new chiller, verify and energize.
- Furnish and install 2 new variable speed drives (VFDs) for the 2 new chilled water pumps.
- Furnish and install power conduit and wire to the VFDS and from the VFDs to the pumps.

## Chiller Plant Control

- Furnish and install Trane BACnet complaint chiller control interface to control chiller and new pumps.
- Program chiller plant to operate based on cooling signal from building.
- NETWORK DEVICES
- [1] Trane Tracer SC
  - Web Enabled Interface
  - Non-proprietary BACnet protocol
  - Expandable for future projects
  - To be mounted in existing Enclosure at yard
- Points in controls from Trane are as follows:
  - Chilled Water Pump #1 Start/Stop/Speed
  - Chilled Water Pump #2 Start/Stop/Speed
  - Chiller Communication – over 150 discreet chiller control and monitoring points.
  - Heating Hot water mixing valve H/X-1
  - Outside Air Temperature
- Provide 4 hours support with 3<sup>rd</sup> party controls company for integration.





## General

- Provide start-up services for new chiller, chilled water pumps and pumps VFDs.
- Provide operator training on new chiller, pump VFDs and controls.
- Obtain final inspection and get City approval upon completion of project.

## Proposal Notes/ Clarifications

- Includes performance and payment bonds.
- All work to be performed during normal business hours.
- Demolishing and re-connection of water treatment piping and system by others.
- Water treatment startup and passivation by others. Not completing this during system startup may void warranty.
- Any structural calculations or reinforcing are excluded.
- Permit and plan check fees to be paid by the city.
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors
- Asbestos or hazardous material abatement removal shall be performed by customer

## Trane Intelligent Services (Included in Scope)

Establishing connectivity between the building automation system and the Trane Intelligent Services Center enables Trane to monitor select equipment and/or systems. 24 hours a day, 365 days a year. Ongoing monitoring and data collection enable a continuum of service levels.

## Active Monitoring

Alarm Notification plus diagnostics and analysis by Trane technical specialists reduces downtime through faster resolution of system alarms. Active Monitoring facilitates off-site alarm mediation, if possible, and initiates intelligent mobilization of local Trane authorized service personnel when on-site service is required.

- 24/7/365 automated alarm and event monitoring
- Diagnostics and alarm analysis by Technical Specialists
- Off-site alarm mediation if possible
- Intelligent mobilization of local Trane authorized service personnel
- Bi-monthly database synchronization (Tracer Summit™)
- Alarm documentation and reporting (daily, weekly, monthly)

## Building Performance

A performance package with all the features of Active Monitoring, coupled with data analysis and outcome based recommendations and service actions. This relationship begins with an initial system wide assessment, followed by professional analysis that provides the basis for actionable recommendations that drive higher levels of building performance.

- Performance enhanced Active Monitoring
- Initial system wide assessment
- Continuous analysis by automated system analytics
- Interpretation by technical specialists
- Results oriented, value based actionable recommendations
- Quarterly performance reporting



## Schedule and Lead Times

As of the date of this proposal, Trane has one PAC-Stock chiller reserved for this project. The city of Riverside may opt to provide written authorization to Trane within 72 hours in order to lock in this reservation. If not, the PAC-Stock chiller will be released and available to other customers. If the PAC-Stock chiller is obtained, the lead time to job-site delivery is one week from credit approval, (generally 2 weeks total time). A made to order chiller lead time is 9 weeks to job site from the date of credit approval. (generally 10 weeks total time). The project construction time is estimated to be 30 days from approved plans and permits. The electrical supply from the co-gen building can be done ahead of chiller system shut down. Building HVAC shut down is planned to be 1 week.

## Proposal Notes/ Clarifications

- All work and equipment provided is warranted a period of one year.
- All work to be performed during normal business hours (8am to 5pm, M-F, non-holidays)
- Proposal does not include "Premium Time" or Price Contingency therefor
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors
- Asbestos or hazardous material abatement removal shall be performed by customer
- The customer is requested to provide Trane with an Ethernet connection.
- Guarantee of any energy, operational, or other savings not included.





## Pricing and Acceptance

Ernest P Marquez, Jr.  
Principal Engineer  
City of Riverside  
5950 Acorn St.  
RIVERSIDE, CA 92522 U.S.A.

Site Address:  
Riverside Waste Water Treatment Facility  
5950 Acorn Street  
RIVERSIDE, CA 92504  
United States

### Price

**Total Net Price (Including appropriate Sales Tax).....679,490.00 USD**

Respectfully submitted,

Kerry Frank  
Senior Account Manager  
Trane U.S. Inc. dba Trane  
(714) 983-0505

### ACCEPTANCE

**This proposal is subject to Customer's acceptance of the attached Trane Terms and Conditions (Installation). Price is valid for 45 days from date of this proposal.**

**We value the confidence you have placed in Trane and look forward to working with you.**

Submitted By: Kerry Frank	Cell: (818) 391-4656 Office: (714) 983-0505 Proposal Date: September 5, 2018
<b>CUSTOMER ACCEPTANCE</b> City of Riverside	<b>TRANE ACCEPTANCE</b> Trane U.S. Inc. dba Trane
Authorized Representative	Authorized Representative
Printed Name	Printed Name
Title	Title
Purchase Order	Signature Date
Acceptance Date:	License Number: 561796



## TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

"Company" shall mean Trane U.S. Inc. dba Trane.

**1. Acceptance; Agreement.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the commercial goods and/or services described (the "Work"). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Work rendered by Company to the date of cancellation.

**2. Pricing and Taxes.** Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer's tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than 3 months from order receipt. If such release is received later than 3 months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after date of order receipt, the prices are subject to renegotiation, or at Company's option, the order will be cancelled. Any delay in shipment caused by Customer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

**3. Exclusions from Work.** Company's obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

**4. Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer's expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

**5. Payment.** Customer shall pay Company's invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

**6. Time for Completion.** Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so.

**7. Access.** Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site' owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company's access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer's building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer's request.

**8. Completion.** Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company's representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer's failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

**9. Permits and Governmental Fees.** Company shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

**10. Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

**11. Concealed or Unknown Conditions.** In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

**12. Pre-Existing Conditions.** Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or



fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

**13. Asbestos and Hazardous Materials.** Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

**14. Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**15. Customer's Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead).

**16. Indemnity.** To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other 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 their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

**17. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

**18. Patent Indemnity.** Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer'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, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

**19. Limited Warranty.** Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Trane; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED REGARDING PREVENTION BY THE WORK, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE WORK OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

**20. Insurance.** Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

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



If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

**21. Commencement of Statutory Limitation Period.** Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

**22. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

**23. Equal Employment Opportunity/Affirmative Action Clause.** Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**24. U.S. Government Work.**

**The following provision applies only to direct sales by Company to the US Government.** The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

**The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

**25. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-26.251-10(0315)  
Supersedes 1-26.251-10(0614)



## Data Usage - Supplemental Terms and Conditions

The use of the term “you,” “your,” and the like means the entity identified as the customer in the agreement to which these Supplemental Terms and Conditions pertain, including its employees, shareholders, officers, and directors. References to “us,” “we,” “our,” and the like means the entity identified as the Company in its Terms and Conditions of sale.

**1. Terms Supplemental.** These Supplemental Terms and Conditions are supplemental to the Company’s Terms and Conditions of sale applicable to your purchase of product and/or services from Company (“Terms and Conditions”) and are an integral part of our offer and agreement to sell. The Terms and Conditions and these Supplemental Terms and Conditions are intended to be complementary and construed as a whole. However, in the event of an irreconcilable conflict, these Supplemental Terms and Conditions shall control.

**2. Electronic Monitoring.** Any electronic monitoring we perform is undertaken solely to enable us to collect the data and perform any analysis included in our services. You agree that we are not liable for losses that may occur in cases of malfunction or nonfunctioning of equipment, the energy management system, failure to identify equipment or system performance issues, failure to recommend corrective action, or otherwise related to the monitoring of your equipment and building systems.

**3. Ownership of Data.** All data relating to the performance and condition of your building systems that we collect in connection with our performance hereunder shall be owned by you, provided that you are granting to us the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to use, reproduce, display, distribute internally or externally and prepare derivative works based upon any such data we collect from you. We shall not use or publish such data in any way that identifies you as the source of that data without your prior written consent. The data we will collect from you will not include any personal or individual information.

**4. Data Privacy and Security.** We have implemented various security measures for the purpose of protecting your data against accidental or unlawful access, unauthorized disclosure, loss, destruction, and alteration. You are responsible for maintaining the confidentiality of your user name(s) and password(s). You are responsible for all uses of your password(s), whether or not authorized by you. You must inform us immediately of any unauthorized use of your user name(s) or password(s). Transmission of data over the Internet by its nature entails the use of systems under the control of third parties, and as a result we cannot ensure total control of the security of such systems. We will take commercially reasonable efforts to ensure that data and other configuration parameters are not visible or accessed by other customers. You acknowledge that the very nature of communication via the Internet restricts us from offering any guarantee of the privacy or confidentiality of information relating to you passing over the Internet. In gaining access via the Internet, you also acknowledge and accept that electronic communication may not be free from interference by unauthorized persons and may not remain confidential. You therefore accept that access and storage of data is at your own risk. We will notify you of any breach in security of which we become aware. Any breach in privacy of which you become aware should be reported by you to us immediately. We do not disclose your information to third parties for their marketing purposes, but we do use third party software and services to assist us with collecting and analyzing information. We may also disclose your information if required to do so by law, in which case, we would inform you of such disclosure.

**5. Data Retention.** Upon your written request, we will endeavor to provide an electronic copy of data collected from you, subject to availability. We will use commercially reasonable efforts to store your data for up to 18 months. We cannot guarantee the availability of the data.

**6. Ownership of Intellectual Property.** Notwithstanding any provision to the contrary, as between you and us, we own and retain all title and ownership of all intellectual property rights in the software, firmware, analytics, and service processes used to provide services, and consequently both you and us agree that these Supplemental Terms and Conditions do not constitute and may under no circumstances be construed as the granting of any license to such intellectual property rights.





**7. Disclaimer of Warranty; Limitation of Liability.** The services provided, including any reports we provide, are intended to provide operational assessments and recommendations only and are intended to supplement, but not replace, manual inspections of your equipment and building systems. **THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE ARE NOT LIABLE FOR GAPS IN DATA COLLECTED.**

**TO THE MAXIMUM EXTENT ALLOWED BY LAW, WE SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING: DAMAGES OR INJURY (OTHER THAN PERSONAL INJURY CAUSED BY OUR NEGLIGENCE) REGARDLESS OF THE CAUSE OR DURATION; FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN THE INTELLIGENT SERVICES; FAILURE OF PERFORMANCE; INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; YOUR NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; OR UNAUTHORIZED ACCESS TO YOUR DATA OR COMMUNICATIONS NETWORK.**

**8. Communications – Analog Modem Facilities.** You authorize us to utilize your telephone line to provide the services and acknowledge that, unless an exclusive telephone line has been provided for performance of the services, the telephone line may be unavailable for your use for extended periods of time while data is being collected from your building systems and equipment. We are not responsible for any adverse impact to your communications infrastructure. You understand that we will not be able to collect data when the telephone line or other transmission mode is not operating or has been cut, interfered with or is otherwise damaged or if we are unable to acquire, transmit or maintain a connection over your telephone service.

**9. Communications – Ethernet** - You authorize us to utilize your network infrastructure to provide the contracted services and acknowledge that we are not responsible for any adverse impact to your communications infrastructure. You understand that we will not be able to collect data when network issues do not allow for successfully communications between our data collection devices and the data sources. Interruption of external Internet communications of longer then 24 hours may result in loss of data and degradation of service levels. Interruption of communications can be classified as failure of transmitting or receiving packet transmissions, interfered with or is otherwise damaged or if we are unable to acquire, transmit or maintain a connection over network or the internet for any reason including network or ISP outage or other network/ISP problems such as congestion or downtime, routing problems, or instability of signal quality.

**10. Logging and Data Mining.** You grant us the unrestricted right, but not the obligation, to log web addresses and/or mine other information and/or data relating to services and information accessed or requested (a) to provide better support, services and/or products to users of our products and services, (b) to verify compliance with the terms of the Agreement and the Supplemental Terms and Conditions, (c) for use by us for statistical or other analysis of the collective characteristics and behavior of users, (d) to backup user and other data or information and/or provide remote support and/or restoration, (e) to provide or undertake: engineering analysis; failure analysis; warranty analysis; energy analysis; predictive analysis; service analysis; product usage analysis; and/or other desirable analysis, including histories or trending of any of the foregoing, and (f) to otherwise understand and respond to the needs of the users of our products and services.