



"A City for All Ages"

CITY OF PORT ST. LUCIE

Office of Management and Budget

Date: March 30, 2023

To: Jesus Merejo, City Manager

Via: Kristina Ciuperger, Deputy City Manager *KC*

From: Caroline Sturgis, OMB Director *CS*

RE: FY23 Additional Funds for City Hall and Community Center HVAC System Controls

During a recent review of the Fiscal 2024-2028 Proposed Capital Improvement Program, the Facilities Maintenance Department informed our team of the urgency to advance a proposed capital project for upgrading the City Hall and Community Center HVAC system controls. Both are operating on Microsoft Windows 7 and the support date ended earlier this year (January 10, 2023) as described in the attached memo. Since Microsoft is no longer providing security patches or technical support to the operating system, it is vulnerable to potential security threats. The anticipated cost for upgrading the HVAC system controls, for both City Hall and the Community Center, is \$207,421.

Per your direction, OMB has reviewed the available reserves balances in the General Fund (FY22 year-end adjusted balance is \$11.2 million), planned FY23 budget amendments of \$3.7M and determined the Fund has sufficient reserves to support the City Hall and Community Center HVAC System Controls upgrade project. OMB recommends funding of \$207,421 in FY23 for this project utilizing the General Fund as the funding source.

Upon review, please indicate your approval below. If approved, Facilities Maintenance may proceed with the project immediately and OMB will request City Council approval via a budget amendment for Fiscal 2023.

City Manager Approval:

Approved

Denied

[Handwritten Signature]
Jesus Merejo, City Manager

3/30/2023
Date

C: Teresa Lamar-Sarno
Roger Jacob
John Bolduc
Bill Jones
Sherman Conrad

Ivy Ladyko
Christine Brown
Nathaniel Rube!



Trane U.S. Inc.
 2884 Corporate Way
 Miramar, Florida 33025
 Phone: (954) 499-6900
 Fax: (954) 499-6901
 Service Contact: (954) 499-6900

March 21, 2023

City of Port St. Lucie
 121 SW Port St. Lucie Blvd
 Port St. Lucie, FL 34984

Omnia Quote Number: H4-125048-23-003

ATTENTION: Roger Jacob

PROJECT NAME: Building Automation System Project – City Hall and Community Center

Improved Automation

Trane is pleased to offer this proposal to provide an Enterprise Control System to the City of Port St. Lucie. This incorporates new Trane Tracer SC+ BACnet building controllers communicating with a new Tracer Ensemble Enterprise Building Management System. The Trane BAS consists of a centralized system controller which will provide a web based graphical interface to include trending, reporting, archiving, scheduling, and alarm management capabilities.

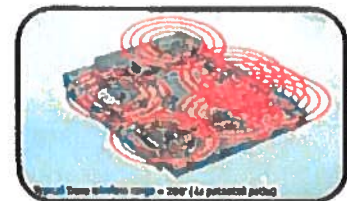


Tracer Ensemble simplifies the management of building systems within multiple facilities for managers and daily operators. Tracer Ensemble provides centralized management of scheduling and alarms, supports long-term data storage to document and monitor performance, enables remote troubleshooting, and brings different systems together for upgrade flexibility. Tracer Ensemble offers full browser support, you can access your facility from wherever you are from your PC, tablet, or smart phone.

In this first project, Trane will install an enterprise Tracer Ensemble system and connect the Police Station, Community Center, and City Hall. In future phases, additional buildings can be tied in.

Benefits of the new system:

- **Serviceability** – South Florida Trane has over 100 controls and mechanical technicians who know how to remotely connect to the system and help operators trouble shoot their HVAC systems.
- **Operational efficiency** – The new system will allow you to remotely connect to the equipment operating conditions through a smart phone or tablet. Trane can offer remote support and troubleshooting in real time.
- **Alarming** – The system will be capable of sending text message and email alarms to building operators. This will allow users to know when there is an issue before hotel guests feel a change in comfort.
- **Energy Efficiency** - Built into the new system are optimization strategies, which allow your system to operate smarter – saving you \$\$\$! The Tracer SC+ will give us the ability to use a technology based service that collects data from your building in real time and translates that information into fact based decisions that ultimately result in actions to save energy, improve performance, minimize risk and reduce your total cost of operation.
- **Wireless** - Wireless technology has many benefits such a quicker and less expensive install, less maintenance issues, and easier troubleshooting.





Project Scope

- Furnish and Install Tracer Ensemble Hosted with 3-year subscription.
- Tie in the Tracer SC+ at the following sites
 - Police (existing SC+)
 - City Hall (new SC+ included in this project)
 - Airoso Community Center (new SC+ included in this project)

City Hall Scope

TRACER SC WEB ENABLED SYSTEM (new)

- Time of Day Schedule Control
- AHU Trends capability
- Local & Remote Alarms Set-up
- Web-based mobile access available
- 3 year software maintenance plan
- Install Wireless Infrastructure – Trane to utilize wireless infrastructure to tie in AHUs, so that it may also be utilized in the future to tie in VAV boxes.

VARIABLE AIR VOLUME AIR HANDLING UNIT CONTROLS, TYPICAL FOR (6) AHU-1 THROUGH AHU-6, INCLUDING:

The following control points are **EXISTING** and will be reused:

- Filter Status
- AHU Supply Fan Status
- Space Differential Pressure Sensor
- AHU Supply Fan Start/Stop
- Outside Air Damper Control
- Chilled Water Valves and Actuators
- AHU Supply Fan VFD Control
- OAFMS

The following control points are **WILL BE NEW**:

- Trane UC600 BACNet DDC Controller
- Wireless Communication Interfaces (WCIs)
- Return Air Relative Humidity (%RH) Sensor
- Duct Static Pressure Sensor
- Fan Discharge Temperature Sensor
- Return Air Temperature Sensor
- Return Air Carbon Dioxide (CO₂) Sensor
- Space Temperature Sensor

100% OUTSIDE AIR HANDLING UNIT CONTROLS, TYPICAL FOR (2) OA-1, OA-2, INCLUDING:

The following control points are **EXISTING** and will be reused:

- Filter Status
- AHU Supply Fan Status
- AHU Supply Fan Start/Stop
- Outside Air Damper Control
- DX Reheat Control
- Chilled Water Valve and Actuators
- AHU Supply Fan VFD Control
- OAFMS



The following control points **WILL BE NEW:**

- Outside Air Relative Humidity (%RH) Sensor
- Outside Air Temperature Sensor
- Outside Air Plenum Duct Static Pressure Sensor
- Cooling Coil Discharge Temperature Sensor
- Supply Air Temperature Sensor
- Return Air Temperature Sensor
- Trane UC600 BACNet DDC Controller
- Wireless Communication Interfaces (WCIs)

OPTION ADD - SECONDARY CHILLED WATER PUMP CONTROL INCLUDING:

The following control points are **EXISTING:**

- SCHWP-1 & 2 Start/Stop
- SCHWP-1 & 2 Status
- SCHWP-1 & 2 VFD Speed
- Secondary CHW Differential Pressure
- Chilled Water Flow
- Chiller Minimum Flow Bypass Valve Control
- Emergency Chiller Status
- Emergency Chiller Request Keyswitch

Airosa Community Center Scope

TRACER SC WEB ENABLED SYSTEM (new)

- Time of Day Schedule Control
- AHU Trends capability
- Local & Remote Alarms Set-up
- Web-based mobile access available
- Three year software maintenance plan
- Install Wireless Infrastructure

(2) VAV Air Handling Units w/ DX Coils (AHU-1, AHU-2)

- Controllers and sensors as needed for specified system control
- Wireless Communication Interfaces (WCIs)
- Outside air flow monitoring stations
- Outside and return air damper actuators as needed
- DX cooling stage and electric heat control relays
- Condensing unit interlock wiring

TracerPRO Support

TracerPRO Support is part of Trane's Warranty package. TracerPRO Support Includes:

- Four (4) hours on-site Owner Training sessions
- One (1) Building Automation System (BAS) inspection of entire system
- One (1) Product Update to latest available version
- Twelve (12) months of remote building performance analytics
- One (1) Performance Report
- One (1) Consultation Report meeting



LABOR INCLUDING:

- Controls Engineering
- Controls Installation
- Low voltage wiring
- Startup & checkout
- Owner training – 4 hours
- One year warranty

Exclusions/Clarifications

- Pricing based on mechanical drawings, jobsite walkthroughs, and existing BAS information.
- Owner to provide updated mechanical floor plan files (CAD or PDF) for graphics creation.
- Existing control conduits, junction boxes, control enclosures, control wiring, and power wiring may be utilized where possible.
- Scope and pricing excludes any repairs or additions to the existing Building Automation System other than defined above.
- Warranties are excluded on any hardware not provided under this proposal (i.e. Building Control Units, laptops, etc...).
- Trane will recreate the existing sequences of operation for all HVAC equipment currently under BAS control.
- Excludes integration or point mapping to or from any non-Trane existing Building Automation System (BAS) of any kind, unless specified.
- All work to be performed during regular business hours (8AM-5PM, M-F).
- Equipment shut downs, where required shall be coordinated with the Owner.
- Any removed parts or devices are to be returned to the Owner.
- Excludes Test and Balance.
- Excludes installation of control dampers, valve bodies, flow sensors, flow meters, VFD's, wells, or pressure taps.
- Excludes all fire life safety (fire alarm, smoke detection, shut downs etc.) connections, control or monitoring.
- If additional network drops are needed, they shall be provided by Owner.
- A network BACnet address between 10,000 and 4,190,000 for the Tracer SC panel will be needed.
- Includes preparing controls installation drawings, commissioning of the control system changes, and twelve (12) month warranty for new controls and work performed.
- Installation based on plenum rated cable. Conduit where required by code only. Excludes special provisions of any kind to accommodate wiring located in inaccessible locations.
- No additional equipment, controllers, or devices will be furnished, installed, wired, controlled, or monitored other than those clearly delineated in this document.
- If existing sensors, actuators or any control devices are found to be defective or inoperable, a separate proposal will be provided for repair/replacement.
- Excludes Premium labor, cutting, patching, or painting.
- Excludes furnishing or installing starters or disconnects for HVAC equipment.
- Excludes furnishing or installing lighting controls, photocells, switches, or contactors.

City Hall Air Handlers: \$162,389.00

City Hall Pump Controls: \$12,152.00

BCU upgrade at Community Center: \$32,880

Grand Total: \$207,421.00



We appreciate the opportunity to earn your business, and look forward to helping you with all of your service needs. Please contact me if you have any questions or concerns. All work is to be done during normal business working hours. Any after hour work will require Owner's approval.

Sincerely,

Nicole Albarano
Energy Services and Controls

James Desousa
Account Executive

This proposal is subject to Customer's acceptance of Omnia contract terms and conditions. Contract terms allow PO's to be sent directly to this vendor and must reference the vendor's contract number. For example, "Per Omnia Contract ".

This proposal is valid for 30 days from the date of proposal. This agreement is subject to the attached Trane Terms and Conditions.

CUSTOMER ACCEPTANCE

TRANE

[Signature]
Authorized Representative

Authorized Representative

City Manager
Title

Title

3/30/2023
Acceptance Date

Signature Date

TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

"Company" shall mean Trane U.S. Inc. for Work performed in the United States or Trane Canada ULC for Work performed in Canada.

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 AND EQUIPMENT PRICES 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. Prices in the Proposal are subject to change at any time upon notice to Customer. 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 counteroffer 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 counteroffer will be deemed accepted. Notwithstanding anything to the contrary herein, 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. **Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service ("Connected Services Terms"), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.
3. **Title and Risk of Loss.** All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company's U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.
4. **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. Within thirty (30) days following Customer acceptance of the Proposal without addition of any other terms and conditions of sale or any modification, Customer shall provide notification of release for immediate production at Company's factory. Prices for Work are subject to change at any time prior to shipment to reflect any cost increases related to the manufacture, supply, and shipping of goods. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control. If such release is not received within 6 months after date of order receipt, Company reserves the right to cancel any order. If shipment is delayed due to Customer's actions, Company may also charge Customer storage fees. Company shall be entitled to equitable adjustments in the contract price to reflect any cost increases as set forth above and will provide notice to Customer prior to the date for which the increased price is to be in effect for the applicable customer contract. In no event will prices be decreased.
5. **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.
6. **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.
7. **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.
8. **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. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date, will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.
9. **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.
10. **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.
11. **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.
12. **Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.
13. **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.
14. **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.

15. 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.

16. 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 (if 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.

17. 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).

18. 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.

19. 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, INCLUDING CONTAMINANTS LIABILITIES, 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.

20. CONTAMINANTS LIABILITY

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGE TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANT LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANTS LIABILITIES.

21. 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.

22. 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 Company; 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 ("Third-Party Product(s)") are not warranted by Company and have such warranties as may be extended by the respective manufacturer. CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN. 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 OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.

23. **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.

24. **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.

25. **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.

26. **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.

27. **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 in effect as of the date of this subcontract: 52.203-19; 52.204-21; 52.204-23; 52.219-8; 52.222-21; 52.222-26; 52.222-35; 52.222-36; 52.222-50; 52.225-26; 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.

28. **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.

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Supersedes 1-26 251-10(0821)