



AGENDA ITEM # 13 B/C

**AGENDA ITEM EXECUTIVE SUMMARY
Village Board Meeting
June 24, 2019**

Item Title: Village Hall HVAC Replacement Project

Staff Contact: Karen R. Young, P.E. Public Works Director

VILLAGE BOARD ACTION

- 1. Discussion regarding Village Hall HVAC Replacement Project.**
- 2. Adopt a resolution authorizing the purchase of HVAC system products and services for the Village Hall HVAC Replacement Project from Trane in the amount of \$410,000.00 through the Joint Purchasing Cooperative U.S. Communities.**

Executive Summary:

The FY 2019 budget includes \$410,000 for the replacement of the HVAC system at the Village Hall.

Existing HVAC System

The current HVAC units were installed as part of the original building construction in 1997 and they have reached the end of their useful life. The Typical life expectancy is 18-22 years. The current system is comprised of four HVAC units with VVT voting pressure dependent modulating dampers and a Carrier control system. The users in this building have experienced comfort issues throughout all seasons of the year. The temperature and humidity are very difficult to control with any precision because the system is designed to “vote” on whether to provide air conditioning or heat and the zones that get “out voted” suffer. This system has required significant repairs, upgrades and adjustments over the years above and beyond the typical HVAC annual maintenance needs. In 2017, the Village hired a consultant to complete an evaluation of the existing HVAC system to determine the best solution to address the shortcomings with the existing system. It was determined that the existing VVT system should be replaced with a VAV system, which will improve the individual controls by way of allowing different zones to be heated or cooled depending on individual needs at the same time.

Vendor Selection Process

Staff discussed several options for the selection of vendor(s) for the design, construction and project oversight. The overall goal was to provide an option that would be efficient, cost effective and to provide a quality product. As part of this we investigated the Joint Purchasing Cooperative (JPC) through U.S. Communities as an option to provide the

design, construction and project oversight under one consolidated turnkey contract as opposed to parsing the various components out to potentially multiple vendors. Pricing through U.S. Communities guarantees the lowest competitive price for HVAC system product and services. Trane is the approved U.S. Communities vendor under Contract USC 15-JLP-023. Staff met with Trane to discuss the Villages needs and how the process would work through U.S. Communities. Subsequent to this meeting Trane provided the following information/services to the Village free of charge and under no obligation to move forward with approval for Trane to complete the work:

1. High level building evaluation to assess the existing conditions
2. Review of the Villages existing plan information.
3. Options analysis for Electric Reheats versus Hot Water Reheats and associated cost estimates
4. High level concept design
5. Energy consumption and utility analysis
6. Potential Rebate Opportunities
7. Project Schedule

The evaluation process with Trane proved to be very efficient. Moving forward with Trane to complete the remainder of the design, construction and project oversight will be cost effective and provide a quality product that will serve the community for many years to come. A few benefits of working with Trane under this contract include:

1. Trane is an industry leader for HVAC.
2. There is only one vendor to work with for all phases of the project. Trane would be designing the job, supplying the materials and installing the system.
3. The HVAC units for the Police Department are also Trane products.
4. Utilization of both Trane HVAC units and Trane controls, which provides for seamless communication. The proposed Trane controls will be wireless providing the ability to assess and adjust the system remotely.
5. Monitor and maintenance by Trane for a period of one year after the acceptance of the installation.
6. Trane would provide resources in the future to identify contractors that have been trained by Trane and are qualified for the long term maintenance of the system.

Proposed HVAC System

As recommended in the 2017 evaluation and also confirmed by Trane, the best option to address the building needs would be to convert the existing system from a VVT system to a VAV system. This will improve the individual controls by way of allowing different zones to be heated or cooled depending on individual needs at the same time. The VAV system is more efficient, the controls system will be gone and the humidity issues will be solved because the units will be appropriately sized.

An evaluation was completed regarding the use of electric reheats coils or hot water reheats with gas fired boilers in lieu of electric heat. Both systems will provide the desired project objectives, but have a difference in project costs and overall energy consumption. Based on this evaluation, estimated costs, energy usage, current franchise agreements, etc., it was determined that the electric reheats would be the best option for this system.

In summary, this turnkey project will include the following desired results:

1. Provide a new high efficiency HVAC equipment to replace aging equipment.
2. Verify loads in the space and downsize the units as necessary.
3. Provide necessary improvements to the existing system zones for added levels of control and comfort.
4. Provide an effective VAV with reheat design throughout the facility with options for added comfort control.
5. Utilize Electric heating coils in every zone to maximize comfort.
6. Provide a Trane Control System including training for its use.

Staff recommends authorizing the purchase of a HVAC system products and services from Trane in the amount of \$410,000.00 for the replacement of the HVAC system at the Village Hall.

Implications:

Is this item budgeted? Yes. A total of \$410,000 was budgeted for the replacement of the HVAC Replacement at the Village Hall in FY 2019 (4140570-70100).

Any other implications to be considered? The installation of the new HVAC system is anticipated to begin in August with final completion in early December.

Attachments:

Contract Trane
Proposal from Trane
Resolution

RESOLUTION NO. 2019-

A RESOLUTION AUTHORIZING THE PURCHASE OF HVAC SYSTEM PRODUCTS AND SERVICES FOR THE VILLAGE HALL HVAC REPLACEMENT PROJECT FROM TRANE IN THE AMOUNT OF \$410,000.00 THROUGH THE JOINT PURCHASING COOPERATIVE U.S. COMMUNITIES

WHEREAS, pursuant to the Illinois Governmental Joint Purchasing Act (30 ILCS 525/1, et. seq), the Village may purchase personal property, supplies, and services jointing with other governmental units; and Illinois State Statues authorize municipal governments to jointly purchase supplies; and

WHEREAS, the U.S. Communities (USC) has publicly and competitively bid for a contract for HVAC system products and services; and

WHEREAS, the USC awarded a contract to Trane for HVAC system products and services and has made the USC Contract available to other public entities; and

WHEREAS, the corporate authorities of the Village of Roselle deem it in the best interests of the Village to enter into a contract with Trane, Ingersoll Rand, 7100 S. Madison Street, Willowbrook, IL 60527 for the Village Hall HVAC Replacement Project; and

WHEREAS, both parties agree to the terms and conditions set forth in the proposal and contract for the Village Hall HVAC Replacement Project as described in Exhibit A.

NOW, THEREFORE, be it resolved by the Mayor and Board of Trustees of the Village of Roselle that:

- a) The purchase of a HVAC system products and services for the Village Hall HVAC Replacement project from Trane in the amount of \$410,000.00 as set forth in the itemized quotation sheet, that is hereby attached hereto and incorporated as fully set forth as Exhibit A, is hereby authorized (the Purchase); and
- b) The Mayor is hereby authorized to sign and, the Village Clerk is hereby directed to attest, to any contractual documents necessary to accomplish the Purchase; and
- c) Village staff is authorized to undertake any and all other tasks necessary, or in furtherance of, completion of the Purchase transaction.

ADOPTED this ____ day of _____, 2019

AYES:

NAYS:
ABSTAIN:
ABSENT:

Andrew J. Maglio, Mayor

ATTEST:

Patricia Burns, Village Clerk

CONTRACT FOR VILLAGE HALL HVAC REPLACEMENT PROJECT

THIS CONTRACT is made and entered into by and between the Village of Roselle, a body politic and corporate (hereinafter the "Village"), and Trane. (hereinafter "Contractor").

WITNESSETH:

WHEREAS, the Village determined that Village Hall HVAC System in the Village is in need of replacement; and

WHEREAS, the Village has determined that it is reasonable, necessary and desirable to obtain the services of a contractor to complete the project; and

WHEREAS, Contractor desires to provide the necessary services upon the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, the parties agree as follows:

1. Scope of Services. Contractor shall perform the services described in its proposal dated April, 2019, which is attached hereto and incorporated herein as Exhibit A. Contractor represents and warrants that it shall perform its services in a manner consistent with the level of care and skill customarily exercised by other contractors under similar circumstances at the time the services are performed. Where this Agreement is inconsistent with any provision of Exhibit A, this Agreement shall control.

2. Compensation. The total amount to be paid Contractor for the services under this Contract and expenses incurred in connection therewith is \$410,000.00. Contractor shall submit its payment requests, and the Village shall pay contractor in accordance with the Local Government Prompt Payment Act.

3. Additional Services. Contractor shall perform only those services specified herein. In the event Contractor or the Village determines that additional services are required to complete the

project, such additional services shall not be performed unless directed in writing by the Village. Payment for additional services shall be as mutually agreed upon by the parties.

4. Hold Harmless and Indemnification. Contractor shall defend, hold harmless and indemnify the Village, its officers, agents, employees and elected officials, from any loss, damage, demand, liability, cause of action, fine, judgment or settlement, together with all costs and expenses related thereto (including reasonable expert witness and attorney fees), that may be incurred as a result of bodily injury, sickness, death or property damage or as a result of any other claim or suit of any nature whatsoever arising from or in any manner connected with, directly or indirectly, the negligent acts, errors, omissions, or intentional acts or omissions of Contractor in performing the services provided for in this Contract or the negligent acts, errors, omissions or intentional acts or omissions of any agent, subcontractor or contractor hired to perform any service on behalf of Contractor. The obligation on the part of the Contractor to defend, hold harmless and indemnify the Village shall survive the expiration or termination of this contract.

5. Insurance. Unless otherwise authorized in writing by the Village Administrator, Contractor and each of its agents, subcontractors and contractors hired to perform any services provided for herein shall purchase and maintain during the term of this Contract insurance coverage which will satisfactorily insure Contractor and, where appropriate, the Village against claims and liabilities which may arise out of the services referred to in this Contract. Such insurance shall be issued by companies authorized to do business in the State of Illinois and approved by the Village. The insurance coverages shall include, but not necessarily be limited to, the following:

(A) Worker's Compensation insurance with limits as required by the applicable statutes of the State of Illinois. The Employer's Liability coverage under the Worker's Compensation policy shall have limits of not less than \$500,000 each accident/injury; \$500,000 each employee/disease; \$500,000 policy limit.

(B) Commercial general liability insurance protecting Contractor against any and all public liability claims which may arise in the course of performance of this Contract. The limits of liability shall be not less than \$1,000,000 each occurrence bodily injury/property damage combined single limit and \$2,000,000 aggregate bodily injury/property damage combined single limit. The policy of commercial liability insurance shall include contractual liability coverage and an endorsement naming the Village as an additional insured.

(C) Commercial automobile liability insurance covering Contractor's owned, non-owned and leased vehicles which protects Contractor against automobile liability claims whether on or off of the Village's premises with coverage limits of not less than \$1,000,000 per accident bodily injury/property damage combined single limit. The policy of commercial liability insurance shall include contractual liability coverage and an endorsement naming the Village as an additional insured.

(D) Umbrella or Excess liability insurance with limits of not less than \$1,000,000 per occurrence bodily injury/property damage combined single limit. The Umbrella or Excess coverage shall apply in excess of the limits stated in subparagraphs (B) and (C) above, and shall either include an endorsement naming the Village as an additional insured or provide "following form" coverage for the primary insurance.

6. Evidence of Insurance. Contractor shall furnish the Village with a certificate of insurance and, upon the Village's request, copies of all insurance policies and endorsements thereto evidencing the coverages stated above. The insurance certificates and policies shall provide that no cancellation or modification of the policies shall occur without at least 30 days' written notice to the Village. Contractor shall not commence any services under this Contract until evidence of the required insurance is received and approved by the Village. The Village shall be named on the policies required by Section 5 subsections (B) and (D) as additional insured. No policy shall require contribution by the Village's insurance.

7. Compliance with Laws. Contractor shall comply with all applicable federal, state and local laws, rules and regulations, and with all Village ordinances, rules and regulations now in force or hereafter enacted in the performance of the services required under this Contract. This contract calls for the construction of a “public work,” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current “prevailing rate of wages” (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department’s web site for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor’s website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties.

8. Control of Services. The Village shall not be responsible for or have control over the means, methods, techniques or procedures with respect to the performance by Contractor of the services in this Contract.

9. Termination of Contract. If the Village concludes that the Contractor is not performing in accordance with the terms set forth herein, the Village Administrator, or his designee, may issue a stop work order requiring an immediate cessation of all work except that necessary to secure project protection and safety. If the Contractor fails to remediate its breach within forty eight (48) business hours the Village administrator may terminate this Agreement. In the event of a termination, the Village shall pay Contractor for the services performed and expenses incurred as of the effective date of termination, less any sums attributable, directly or indirectly, to Contractor’s breach. Stop work orders may be issued by the Village Administrator or his designee orally or by e-

mail to the Contractor. All oral stop work orders shall be confirmed by e-mail but e-mail shall not be a prerequisite to the stop work order becoming effective.

10. Recovery of Costs. In the event the Village is required to institute any proceeding or action, whether legal or equitable, to enforce any provision of this Contract, the Village shall be entitled to recover all costs and expenses incurred as a result of said action or proceeding, including reasonable expert witness and attorney fees.

11. Ownership of Documents & Release of Information. All records, reports, tests, studies, documents, data or other information, regardless of whether in written, electronic or other format, prepared or generated by Contractor in connection with performing the services provided for herein shall be regarded as the sole and exclusive property of the Village and shall not be utilized by Contractor in any manner on other projects or distributed to third parties without the prior written consent of the Village. In addition, any information provided by the Village to Contractor in connection with Contractor's performance of the services provided for herein and all information associated with Contractor's work product shall remain confidential and shall not be disclosed to any third party without the prior written consent of the Village.

12. FOIA. Contractor agrees to furnish all records related to this Agreement and any documentation related to the Village required under an Illinois Freedom of Information Act (ILCS 140/1 et/ seq.) (hereinafter, "FOIA") request within five business days after Village issues notice of such request to the Contractor. Contractor agrees to not apply any costs or charge any fees to the Village regarding the procurement of records required pursuant to a FOIA request except it may request and shall be paid fees authorized by the FOIA. Contractor agrees to defend, indemnify and hold harmless Village and agrees to pay all reasonable costs connected therewith (including but not limited to reasonable attorney's and witness fees, filing fees, and any other expenses) for Village to defend any and all causes of action, disputes, prosecutions, or conflicts arising from Contractor's failure to furnish all documentation related to a request within five days after the Village issues

notice of request that Village utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, Contractor agrees to pay all cost connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend any denial of a FOIA request by the Contractor's request to utilize a lawful exemption to Village.

13. Integration. The provisions set forth herein represent the entire agreement between the parties and supersede all prior agreements, promises and representations, as it is the intent of the parties to provide for a complete integration within the terms of this Contract. This Contract may be modified only by a further written agreement between the parties, and no modification shall be effective unless properly approved and executed by each party.

14. Exclusive jurisdiction for any disputes under this Agreement shall be in the 18th Judicial Circuit Court, Wheaton, DuPage County, Illinois.

IN WITNESS WHEREOF, the parties have entered into this Contract as of the 10th day of June, 2019.

VILLAGE OF ROSELLE
ADMINISTRATOR'S OFFICE
31 S. PROSPECT ST.
ROSELLE, IL 60172

TRANE
INGERSOLL RAND
7100 S. MADISON STREET
WILLOWBROOK, IL 60527

BY: _____

Mayor

BY: _____

Owner/President

ATTEST: _____

ATTEST: _____

Budget Proposal

Village of Roselle – Village Hall

Karen Young
Public Works Director
Village of Roselle
474 Congress Circle North
Roselle, IL 60172
kayoung@roselle.il.us

Kurt Grapenthin
Superintendent of Fleet Services and Buildings
Village of Roselle
474 Congress Circle North
Roselle, IL 60172
kgrapenthin@roselle.il.us

Executive Summary:

Trane is pleased to present a solution to help the Village of Roselle 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 make necessary changes to the system to accommodate architectural changes.

We appreciate the efforts from the team at Village of Roselle to assist in the early stages of system analysis, business discussions, and continued workings throughout the project; because of your involvement, we were able to develop a proposal that offer a solution 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.

Trane approaches this turnkey proposal with the goal of providing the Village of Roselle a Comprehensive Solution which will provide the desired results:

1. Provide New High Efficiency HVAC Equipment to replace aging equipment past its useful life
2. Verify loads in the space and downsize units as necessary
3. Provide necessary improvements to the existing system zones for added levels of control and comfort
4. Provide an effective VAV with reheat design throughout the facility with options for added comfort control
5. Utilize Electric or HW heating coils in every zone to maximize comfort
6. Provide a Trane Control System including training for its use

In addition, Trane has a contract with U.S. Communities, a government purchasing alliance for public sector procurement. The Village is able to utilize this contract as the purchasing vehicle for this project, in lieu of the traditional plan and spec process. Government purchasing cooperatives have been utilized throughout the state of IL and nationally on many products and services.



Quote Number: 30-761927-19-001

Co-op (US Communities) Contract Number: USC 15-JLP-023



Existing Condition:

The existing HVAC system consists of (4) RTU's with VVT voting pressure dependent modulating dampers and a Carrier control system. This equipment is nearing the end of its useful life and there are some complaints of comfort issues throughout the space.

Currently, the temperature and humidity are very difficult to control with any precision because the system is designed to "vote" on whether to provide air conditioning or heat and the zones that get "out voted" suffer.

Proposed Work Utilizing Electric Heat:

Trane is proposing to replace the existing RTUs with new high efficient RTUs and converting the system over to a true VAV system. This system will utilize electric re-heat coils.

US Communities is the Purchasing Vehicle we have based this budget pricing around including a full Turnkey scope of work.

Scope of Work:

- Site survey and verification
- Engineer the design of the replacement RTUs and conversion to true VAV system
- Verify load in the space and downsize RTUs as necessary
- Construction Documents, with applicable specifications on drawings
- Schedule preparations
- Demolition of existing RTUs and VVT dampers
- Make conditions safe for new install
- Furnish & Install (F&I) (4) new high efficient RTUs
- Furnish & Install (F&I) new VAV boxes with electric heat coils
 - Exact number to be verified
 - Electric load appears to have enough capacity for all VAVs to have a new reheat coil, will be verified
- Furnish & Install (F&I) zone sensors for each new VAV box
- Furnish & Install (F&I) Building Automation System (BAS)
- All Crane/Rigging as necessary
- All required duct connections
 - Re-using existing ductwork
- All controls and power wiring for new RTUs and VAV boxes
- Tie in of all new equipment to BAS system
- Start-up
- Post Test & Balance
- Project Management
- Site Management
- One year parts and labor warranty

Exclusions:

- Asbestos abatement
- Premium time
- Permits and fees
- Upgrading existing non-compliant code issues outside of our Scope of Work
- Unforeseen conditions
- Permits and fees
- Temporary services

Budget pricing.....\$410,000.00



Proposed Work Utilizing Hot Water Reheats:

Trane is proposing to replace the existing RTUs with new high efficient RTUs and converting the system over to a true VAV system. This option will utilize hot water heat with gas fired boilers in lieu of electric heat. Although this has a higher first cost, over time, the operating expense will be less for a gas heat system.

US Communities is the Purchasing Vehicle we have based this budget pricing around including a full Turnkey scope of work.

Scope of Work:

- Site survey and verification
- Engineer the design of the replacement RTUs and conversion to true VAV system as well as new HW boiler system
- Verify load in the space and downsize RTUs as necessary
- Construction Documents, with applicable specifications on drawings
- Schedule preparations
- Demolition of existing RTUs and VAV dampers
- Make conditions safe for new install
- Furnish & Install (F&I) (4) new high efficient RTUs
- Furnish & Install (F&I) new VAV boxes with hot water heat coils
 - Exact number to be verified
- Furnish & Install (F&I) new Boiler system and associated pumps/specialties
- Furnish & Install (F&I) zone sensors for each new VAV box
- Furnish & Install (F&I) Building Automation System (BAS)
- All Crane/Rigging as necessary
- All required duct connections
 - Re-using existing ductwork
- All controls and power wiring for new RTUs and VAV boxes
- Tie in of all new equipment to BAS system
- Start-up
- Post Test & Balance
- Project Management
- Site Management
- One year parts and labor warranty

Exclusions:

- Asbestos abatement
- Premium time
- Permits and fees
- Upgrading existing non-compliant code issues outside of our Scope of Work
- Unforeseen conditions
- Permits and fees
- Temporary services

Budget pricing.....\$530,000.00

Possible Rebate Opportunities:

Energy Management System: \$4,200-\$5,320

RTUs: \$1,395

Energy Comparison – Hot Water vs. Electric Heat

# of heating Hrs	50% loading over 4000 Hrs	Cost	
4000	123.4	\$34,554	Electric at \$0.07/KWH
4000	4.2	\$10,108	Gas at \$0.60/therm
		\$24,445	Savings

With a \$24,445 YOY savings for the Gas heat the additional money spend on the HW heat option has a simple payback of just under 5 years.

We hope that you find this proposal complete and look forward to being of service to you on this and many additional projects. If you have any questions, please contact me at phone numbers listed below.

If the one of the above listed scopes of work are outlined correctly, and you would like to move forward with a formal proposal per the US Communities contract, please sign below and indicate which budget you would like to move forward with.

Customer Acceptance (Name, Title)

Sincerely,

Vanessa Iorio
 Energy Services and Controls Sales Engineer
 312.459.4724
Vanessa.iorio@trane.com

Ingersoll Rand
 7100 S. Madison Street
 Willowbrook, IL 60527
www.trane.com/chicago

Trane Commercial Systems and Services
 Chicago/Central Illinois District

TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

“Company” shall mean Trane Canada ULC for Work performed in Canada, and Trane U.S. Inc. for Work performed in the United States.

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)