



COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
Fax (251) 580-2500
www.baldwincountyal.gov

MEMBERS
DISTRICT 1. FRANK BURT, JR.
2. CHRIS ELLIOTT
3. J. TUCKER DORSEY
4. CHARLES F. GRUBER

April 7, 2015

Trane U. S., Inc.
d/b/a Trane
4932 Tufts Road
Mobile, AL 36619
ATTN: Bradley McCullough

REFERENCE: Service Agreement for Building and Monitoring a Chiller Automation System at the Baldwin County Annex V Building (Revenue Commission) Located in Bay Minette, AL

Dear Mr. McCullough:

The Baldwin County Commission during their regularly held meeting of April 7, 2015, approved the Service Agreement with your firm in the amount of \$3,500.00 per year for three (3) years for building and monitoring a chiller automation system at the Baldwin County Annex V Building located in Bay Minette, Alabama.

Please find attached your copy of the executed agreement.

The project should be coordinated with the Facilities Maintenance Coordinator, Junius Long at (251) 379-2058.

If you have any questions, please contact the Purchasing Manager, Wanda Gautney, at (251) 580-2520.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG:wg Item #BC-6

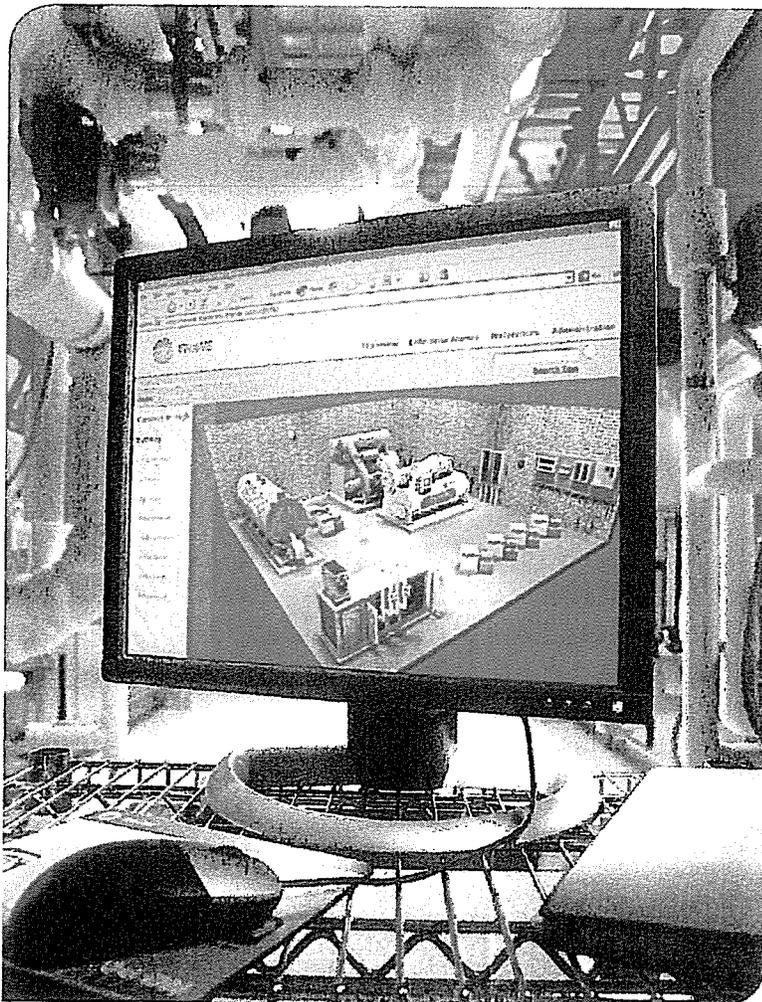
Attachment

cc: Wanda Gautney, Purchasing Manager
Junius Long, Facilities Maintenance Coordinator



Trane Service Agreement

Building Automation System



SERVICE PROPOSAL FOR

Baldwin County Commission

322 Courthouse Square
BAY MINETTE, AL 36507

SITE ADDRESS

Baldwin County Annex 5
Revenue Bldg
1705 Hwy 31
Bay Minette, AL 36507

LOCAL TRANE OFFICE

Trane U.S. Inc. dba Trane
4932 Tufts Road
Mobile, AL 36619

LOCAL TRANE REPRESENTATIVE

Bradley McCullough
Cell: (251) 259-1912
Office: (251) 665-2999

PROPOSAL ID / AGREEMENT NUMBER

1851363 /

TCFN NUMBER / TCFN CONTRACT UNDER REF

18-332722-15-001/R5045 HVAC Equip & Svc

DATE

February 03, 2015





TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Executive Summary

Thank you for choosing Trane Building Services as your building automation system (BAS) support provider.

Your building automation system, driven by Trane Tracer™ controls, is vital to the operation of the HVAC equipment you depend on to help you maintain temperature, humidity and air quality within the strict parameters your organization requires. Occupant comfort, productivity, quality assurance and energy efficiency are just a few of the objectives that may be impacted by indoor environmental conditions in a typical organization.

However, all technology requires some attention from time to time to sustain its peak performance and prolong its useful life. Your building automation system is no exception.

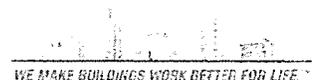
This Service Agreement for Building Automation Systems—delivered by Trane professionals who are knowledgeable in both HVAC equipment and controls—benefits a wide range of objectives:

- **Sustainability** – Improving operational integration between HVAC equipment and the BAS system reduces energy use, thereby lightening your carbon footprint and advancing your sustainability goals.
- **Peace of mind** – Continuous review and analysis sustains peak performance over the long term and helps prevent system failures and unexpected downtime. Back-up plans built into this agreement are designed to restore data and reboot systems quickly in an emergency situation. 24/7 monitoring through Trane Intelligent Services enables Trane to detect potential problems, avoid downtime, and keep your organization productive and profitable.
- **A stronger bottom line** – Excessive, unnecessary energy consumption and emergency repairs can erode your bottom line. Regular, planned BAS service is a nominal expense that typically pays for itself through energy and operational cost savings.
- **Operational consistency and continuous improvement** - Your building automation system is also the enabling technology behind Trane Intelligent Services™, which remotely monitors critical building systems to ensure the physical environment of the building is being strictly maintained. Establishing connectivity between your building automation system and the Trane Intelligent Services Center allows Trane to continuously capture and analyze data from your building. Based on that stream of information, our Technical Specialists can proactively recommend improvements and follow through with the appropriate service actions.

Exclusive aspects of this Service Agreement leverage Trane Intelligent Services™ (TIS), a revolutionary integration of technology and Trane professionals. TIS gathers active intelligence from your building's data, allowing Trane to identify what must be done to improve system performance and sustain the conditions that contribute to the mission of your organization,

We are committed to working with you to maintain the building automation system that is essential to creating and sustaining the indoor environmental conditions that support the objectives of your organization. The details of that commitment are provided in the following pages.

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





TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Added Value

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



Research has shown that regular maintenance can:

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

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

Contract and Financial Benefits

Assigned Service Team - Your service team will consist of a professional Service Coordinator, Service Technicians and an Account Manager, all with extensive HVAC systems and BAS experience. Our technicians have a thorough understanding of building automation systems and the associated controls, along with heating, refrigeration and airside systems.

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

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

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



③ Trane Intelligent Services – 24 x 7 Support

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

In addition to Alarm Notification, this proposal also includes the following Trane Intelligent Services offers:

④ Superior Service Delivery

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

Ensures consistent quality through:

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

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

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

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

⑤ Knowledge Transfer

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

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

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



Health and Safety

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

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

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



TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

The Agreement

<p>SERVICE PROPOSAL FOR:</p> <p>Baldwin County Commission 322 Courthouse Square BAY MINETTE, AL 36507</p>	<p>LOCAL TRANE OFFICE:</p> <p>Trane U.S. Inc. dba Trane 4932 Tufts Road Mobile, AL 36619</p>
<p>SITE ADDRESS:</p> <p>Baldwin County Annex 5 Revenue Bldg. 1705 US Hwy 31 BAY MINETTE, AL 36507</p>	<p>LOCAL TRANE REPRESENTATIVE:</p> <p>Bradley McCullough Cell: (251) 259-1912 Office: (251) 665-2999</p>
	<p>PROPOSAL ID / AGREEMENT NUMBER:</p> <p>1851363 /</p>
	<p>DATE</p> <p>February 10, 2015</p>
	<p>CONTACT TELEPHONE NUMBER FOR SERVICE:</p>

Scope of Services – Standard Inclusions

System Analysis and Review

Trane will review the building automation system to minimize software problems identify and correct programming errors, failed points, points in alarm and points that have been overridden. Software optimization improves system efficiency, assures compliance to specified conditions, and reduces the risk of costly and disruptive system problems. Regularly scheduled on-site visits by Trane technicians also provide the opportunity to meet with on-site operators, review the system and address any questions or concerns they may have.

Control Loop Tuning

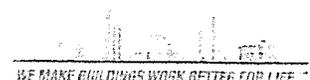
Loop Tuning assures the system is operating at peak performance for the upcoming season. Operators may make manual changes during the heating or cooling season to accommodate current comfort requirements. During Control Loop Tuning, any changes that were made in previous months are reviewed and adjusted to accommodate changing seasonal conditions. The operation of mechanical loop components is verified, as well.

Sequence of Operation Verification

Sequence of Operation Verification assures the system is operating as intended. During this assessment, unreleased manual overrides are discovered, scheduling discrepancies are corrected, and appropriate set point values are evaluated.

Tracer Database Backup

Throughout the year, changes are continuously being made to the database in response to energy efficiency, occupant comfort or operator interface issues. Trane maintains current and archived backups of all vital Tracer databases to expedite system recovery and restoration to the last known set-up following a catastrophic event.





Software Service Pack Updates

The latest service pack updates will be downloaded and installed to the existing software version when available. This assures the software is always up to date with the current versions that enhance usability and functionality.

Operator Coaching

During regularly scheduled visits, Trane technicians will work with on-site operators to develop their skills and proficiencies to help ensure they fully understand how to effectively use the system.

Trane Intelligent Services

Establishing connectivity between the building automation system and our Intelligent Services Center enables Trane to monitor performance and collect data from the facility 24 hours a day, 365 days a year. Trane integrates continuous monitoring, data analysis and Trane professional insight to offer a continuum of service enhancements. Included in this service agreement: Alarm Notification

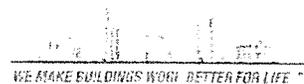
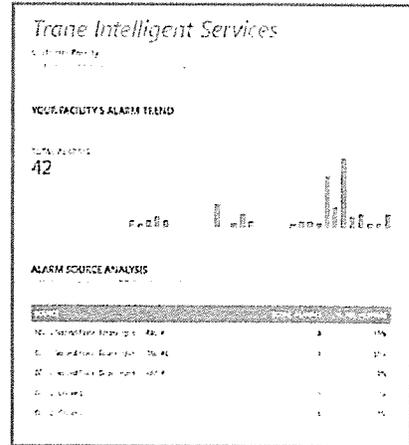
Note: Customer is responsible for providing a Trane approved connection to enable Trane Intelligent Services capabilities.

Alarm Notification

Continuous monitoring and an automated alarm process provide reassurance that you will not be notified if the systems controlling building environments are not operating as programmed.

Instant notification transmits an alert when systems need attention to avoid operational interruptions.

- Customer defined data collection points
- 24/7/365 automated alarm and event monitoring
- Automated customer notification via email, text or pager
- Archiving and reporting of critical alarm data (daily, weekly, or monthly)





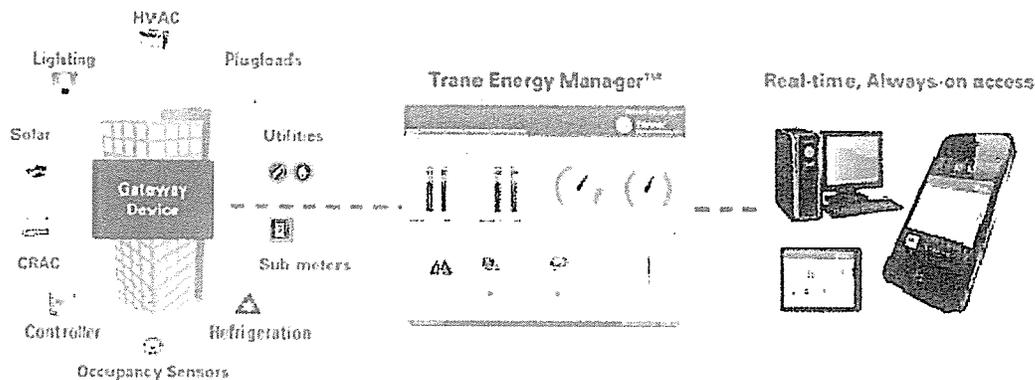
Trane Intelligent Services

In addition to the standard Alarm Notification that is included in this service agreement with Trane, the following Intelligent Services have been added to the contract:

Energy Performance Solutions

Trane's approach to improving the energy performance of your building includes an advanced building energy management system (BEMS) to continuously optimize building energy performance.

- Real-time monitoring of all energy data gathered from meters, sub-meters, sensors or building management systems.
- Advanced analytics reveal previously hidden operational anomalies and insight into potential energy conservation measures.
- Sustainability and financial features provide multiple methods to engage occupants and front line managers in energy conservation initiatives.

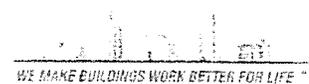


Site Set-up and Data Acquisition

- Trane will perform oversight of any required gateway installation, mapping of agreed upon data points, testing and validation of connections, dashboards, and reports. Any infrastructure installed by Trane to enable connectivity is covered by separate proposal and agreement.
- *During the initial 45-90 day set up period Customer access to web applications including dashboards, reports, and data will be limited as connectivity and data collection come on line.*
- Initial set up shall conclude with the first Building Energy Performance Review, including a review with customer of customer defined data collections points and dashboards.

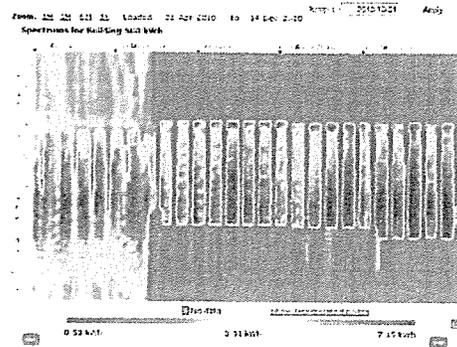
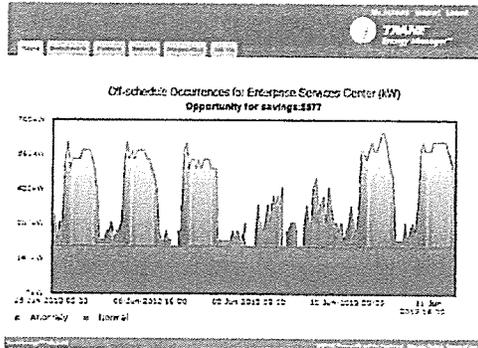
Subscription to Energy Performance provides

- Real-time energy data monitoring and aggregation – from utility meters, sub-meters, sensors and building automation system – to help continuously optimize and reduce energy consumption.
- Advanced analytics that will reveal previously-hidden operational anomalies and guides our recommendation for energy conservation measures.
- The ability to track the effectiveness of energy efficiency projects, retrofits or renewables.





- Access to the Energy Performance web-based applications and software-as-a-service functionality including: dashboards, reports, alerts, and trending tools. Subscription access shall be limited to the term of the service agreement.
- Periodic analysis and review of customer's energy consumption, usage patterns, and recommended actions.
- Trane energy professional's quarterly Energy Performance reviews throughout life of the service agreement.



Software support, online help and documentation is included as part of the Energy Performance subscription. Support questions should be directed to tem-support@trane.com

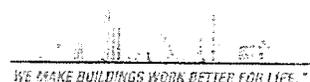
Customer Responsibilities

- Assist with diagnosing any information technology problems such as IP networking issues. Provide site access, network access, and access to ongoing and historical electrical usage information.
- Provide access to data via a Trane approved gateway with appropriate software licenses.
- Provide metering for data collection and connectivity of metering or data collection points to the Trane approved gateway.
- Customer acknowledges that statements concerning energy savings are projections only and actual savings to be realized by Customer are dependent upon many factors, including conservation measures implemented, seasonal weather variations, fuel price, and specific energy use practices of the facility occupants and workers. Nothing contained in energy reports constitutes a guarantee by Trane that the projected savings will be realized.

Systems and Meters "Covered Equipment"

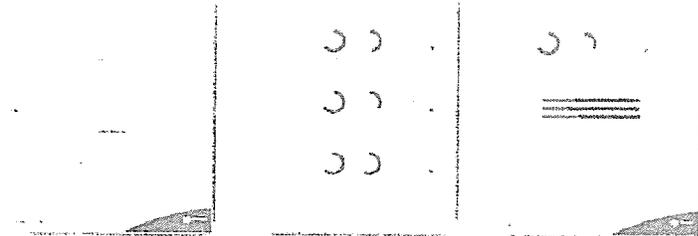
Meters, Systems & Equip Covered	Qty	Manufacturer	Model Number	Serial Number	Asset Tag

Additional Scope of Services:





Facility, System and Equipment



Customer Responsibilities

Continuous monitoring and an automated alarm process provide reassurance that you will be notified if the systems controlling building environments are not operating as programmed.

Instant notification transmits an alert when systems need attention to avoid operational interruptions.

- Assist with diagnosing any information technology problems such as IP networking issues. Provide site access, network access, and access to ongoing and historical electrical usage information.
- Provide access to data via a Trane approved gateway with appropriate software licenses.
- Provide metering for data collection and connectivity of metering or data collection points to the Trane approved gateway.
- Customer acknowledges that statements concerning energy savings are projections only and actual savings to be realized by Customer are dependent upon many factors, including conservation measures implemented, seasonal weather variations, fuel price, and specific energy use practices of the facility occupants and workers. Nothing contained in energy reports constitutes a guarantee by Trane that the projected savings will be realized.

"Covered Equipment"

Systems & Equip Covered	Qty	Manufacturer	Model Number	Serial Number	Asset Tag

Additional Scope of Services:

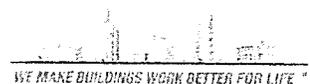




Obtaining Service

To obtain repair service within the Scope of Services, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. The Trane District office identified on the first page of the Agreement is responsible for Trane's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For repair service covered under this Agreement, Trane will be responsible for the cost of transporting a part requiring service.

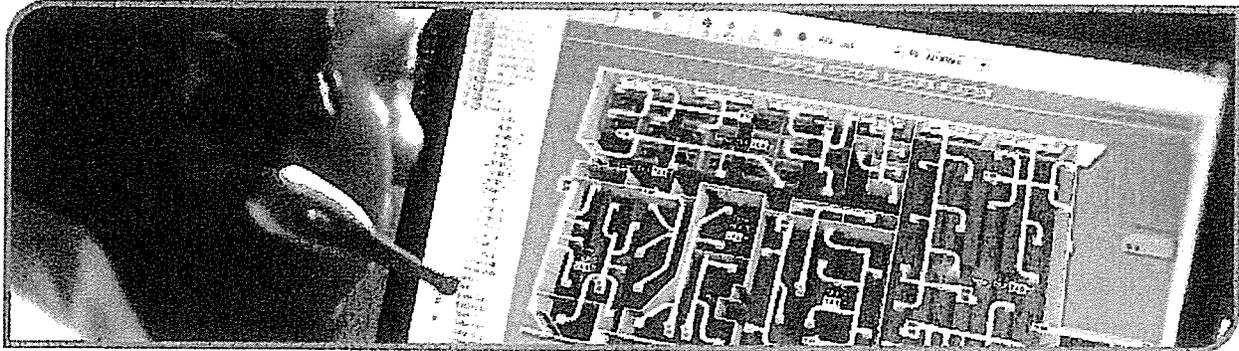
Customer must reimburse Trane for services, repairs, and/or replacements performed by Trane at Customer's request beyond the Scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Trane performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.





TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Customer Service Flows



The following Customer Service Flows provide additional service description detail for Covered Equipment.

Note: There may be differences per the agreement in the work being performed between sites and the equipment on those sites.

Service 1: BAS Annual

Description

- BAS-900 General Tasks
- Review trends
- BAS-933 Configurable Controller Controls Review
- BAS-951 AHU-VAV Controls Review
- BAS-931 Building Controller Controls Review
- BAS-930 Operator Workstation
- BAS-932 Programmable Controller Controls Review

Service 2: BAS Mid-season

Description

- BAS-900 General Tasks
- Review trends
- BAS-931 Building Controller Controls Review
- BAS-930 Operator Workstation

Clarifications of Work Performed

This section clarifies differences in the work being performed between sites and the equipment on those sites:

Service	Description	Not Performed on Site



TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Equipment Coverage and Services

The following "Covered Equipment" will be serviced at:

Baldwin County Annex 5 Revenue Bldg.

The following "Covered Equipment" will be serviced at Baldwin County Satellite Courthouse:

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Tracer	1	Trane	BMTS		

Description

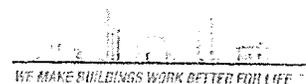
BAS Annual (Service 2)

BAS Mid-season (Service 2)

Quantity Per Term

2

3





TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Pricing and Acceptance

Baldwin County Commission
322 Courthouse Square
BAY MINETTE, AL 36507

Site Address:
Baldwin County Annex 5
Revenue Bldg
1705 Hwy 31
BAY MINETTE, AL 36507

Trane Service Agreement

This Service Agreement for Building Automation Systems consists of the pages beginning with the page entitled "The Agreement," the consecutively numbered pages immediately following such title page, and includes and ends with the Trane Terms and Conditions (Service) (collectively, the "Service Agreement" or "Agreement"). Trane agrees to inspect and maintain the Covered Equipment according to the terms of this Service Agreement, including the "Terms and Conditions," and "Scope of Services" sections. Trane agrees to give preferential service to Customer over non-contract customers.

Service Fee

As the fee(s) (the "Service Fee(s)") for the inspection and maintenance services described in the Scope of Services section with respect to the Covered Equipment, Customer agrees to pay to Trane the following amounts, plus applicable tax, as and when due.

Contract Year	Annual Amount USD	Payment USD	Payment Term
Year 1	3,500.00	3,500.00	Annual
Year 2	3,500.00	3,500.00	Annual
Year 3	3,500.00	3,500.00	Annual

A one-time 3.00 % discount is offered for full payment of 1 year(s) in advance of the commencement of the Service Agreement. Invoice would be issued at start of the Agreement and is due net 15 days from date of invoice. The discount would be **56.95 USD** if this option is selected. Tax will be calculated based upon the pre-discounted price. The discount for advance payment is not applicable to credit card transactions. Please check the box for this option.

Term

The Initial Term of this Service Agreement is 3 years, beginning **on the date of full execution by the parties**. However, Trane's obligation under this Agreement will not begin until authorized representatives of Trane and Customer have both signed this Agreement in the spaces provided below.

Following expiration of the initial term on the date of execution by the parties, this Agreement shall renew automatically for successive periods of **1 month** (the "Renewal Term") until terminated as provided herein. **and the monthly fee shall be one / twelfth of the annual fee calculated pursuant to this agreement.** If you do not want to renew this Agreement for the Renewal Term, please notify Trane by telephone or by U.S. mail prior to the expiration date set forth in the preceding sentence. If any questions arise regarding this Service Agreement or how to cancel this Agreement, Trane can be reached either by telephone at or by direct mail addressed to: 4932 Tufts Road Mobile, AL 36619.

Renewal Pricing Adjustment

The Service Fees for an impending Renewal Term shall be the Current Service Fees (defined as the Service Fees for the initial Term or Renewal Term immediately preceding the impending Renewal Term *less* the price of any Additional Work that is not recurring) adjusted by the following: (a) increase and/or decrease for additions





and/or deletions to Scope of Services; (b) 25% of the Current Service Fees shall be adjusted based upon the calendar year change in the (i) U.S. Bureau of Labor Statistics Producer Price Index for selected commodity groupings (Metals and Metal Products) for Services performed in the United States; or (ii) Statistics Canada Industrial Producer Price Index, Goods (Raw Material Price Indexes) for Services performed in Canada; (c) 65% of the Current Service Fees shall be adjusted based upon the change to cost of labor/labour; and (d) 10% of the Service Fees shall be adjusted based upon changes to Company services overhead costs, which include but are not limited to the cost of fuel, truck leasing, and office-related overhead factors. The Service Fees for an impending Renewal Term shall be set forth in the service renewal letter furnished to Customer.

Cancellation by Customer Prior to Services; Refund

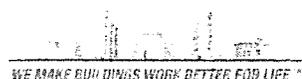
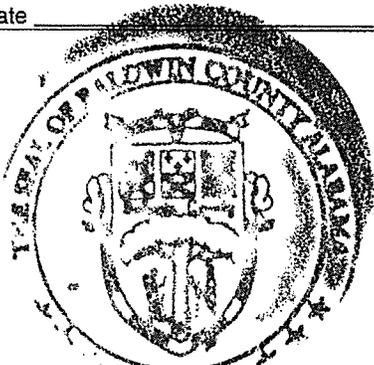
If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and if no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. **Customer shall have the right to terminate this agreement with or without cause or reason by giving sixty days written notice to the company of such termination, and company will return to customer that part of the service fee attributable to services not performed by the company.**

Cancellation by Company

This Agreement may be cancelled during the Initial Term or, if applicable, a Renewal Term for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to the scheduled expiration date and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

This Agreement is subject to Customer's acceptance of the attached Trane Terms and Conditions (Service).

Submitted By: Bradley McCullough <i>Bradley McCullough</i>	Cell: (251) 259-1912 Office: (251) 665-2999 Proposal Date: February 03, 2015
CUSTOMER ACCEPTANCE	TRANE ACCEPTANCE
<i>Charles F. Gruber</i> Authorized Representative	<i>Bradley McCullough</i> Authorized Representative
Printed Name: <i>Charles F. Gruber</i>	Title: <i>Account Mgr</i>
Title: <i>Chairman</i>	Signature Date: <i>March 17, 2015</i>
Purchase Order: _____	License Number: _____
Acceptance Date: _____	





Terms and Conditions (Service)

"Company" shall mean Trane U.S. Inc. dba Trane for Company performance in the United States and Trane Canada ULC for Company performance in Canada.

1. **Agreement.** These terms and conditions ("Terms") 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 following commercial services as stated in the Proposal (collectively, the "Services"): inspection, maintenance and repair (the "Maintenance Services") on equipment (the "Covered Equipment"), specified Additional Work (if any), and, if included in the Proposal, Intelligent Services, Energy Assessment, Energy Performance Solutions, and any other services using remote connectivity (collectively and individually referred to in these Terms as "Energy and Building Performance Services"). ~~COMPANY'S TERMS ARE SUBJECT TO PERIODIC CHANGE ON AMENDMENTS.~~

Initials
JAM
BAM

2. **Acceptance.** 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 these Terms and Conditions. ~~Customer's order is expressly conditioned upon Company's acceptance of access to terms and/or conditions other than those expressed herein, release of such order by Company with Company's Terms and Conditions attached, and/or other terms of objection or Customer's terms and as Company's board prior to perform in accordance with the Proposal and Company's Terms and Conditions. If Customer does not object or object in writing to Company within 10 days, Company's order shall be deemed accepted. Customer's acceptance of performance by Company, in any event, constitutes 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 Services provided by Company to the date of cancellation.

3. **Fees and Taxes.** Fees for the Services (the "Service Fees") are as set forth in the Proposal. Except as otherwise stated in the Proposal, Service Fees are based on performance during regular business hours. Charges for performance outside Company's normal business hours shall be billed separately according to then prevailing overtime or emergency labor/labour rates. ~~In addition to the stated Service Fees, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with an acceptable tax exemption certificate.~~

Initials
JAM
BAM

4. **Payment.** Payment is due upon receipt of Company's invoice. Service Fees shall be paid no less frequently than quarterly and in advance of performance of the Services. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Without liability to Customer, Company may discontinue performance whenever payment is overdue. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing this Agreement.

5. **Customer Breach.** Each of the following constitutes a breach by Customer and shall give Company the right, without an election of remedies, to suspend performance or terminate this Agreement by delivery of written notice declaring termination. Upon termination, Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead): (a) Any failure by Customer to pay amounts when due; (b) Any general assignment by Customer for the benefit of its creditors, Customer's bankruptcy, insolvency, or receivership; (c) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (d) Any failure by Customer to perform or comply with any material provision of this Agreement.

Initials
JAM
BAM

6. **Performance.** Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances when Company performs the Services. Company may refuse to perform where working conditions could endanger property or put people at risk. Unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines. This Agreement presupposes that all major pieces of Covered Equipment are in proper operating condition as of the date hereof. Services furnished are premised on the Covered Equipment being in a maintainable condition. In no event shall Company have any obligation to replace Covered Equipment that is no longer maintainable. During the first 30 days of this Agreement, or upon initial inspection, and/or upon seasonal start-up (if included in the Services), if an inspection by Company of Covered Equipment indicates repairs or replacement is required, Company will provide a written quotation for such repairs or replacement. If Customer does not authorize such repairs or replacement, Company may remove the unacceptable equipment from the Covered Equipment and adjust the Service Fees accordingly. Customer authorizes Company to utilize Customer's telephone line or network infrastructure to connect to controls, systems and/or equipment provided or serviced by Company and to provide Services contracted for or otherwise requested by Customer, including remote diagnostic and repair service. Customer acknowledges that Company is not responsible for any adverse impact to Customer's communications and network infrastructure. Company may elect to install/attach to Customer equipment or provide portable devices (hardware and/or software) for execution of control or diagnostic procedures. Such devices shall remain the personal proprietary property of Company and in no event shall become a fixture of Customer locations. Customer shall not acquire any interest, title or equity in any hardware, software, processes, and other intellectual or proprietary rights to devices used in connection with the Services on Customer equipment. Company may remove such devices at its discretion. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company.

7. **Customer Obligations.** Customer shall: (a) Provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; (b) Follow manufacturer recommendations concerning teardown and internal inspection, major overhaul, restoration or refurbishing of the Covered Equipment; unless expressly stated in the Scope of Services statement, Company is not performing any manufacturer recommended teardown and internal inspection, major overhaul, restoration or refurbishing of the Covered Equipment; and (c) Where applicable, unless water treatment is expressly included in the Services, provide professional cooling tower water treatment in accordance with any reasonable recommendations provided by Company.

8. **Exclusions.** Unless expressly included in the Covered Equipment or the Services, the Services do not include, and Company shall not be responsible for or liable to the Customer for any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from, any of the following: (a) Any guarantee of room conditions or system performance; (b) Inspection, maintenance, repair, replacement of or services for chilled water and condenser water pumps and piping; electrical disconnect switches or circuit breakers; motor starting equipment that is not factory mounted and interconnecting power wiring; recording or portable instruments, gauges or thermometers; non-moving parts or non-maintainable parts of the system, including, but not limited to, storage tanks; pressure vessels, shells, coils, tubes, housings, castings, casings, drain pans, panels, duct work; piping; hydraulic, hydronic, pneumatic, gas, or refrigerant; insulation; pipe covering; refractory material; fuses, unit cabinets; electrical wiring; ductwork or conduit; electrical distribution system; hydronic structural supports and similar items; the appearance of decorative casing or cabinets; damage sustained by other equipment or systems; and/or any failure, misadjustment or design deficiencies in other equipment or systems; (c) Damage, repairs or replacement of parts made necessary as a result of electrical power failure, low voltage, burned out main or branch fuses, low water pressure, vandalism, misuse or abuse, wear and tear, and of life failure, water damage, improper operation, unauthorized alteration of equipment, accident, acts or omissions of Customer or others, damage due to freezing weather, calamity, malicious act, or any Event of Force Majeure; (d) Any damage or malfunction resulting from vibration, electrolytic action, freezing, contamination, corrosion, erosion, or caused by scale or sludge on internal tubes except where water treatment protection services are provided by Company as part of this Agreement; (e) Furnishing any items of equipment, material, or labor/labour, or performing special tests recommended or required by insurance companies or federal, state,





or local governments; (l) Failure or inadequacy of any structure or foundation supporting or surrounding the equipment to be worked on or any portion thereof; (g) Building access or alterations that might be necessary to repair or replace Customer's existing equipment; (h) The normal function of starting and stopping equipment or the opening and closing of valves, dampers or regulators normally installed to protect equipment against damage; (i) Valves that are not factory mounted; balance, stop, control, and other valves external to the device unless specifically included in the Agreement; (j) Any responsibility for design or redesign of the system or the Covered Equipment, obsolescence, safety tests, or removal or reinstallation of valve bodies and dampers; (k) Any services, claims, or damages arising out of Customer's failure to comply with its obligations under this Agreement; (l) Failure of Customer to follow manufacturer recommendations concerning teardown and internal inspection, overhaul and refurbishing of equipment; (m) Any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the premises before the effective date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving pre-existing building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi; (n) Replacement of refrigerant is excluded, unless replacement of refrigerant is expressly stated as included within the Services, in which case replacement shall in no event exceed the stated percentage of rated system charge per year expressly stated in the Services; (o) crane or rigging costs; (p) Any Services, claims, or damages arising out of refrigerant not supplied by Trane. Customer shall be responsible for: (j) The cost of any additional replacement refrigerant; (ii) Operation of any equipment; and (iii) 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.

9. Limited Warranty. Company warrants that: (a) the material manufactured by Company and provided to Customer in performance of the Services is free from defects in material and manufacture for a period of 12 months from the earlier of the date of equipment start-up or replacement; and (b) the labor/labour portion of the Maintenance Services and Additional Work has been properly performed for a period of 90 days from date of completion (the "Limited Warranty"). Company obligations of equipment start-up, if any are stated in the Proposal, are contemporaneous with the Limited Warranty period. Defects must be reported to Company within the Limited Warranty period. Company's obligation under the Limited Warranty is limited to repairing or replacing the defective part at its option and to correcting any labor/labour improperly performed by Company. No liability whatsoever shall attach to Company until the Maintenance Services and Additional Work have been paid for in full. Exclusions from this Warranty include claims, losses, damages and expenses in any way connected with, related to or arising from failure or malfunction of equipment due to the following: wear and tear; end of life failure; corrosion; erosion; deterioration; Customer's failure to follow the Company-provided maintenance plan; unauthorized or improper maintenance; unauthorized or improper parts or material; refrigerant not supplied by Trane; and modifications made by others to equipment. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Some components of equipment manufactured by Company may be warranted directly from the component supplier, in which case this Limited Warranty shall not apply to those components and any warranty of such components shall be the warranty given by such component supplier. ~~Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement.~~ 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 REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES FOR WARRANTY CLAIMS PROVIDED BY COMPANY TO CUSTOMER UNDER THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, LIABILITIES, CONDITIONS AND REMEDIES, WHETHER IN CONTRACT, WARRANTY, STATUTE OR TORT (INCLUDING NEGLIGENCE), EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ENDORSEMENTS OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF QUALITY, FITNESS, MERCHANTABILITY, DURABILITY AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE OR REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY IF THE SCOPE OF SERVICES OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS. THE ENERGY AND BUILDING PERFORMANCE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND.**

Initials
BM
BQM

~~10. Indemnity. To the maximum extent permitted by law, Company and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages, and liabilities, including reasonable attorney's fees, resulting from death or bodily injury or damage to real or personal property to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or other authorized agents in connection with this contract 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 or third parties. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify and hold harmless will continue in full force and effect notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions that occurred prior to expiration or termination of this Agreement.~~

Initials
BM
BQM

11. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS, OR LIABILITY TO THIRD PARTIES), OR PUNITIVE DAMAGES WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL AND AGGREGATE LIABILITY OF THE COMPANY TO THE CUSTOMER WITH RESPECT TO ANY AND ALL CLAIMS CONNECTED WITH, RELATED TO OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY COMPANY OVER THE 12 MONTH PERIOD PRECEDING THE DATE OF OCCURRENCE FOR THE SERVICES AND ADDITIONAL WORK FOR THE LOCATION WHERE THE LOSS OCCURRED. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING FROM MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMPANY SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING IN CONNECTION WITH PROVIDING THE ENERGY AND BUILDING PERFORMANCE SERVICES: INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; CUSTOMER'S NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; GAPS IN DATA COLLECTED; AND UNAUTHORIZED ACCESS TO CUSTOMER'S DATA OR COMMUNICATIONS NETWORK.

12. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos polychlorinated biphenyl ("PCB"), or other hazardous materials (collectively, "Hazardous Materials"). Customer warrants and represents that there are no Hazardous Materials on the premises that will in any way affect Company's performance, except as set forth in a writing signed by Company disclosing the existence and location of any Hazardous Materials in all areas within which Company will be performing. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and notify Customer. Customer will be responsible for correcting the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and 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 premises, not brought onto the premises by Company. Company shall be required to resume performance 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 premises site for the presence of Hazardous Materials.

13. Insurance. Company agrees to maintain the following insurance during the term of this Agreement 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 or its Insurer waive rights of subrogation.

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 is 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 Services 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, lightning; tornado; storm; fire; civil disobedience; pandemic; insurrections; riots; labor/labour disputes; labor/labour or material shortages from the usual sources of supply; 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. **Maintenance Services Other Than Solely Scheduled Service.** If Company's Maintenance Services hereunder are not limited solely to Scheduled Service, the following provisions shall also apply: (a) Required restoration shall be performed by Customer at its cost prior to Company being obligated to perform hereunder; (b) ~~any change, adjustment, service or repair made to the Equipment by any party other than Company, unless approved by Company in writing, may, at Company's option, terminate Company's obligation to render further service to the Equipment so collected, in such case no refund of any portion of the Service Fee shall be made; and (c) Customer shall (i) promptly notify Company of any unusual performance of Equipment; (ii) permit only Company personnel to adjust Equipment and/or controls during the Term or a Renewal Term; and (iii) utilize qualified personnel to properly operate the Equipment in accordance with the applicable operating manuals and recommended procedures.~~ *Initials*
gla
CSM

16. **Remote Connectivity.** Remote connectivity services refers to services by Company provided, to any extent using any method of connecting to Customer's building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data via phone modem, Internet or other agreed upon means. The Intelligent Services, including any reports and other information Company provides, are intended to provide operational assessments and recommendations. Electronic Monitoring. Any electronic monitoring Company performs is undertaken solely to enable Company to collect the data and perform any analysis included in Company's Services. Customer agrees that Company is not liable for inability to perform and/or losses that may occur in cases of malfunction or nonfunctioning of communications equipment, HVAC and other equipment, the energy management system, failure to identify equipment or system performance issues, failure to recommend corrective action, or otherwise related to the monitoring of Customer's equipment and building systems. Data Collected. Customer hereby grants to Company the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to use, reproduce, display, distribute internally or externally and prepare derivative works based upon any such data Company collects from Customer. Company shall not use or publish such data in any way that identifies Customer as the source of that data without Customer's prior written consent. The data Company will collect from Customer will not include any personal or individual information. Upon Customer's written request, Company will endeavor to provide an electronic copy of data collected from Customer, subject to availability. For Energy and Building Performance Services (except Energy Assessments and digital assessments), Company will use commercially reasonable efforts to store Customer's data for up to 18 months. Company cannot guarantee the availability of the data. Data Privacy and Security. Company has implemented various security measures for the purpose of protecting Customer's data against accidental or unlawful access, unauthorized disclosure, loss, destruction, and alteration. Customer is responsible for maintaining the confidentiality of Customer's user name(s) and password(s). Customer is responsible for all uses of Customer's password(s), whether or not authorized by Customer. Customer must inform Company immediately of any unauthorized use of Customer's user name(s) or password(s). Transmission of data over the Internet by its nature entails the use of systems under the control of third parties, and as a result Company cannot ensure total control of the security of such systems. Company will take commercially reasonable efforts to ensure that data and other configuration parameters are not visible or accessed by other customers. Customer acknowledges that the very nature of communication via the Internet restricts Company from offering any guarantee of the privacy or confidentiality of information relating to Customer passing over the Internet. In gaining access via the Internet, Customer also acknowledges and accepts that electronic communication may not be free from interference by unauthorized persons and may not remain confidential. Customer therefore accepts that access and storage of data is at Customer's own risk. Company will notify Customer of any breach in security of which Company becomes aware. Any breach in privacy of which Customer becomes aware should be reported by Customer to Company immediately. Company does not disclose Customer's information to third parties for their marketing purposes, but Company does use third party software and services to assist Company with collecting and analyzing information. Company may also disclose Customer's information if required to do so by law, in which case, Company would inform Customer of such disclosure.

17. **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 Company performs the Services. Any dispute arising under or relating to this Agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by United States Federal judicial bodies and boards of contract appeals of the United States 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 Services. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms 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, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their 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. 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 Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

18. **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.

19. **U.S. Government Services.** 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 Services are 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 Services that are the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

20. 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, (a) hereby waives the 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, or otherwise, (b) agrees that jurisdiction and venue for any such Action shall be proper and valid in (i) 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 (ii) if Customer is in Canada, in the superior court of the province or territory in which the work was performed, (c) expressly consents to such Action, and waives any objection to jurisdiction or venue, (d) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement, and (e) 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 the 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.

Initials
[Handwritten initials]

1-26.130-7 (1114)
Supersedes 1-26.130-7 (0814)





TERMS AND CONDITIONS – Energy Performance Subscription

1. **Terms Supplemental.** These terms and conditions ("EP Subscription Terms") are supplemental to the Terms and Conditions (Service) and an integral part of Company's offer to sell Software as a Service that provides internet-based access to the hosted Energy Performance (EP) application ("EP Subscription") as part of a Trane Intelligent Services offer. The Terms and Conditions (Service) apply to the EP Subscription, except as the context indicates otherwise.

2. Definitions.

"**Malicious Code**" means any virus, worm, time bomb, Trojan horse or other code, file, script, agent, software program or device that may prevent, impair, or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data; or adversely affect the user experience.

"**Customer Data**" means all Customer electronic data or information collected through and stored in connection with the EP Subscription.

"**Users**" means individuals who have been authorized by Customer to use the Services and who have been supplied user identifications and passwords to access the Services by Customer (or by Company at Customer's request). Users may include but are not limited to Customer's employees, consultants, contractors and agents; or third parties with which the Customer transacts business. Persons or entities that are competitors to Company are not authorized to access or use the Services and may not be permitted by Customer to access or use the Services.

3. **Software as a Service EP Subscription.** Upon commencement of the EP Subscription and for the EP Subscription Term, Customer will have the nonexclusive, non-assignable, royalty free, worldwide limited right to use the EP Subscription services solely for your internal business operations and subject to the EP Subscription Terms and Terms and Conditions (Service). Customer may allow its Users to use the EP Subscription services for this purpose and Customer is responsible for Users' compliance herewith. Customer agrees that it does not acquire any license to the Energy Performance program. The EP Subscription includes provisions for the collection of data from meters, loggers, systems, or devices ("Data Collection") and regular database backups. The EP Subscription does not cover support of Customer's computer hardware, data network, or communications infrastructure, or Internet browsers used to access the EP Subscription. Customer hereby accepts, and upon initial use of EP Subscription, each Customer User will be required to accept these EP Subscription Terms. User access shall terminate on the same date as the applicable EP Subscription Term.

4. **Subscription Term.** The initial EP Subscription Term commences on the date that Customer receives access to the EP Subscription service and continues for as long as set forth in the Proposal, subject to automatic renewal for succeeding 12 month terms as provided in the Terms and Conditions (Service).

5. **Customer's Responsibilities.** Customer shall (i) be responsible for Users' compliance with these terms and conditions, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the EP Subscription, and notify Provider promptly of any such unauthorized access or use, (iii) use the EP Subscription only in accordance with these terms and conditions and Customer's Service Agreement with Trane and applicable laws and government regulations, (iv) provide Company with all necessary cooperation in relation to these terms and conditions and necessary access to such information as may be required for providing the EP Subscription, and (v) pay all fees when due for the EP Subscription and Service Agreement. Customer shall not (i) permit any third party to access the EP Subscription or physical hardware deployed at Customer's facilities to enable operation of the EP Subscription except as expressly permitted herein or in an Order Form, (ii) modify or create derivative works based on any part or content of the EP Subscription, (iii) copy, frame or mirror any part or content of the EP Subscription, other than copying or framing on Customer's own Intranets or otherwise for Customer's own internal business purposes, (iv) reverse engineer, disassemble or decompile the EP Subscription, or (v) access the EP Subscription in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the EP Subscription. In addition, Customer shall not (m) make the EP Subscription available to anyone other than Users, (n) sell, resell, rent, license, share or lease the EP Subscription, (o) use the EP Subscription to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (p) use the EP Subscription to store, distribute or transmit Malicious Code, (q) interfere with or disrupt the integrity or performance of the EP Subscription or third-party data contained therein, or (r) attempt to gain unauthorized access to the EP Subscription or their related systems or networks.

6. **Cancellation.** In the event of a cancellation of the EP Subscription by Customer, Customer shall not be entitled to any refund of price and Customer shall immediately pay all amounts then due.

7. **Customer Breach; Termination.** Company may terminate the EP Subscription upon 14 days written notice to Customer of a material breach if such breach remains uncured at the expiration of such period. Upon termination, Customer shall not be entitled to any refund of the price paid to Company.

8. **Availability.** Company shall exercise reasonable care in providing the EP Subscription and use commercially reasonable efforts to make the service available at all times. The EP Subscription is accessible via the Internet and thus





subject to limitations, delays, and other problems inherent to the operation of internet and electronic communications. Company is not responsible for delivery failures or other damage resulting from such problems. Where possible, Company will notify User(s) identified by the Customer during execution of Service Agreement to be the primary contact for Customer ("Named Users"), and raise support issues with Company of non-availability of the EP Subscription. It is the responsibility of the Named Users to provide this information to all Users of EP Subscription associated with Customer. Company shall be entitled, without any liability, to carry out ongoing maintenance, updating or alterations to EP Subscription Service that may result in loss of access from time to time without prior notice. Service features that interoperate with Energy Performance software depend on the continuing availability of the third party APIs and programs for use with the EP Subscription. If said parties cease to make the API or program available on reasonable terms for the EP Subscription, Company may be interrupted from providing such features without entitling Customer to any refund, credit, or other compensation.

9. Software Upgrades. Software upgrades to EP Subscription will be applied by the Company as soon as commercially reasonable after a new version is available. These will always be provided during the term of the Agreement and there is no provision for maintaining any other version than the current version in the SaaS environment.

10. Database Backup. Short term and long term database backups are performed at the sole discretion of the Company.

11. Data Collection. Where Customer has placed an order that includes EP Subscription from Company, data will be collected from the designated meters, loggers, or devices and imported into EP Subscription. It is Customer's responsibility to check EP Subscription or configure appropriate alarms to ensure that data is appearing as expected. If data is missing, Customer should raise the issue as a request for support through the local Company office. Customer is free to export its own data from EP Subscription at any time using the standard EP Subscription export functions.

12. Ownership of Data. All data relating to the performance and condition of Customer building systems that Company collects in connection with the EP Subscription shall be owned by Customer, provided that Customer grants to Company the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to use, reproduce, display, distribute internally or externally and prepare derivative works based upon any such data Company collects from Customer. Company shall not use or publish such data in any way that identifies Customer as the source of that data without Customer's prior written consent. The data Company collects from Customer will not include any personal or individual information beyond that required for User access and account management. In providing the EP Subscription, Company will comply with the Ingersoll-Rand Data Protection and Privacy Policy, which is available at <http://company.ingersollrand.com/Pages/default.aspx>.

13. Data Retention. Upon Customer's written request, Company will endeavor to provide an electronic copy of data collected from Customer, subject to availability. Company will use commercially reasonable efforts to store Customer's data for up to 3 months. There is no guarantee as to the availability of the data.

14. Communications - Analog Modem Facilities. Customer authorizes Company to utilize Customer's telephone line to provide the services and acknowledge that, unless an exclusive telephone line has been provided for performance of the services, the telephone line may be unavailable for Customer's use for extended periods of time while data is being collected from Customer's building systems and equipment. Company is not responsible for any adverse impact to Customer's communications infrastructure. Customer understands that Company will not be able to collect data when the telephone line or other transmission mode is not operating or has been cut, interfered with or is otherwise damaged or if Company is unable to acquire, transmit or maintain a connection over Customer's telephone service.

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

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





17. **Anti-Virus Prevention.** Company maintains antivirus checking software on the network and has a strict policy on checking all software loaded onto the SaaS environment. However, due to the nature of computer viruses, Company is not able to guarantee that provision of EP Subscription will be virus free. It is Customer's responsibility to ensure that adequate security and antivirus software is in place on all machines accessing the EP Subscription.

18. **Disaster Recovery.** In the event that Company experiences a significant problem with EP Subscription that results in or is expected to result in the loss of service for in excess of 5 working days, Company may transfer the EP Subscription service to an alternative hosting environment. In the event that Company transfers the service to an alternative hosting environment, Customer acknowledges that the following may occur: There may be a loss of data imported into EP after the last database backup was taken; EP Subscription will be provided by a different IP address; while the IP address registered against the domain names is changed, Customer may need to access EP Subscription via an IP address and not the normal domain name and data collection may not be available.

19. **No Warranties.** CUSTOMER EXPRESSLY AGREES THAT USE OF EP SUBSCRIPTION IS AT THE SOLE RISK OF CUSTOMER, END USERS, AND NAMED USERS. COMPANY DOES NOT WARRANT OR GUARANTEE THAT EP SUBSCRIPTION WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES COMPANY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF EP SUBSCRIPTION, OR AS TO THE TIMELINESS, EFFICACY, OPERABILITY, COMPLETENESS, ACCURACY, RELIABILITY OR CONTENT OF EP SUBSCRIPTION OR OF ANY DESIGN, FUNCTION, PROCESS, OR INFORMATION PROVIDED THROUGH OR BY USE OF EP SUBSCRIPTION. EP SUBSCRIPTION IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS AGREEMENT. CUSTOMER AGREES THAT CUSTOMER'S PURCHASE OF THE EP SUBSCRIPTION IS NOT CONTINGENT ON THE DELIVERY OF ANY FUTURE FUNCTIONALITY OR FEATURES OR DEPENDENT ON ANY ORAL OR WRITTEN PUBLIC COMMENTS MADE BY COMPANY REGARDING FUTURE FUNCTIONALITY OR FEATURES.

20. **Privacy or Confidentiality.** The Company will take commercially reasonable efforts to ensure that data and other parameters are not visible or accessed by other customers. Customer acknowledges that the very nature of communication via the internet restricts the Company from offering any guarantee to the privacy or confidentiality of information relating to Customer passing over the internet. In gaining access via the internet, Customer also acknowledges and accepts that electronic communication may not be free from interference by unauthorized persons and may not remain confidential. Customer therefore accepts that access and storage of data is at its own risk. Any breach in privacy should be reported by customer to the Company immediately.

21. **Intellectual Property.** Company retains and reserves all rights, title and interest in and to the EP Subscription, including without limitation all Company software, algorithms, materials, formats, interfaces and proprietary information and technology, and all other Company products and EP Subscription, and including all copyright, trade secret, patent, trademark and other intellectual property rights related to the foregoing. No rights are granted to the Customer hereunder with respect to the EP Subscription or otherwise other than as expressly set forth herein.

22. **Limitation of Liability.** IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFIT, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF CONTRACTS, SECURITY BREACH, OR FOR ANY FINANCIAL OR ECONOMIC LOSS OR FOR ANY SPECIAL, DIRECT, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGES) ARISING OUT OF CUSTOMER'S USE OR INABILITY TO USE EP SUBSCRIPTION. Should Company nevertheless be found liable for any damages, such damages shall be limited to the most recent purchase price paid by Customer for EP Subscription.

~~23. **Customer Indemnity.** Customer shall indemnify and hold Company harmless from and against any loss, damage, cost (including the cost of any settlement), expense or any liability suffered or incurred by Company arising from or in connection with Customer's use of EP Subscription service, breach of these EP Subscription Terms, and Company's possession or use of data, information or articles supplied by Customer to Company, including the infringement of any intellectual property rights resulting from the use or possession by Company of data, information or articles supplied by Customer to Company.~~

Initials
JLM
JLM

24. **Change in Terms and Conditions.** Company reserves the right to change the service level agreements, any part of the EP Subscription offering, or the terms and conditions at any time.

(0814)





Appendix



Safety
Customer Service
Flows



Safety



Trane's Safety Standard

Trane is committed to providing a safe work environment for all employees and to preventing accidents in its business operations. To accomplish our objectives Trane has instituted safety programs, procedures and training that incorporate a progressive approach to injury prevention.

Proven Safety Success

Trane's safety culture in North America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

Trane Injury Rates v. Industry Competitors

Since 2003 the US Bureau of Labor Statistics records reflect Trane's Total Recordable Rate (TRIR) and Days away from work (DAFW) rate have been significantly lower than HVAC repair and maintenance contractors and Specialty Trade contractors (construction). Trane's safety culture in America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

Trane's incident (OSHA) rates are consistently 50-70% below the industry average. This outstanding safety achievement is the end result of the rigorous team oriented approach to our safety program that creates accountability and empowerment in all employees and management and fuels our institutional safety culture. This is the key to our continual improvement.

Safety Tools, Training & Expertise

Trane's service and contracting technicians are not only among the most skilled in the industry they are also extensively trained in safe work procedures. Our technicians receive safety training, equipment, tools, procedures, and management support to identify jobsite hazards and take appropriate measures to prevent personal injuries. The resources available to Trane technicians include:

- Safety Training – 20 hrs per year, including classroom and web-based platforms.
 - Topics include, but are not limited to, Lockout/Tagout, Confined Space Entry, Hazard Communication, Respiratory Protection, Hearing Conservation, Excavations, Scaffolding, Rigging, Powered Industrial Truck operation, Ladders, Vehicle Safety, Fire Protection, PPE, Emergency Response, First Aid / CPR.
- Electrical Safety – NFPA 70E compliant – electrical PPE; flame-resistant clothing; training.
- Fall Protection – Trane provides full complement of fall arrest and fall restraint equipment for each technician.





Safety Tools, Training & Expertise (continued)

- Ergonomics – Custom-designed for HVAC field technicians, includes training, material handling equipment and procedures.
- Smith System Safe Driving Program – Trane's safety Managers are certified instructors; safety Managers train technicians; 1-800 "How's My Driving?" stickers are located on the back of service vehicles.
- USDOT compliance – technicians scheduled within Material of Trade and Hours of Service limits and are fully qualified under Department of Transportation rules for driving commercial motor vehicles with GVWR >10,000 and 26,000 lbs.
- Refrigerant Management – Service technicians are trained to manage refrigerant in accordance with U.S. Environmental Protection Agency (EPA) rules using a sophisticated electronic tracking system developed by Trane.
- Empowerment - Technicians are empowered with full management support to address safety hazards as they see fit. If ever in doubt about how to do a job or task safely, the technician is required to ask a qualified person for assistance before proceeding with work.

Management Leadership and Commitment

Accident prevention is a primary responsibility of management at Trane. Trane's safety culture is based on the following management principles:

- Leadership at the local level manages the local organization's safety performance.
- Management is financially accountable for safety performance.
- Local management is actively engaged in risk reduction activities and training and manages safety performance outcomes.
- Management clearly communicates to all Trane employees their safety expectations and strongly enforces compliance with those expectations.
- Employees are held accountable when they fail to meet safety expectations.

Local management and supervisory personnel at the local level are responsible for implementation of the following safety program elements:

- The Safety Management System developed by Trane – developed in accordance with OHSAS 18001.
- Audits and Inspections – Supervisors, Middle and Upper Managers must conduct field inspections. Corporate Safety conducts detailed compliance and management systems audits.
- Company safety compliance programs – Ensure that they are fully implemented.
- Safety and environmental performance – Tracked using a Balanced Scorecard with leading and lagging indicators and metrics.
- Subcontractor Qualification – Implement this process to promote safety and safety plan compliance on multi-employer job sites.
- Six Sigma and Lean – Use these productivity tools to enhance safety on job sites.
- Drug and Alcohol Policy – Mandatory DOT required for-cause and post-accident testing after recordable injuries and property damage.
- Motor Vehicle Records Search – Annual checking driving records of employees who drive company vehicles. Jobsite Safety Equals Customer Value

At Trane safety is part of our culture for every employee. What this means to our customers is fewer job site accidents and the delays and liability concerns that come along with them. What this means to our staff is greater confidence in the practices and procedures they use on the job and the pride that comes from working for one of the premier service organizations in the world. Tighter safety standards and fewer accidents can also lead to better on-time project completion and higher quality results.

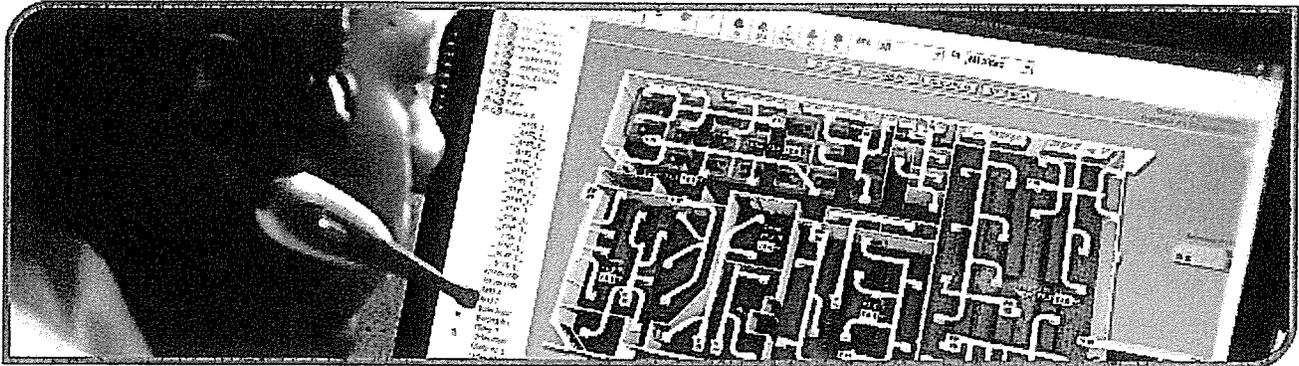
When you use Trane Building Services to install, maintain or upgrade your building systems you will take full advantage of our superior safety program, low incident rates and subcontractor safety management procedures. These help you manage project risk more effectively than you could using multiple contractors or even a single prime contractor with a less impressive safety record.





TRANE SERVICE AGREEMENT FOR BUILDING AUTOMATION SYSTEM

Customer Service Flows



The following Customer Service Flows provide additional service description detail for Covered Equipment.

Note: There may be differences per the agreement in the work being performed between sites and the equipment on those sites.

Service 1: BAS Annual

Description

- BAS-900 General Tasks
- Review trends
- BAS-933 Configurable Controller Controls Review
- BAS-951 AHU-VAV Controls Review
- BAS-931 Building Controller Controls Review
- BAS-930 Operator Workstation
- BAS-932 Programmable Controller Controls Review

Service 2: BAS Mid-season

Description

- BAS-900 General Tasks
- Review trends
- BAS-931 Building Controller Controls Review
- BAS-930 Operator Workstation

Clarifications of Work Performed

This section clarifies differences in the work being performed between sites and the equipment on those sites:

Service	Description	Not Performed on Site