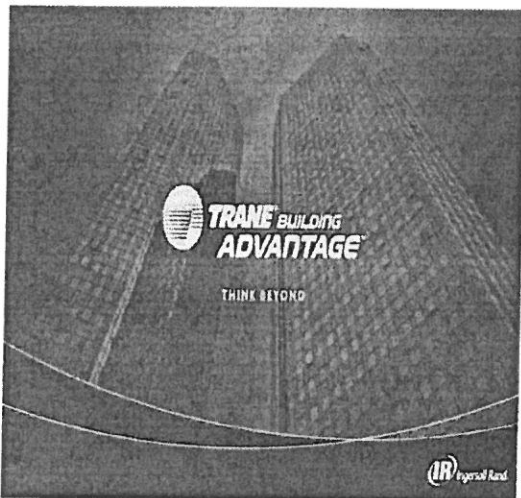


SC



Trane Controls Proposal



Controls Proposal For:
Orland Park Public Library

Local Trane Office:
Trane U.S. Inc.
7100 S Madison Street
Willowbrook, IL 60527

Local Trane Representative:

Trane Chicago Service
Erich Franks
Cell: (630) 740-2928
FAX: (630) 323-9040

Project:
SC upgrade installation.

Project Reference #:
2191952

Date: June 14, 2017



Proposal Number: 2191952

Trane Chicago Service Proposal

Trane is pleased to provide the enclosed proposal for your review and approval

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

We appreciate the effort from Orland Park Public Library to assist in the system analysis and business discussions. Because of your efforts, we were able to develop a proposal that offers solutions to your specific concerns, based on Trane system knowledge and application expertise. *As your partner*, Trane is committed to providing controls to 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 building management systems and control products that improve system performance.

Some key features and benefits Orland Park Public Library should expect from this project are highlighted below.

- Tracer SC provides a web-based front end for your facility that can be accessed with most PC's, Tablets and Smart Phones. Tracer SC eliminates the need for a dedicated computer and monitor so you can manage system performance whenever and wherever it is convenient.
- Tracer SC's building management software tool reduces scheduling, reporting and system application chores to simple "point and click" tasks. The intuitive online tools provide improved efficiencies, comfort and reduction in energy costs when incorporated with Trane's Intelligent Services and Maintenance Program included in this proposal.
- BACnet IP, ms/tp, Wireless BACnet and LonTalk capability for future expansion and replacement
- Energy saving opportunities with improved access to the building HVAC schedule
- Energy saving opportunities with Area Control and Unoccupied set point control
- Energy saving opportunities by utilizing Optimal Start/Stop scheduling
- Replacement of existing vintage (~14 years old) control system with a new Tracer SC web-based BACnet control system.

Trane appreciates the opportunity to earn your business. This controls investment will provide Orland Park Public Library with the capability to significantly reduce operating costs and improve comfort conditions in your facility. The new system will address the reliability concerns of the aging ~14 year old control system.

We look forward to partnering with Orland Park Public Library for all of your control products and service needs. I will be contacting you soon to discuss the proposal and to schedule the next steps.

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



Proposal Number: 2191952

Overview

- Provide and install Tracer SC web-based BAS System with Com 3/4 Communication Bridge to support existing devices
 - Replace existing BCU Controller
- Provide and set-up Standard Tracer SC Graphics. 3D floor plan drawings showing VAV locations, space temperature sensor readings and approximate equipment locations
 - Electric AutoCAD or PDF floor plans must be provided to Trane for drawing recreation. Mechanical HVAC drawings must be available for Trane Technician to map space temperature points and HVAC equipment locations. Please provide upon acceptance.*
- Trane Tracer SC Operator Training Class at Chicago Willowbrook Location (to be scheduled)
- On-Site End User Training.
- Set-up and configuration for remote diagnostics and analytics with Alarm Notification. With owner provided access.
- All work to be performed during normal business hours (7:00am to 4:00pm, M-F, non-holidays)
- All equipment has a 1 year parts only warranty from startup (not to exceed 18 months from shipment) unless otherwise noted

Controls Systems Services not included

- Pricing includes above mentioned items only. Customer will be alerted to any additional work/components necessary beyond above scope for approval prior to correcting.
- Documented Point to Point and/or LEED Commissioning Assistance
- Premium Time Labor
- Any network connectivity issues for the site.
- Repair or replacement of any additional equipment being controlled that is found to be defective
- Air and/ or Water Testing and Balancing.
- PC Workstation(s), Laptop(s)
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors

Owner Furnished items

- Network Drops and IP addresses
- All PCs that will interface system require one of the following web browsers
 - Google Chrome
 - Fire Fcx
 - IE 10 or greater.



Proposal Number: 2191952


Financial Items not included

- Applicable sales tax or use tax is excluded
- Permits
- Bid Bond
- Payment and Performance Bond
- Liquidated or Consequential Damages
- Demurrage or Storage Charges
- Participation in OCIOP or CCIP Insurance Programs

Price is valid for 90 days from date of proposal

Proposed Investment for the Project is \$36,000.00

Acceptance of Proposal By

Customer: ORLAND PARK PUBLIC LIBRARY
 Signed By: 
 Title: LIBRARY DIRECTOR
 Date: 8-24-17
 Purchase Order: _____

We appreciate the opportunity to earn your business, and we look forward to helping you with all of your building comfort solutions and service needs.
Sincerely,



Trane Building Advantage™

an Ingersoll Rand Company
 Erich Franks
 Service Account Executive
 Trane Commercial Systems and Services
 Chicago/West Michigan District
 Ingersoll Rand
 7100 S. Madison Street
 Willowbrook, IL 60527-5505
 USA

Office: (630) 734-6048
 Mobile: (630) 740-2928
 Email: erich.franks@irco.com
 Website: www.trane.com/chicago

*****This proposal is subject to the attached terms and conditions*****



Proposal Number: 2191952

TERMS AND CONDITIONS - SERVICE

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

1. Acceptance. 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 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, Trane Energy Manager Monitoring and/or Diagnostic Services 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 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 these Terms. 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 attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to perform in accordance with the Proposal and Company Terms. 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 performance by Company will in any event constitute an acceptance by Customer of Company's Terms. 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 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.

2. Fees and Taxes. Fees for the Services (the "Service Fees") shall be as set forth in the Proposal. Except as otherwise stated in the Proposal, Service Fees are based on performance during regular business hours. 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.

3. Term, Renewal, and Cancellation. The Term of this Agreement shall be as stated in the Proposal. This Agreement shall be renewed for successive one-year terms unless either party provides written notice of non-renewal to the other party at least 60 days prior to the expiration of the current term. If the Agreement is renewed, the terms and conditions of the Agreement shall be deemed to be the terms and conditions of the Agreement in effect at the time of renewal. If the Agreement is not renewed, the terms and conditions of the Agreement shall be deemed to be the terms and conditions of the Agreement in effect at the time of expiration.

4. Representations and Warranties. Company represents and warrants that the Services will be performed in accordance with the terms and conditions of the Proposal and that the Services will be performed in a professional and workmanlike manner. Company also represents and warrants that the Services will be performed in accordance with applicable laws and regulations. Customer represents and warrants that the Covered Equipment is owned by Customer and that Customer has the right to authorize Company to perform the Services on the Covered Equipment. Customer also represents and warrants that the Covered Equipment is in good working order and that Customer has provided all necessary information to Company to perform the Services.

5. Payment. Payment for the Services shall be made in accordance with the terms and conditions of the Proposal. Payment shall be made within 30 days of the date of invoice. Late payment may result in a suspension of services and the assessment of late fees. Payment shall be made in US dollars. Payment shall be made to the account specified in the Proposal.

6. 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. (a) Any failure by Customer to pay amounts when due. (b) Any general assignment by Customer for the benefit of its creditors. (c) Customer's bankruptcy, insolvency or receivership. (d) Any other event that materially and adversely affects Customer's ability to perform its obligations under this Agreement.

7. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the area under similar circumstances when Company performs the Services. Company may refuse to perform where working conditions could endanger property or put people at risk. Company shall not be responsible for any damage to or destruction of property or equipment caused by fire, theft, flood, or other causes beyond its control. Company shall not be responsible for any damage to or destruction of property or equipment caused by fire, theft, flood, or other causes beyond its control.

8. 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. (c) Reimburse Company for services, repairs and/or replacements performed by Company beyond the Services or otherwise excluded under this Agreement and such reimbursement shall be at the then prevailing applicable regular, overtime or holiday rates for labor/retail and prices for materials and may at Company's option be subject to a separate written agreement prior to its undertaking such work. (d) Where applicable, advise water treatment is expressly included in the Services, provide professional cooling tower water treatment in accordance with any reasonable recommendations provided by Company.

9. Exclusions. Unless expressly included in the Covered Equipment or the Services, the Services do not include, and Company shall not be liable for, any of the following: (a) Any guarantee of normal 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 of non-maintainable parts of the system, including but not limited to, storage tanks, pressure vessels, shells, coils, tubes, housings, castings, castings, drains, 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, repair 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, 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/lavours or performing special tests recommended or required by insurance companies or federal, state or local governments. (f) 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/moisture 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: (i) 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.

Commented [DGW1]: NOTE Do we agree with this?



Proposal Number: 2191952

10. Limited Warranty. Company warrants that (a) the material manufactured by Company and furnished hereunder 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 of the Limited Warranty. Company obligations of equipment start-up, if any are stated in the Proposal, are continuous 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 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 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 Company Limited Warranty shall not apply to those components and any warranty of the components shall be the warranty given by such component supplier. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or completion 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 LIMITED 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 SCOPE OF SERVICES, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY 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.

11. Indemnity. To the maximum 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 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 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.

12. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE, OR PROFITS), OR PUNITIVE DAMAGES WHETHER CLAIMED UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY OR FACTS. Should damages nevertheless be found liable for any damages they shall be limited to the compensation received by Company for the Services and Additional Work for one location over a 12 month term. 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: ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN THE ENERGY AND BUILDING PERFORMANCE SERVICES PROVIDED; 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.

13. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos poly-chlorinated biphenyl ("PCB") or other hazardous materials (collectively, "Hazardous Materials"). 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. Company shall be responsible for responding to any government agency or other authority that may be required to investigate or take any action in connection with the presence of Hazardous Materials. 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.

14. 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

Additional insurance may 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 rights of subrogation.

15. 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 remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (a) be terminated upon 15 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, riot or the public enemy, flood, earthquake, lightning, tornado, storm, fire, civil disobedience, pandemic, insurrection, 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 nonaction by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not waived 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.

16. Maintenance Services Other Than Specially 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 changes, adjustments, service or repairs 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 affected; in such case no refund of any portion of the Service Fees shall be made; and (c) Customer shall (i) promptly notify Company of any unusual performance of Equipment; (ii) permit only Company personnel to repair or 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.

17. Remote Connectivity. Remote connectivity services refers services by Company provided, in whole or in part, using any method of connecting to Customer 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 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 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 names and passwords. Customer is responsible for all uses of Customer's passwords, 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 will inform Customer of such disclosure.



Proposal Number: 2191952

18. 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 Federal Government, determinations 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 Services. Except as provided for Service Fees adjustments, 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 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 hereto of the several counterparts shall suffice as an original.

19. 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 laws in Canada.

20. US 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(c)(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, 52.222-46, 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 governmental 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.

21. 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, losses, 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 1367 (0214)
Supersedes 1-26 1367 (1213)

