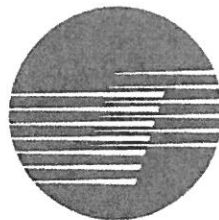


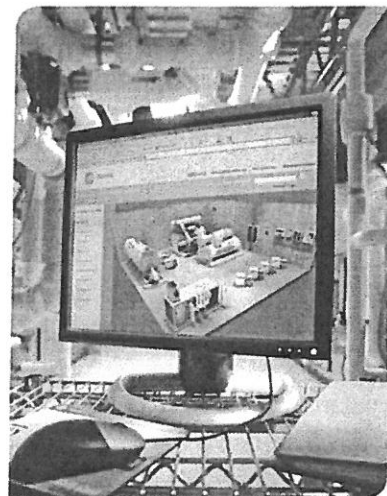
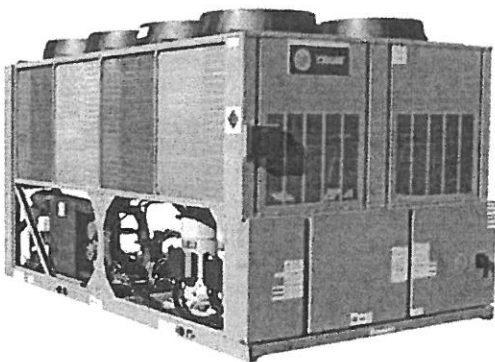
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Maintenance Agreement Program

**ORLAND PARK PUBLIC
LIBRARY**



TRANE[®]



Maintenance Agreement Program

The objective of this agreement is to insure reliable, efficient comfort for ***Orland Park Public Library***. Trane Chicago Service will accomplish this by providing knowledgeable, professional people to work with your building personnel. Working as a team, we can meet your objectives. Our commitment includes:

Assigned Service Team

Your service team will consist of an Account Executive and Factory Trained Service Technicians with extensive HVAC experience. Our technicians have a thorough understanding of controls, refrigeration and airside systems. Utilizing the correct diagnostic methods will ensure minimal downtime.

Energy and System Optimization

In order to assure effective environmental conditioning while minimizing the cost to operate the equipment, Trane technicians will review operating sequences and practices for the equipment covered by this agreement and advise you of energy saving opportunities.

Training

The cost of professional training always pays you back. We offer two annual operation and maintenance classes at our Willowbrook facility with the tuition fees waived. Additionally, we encourage questions during each service visit.

Complete Documentation

Complete documentation of all work performed on your equipment will be provided to you at the completion of each visit.

Priority Emergency Response

Our 24-hour *Priority Emergency Response* phone number is: **(630) 734-3200**.

Orland Park Public Library will receive *Priority Emergency Response* with a typical response time of less than two hours.

Discounts

Orland Park Public Library will enjoy discounts on services needed in addition to this maintenance agreement:

- Discount off book price on Trane parts
- Discount off our prevailing labor rate
- Waiver of the four hour minimum charge

Automated Scheduling System

Trane Chicago Service utilizes a computerized scheduling program to assure that all services included in this agreement are performed.

Equipment List

Manufacture	Equipment Type	Model Number	Serial Number
Trane	Air-Cooled Helical Rotary Chiller	RTAC200...	U03K02468
Trane	Air Handling Unit	MCCB008...	K03J35739A
Trane	Air Handling Unit	MCCB008...	K03J31855A
Trane	Air Handling Unit	MCCB008...	K03J30888A
Aerco	Gas Boiler	BMK2.0	G-03-0984
Aerco	Gas Boiler	BMK2.0	G-03-0984
Aaon	Rooftop Heating/Cooling Unit	RK-16-3-F0-31M...	200401- AKGM53012
B&G	Circulating Pump(s) Qty-4	N/A	N/A

Maintenance Agreement Program Scope

Scope of Maintenance Agreement Services	Included
Seasonal Startup of Air Conditioning as Applicable	Yes
Seasonal Startup of Heating as Applicable	Yes
Operating Inspections for the AHU	Yes
Condenser Coil Inspection & Cleaning	Yes
Seasonal Shut Down of Air Conditioning as Applicable	Yes
Seasonal Shut Down of Heating as Applicable	Yes
Pump Operating Inspections	Yes
Repair Parts- Discount of 5% off List Price	Quoted / Billable
Repair Labor- Discounted Rate	Quoted / Billable
Priority Response- Average of Two (2) Hours	Yes
Customer Training- One (1) Factory Training Annually	Yes
Written Reports/Emailed Service Tickets	Yes
1 Year Parts and Labor Warranty on Any Work Performed	Yes

Maintenance Agreement Program Descriptions Priority Emergency Response

Seasonal Start-up Inspection

- Report in with the Customer Representative.
- Record and report abnormal conditions, measurements taken, etc.
- Review customer logs with the customer for operational problems and trends.
- Inspect for leaks and report leak check result.
- Repair minor leaks as required (e.g. valve packing, flare nuts).
- Calculate the refrigerant loss rate and report the results to the customer.
- Check the condenser fans for clearances and free operation.
- Visually inspect the condenser coil for cleanliness.
- Verify the performance of the fan control inverter VFD, if applicable.
- Verify Evaporator heat tape and immersion heater.
- Inspect the control panel for cleanliness.
- Inspect wiring and connections for tightness and signs of overheating and discoloration.
- Verify the working condition the CH530.
- Test oil pressure safety device (as required). Calibrate and record setting.
- Test the operation of the chilled water pump starter auxiliary contacts.
- Test all LLID devices.
- Check bindings on all LLID devices.
- Verify the working condition of all indicator/alarm lights and LED/LCD displays.
- Verify the operation of the oil heaters.
- Clean the starter cabinet and starter components.
- Inspect wiring and connections for tightness and signs of overheating and discoloration.
- Check the condition of the contacts for wear and pitting.
- Check contactors for free and smooth operation.
- Check all mechanical linkages for wear, security and clearances.
- Verify tightness of the motor terminal connections.
- Meg the motor and record readings.
- Verify the operation of the electrical interlocks
- Measure voltage and record. Voltage should be nominal voltage $\pm 10\%$
- Verify the operation of the oil sump heaters.
- Verify a full chilled water system.
- Verify glycol concentration (if applicable).
- Start the chilled water pump.
- Test the operation of all flow-proving devices on the chilled water circuit.
- Check water flow rates.
- Start the chiller.

Maintenance Agreement Program Descriptions
Priority Emergency Response

- Verify the unit starter panel operation, amperage, and voltage.
- Verify the operation of all timing devices.
- Check the setpoint and sensitivity of the chilled water temperature control.
- Verify the operation of the current control device.
- Check the refrigerant level and correct charge.

Seasonal Startup Inspection-Continued

- Verify the operation of the capacity control slide valves.
- Verify the operation of the "load" and "unload" solenoid valves.
- Verify a clean refrigerant filter.
- Verify the lead-lag compressor operation.
- Verify the operation of the electronic expansion valves.
- Check pressure drop across the oil filter.
- Verify clear refrigerant sight glasses.
- Check oil level.
- Test the high condenser pressure safety device and record setting.
- Test the low refrigerant temperature safety device and record setting.
- Review operating procedures with operating personnel and provide a written report of completed work, operating log, and indicate any uncorrected deficiencies noted.
- Review all diagnostic information.
- Trend all LLID values and save readings.
- Review operating procedures with operating personnel and provide a written report of completed work, operating log, and indicate any uncorrected deficiencies noted.
- Trend all LLID values and save readings.

Seasonal Shutdown Procedure

- Check the general operation of the unit.
- Shut down the chiller, pumps, and auxiliary equipment.
- Verify voltage to heat tape.
- Turn off equipment power as necessary.
- Verify evaporator drained or flow through evaporator.

Maintenance Agreement Program Descriptions Priority Emergency Response

Condenser Coil Cleaning

- Air cooled *condenser coil cleaning* will be provided once per year and will be performed in conjunction with the mid-season cooling inspection.
- Condenser coils will be cleaned by washing coils with a pressure washer.
- Water and electrical source must be within 50 feet of a unit.

Air Handling Unit Seasonal Startup- Cooling and Heating Inspection

- Report in with the Customer Representative.
- Check the general condition of the unit.
- Verify smooth fan operation.
- Check the belts for tension, wear, cracks, and glazing (Replace as necessary).
- Check and record supply and control air pressure.
- Verify the operation of the control system.
- Log the operating conditions after the system has stabilized.
- Check VFD settings.
- Review operating procedures with operating personnel.
- Provide a written report of completed work, operating log, and indicate uncorrected deficiencies detected.

Aerco Boiler Seasonal Startup

- Report in with the Customer Representative.
- Check the general condition of the unit.
- Inspect the burner.
- Adjust the burner controls to obtain proper combustion.
- Check the operation of the pressure relief valve.
- Check the operation of the low water cutoff and feed controls.
- Check the setting and test the operation of the operating and limit controls.
- Check the operation of the modulating motor.
- Lift the safety/relief valves with at least 70% of rated pressure.
- Blow down and try gauge cocks to confirm glass water level.
- Check and test boiler blow down valve.
- Log operating conditions after the system has stabilized.
- Review operating procedures with operating personnel.
- Provide a written report of completed work, operating log, and indicate uncorrected deficiencies detected.

**Maintenance Agreement Program Descriptions
Priority Emergency Response**

Aaon Rooftop Seasonal Startup Cooling Inspection

- Report in with the Customer Representative.
- Start the unit.
- Verify the starter operation.
- Verify the smooth operation of the compressors and fans.
- Log operating conditions of the unit after the system has stabilized.
- Review operating procedures with operating personnel.
- Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

Aaon Rooftop Seasonal Startup Heating Season

- Report in with the Customer Representative.
- Verify smooth operation of the fans.
- Check the belts for tension, wear, cracks, and glazing.
- Verify clean air filters.
- Verify proper operation of the heating section.
- Verify the operation of the temperature controls.
- Review operating procedures with operating personnel.
- Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

B&G Pump Seasonal Inspection

- Report in with the Customer Representative.
- Verify smooth operation of the pump.
- Check for leaks on the mechanical pump seals, if applicable.
- Verify proper drip rate on the pump seal packing, if applicable.
- Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

***Maintenance Agreement Program Descriptions
Priority Emergency Response***

Priority Emergency Response

Trane Maintenance Agreement customers will receive PRIORITY EMERGENCY RESPONSE on service requests over non-maintenance agreement customers.

- Trane's 24-hour emergency service phone number is **(630) 734-3200**.
- Typical response time is less than two hours.
- Diagnostic and repair time will be billable at the prevailing discounted labor rates.



Acceptance

Effective Date

- *Start Date:* July 1, 2017
- *End Date:* June 30, 2018

Equipment Serviced

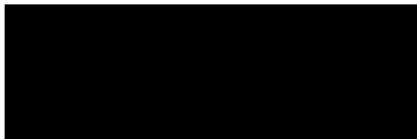
See equipment list page for a list of equipment included in this service agreement.

Agreement Pricing

Trane Chicago Service will furnish the services, as stipulated in the scope of coverage, for the following amount. Agreement pricing is subject to adjustment at anniversary date. Please indicate payment approval by initialing the appropriate line.

	<u>Pricing</u>	<u>Initial & Date</u>
• Annual pre-payment 7/1/17 thru 6/30/18 (Includes a 4% Discount)	\$6,903.00	_____

Submitted By:



Date: 6/14/2017

Erich Franks Account Executive

Customer Acceptance

Name (Please Print):

MARY K. WEIMAR

Signature:



Title:

LIBRARY DIRECTOR

Date:

8-24-17

Purchase Order: _____

Approval - Trane Chicago

Ed Harding

Sales Manager

Trane Chicago Service

* This agreement is subject to the attached Terms and Conditions *

Correspondence

Trane Chicago Service records indicate the following contacts and information for distribution.

Customer Information

	Billing Information	Correspondence & Approvals	Technical / job site Information
Name and Title	Mary Weimar	Mary Weimar	Steve Newman
Company:	Director	Director	Maintenance Superintendent
Address	Orland Park Public Library	Orland Park Public Library	Orland Park Public Library
City, State Zip	14921 Ravinia Avenue	14921 Ravinia Avenue	14921 Ravinia Avenue
Phone No:	Orland Park, IL 60462	Orland Park IL 60462	Orland Park IL 60464
Email	Mweimar@orlandparklibrary.org	mweimar@orlandparklibrary.org	snewman@orlandparklibrary.org
Mobile No.	(708) 349-8138	(708) 349-8138	(708) 428-5133
Fax No:	(708) 349-8322	(708) 349-8322	(708) 349-8322

Service by the Manufacturer



Trane Chicago Service Information

Erich Franks
Account Executive
The Trane Company
7100 Madison St.
Willowbrook, IL 60527-5505

Erich.franks@irco.com
Phone: (630) 734-6048
Cell (630) 740-2928
Fax: (630) 323-7480



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 OR AMENDMENT.

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. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's Terms and Conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to perform in accordance with the Proposal and Company Terms and Conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of performance by Company will in any event constitute an acceptance by Customer of Company's Terms and Conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or Terms and Conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for 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 the 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.

4. Payment. Payment shall be made pursuant to the Illinois Prompt Payment Act 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.

SAS

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.

SAS

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.

SAS

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, end 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; (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/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: (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.

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 coterminous 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.

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 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 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.

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-EITHER PARTY TO THE CUSTOMER/OTHER 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 OWED TO OR 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 to its actual knowledge 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 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.

16. Remote Connectivity. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer's building automation system (BAS) and HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer's request. 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

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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 become aware. Any breach in privacy of which Customer become 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~~ Neither party 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~~ the other party. 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~~ either party in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the ~~Company~~ that party of any right or remedy.

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

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