

**1. Applicability and Formation.** Each quotation ("Quotation") issued by Seller (as defined below) is an offer to sell products ("Products") to purchaser ("Customer") and includes and is governed by these terms and conditions of sale ("Terms"). Likewise, all sales of Products to Customer from Seller, even if not preceded by a Quotation, includes and are governed by the Terms ("Purchase"). The Terms and any applicable Seller Quotation shall be deemed accepted by Customer if customer places an order for Products, or receives Products, or upon Seller's receipt of: a Customer purchase order, or a signed Quotation, or any other indication of acceptance by Customer. Any resulting contract is expressly limited to the terms contained in any applicable Seller Quotation and the Terms. Seller rejects any terms and conditions contained in Customer's forms or correspondence that are additional to or different from those set forth in the Terms and in any applicable Seller Quotation.

**2. Some Key Terms:**

- a. **"Consumables"** means, for these purposes, filters, gloves, masks, tape, refrigerants, sealants, gaskets, seals, cleaners and other chemicals.
- b. **"Equipment"** means those Products that are not a component of other items (e.g., Furnace, Air Handler, Air Conditioner/Condenser, Heat pump, Rooftop unit, Chiller, PTAC).
- c. **"Parts"** means those Products that are not Equipment but are purchased to either repair or supplement an item of Equipment (e.g., a coil, compressor, motor, ducting or thermostat).
- d. **"Seller"** means the HVAC Parts and Supply Solutions strategic business unit of Trane, commonly known as Trane Supply or Trane parts. Legally, Seller operates as part of two legal entities: In the U.S. Seller is a part of Trane U.S. Inc., and in Canada, Seller is a part of Trane Canada ULC. References to the term "Seller" refers to this parts operating group of the applicable legal entity as determined by the Seller location.
- e. **"Trane Branded"** means Products branded with any of the following trademarks Trane, American Standard, and Ameristar (as brands for Equipment and Parts) and Service First and SF (as brands for Parts).

**3. Limited Warranty**

- a. **Trane Branded Residential Equipment Limited Warranty.** Trane Branded residential Equipment sold by Seller is provided with its own warranties (see Warranty included with Equipment for more details), but are otherwise subject to the Terms. Note that if this residential Equipment is sold to a "residential end user", as opposed to a "commercial end-user", the warranty period may have the option for extension if the end user registers their Equipment - see the applicable warranty statement for details and restrictions. To the extent such residential warranty conflicts with the Terms, such residential warranty governs. However, for residential Equipment bought by contractors and other non-end-user purchasers, Seller provides such intermediate customer/contractor with the same limited warranty, including all applicable restrictions and limitations, as provided for Commercial Equipment under Section 3b below.
- b. **Commercial Equipment and Residential and Commercial Parts Limited Warranty.** **THE LIMITED WARRANTY FOR TRANE BRANDED COMMERCIAL EQUIPMENT AND ALL TRANE BRANDED PARTS (OTHER THAN CONSUMABLES), AS THE SAME MAY BE AMENDED FROM TIME TO TIME, ARE INCORPORATED HEREIN REFERENCE from <http://www.trane.com/partswarranty>.** **CUSTOMER ACKNOWLEDGES RECEIPT, REVIEW AND ACCEPTANCE OF THE LIMITED WARRANTY TERMS. AT CUSTOMER'S WRITTEN REQUEST, SELLER WILL MAIL SUPPLIER A HARD COPY OF THE APPLICABLE WARRANTY TERMS.** For sales of Seller branded commercial Equipment and Parts that are not consumables, to the extent any of these commercial or parts limited warranty terms conflict with the Terms, the provisions of the applicable limited warranty terms govern.

- c. **Consumables and Third Party Equipment and Parts. SELLER MAKES NO WARRANTIES OF ANY KIND WITH REGARD TO: (i) TRANE BRANDED OR THIRD PARTY CONSUMABLES AND (ii) THIRD PARTY EQUIPMENT AND (iii) THIRD PARTY PARTS.** "Third party", for these purposes means not Trane Branded.

- (i) Customer acknowledges that Seller is reselling (and not itself providing) all third party Products purchased by Customer.
- (ii) Seller shall pass through to Customer, the manufacturer's warranties for each such Products and agrees to facilitate utilization of manufacturer's product return policies. In no event will Seller provide product return or warranty coverage beyond that provided by the manufacturer. Products that are accepted for return may be subject to the manufacturer's applicable restocking fee(s).
- (iii) Customer acknowledges the terms and conditions governing the use of such Products shall be solely between Customer and the applicable third party manufacturer.

- d. **Warranty Remedy.** Seller's obligations and liabilities under any warranty provided hereby or referenced above (see Sections 3(a) and (b) above) are limited to furnishing replacement Equipment or Parts, at its option, FOB (Seller designated shipping point), freight-allowed to Seller's warranty agent's stock location, for all non-conforming warrantable Products. At Seller's option, Seller may refund the Customer the purchase price or value of such warrantable Product. The replacement or repair or other remedy of Products by Seller does not give rise to any new warranty, and the warranty period provided for in the Terms is not extended by the length of any period from the date the defective or non-conforming Products are received by Seller until the date the repaired or replacement Products are delivered to Customer. Seller shall not be obligated to pay for the cost of lost refrigerant.

- e. **THE LIMITED WARRANTIES PROVIDED HEREBY ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY. SELLER DISCLAIMS ALL IMPLIED WARRANTIES AND SIMILAR OBLIGATIONS (OTHER THAN GOOD TITLE) INCLUDING, BUT NOT LIMITED TO, THOSE OF FITNESS FOR A PARTICULAR PURPOSE, AND MERCHANTABILITY, WHETHER OTHERWISE ARISING BY LAW, CUSTOM, USAGE, TRADE PRACTICE, COURSE OF DEALING, OR COURSE OF PERFORMANCE.**

- f. **Warranty Requirements.** Seller's warranties will apply only if the Products: (i) have been paid for, installed, maintained and used in conformity with the highest industry practices including conformance with Section 6 hereof; (ii) have been subjected to normal use for the purpose for which the Products were designed and approved for in writing by the manufacturer; (iii) have not been subjected to misuse, negligence or accident; (iv) have not been altered, supplemented or repaired by persons other than Seller in any

respect which, in the judgment of Seller, adversely affects the condition or operation of the Products or subject to any applicable warranty exclusion.

**4. Limitation of Liability. IN NO EVENT SHALL SELLER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING COMMERCIAL LOSS, LOSS OF REVENUE, OF USE, OR LOST PROFITS, HOWEVER CAUSED, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER ALSO DISCLAIMS ANY LIABILITY FOR DAMAGES OF ANY KIND (WHETHER DIRECT OR INDIRECT) ARISING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE EXTENT ALLOWED BY LAW, IN NO EVENT SHALL SELLER'S LIABILITY FOR CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE VALUE OF THE PRODUCT GIVING RISE TO THE CLAIM. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR ANY BREACH BY SELLER. THESE LIMITATIONS, TO THE EXTENT ALLOWED BY LAW, APPLY TO ALL CLAIMS WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, AGENCY, WARRANTY, TRESPASS, INDEMNITY OR OTHER THEORY OF LIABILITY.**

**5. Proper Business Practices.** Except as otherwise agreed to by an authorized representative of Seller, Customer agrees to (a) employ trained and qualified HVAC technical personnel to install the Products; (b) ensure that all Products are installed in accordance with Seller's or other applicable manufacturers installation instructions and the laws, codes and regulations effective in the area in which those Products are installed; (c) conduct installation of the Products in a manner that will preserve and enhance the goodwill and prestige of Seller; (d) not remove or alter any printed Seller or applicable manufacturer warranty, nameplate, label, tag or literature from any Products and, where applicable, to deliver Seller's or the manufacturer's, as applicable, printed warranty and operations manuals to the end user at or prior to the time of installation; and (e) record the model and serial number of all Products installed, along with the installation location and date, and furnish that information to Seller upon request.

**6. Intellectual Property.** Seller does not grant any right to use any of Seller's trademarks, trade names or similar intellectual property marks without Seller's prior express written approval.

**7. Shipping, Risk of Loss and Transfer of Title.** Shipment dates are estimates only. No valid contract may be made to ship within or at a specified time unless in writing, signed by an officer of Seller. Shipments shall be CPT Buyer's named destination (Incoterms 2010). Seller will contract for and pay the costs of carriage; however, freight charges will be added to Customer's invoice at time of shipment. Title and risk of loss shall pass to Customer when Seller hands the goods to the carrier.

**8. Cancellation and Returns.** If Customer cancels any order prior to shipment, without Seller's written consent, Customer shall be liable to Seller for cancellation charges including Seller's incurred costs and profits. Products may be returned only in new, unused condition, within 30 days of receipt and a restocking fee may apply. Special orders require Seller pre-approval for return. Please check with your Seller representative prior to returning.

**9. Price and Payment.** Payment is due upon receipt of Product. All amounts not paid to Seller when due will incur a carrying charge of 1.5% per month to the extent allowed by law and otherwise at the highest written contract rate allowed by law. Customer shall be liable to Seller for all collection expenses, including reasonable attorney's fees and court costs, incurred by Seller in attempting to collect any amounts due from Customer. Seller reserves the right to exercise all remedies available at law, including suspending or terminating performance in the event of Customer's non-payment. All prices are exclusive of all applicable taxes, duties, licenses, and tariffs levied upon the sale, purchase or delivery of the Products which are the Customer's obligation.

**10. Relationship of Parties.** Customer and Seller shall be deemed independent contractors. Nothing contained herein shall be deemed to create the relationship of partner, principal and agent, employer and employee or joint venture. Customer has no right or authority to incur obligations of any kind in the name of or for the account of Seller, nor to commit or bind Seller to any contract or other obligation.

**11. Indemnification.** Customer agrees to indemnify defend and hold Seller harmless from and against any losses, damages, liabilities and expenses (including legal fees) resulting from any claim of or cause of action for (a) faulty workmanship, installation or servicing by Customer or a representative, agent or third party purchaser from Customer, or (b) the failure by Customer to confirm that the Product(s) provided by Seller are fit for Customer's purposes, or (c) defective materials or parts supplied by Customer or (d) system design error or negligence of Customer or a representative, agent or third party purchaser from Customer.

**12. Force Majeure.** Seller will not be responsible for any delay or failure in any performance due, without limitation, to acts of God, war, warlike conditions, blockade, embargoes, riots, governmental restriction, labor disturbances, unavailability of anticipated usual means of supplies, transportation or loading facilities, wrecks, epidemics, quarantine, fire, flood, earthquake, explosion, any unforeseen change in circumstances, or any other causes beyond its reasonable control.

**13. Governing Law. THE AGREEMENT IS GOVERNED, CONSTRUED AND ENFORCED UNDER THE LAWS OF THE STATE OF NEW YORK INCLUDING THE UNIFORM COMMERCIAL CODE, EXCEPT AS PROVIDED IN THESE GENERAL TERMS. The U.N. Convention on International Sales of Products does not apply.**

**14. Miscellaneous.** No course of prior dealings and no usage of trade shall be relevant to determine the meaning of the delivery document or the Terms even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. The term "including" shall mean and be construed as "including, but not limited to", unless expressly stated to the contrary. The invalidity, in whole or in part, of any section of the delivery document or the Terms shall not affect the remainder of such sections of the delivery document or the Terms. All provisions or obligations contained in the delivery document or the Terms which by their nature or effect are required or intended to be observed, kept or performed after termination or completion of this transaction will survive and remain binding upon and for the benefit of the parties, their successors and permitted assigns. The failure of either party to insist upon strict performance of any of the provisions of the Terms will not be deemed a waiver of any breach or default. Seller is not responsible for typographical or clerical errors made in any proposals, quotations, orders or publications and reserves the right to correct any such errors. English is the governing language of the Terms.