



## TRANE CONSULTING SERVICES AGREEMENT

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### Contract Number:

This Agreement is entered into as of {Effective Date} between {Company Name} having a place of business at {Company Address} ("Supplier"), and Trane U.S. Inc. located at One Centennial Avenue, Piscataway, NJ 08855-6820 ("Trane").

Supplier is hereby retained by Trane as a Supplier on the following terms and conditions:

1. Supplier, as an independent contractor, shall perform the services set forth on Exhibit A attached hereto (the "Services") for the period beginning {Effective Date} and ending on {Original Expiration Date}, upon which this Agreement shall terminate, unless sooner terminated by Trane upon thirty (30) days prior written notice. Trane may extend the duration of this agreement for up to an additional six (6) months with no increase in pricing shown in Exhibit B upon thirty (30) days prior written notice.
2. As full and complete compensation for Supplier's Services for consultation required by Trane and for the discharge of all Supplier's obligations hereunder, Trane shall pay Supplier fees as set out in Exhibit B hereto. In addition, Trane shall reimburse Supplier for all out-of-pocket expenses (transportation, hotels, meals, telephone) reasonably and necessarily incurred by Supplier in connection with any trip made at Trane's request and with Trane's prior approval. Travel time will not be considered in determination of time worked by Supplier unless mutually agreed to in writing in advance of such travel. Supplier shall submit invoices to Trane for Services rendered. Payment shall be made by Trane to Supplier 75 days from date of Supplier's invoice to Trane. All invoices submitted for payment shall be in the name of the Supplier which is a party to this Agreement. Any disbursements paid to third parties by the Supplier shall be authorized in advance by Trane and an itemized bill submitted to Trane for payment.

At any time during the performance of the Services hereunder, Trane shall have the right to request changes to the Services required under Exhibit A. In the event that such changes require materially different or additional work by Supplier, Supplier shall, prior to the commencement of the revised Services, present to Trane any changes to the fees set forth in Exhibit B that it deems equitable and shall not commence the revised Services without Trane's prior written agreement to such changes.

In the event that this Agreement is terminated by Trane as set forth in paragraph 1, Trane shall pay Supplier for Services completed and expenses incurred as of the date that notice is given in compliance with paragraph 15.

3. In the performance of all Services hereunder Supplier: (a) shall be an independent contractor and as such shall not be entitled to any benefits applicable to employees of Trane; (b) shall not exercise any authority to act for or on behalf of Trane; (c) shall comply with all applicable laws and regulations; (d) shall have sole responsibility for the payment of all applicable governmental taxes including Federal, State and Local income taxes and for all employment and disability insurance, Social Security and other similar taxes. Supplier shall obtain and maintain in effect during the term of this Agreement (i) workers' compensation insurance in the amounts required by law, including employer's liability insurance with limits of not less than \$1,000,000 for each accident or occurrence; (ii) comprehensive automobile liability insurance with limits of \$1,000,000 per accident for bodily injury and property damage; (iii) Commercial General Liability in the amount of \$1,000,000 for each occurrence / \$2,000,000 aggregate for bodily injury and property damage. Coverage will include contractual liability and independent contractor's coverage. In the event that the Supplier is performing design work or consulting services where they are evaluating and rendering a professional opinion, the Supplier will obtain a Professional policy in the amount of \$ 1,000,000 for each occurrence. Policies for (ii and iii) should identify Trane U.S. Inc as an additional insured. A waiver of subrogation from the Supplier and its insurers in favor of Trane is required. If requested by Trane, Supplier will provide certificates evidencing the aforementioned insurance or the original of the insurance policies for review by Trane.

## TRANE CONSULTING SERVICES AGREEMENT

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4. The equal opportunity clause required by Executive Order 11246, as amended by Executive Order 11375, is incorporated by reference in this contract and Supplier certifies, by execution of the contract that:
  - 4.1. no segregated facilities are maintained contrary to the regulations under the Executive Orders;
  - 4.2. it has developed and follows appropriate affirmative action programs under such regulations; and
  - 4.3. it will incorporate by reference or otherwise in its subcontracts the equal opportunity clause and obtain assurance from its subcontractors as to facilities and affirmative action programs.
5. Supplier, in performing any work under this contract, will fully comply with the provisions of the Federal Occupational Safety and Health Act of 1979 and with the Federal Fair Labor Standards Acts and the Wage and Hour Laws of the State in which the work will be performed pursuant to this Agreement and with any rules and regulations pursuant to said Acts.
6. Supplier agrees that it shall only supply foreign nationals working as employees under this Agreement who satisfy all U.S. immigration laws, including the L-1 Visa (Intercompany Transferee) Reform Act of 2004 (the "L-1 Reform Act") and the H-1B Visa Reform Act of 2004 (the "H-1B Reform Act").
  - 6.1. Supplier agrees that every L-1 petition submitted for employees who will work at the premises of Trane shall contain, among other things, the following: (i) Part 4, Form I-129S (or equivalent): Supplier, c/o Trane [Address where Supplier's employee will work]; and (ii) a supporting letter that includes a statement clearly indicating: (a) at what Trane site the employee will work and providing the full address of that site; and (b) what specialized knowledge (as defined by 8 U.S.C. §1184(c)(2)(B), as amended, and as interpreted by the U.S. Citizenship and Immigration Services ["USCIS"] or the U.S. State Department ["DOS"]) each foreign national has and will utilize at the Trane site; and (c) how the Supplier will control and supervise the employee at the work site.
  - 6.2. The Supplier warrants and represents that every statement in its L-1 petitions for its employees will be true and accurate and agrees to notify Trane immediately in the event that it discovers a violation of this paragraph in the manner required by paragraph 15. The Supplier further agrees that any violation of this paragraph 6 shall be considered a material breach of this Agreement and shall entitle Trane to terminate this Agreement immediately upon notice.
  - 6.3. The Supplier warrants and represents that it will not place any H-1B employee on any Trane site in violation of either the L-1B or the H-1B Reform Acts or any other legal provision(s).
  - 6.4. Supplier further agrees to: (i) identify for Trane all foreign nationals in its employ who will work at a Trane site, (ii) provide Trane with the nonimmigrant visa classifications of these foreign nationals, and (iii) maintain at the Trane site a complete and full copy of all visa petition materials submitted to the USCIS or DOL in connection with the Supplier's efforts to secure a nonimmigrant working visa for the employee.
  - 6.5. Supplier further agrees that Trane or its representatives shall have the right, without prior notice to Supplier, to inspect and/or copy any and all nonimmigrant visa materials maintained by Supplier as required by paragraph 6.4 (iii).
7. Trane does not desire to acquire from Supplier any secret or confidential know-how or information which Supplier may have acquired from others. Accordingly, Supplier represents and warrants that Supplier is free to divulge to Trane, without any obligation to or violation of any right of others, any and all information, practices or techniques which Supplier will describe, demonstrate, divulge or in any other manner make known to Trane during its performance of Services hereunder. Supplier hereby grants to Trane the perpetual right to duplicate and distribute internally any materials provided to Trane in connection with this engagement and to make derivative works therefrom. Supplier shall exonerate, indemnify and hold harmless Trane from and against any and all liability, loss, cost, expense, damage, claims or demand for actual or alleged violation of the rights of others

# TRANE CONSULTING SERVICES AGREEMENT

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in any trade secret, know-how or other confidential information by reason of Trane's receipt or use of the Services or information described above, or otherwise in connection therewith.

8. The information and knowledge divulged to Supplier by Trane or which Supplier acquires in connection with or as a result of Supplier's Services hereunder shall be regarded by Supplier as confidential. Supplier shall not use, nor shall Supplier disclose, any such information, knowledge or trade secrets to any person either during or after the period of this Agreement, except to Supplier's employees as may be necessary in the regular course of Supplier's duties hereunder or except as otherwise authorized by Trane. Supplier shall use any personal information regarding Trane's employees that it obtains access to in performance of the Services in strict compliance with Exhibit C attached hereto and made a part hereof.
9. Supplier shall, and shall cause its employees, Suppliers, and agents to, promptly and fully disclose to Trane all inventions, discoveries technological innovations, patentable or unpatentable, and copyrightable works conceived, developed, created, or reduced to practice by Supplier, or made by Supplier in any degree, resulting from, or arising out of, Supplier's Services hereunder (hereafter, collectively called "Creations") in any and all countries; all such Creations are and shall remain the property of Trane whether or not disclosed, assigned, patented or copyrighted. Any Creations developed under this Agreement shall be a "work for hire" and the ownership and copyright therein vests in Trane and shall be the exclusive property of Trane. To the extent that exclusive title and/or ownership rights in any Creations may not originally vest in Trane as contemplated hereunder (e.g., may not be deemed works made for hire), Supplier hereby agrees to irrevocably assign, transfer and convey to Trane all right, title and interest therein and/or to cause its employees, Suppliers and agents to irrevocably assign, transfer and convey to Trane all right, title and interest therein.
10. Supplier agrees to grant to Trane an irrevocable, perpetual, unrestricted, nonexclusive, paid-up, worldwide license in any intellectual property created, developed, or acquired by Supplier either (i) prior to and not in anticipation of this Agreement or (ii) during the term of this Agreement, but independent of the work performed hereunder, in the event that such rights are necessary for Trane to use or exploit the deliverables under the scope of work set forth in Exhibit A.
11. Supplier represents and warranties that the Services shall be performed in a workmanlike manner and with the professional diligence and skill of professionals experienced in the subject matter thereof.
12. Supplier shall exonerate, indemnify, defend with counsel of Trane's choice, and hold harmless Trane, its affiliates, directors, officers and employees, from and against any and all liability, loss, cost, expense, damage, claims or demands, including reasonable attorneys' fees, incurred by or demanded from Trane, directly or indirectly arising out of, or resulting in any manner from, or occurring in connection with, Supplier's performance of Services hereunder, including, but not limited to, that on account of injuries (including death) to, or damage to property of, Supplier or any of Supplier's employees, or any third party.
13. Supplier shall not assign this Agreement or any part thereof without Trane's prior written consent, and any such purported assignment shall be void.
14. Supplier shall not use the name of Trane in publicity releases, promotional materials, announcements, customer listings, testimonials or advertising without securing the prior written approval of Trane and shall not use Trane as a reference without Trane's prior approval.
15. Every notice hereunder shall be in writing, faxed and personally delivered by overnight courier, proper fees prepaid, as follows:

**IF TO TRANE**

**IF TO SUPPLIER**

Address Line 1:

Address Line 1:

# TRANE CONSULTING SERVICES AGREEMENT

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Address Line 2:

Address Line 2:

City, State, Zip:

City, State, Zip:

Phone:

Phone:

Fax:

Fax:

Email:

Email:

Attn:

Attn:

Any such notice shall be deemed to be given as of the date it is personally delivered, or the next business day after the date faxed (upon confirmation of receipt of transmission), whichever is earlier.

16. In the event any provision of this Agreement shall not be enforceable, the remainder of this Agreement shall remain in full force and effect.
17. In the event of expiration or termination of this Agreement, in whole or in part, wherein all or some portion of the Services will be performed by Trane itself or elsewhere, Supplier agrees to provide its full cooperation in the orderly transition of the Services to Trane or elsewhere, including, but not necessarily limited to packing and preparing for shipment any materials or other inventory to be transferred, provision of reports, files and similar media necessary for continuation of the Services transferred, continuation of Services at reducing levels if necessary during a transition period and at reduced levels if Services is transferred in part.
18. Supplier agrees that it will, within ten (10) business days of Trane's request, provide to Trane copies of all Statement of Auditing Standards No. 70 ("SAS 70") Type II reports relating to outsourced activities, processes, and functions used in providing the Services under this Agreement. These reports will need to be dated between July 1st and December 31st for each of the years that this contract is in effect.

To the extent that SAS 70 Type II reports do not exist or are not dated within the timeframe noted above:

- 18.1. Supplier will provide written documentation of their Processes and Internal Controls, as defined in 18.1.1 below, in a format specified by Trane;

18.1.1 Processes and Internal Controls will include but not be limited to the following:

- 18.1.1.1. Control Environment – sets the tone for an organization, influencing the control consciousness of its people. This is the foundation for all other components of internal control, providing discipline and structure;
- 18.1.1.2. Risk Assessment – the entity's identification and analysis of relevant risks to the achievement of its objectives, forming a basis for determining how the risks should be managed;
- 18.1.1.3. Control Activities – the policies and procedures that help insure management directives are carried out;
- 18.1.1.4. Information and Communication – includes the systems that support the identification, capture and exchange of information in a form and time frame that enables people to carry out their responsibilities;
- 18.1.1.5. Monitoring – the process that assesses the quality of internal control performance edits; and

## TRANE CONSULTING SERVICES AGREEMENT

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- 18.2. Trane will have the right to one of the following, within ten (10) business days of Trane's request:
- 18.2.1 Perform an audit or agreed-upon procedures engagement (in accordance with the standards issued by the American Institute of Certified Public Accountants) of supplier's internal controls in order to satisfy Trane's compliance requirements as mandated by Sarbanes-Oxley Section 404. An agreed-upon procedures engagement is one in which certain accounts, balances, controls, etc. are specified for review and testing. The determination of whether an audit or agreed-upon procedures engagement is performed will be made by Trane, depending upon what is required to satisfy the Sarbanes-Oxley Section 404 requirements. This engagement would be conducted at the direction of Trane by an independent accounting firm or by individuals from Trane. The engagement would consist of both review and testing of internal controls around (i) the relevant information processing objectives and (ii) the relevant general computer controls for any applications relevant to Trane's assessment process; or
  - 18.2.2 Have supplier's independent external auditor perform an audit or agreed-upon procedures engagement (in accordance with the standards issued by the American Institute of Certified Public Accountants) in order to satisfy Trane's compliance requirements as mandated by Sarbanes-Oxley Section 404. The engagement would consist of both review and testing of internal controls around (i) the relevant information processing objectives and (ii) the relevant general computer controls for any applications relevant to Trane's assessment process.

Both options set forth in 20.2 above would be at the expense of supplier.

- 19. The waiver by Trane of any nonperformance or breach by Supplier of any provisions of this Agreement must be in writing and shall not be construed as waiving any such provision in the future. No delay or failure by Trane in enforcing or exercising any right hereunder and no partial or single exercise thereof, shall be deemed of itself to constitute a waiver of such right or any other rights hereunder.
- 20. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New Jersey, excluding any such laws which may direct the application of the laws of any other jurisdiction.
- 21. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and merges and supersedes all prior discussions and writings with respect thereto. No modification or alteration of this Agreement shall be effective unless made in writing and signed by both parties hereto.

# TRANE CONSULTING SERVICES AGREEMENT

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IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

**TRANE U.S. INC.**

**{COMPANY NAME}**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Title:

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# TRANE CONSULTING SERVICES AGREEMENT

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## EXHIBIT A - STATEMENT OF WORK

# TRANE CONSULTING SERVICES AGREEMENT

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## EXHIBIT B - COMPENSATION & FEES

# TRANE CONSULTING SERVICES AGREEMENT

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## EXHIBIT C - AGREEMENT FROM SUPPLIERS REGARDING PROTECTION OF PERSONAL INFORMATION

{Company Name}, on its own behalf and behalf of all affiliates and contractors thereof from time to time providing services in connection with {Company Name} (herein collectively referred to as the "Supplier").

The Supplier hereby acknowledges and agrees that, in respect of all identifiable personal information in respect of the Trane's employees and their spouses, beneficiaries and dependants (herein collectively referred to as "Employees") that is acquired, directly or indirectly, by the Supplier in connection with the provision of services by the Supplier to the Trane or in connection with the provision of services to the Employees for which the Supplier has been retained by Trane (herein collectively referred to as "Personal Information"), it shall comply with all applicable privacy protection laws and, without limiting the generality of the foregoing, it shall:

1. keep all Personal Information in strictest confidence and shall not disclose such information to a third-party or use it for any purpose other than for the purposes for which it was provided to the Supplier, unless Trane (in respect of Personal Information provided to the Supplier, directly or indirectly, by Trane) or the Employee (in respect of Personal Information provided to the Supplier directly by the Employee) otherwise consents in writing to the use or disclosure or the use or disclosure is otherwise required by law;
2. take all reasonable steps to protect the personal information in the Supplier's possession from loss or unauthorized use, access or disclosure;
3. if the Supplier receives any inquiries or access requests in respect of any Personal Information provided to the Supplier, directly or indirectly, by Trane, redirect the inquiry or access request to William H. Murray, Director of Data Protection, at 732-980-6049;
4. upon the termination of services to Trane and in accordance with directions received from Trane, return all Personal Information (provided to the Supplier, directly or indirectly, by Trane) currently in its possession to Trane or destroy all specified Personal Information (provided to the Supplier, directly or indirectly, by Trane) currently in its possession and provide Trane with a certificate of destruction; and,
5. where Personal Information is collected directly from the Employee by the Supplier in connection with services to Employees for which it has been retained by Trane, limit such collection and use of such Personal Information to that which is reasonably necessary to perform the applicable services and shall otherwise comply with such privacy legislation as is applicable to the Supplier.

Date: {Effective Date}

Name:

Title:

I/we have authority to bind the Supplier