

SEIBERLICH TRANE ENERGY SERVICES

Services Agreement

Scheduled Maintenance Regular / 2338

Town of Elsmere
11 Poplar Avenue
Elsmere, DE 19805
Attention: Diana Reed

Site Address:
Town of Elsmere
11 Poplar Avenue
Elsmere, DE 19805



SERVICE ACCOUNT MANAGER:
Jimmy Strusowski
Jimmy.Strusowski@seiberlich.com
Cell: 302-354-8015

66 Southgate Boulevard
New Castle, DE 19720
302-395-0200
seiberlich.com



SEIBERLICH
ENERGY SERVICES **TRANE**

Pricing & Acceptance

SEIBERLICH TRANE ENERGY SERVICES herein referred to as the Service Company, agrees to furnish services in accordance with the "General Terms and Conditions" and the attached "Schedules". This AGREEMENT shall become valid only upon acceptance by CLIENT and approved by the Service Company.

Equipment to be serviced

See "Attachment A"

Pricing Plan:

The agreement price for Year 1 is **\$7,085.00** payable quarterly at **\$1,771.25** each.

Effective Dates:

This agreement is effective from **July 1, 2023** through **June 30, 2024**.

Submitted by: Jimmy Strusowski
Title: Service Account Manager
Date: May 9, 2023

Acceptance of Agreement:

Client Acceptance

Signature: [Handwritten Signature]
Title: Town Manager
Approval Date: 6/24/2023

Seiberlich Trane Energy Services Acceptance

Signature: [Handwritten Signature]
Title: VP of Operations
Approval Date: 4/3/2023

Attachment A

Equipment Schedule

Town of Elsmere

Qty	Description	Manuf	Model Number	Serial Number	Task Code	Freq
1	Condensing Heat Pump	Ameristar	M4HP4024A1000AA	TBD	UNT/DX-110 UNT/DX-120 CDS-220	1 1 1
1	Air Handler	Ameristar	M4AH4025A1000AA	TBD	AHU-110 AHU-130 FLR-000 BLT-000	1 1 2 1
3	Condensing unit - VRF	Trane	4TVR0168B400NC		UNT/DX-110 UNT/DX-120 CDS-220	1 1 1
1	Condensing unit - VRF	Trane	4TVR0192B400NC		UNT/DX-110 UNT/DX-120 CDS-220	1 1 1
1	Condensing unit - VRF	Trane	4TVR0072B400NB		UNT/DX-110 UNT/DX-120 CDS-220	1 1 1
3	Ceiling Suspended Duct	Trane	4TVX0018B100NB		UNT-220 FLR-120	1 1
2	Ceiling Suspended Duct	Trane	4TVX0024B100NB		UNT-220 FLR-120	1 1
1	High Wall Duct	Trane	4TVW0009B100NC		UNT-220 FLR-120	1 1
1	4 Way Cassette Duct	Trane	4TVC0009B100NB		UNT-220 FLR-120	1 1
3	4 Way Cassette Duct	Trane	4TVC0012B100NB		UNT-220 FLR-120	1 1
2	4 Way Cassette Duct	Trane	4TVC0024B100NB		UNT-220 FLR-120	1 1
4	4 Way Cassette Duct	Trane	4TVC0030B100NB		UNT-220 FLR-120	1 1
6	4 Way Cassette Duct	Trane	4TVC0036B100NB		UNT-220 FLR-120	1 1
5	4 Way Cassette Duct	Trane	4TVC0048B100NB		UNT-220 FLR-120	1 1
5	Refrigerant Monitors	Trane	4MCUCY6NCE000		MSC-320	1

Note: Leak checking, refrigerant leaks and refrigerant not covered on TRANE VRF systems. Emergency service and repairs are to be performed on a time and material basis at contract rates in effect at the time of service.

MAINTENANCE PROCEDURE UNT/DX-110

1. Report in with the Customer Representative.
 2. Record and report abnormal conditions, measurements taken, etc.
 3. Review customer logs with the customer for operational problems and trends.
- 1. General Assembly**
 - a) Inspect for leaks and report results.
 - b) Repair minor leaks as required (e.g. valve packing, flare nuts).
 - c) Visually inspect the condenser for cleanliness.
 - d) Lubricate the fan motor(s), if applicable.
 - e) Verify the operation of the crankcase oil heater, if applicable.
 - f) Verify the operation of the switchover valve.
 - g) Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.
 - 2. Controls and Safeties**
 - a) Inspect the control panel for cleanliness.
 - b) Inspect wiring and connections for tightness and signs of overheating and discoloration.
 - c) Test the low evaporator pressure safety device. Calibrate and record setting.
 - d) Test the high condenser pressure safety device. Calibrate and record setting.
 - e) Verify proper operation of the frost control device.
 - f) Verify proper operation of the temperature control device.
 - 3. Motor and Starter**
 - a) Clean the starter and cabinet.
 - b) Inspect wiring and connections for tightness and signs of overheating and discoloration.
 - c) Check the condition of the contacts for wear and pitting.
 - d) Check the contactors for free and smooth operation.
 - e) Check the tightness of the motor terminal connections.
 - f) Meg the motor(s) and record readings.
 - 4. Startup/Checkout Procedure**
 - a) Check the general condition of the unit.
 - b) Verify the operation of the motor and starter.
 - c) Verify the operation of the control circuit.
 - d) Verify smooth operation of the unit.
 - e) Review operating procedures with operating personnel.
 - f) Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

RUNNING INSPECTION UNT/DX-120

1. Check the general condition of the unit.
2. Verify the operation of the motor and starter.
3. Verify the operation of the control circuit.
4. Verify smooth operation of the unit.
5. Review operating procedures with operating personnel.
6. Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

**AIR-COOLED CONDENSERS
CDS-220**

1. Clean air-cooled condenser, using pressurized water.

**FILTER REPLACEMENT
FLR-110**

1. Replace filters as scheduled.
****Final filters, hepa, and bag filters are not included in this agreement.**

**BELT SERVICE
BLL-000**

1. Furnish and install belt and tighten.

**RUNNING INSPECTION
UNITARY BLOWER FAN COIL UNIT
UNT-220**

1. Check the general condition of the unit.
2. Verify proper operation of the motor and starter.
3. Verify proper operation of the control circuit.
4. Verify smooth operation of the unit.
5. Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

**COMPREHENSIVE ANNUAL INSPECTION
AIR HANDLING STATION
AHU-110**

1. Report in with the Customer Representative.
 2. Record and report abnormal conditions, measurements taken, etc.
 3. Review customer logs with the customer for operational problems and trends.
1. **General Assembly**
 - a) Inspect the unit for cleanliness.
 - b) Inspect the fan wheel and shaft for wear and clearance.
 - c) Check the sheaves and pulleys for wear and alignment.
 - d) Check the belts for tension, wear, cracks, and glazing.
 - e) Verify tight bolts, set screws, and locking collars.
 - f) Check dampers for wear, security and linkage adjustment.
 - g) Verify clean condensate pan.
 - h) Verify proper operation of the condensate drain.
 - i) Verify clean air filters.
 - j) Verify clean coils.
 - k) Verify proper operation of the spray pump, if applicable.

- l) Verify smooth fan operation.
- m) Log operating conditions after system has stabilized.
- n) Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

2. Lubrication

- a) Lubricate the fan shaft bearings, if applicable.
- b) Lubricate the motor bearings, if applicable.

3. Controls and Safeties

- a) Test the operation of the low temperature safety device, if applicable.
- b) Test the operation of the high static pressure safety device, if applicable.
- c) Test the operation of the low static pressure safety device, if applicable.
- d) Check the thermal cutout on electric heaters, if applicable.
- e) Check the step controller, if applicable.
- f) Check and record supply air and control air pressure, if applicable.
- g) Verify the operation of the control system and dampers while the fan is operating.

4. Motor and Starter

- a) Clean the starter and cabinet.
- b) Inspect the wiring and connections for tightness and signs of overheating and discoloration. This includes wiring to the electric heat, if applicable.
- c) Check the condition of the contacts for wear and pitting.
- d) Check the contactors for free and smooth operation.
- e) Meg the motor and record readings.

**REFRIGERANT MONITORS
ANNUAL MAINTENANCE INSPECTION
MSC-320**

- 1. Report in with the Customer Representative.
- 2. Record and report abnormal conditions.
- 3. Check chassis mounting in enclosure.
- 4. Check operation of Clear Language Display.
- 5. Replace sampling filter element /elements at sensing points.
- 6. Provide Zero and Span calibration to accuracy within 1 PPM.
- 7. Visually check photo-acoustic sensing device.
- 8. Check periodic re-zeroing if applicable.

**FILTER CLEANING
FLR-120**

- 2. Clean filters as scheduled.

****Final filters, hepa, and bag filters are not included in this agreement**

Seiberlich Trane Terms and Conditions (Service)

The following "Terms and Conditions" are attached to and made a part of the Service Agreement ("Agreement") between the named Customer and Seiberlich Trane.

Seiberlich Trane's Services are furnished pursuant to and subject to the following terms and conditions, except for any Services that are the subject of a pre-existing valid written agreement currently in effect between Seiberlich Trane and Customer, in which case such written agreement shall apply.

Acceptance. A Proposal or Agreement made upon these terms is subject to Customer acceptance in writing delivered to Seiberlich Trane within thirty (30) days from the date hereof. If your order is an acceptance of a written Proposal on a form provided by Seiberlich Trane, without the addition of any other terms and conditions of sale or any other modification, this document shall be treated solely as an acknowledgment of such order, subject to credit approval. If your order is not such an acceptance, then this document is Seiberlich Trane's offer, subject to credit approval, to provide the services solely in accordance with the following terms and conditions of sale. If we do not hear from you within two weeks from the date hereof, Seiberlich Trane shall rely upon your silence as an acceptance of these terms and conditions and any performance will be pursuant hereto. Customer's acceptance of services by Seiberlich Trane will in any event constitute an acceptance by Customer of these terms and conditions.

Term and Pricing. The Term of this Agreement shall be as stated in the "Pricing & Acceptance" section hereof. This Agreement may be cancelled upon the written notice of either party to the other (for any reason or no reason) no later than thirty (30) days prior to the scheduled expiration date; provided, however, that, in the event of a cancellation by Customer, Customer shall pay to Seiberlich Trane the balance of the stated price applicable to the then current 12 month period of the Term. The Service Fee is based on performance during regular business hours.

Payment and Taxes. Payment is due net 30 days on date of Seiberlich Trane's invoice. Except as may otherwise be provided in the "Pricing & Acceptance" section, annual Service Fee amounts shall be paid in advance of performance of the Services. A service charge of 1½% on unpaid balances may be charged by Seiberlich Trane. Without liability to Customer, Seiberlich Trane may discontinue services whenever payment is overdue. In addition to the stated Price, Customer shall pay all taxes not legally required to be paid by Seiberlich Trane or, alternatively, shall provide Seiberlich Trane with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Seiberlich Trane in attempting to collect amounts due.

Termination. This Agreement may be terminated by either party upon a material breach by the other party of its obligations hereunder upon fourteen (14) calendar days prior written notice to the breaching party and the failure of the breaching party to cure the breach within such fourteen (14) day period. Notwithstanding any termination, Customer shall remain liable to Seiberlich Trane for any amounts for services provided by Trane and not then paid.

Performance. Seiberlich Trane shall perform the services described in this Agreement with respect to the listed Equipment with reasonable promptness in a workmanlike manner in accordance with industry standards generally applicable in the area. Except as otherwise provided in writing in "Scope of Services," Services will be performed during Seiberlich Trane's normal business hours and any after-hours services shall be billed separately according to then prevailing overtime or emergency labor rates. Seiberlich Trane's duty to perform under this Agreement are subject to the approval of Seiberlich Trane's credit department, are subject to Events of Force Majeure, and contingent upon the ability to procure materials from the usual sources of supply. Upon disapproval of the credit department or upon the occurrence of any such event as aforesaid, Seiberlich Trane may delay or suspend performance or, at its option, renegotiate the Price, and/or terms and conditions with the Customer. If Seiberlich Trane 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 rendered by Seiberlich Trane to the date of cancellation. This Agreement presupposes that all major pieces of equipment are in proper operating condition as of the date hereof. Services furnished are premised on the Equipment being in a maintainable condition. In no event shall Seiberlich Trane have any obligation to replace Equipment that is no longer maintainable. If initial or seasonal start-up is included in the services, or an inspection by Seiberlich Trane prior to commencement of the services, indicates repairs are required, Seiberlich Trane will provide a quotation for such repairs. If Customer does not authorize such repairs, Seiberlich Trane may remove the unacceptable Equipment from the "Equipment Coverage" or "Scope of Services" sections of this Agreement and adjust the Price accordingly, or at Seiberlich Trane's option, cancel this Agreement. During the Term, Seiberlich Trane 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 Seiberlich Trane 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 providing service on Customer equipment. Seiberlich Trane reserves the right to remove such items at its discretion.

Customer Obligations. Customer shall:

- a. Provide Seiberlich Trane reasonable and safe access to all Equipment;
- b. Reimburse Seiberlich Trane for services, repairs, and/or replacements performed by Seiberlich Trane beyond the "Scope of Services" or otherwise excluded hereunder. Such reimbursement shall be at the then prevailing overtime/holiday rates for labor and prices for materials and may at Seiberlich Trane's option be subject to a separate written agreement prior to its undertaking such work; and
- c. Unless water treatment is expressly included in Seiberlich Trane's Scope of Services, provide professional cooling tower water treatment in accordance with any reasonable recommendations provided by Seiberlich Trane.

Exclusions. Unless expressly included in "Scope of Services" or "Equipment Coverage," the services to be provided by Seiberlich Trane do not include, and Seiberlich Trane shall not be liable for, 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 and interconnecting power wiring; recording or portable instruments, gauges or thermometers; any pipe covering or insulation containing asbestos, or non-maintainable parts of the system, including, but not limited to, unit cabinets, shells, ductwork, electrical wiring, hydronic piping, structural supports, boiler refractory material and shells, storage tanks 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. 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, improper operation, unauthorized alteration of Equipment, accident, negligence of Customer or others, damage due to freezing weather, calamity or malicious act;
- d. Any damage or malfunction resulting from freezing, contamination, corrosion or erosion on the water side of the equipment or caused by scale or sludge on internal tubes except where water treatment protection services are provided by Seiberlich Trane 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 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 the Equipment or the opening and closing of valves, dampers or regulators normally installed to protect the Equipment against damage;
- i. Any responsibility for design or redesign of the system or the Equipment, obsolescence, safety tests, or removal or reinstallation of valve bodies and dampers;
- j. Any services, claims, or damages arising out of Customer's failure to comply with its obligations under this Agreement;
- k. 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; and

- I. 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 Seiberlich Trane.

Warranties. (a) Labor is warranted (to have been properly performed) for a period of 90 days from completion and Seiberlich Trane's obligation under this warranty is limited to correcting any improperly performed labor and (b) equipment and/or parts are not warranted by Seiberlich Trane, but shall have such warranties as are extended to Seiberlich Trane by the respective manufacturer. **THE WARRANTY AND LIABILITY SET FORTH IN THIS SECTION 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 USE OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SEIBERLICH TRANE BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION LOST REVENUE OR PROFITS), OR PUNITIVE DAMAGES. NO REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR FITNESS OF PURPOSE IS MADE REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF, OF MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. SEIBERLICH TRANE SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE SCOPE OF SERVICES OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

Indemnity and Liability. Seiberlich Trane and Customer shall indemnify, defend and hold each other harmless 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 agents. 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. **NOTWITHSTANDING ANY CONTRARY PROVISION, NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE (INCLUDING WITHOUT LIMITATION LOST REVENUE OR PROFITS), WHETHER CLAIMED UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY OR FACTS, OR PUNITIVE DAMAGES.**

Asbestos and Hazardous Materials. Seiberlich Trane's services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Seiberlich Trane become aware of or suspect the presence of Hazardous Materials, Seiberlich Trane may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Seiberlich Trane. Seiberlich Trane shall be required to resume performance of the services only when the affected area has been rendered harmless.

Insurance. Seiberlich Trane agrees to maintain insurance in the following minimum amounts during the Term: Commercial General Liability -- \$1,000,000 per occurrence; Automobile Liability -- \$1,000,000 CSL; Workers Compensation -- Statutory Limits. If Customer has requested to be named as an additional insured under Seiberlich Trane's insurance policy, Seiberlich Trane will do so but only to the extent of Seiberlich Trane's indemnity assumed under the indemnity provision contained herein. Seiberlich Trane does not waive any rights of subrogation.

Force Majeure. Seiberlich Trane shall not be considered to be in default hereunder when a failure of performance is due to an Event of Force Majeure. An "Event of Force Majeure" shall mean any cause beyond the control of Seiberlich Trane and which by the exercise of due diligence Seiberlich Trane could not reasonably have been expected to avoid and which it has been unable to overcome. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God and the public enemy; flood, earthquake, tornado, storm, fire; civil disobedience, labor disputes, labor or material shortages, or 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 the fault of Seiberlich Trane. If Seiberlich Trane is rendered unable to fulfill any of its obligations under this Agreement by reason of an Event of Force Majeure it shall give prompt written notice of such fact to Customer and Seiberlich Trane's obligations shall be suspended until removal of the Event of Force Majeure.

Services Other Than Solely Scheduled Service. If Seiberlich Trane's 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 Seiberlich Trane being obligated to perform hereunder; (b) any changes, adjustments, service or repairs made to the Equipment by any party other than Seiberlich Trane, unless approved by Seiberlich Trane in writing, may, at Seiberlich Trane's option, terminate Seiberlich Trane's obligation to render further service to the Equipment so affected; in such case no refund of any portion of the agreement Price shall be made; and (c) Customer shall (i) promptly notify Seiberlich Trane of any unusual performance of Equipment; (ii) permit only Seiberlich Trane personnel to repair or adjust Equipment and/or controls during the Term; and (iii) utilize qualified personnel to properly operate the Equipment in accordance with the applicable operating manuals and recommended procedures.

General. 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 work is performed. 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 subject matter hereof. If any part of this Agreement is deemed to be unlawful, invalid, void or otherwise unenforceable, the rights and obligations of the parties shall be reduced only to the extent required to remove the invalidity or unenforceability. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Seiberlich Trane. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. Except as provided no modifications, additions or changes may be made to this Agreement except in writing signed by both parties. 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.

Equal Employment Opportunity/Affirmative Action Clause. Seiberlich Trane is a federal contractor which 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 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.
m.9/27/07