



TRANE®

ComfortSite™ System Access and Use Agreement

Customers

*eBusiness Solutions
at Your Fingertips*



System Access and Use Agreement

This Agreement is made and entered into as of the date last signed below, by and between Trane Company, a division of American Standard Inc., a Delaware corporation ("**Trane**"), for the benefit of itself and the Third Party Suppliers (as such term is used in the Terms and Conditions of Use), and the undersigned mechanical contractor, dealer or customer ("**Customer**");

1. Addenda. This Agreement is comprised of the terms and conditions set forth herein, and in the following described addenda, which are incorporated herein by reference for all purposes, as though fully set forth herein in writing:

- a. Terms and Conditions of Use;
- b. Conditions of Sale of Trane Products (applicable only to purchases directly from Trane); and
- c. Such additional or different terms and conditions as Trane may hereafter impose from time to time; provided, however, that:
 - i. no such additional or different terms and conditions may be adopted retroactively;
 - ii. such additional or different terms and conditions shall only be effective upon Trane's prior publication of (1) a notice (the "**Notice**") conspicuously displayed on the ComfortSite.com System (the "**System**") login page, which sets forth the full text of any such additional or different terms and conditions, or (2) a textual or graphical link conspicuously displayed on the System login page, which forwards the Customer or its authorized user(s) to another page which contains such a Notice. The Notice must further allow the Customer to either accept or reject such additional or different terms and conditions by clicking on an appropriate button, or other similar means.

In the event Customer or any of its Electronic Agents (as hereinafter defined) rejects all or any portion of such additional or different terms and conditions set forth in any Notice provided by Trane in accordance with the above, then Trane may, in addition to any other termination rights it may have hereunder, suspend Customer's access to and use of the System website, immediately and without further notice or liability, and at its election, terminate this Agreement in accordance with Section 6.c below.

In the event that the Customer or any of its Electronic Agents accepts the additional or different terms and conditions, then such party's conduct in clicking on the appropriate button, and the Customer's subsequent use of the System shall be deemed to constitute an Amendment to this Agreement lawfully binding upon Customer, in accordance with Section 2.b, below.

2. Electronic Transactions.

- a. In order to access some of the resources and functionality available through the System, Customer's **Electronic Agents** (as defined below) may be called upon to indicate their consent or agreement to accept certain additional terms and conditions, or to otherwise bind the Customer through their electronic conduct, as distinguished from their conduct in physically signing a written agreement. For example, the Customer's Electronic Agents may be called upon to confirm their willingness to bind the Customer to additional terms and conditions of use relating to particular functionality available on the System by clicking on a button which reads "I Accept," or to confirm their desire to submit an order (an "**Electronic Order**") for products or services on behalf of Customer by clicking on a button which reads "Submit Order".
- b. CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT THE CONDUCT OF CUSTOMERS' DESIGNATED ELECTRONIC AGENTS AND ANY OTHER PARTIES USING ANY SUCH AGENTS' USER ID NUMBERS (HEREIN COLLECTIVELY REFERRED TO AS "ELECTRONIC AGENTS"), IN CLICKING ON ANY BUTTONS SUCH AS THOSE REFERENCED IN SECTION 2.A ABOVE, PLACING ANY ELECTRONIC ORDERS, OR ANY OTHER SIMILAR CONDUCT, WILL BE LEGALLY SUFFICIENT FOR ALL PURPOSES TO BIND CUSTOMER TO THE TERMS AND CONDITIONS OR OTHER AGREEMENT IN QUESTION, TO THE SAME EXTENT AS THOUGH EVIDENCED BY THE SIGNATURE OF A DULY AUTHORIZED REPRESENTATIVE OF CUSTOMER.
- c. CUSTOMER HEREBY WAIVES, AND FOREVER RELEASES TRANE, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, AND LIABILITY OF ANY KIND, WHETHER IN CONTRACT OR TORT, FOR THE ACTS OR OMISSIONS, OR OTHER MISCONDUCT OF ANY KIND, RELATING TO ANY ELECTRONIC ORDERS PLACED BY CUSTOMER'S ELECTRONIC AGENTS HEREUNDER.

3. Customer's List of Electronic Agents.

- a. Customer hereby designates the following individuals as its Electronic Agents for all purposes relating to Customer's access to and use of the Comfortsite.com System, including without limitation, the submission of electronic purchase orders:

<u>Printed Name</u>	<u>User I.D.</u>	<u>Email Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. CUSTOMER SHALL AND DOES HEREBY FURTHER WAIVE ANY AND ALL CLAIMS OR DEFENSES WHATSOEVER WHICH ARE AT ALL INCONSISTENT WITH FOREGOING ACKNOWLEDGEMENT, INCLUDING WITHOUT LIMITATION, ANY CLAIMS AND DEFENSES THAT THE ELECTRONIC AGENTS DID NOT HAVE AUTHORITY TO BIND THE CUSTOMER, OR WERE OTHERWISE ACTING OUTSIDE THE SCOPE OF THEIR AUTHORITY.

4. Third Party Service Providers.

- a. Customer acknowledges and agrees that Trane may configure the System in such a manner as to enable Customer and other users of the System to order non-Trane equipment and products from independent wholesale distributors and the original equipment manufacturers, and to schedule professional services with independent service providers, through the System, as a means of increasing the overall usefulness and functionality of the System.
- b. CUSTOMER FURTHER HEREBY WAIVES, AND FOREVER RELEASES TRANE, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, AND LIABILITY OF ANY KIND, WHETHER IN CONTRACT OR TORT, FOR THE ACTS OR OMISSIONS, OR OTHER MISCONDUCT OF ANY KIND, ON THE PART OF ANY SUCH INDEPENDENT DISTRIBUTORS OR INDEPENDENT SERVICE PROVIDERS.

5. Suspension.

- a. Notwithstanding anything to the contrary contained herein, or in any other agreement between the parties, Customer acknowledges and agrees that Trane may suspend Customer's access to the System, at any time without prior notice in the event that:
- i. Customer allows anyone other than its Electronic Agents to access the System;
 - ii. Customer shares access to, or displays any content published on or obtained through the System, to anyone other than its direct employees;
 - iii. Customer, its Electronic Agents, or any third party accessing the System through the use of any passwords assigned to Customer or its Electronic Agents, "hacks the System" or otherwise makes any changes whatsoever to the System;
 - iv. Customer threatens to breach, or breaches any of its obligations under this Agreement, or under any other agreement with Trane or American Standard, or any of their respective authorized distributors; or
 - v. Trane reasonably suspects or otherwise believes that Customer has obtained funds, equipment, products or anything else of value from Trane through fraud, theft, deception, misappropriation or other wrongful or unethical conduct, or that Customer otherwise breaches its obligations under this Agreement or any other agreement between the parties.
- b. Customer may request that Trane suspend access to the System by any one or more of the Customer's Electronic Agents, as identified by Customer in the List of Electronic Agents, by contacting Trane's ComfortSite Support Desk at 1-800-430-5284.

6. Termination.

- a. The term of this Agreement will commence immediately upon the date last signed below, and will continue in full force and effect until terminated as provided below, or until the earlier expiration or termination of any existing Customer Agreement, Distribution Agreement, or similar agreement between Trane and the Customer. The intent of the parties is that the term of this Agreement will be coterminous with any such preexisting agreement, if not sooner terminated as provided below.
- b. The Customer may terminate this Agreement at any time upon not less than thirty (30) days prior written notice delivered, via certified mail or registered overnight delivery, to The Trane Company, Attn: ComfortSite Project Coordinator, 2701 Wilma Rudolph Blvd., Clarksville, Tennessee 37040.
- c. Trane may terminate this Agreement:
 - i. immediately and without prior notice in the event that Customer fails, within ten (10) days following the date upon which Customer's access to the System has been suspended in accordance with Section 5.a above, to remedy the alleged breach or other circumstances giving rise to such suspension, or to otherwise provide Trane with such adequate assurances as it may reasonably require under the circumstances, as a condition precedent to the reinstatement of Customer's access to the System.
 - ii. for any reason, or for no reason and without cause, at any time upon not less than thirty (30) days prior written notice to Customer.

CUSTOMER HEREBY ACKNOWLEDGES THAT THE TERMINATION RIGHTS AFFORDED TRANE UNDER THE PRECEDING PROVISIONS OF THIS SECTION 6 ARE FAIR AND REASONABLE, AND FURTHER WAIVES, AND RELEASES TRANE FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, AND LIABILITY OF ANY KIND ARISING FROM ITS TERMINATION OF THIS AGREEMENT IN ACCORDANCE HEREWITH.

- d. Either party's termination of the Access Agreement will result in the automatic termination of Customer's right and license to access and use the System. In such event, Customer must immediately cease all further use of the System. The termination of the Access Agreement will, however, have no effect on Customer's obligations hereunder. Neither party may seek compensation for lost profits, lost revenues, or any other damage or remedy for an expected or hoped for continuation of the Agreement or for the termination of this Agreement.

7. Entire Agreement. This Agreement, and the materials incorporated herein by reference, constitutes the complete agreement of the parties relating to the System. To the extent that any conflict exists between the terms and conditions of this Agreement and the provisions of the Uniform Computer Information Transaction Act, Uniform Electronic Transfers Act, or any similar applicable state or federal laws, then the terms and conditions of this Agreement will govern, except as otherwise expressly prohibited by such laws. Except as otherwise provided in Section 1.b above, this Agreement may only be modified by a written agreement, signed by duly authorized representatives of each of the parties hereto.

In Witness Whereof, the undersigned have executed this Agreement effective as of the date last written below.

Customer/Account Number: _____

Trane:

Company Name: _____

The Trane Company,
A division of American Standard Inc.
a Delaware corporation

State of Organization or Incorporation: _____

By: _____

By: _____

Title: _____

Title: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

2701 Wilma Rudolph Blvd.
Clarksville, Tennessee 37040

Street Address _____

City, State and Zip Code _____

Telephone Number _____

Facsimile Number _____

FOR INTERNAL USE ONLY	
Trane Distributor:	_____
Trane Distributor Number:	_____
Trane Salesperson:	_____
Telephone Number:	_____



*Please submit this
document to:*

The Trane Company
ATTN: ComfortSite Security Administrator
2701 Wilma Rudolph Blvd.
Clarksville Customer Center
Clarksville, Tennessee 37040



TRANE®

The Trane Company
An American Standard Company
www.trane.com

eBusiness Solutions
at Your Fingertips
www.comfortsite.com

Literature Order Number	EBIZ-ADA006-EN
Date	December 2000
Supersedes	EBIZ-ADA006-EN October 2000
Stocking Location	La Crosse

Since The Trane Company has a policy of continuous product and product data improvement, it reserves the right to change design and specifications without notice.