

**XYLEM INC. AND ITS AFFILIATES Standard Terms and Conditions of Purchase (Effective 1 November, 2019)**

**1. Governing Provisions.** These Xylem Inc. and its Affiliates Standard Terms and Conditions of Purchase (the “*Standard Terms*”) govern (i) the supply of products (“*Products*”) by the supplier (“*Supplier*”) and (ii) the purchase of those Products by Xylem Inc. or its Affiliate(s) (“*Purchaser*”). An “*Affiliate*” of a party means any other entity directly or indirectly controlling, controlled by, or under common control with such party, where “control” of an entity means the ownership, directly or indirectly, of 50% or more of either the shares or other equity in such entity or the voting rights in such entity. These Standard Terms supersede any other terms between the parties; however, if the parties have entered into a corporate supply agreement (“*CSA*”), each purchase order issued hereunder (“*Order*”) will be governed by the CSA and these Standard Terms. The Order, Standard Terms, and CSA (if any), together with any written change orders thereto, constitute the “*Agreement*”. In case of discrepancy between the documents included in the Agreement, the following order of precedence applies, with items with a lower number having priority over, and controlling in the event of a conflict with, items with a higher number: (1) CSA; (2) Standard Terms; (3) Order.

**2. Non-Exclusivity.** The Agreement is non-exclusive and Purchaser does not make any minimum fee or volume commitment under the Agreement. Nothing in the Agreement should be interpreted as a requirements contract or a “take-or-pay” contract, nor should this Agreement be construed as requiring Purchaser to purchase Products from Supplier.

**3. Orders.** From time to time, Purchaser may issue a purchase order to Supplier for Purchaser’s anticipated Product needs. Supplier will respond within two business days accepting or rejecting any Order. If Supplier cannot meet the terms set forth in an Order, Supplier will inform Purchaser and propose alternative terms. If Purchaser accepts those alternative terms, Purchaser shall issue a revised Order that includes the alternative terms. Alternative terms – including any terms and conditions on or referenced in an acknowledgement that vary from or add to these Standard Terms, the

CSA, or the Order – are expressly rejected unless incorporated into an Order. Supplier will be deemed to have accepted the Order if Supplier: (a) provides written acceptance (which may occur via an electronic data interface); (b) fails to object within two business days; or (c) commences or continues delivery of Products or provision of services referenced in the Order (any of the foregoing is an “*Order Acknowledgement*”).

**4. Order Modifications.** Purchaser may at any time require modifications of any Order. Purchaser has the right to change the packaging, shipping date or time or place of delivery for any Products. If requested modifications would result in change to Supplier’s costs or a delivery delay, Supplier shall notify Purchaser immediately. If an Order Acknowledgement has already been issued or occurred, the parties shall agree on a reasonable and equitable adjustment of the Order. Any proposed alteration of Products or the Order by Supplier requires Purchaser’s prior written consent.

**5. Delivery.** Supplier will deliver Products in strict accordance with the terms of the Agreement. Except as otherwise specified in the Order, Products will be delivered DDP Purchaser’s designated ship-to location (Incoterms 2020). Purchaser’s production schedules and warranties to its customers depend on Supplier delivering the Products and performing the services covered by the Order on the required delivery schedule. Therefore, time, quantity and quality are of the essence as to all Products and services. Supplier shall ship, deliver, pack and mark the Products according to Purchaser’s specifications or, if none are provided, in a commercially reasonable manner. Title and risk of loss will transfer together as per the specified Incoterm. Partial delivery, excess delivery, or earlier delivery than agreed require Purchaser’s prior written approval and any such deliveries without that prior approval will be treated as Non-Conforming Products.

**6. Prices.** The prices are as stated in the Order, and unless expressly agreed otherwise in writing, are a firm fixed price for the duration of the Agreement.

**7. Invoicing, Payment & Taxes.** Supplier

shall invoice Purchaser upon delivery as per the specified Incoterm. Supplier shall submit invoices in auditable form in compliance with generally accepted accounting principles, Purchaser’s requirements, and the parties’ applicable local mandatory law. Supplier shall include the following minimum information on each invoice: Supplier name, address, and contact person, including contact details; invoice date; invoice number; Order number and Supplier number; address of Purchaser or Purchaser’s customer; quantity; model number, SKU or other specifications indicating the Products and/or services provided; price (total amount invoiced); currency; tax or VAT amount; tax or VAT number; Authorized Economic Operator and/or Approved Exporter Authorization number and/or other customs identification number, if applicable; and payment terms as agreed.

Unless otherwise requested, Supplier must send invoices in electronic format to the billing address specified by Purchaser. To the extent permitted by law, and unless otherwise specifically agreed to in writing, Purchaser will pay correct invoices within 75 days end of month.

All taxes and duties that are levied in Purchaser’s country in connection with the conclusion or the execution of the Order are to the charge of Purchaser. If Supplier is subject to withholding tax in Purchaser’s country, that tax is to the charge of Supplier. Purchaser will deduct that withholding tax from the charges due, and pay the withholding tax on behalf of Supplier to the responsible authority. Purchaser will submit a tax receipt for withholding tax paid to Supplier. Purchaser shall pay VAT, if levied. With respect to Non-Conforming Products or Non-Conforming Services (as defined in these Standard Terms), Purchaser reserves the right to recoupment or set off of such amount owed to Supplier or to withhold payment.

**8. Delay Costs and Liquidated Damages.** If Supplier is unable to comply with the delivery date set out in the Order, Supplier shall inform Purchaser without delay, and Purchaser will be entitled to: (i) recover from Supplier any expenditure reasonably incurred by Purchaser in connection with

the delay or failure to supply, including but not limited to costs of containment, expedited or air freight, sorting, repair, replacement, cure, cover, or similar costs incurred by Purchaser; and (ii) Purchaser may in its sole discretion seek liquidated damages for delay equal to 1% percent of the total price of delayed or unusable Products per week of delay, up to 10% of the total price for that Order. Liquidated damages are not an exclusive remedy and Purchaser retains all other rights and remedies available under the Agreement, at law and in equity.

**9. Proprietary Information.** Drawings, specifications, photographs, and other engineering and manufacturing information or proprietary information disclosed by Purchaser ("**Proprietary Information**") are and will remain Purchaser's property. Supplier shall not disclose Proprietary Information to any third party, and Supplier shall return all Proprietary Information (and all copies of same) to Purchaser upon completion of the Order or upon demand. Supplier shall use Proprietary Information solely for Supplier's performance of the Order and Supplier shall not, without Purchaser's written consent, directly or indirectly use any information derived or otherwise obtained from use of the Proprietary Information in performing services or providing products for any other customer. If Purchaser requests that Supplier specially manufacture, develop, or design Products for Purchaser, Supplier agrees that any resulting designs, drawings, blueprints, plans, specifications, data, business information, or other materials used to develop and design said Products are and will be owned by Purchaser, including any intellectual property rights therein, and Supplier hereby assigns all of its right, title and interest in and to such Products to Purchaser. Supplier agrees that such results, materials, and rights may be used exclusively and without restriction by Purchaser for any purpose whatsoever.

**10. Tooling.** All special dies, molds, patterns, jigs, fixtures, and any other tooling or property furnished to Supplier by Purchaser, or specifically paid for by Purchaser, for use in the performance of the Order are and will remain the property of Purchaser (collectively, "**Tooling**"). Tooling

is subject to removal upon Purchaser's instruction. Supplier shall (i) only use the Tooling in fulfilling Orders; (ii) properly house and maintain all Tooling on Supplier's premises and in good working order according to industry standards; (iii) hold all Tooling at Supplier's risk; (iv) prominently mark Tooling as Purchaser's property and refrain from commingling Tooling with the Supplier's property or with that of a third party; (v) take reasonable steps to keep Tooling from being subject to any liens or other claims; and (vi) keep Tooling insured at Supplier's expense while in its custody or control in an amount equal to the replacement cost, with loss payable to Purchaser. Supplier will furnish copies of policies or certificates of such insurance to Purchaser on demand. Supplier shall not move Tooling to any other location or facility, whether owned by Supplier or a third party, without first obtaining Purchaser's written consent. Supplier shall cooperate with Purchaser to accomplish any public filing or other commercially accepted method of establishing recognition of Purchaser's ownership of Tooling. This may include, but is not limited to, cooperating with Purchaser's issuance and filing of a UCC 1 within the United States or other acceptable practice established under applicable local law. Upon termination (or earlier at the direction of Purchaser), Supplier shall, at its expense, send all Tooling to a location specified by Purchaser.

**11. Confidentiality.** Purchaser's "**Confidential Information**" means any information (whether owned by Purchaser or a third party) that Supplier learns or receives from or on behalf of Purchaser in connection with the Agreement, whether in writing, orally, or in any other form, that Supplier knows or reasonably should know is considered confidential or proprietary by Purchaser. Purchaser's Confidential Information includes, but is not limited to, (i) that party's trade secrets, Proprietary Information and all other technical information, Tooling and related information and documentation, know-how, technology, prototypes, methods, ideas, data, cost information, client information, financial information, supplier and customer identities and lists, and business and marketing plans, and (ii) any copies, extracts,

analyses, compilations, forecasts, studies or other documents containing or reflecting that Confidential Information that are prepared by, on behalf of, or in cooperation with Supplier.

Supplier acknowledges that Purchaser's Confidential Information is an asset of considerable value, and that disclosure of that Confidential Information to third parties would be damaging. Supplier shall: (a) keep the Confidential Information confidential and use it solely for the purposes of exercising its rights and performing its obligations under the Agreement; (b) not directly, or indirectly, without authorization, reveal, report, publish, disclose or transfer the Confidential Information to any third party; (c) use procedures constituting a high degree of care to maintain the security of the Confidential Information, but in no event less than a reasonable standard of care under the circumstances; and (d) disclose the Confidential Information to Supplier's employees, consultants and subcontractors solely on a need-to-know basis as required in connection with Supplier's performance of its duties and exercise of its rights under the Agreement. Supplier shall return or destroy the Confidential Information within 20 days after Purchaser's request.

**12. Warranties.** Supplier warrants that (i) the Products and services conform in all respects to the express warranties made by Supplier to Purchaser; (ii) the Products and services are free from defects in title, labor, materials, services, manufacture, and design; (iii) the Products and services conform to their applicable specifications, drawings, and standards of quality and performance; (iv) the Products and services comply with all governmental requirements that may apply to the design, production, sale, or distribution of the Products; (v) the Products are new and unused at the date of delivery and fit for the purposes for which purchased by Purchaser; and (vi) the services will be performed with all appropriate skill and care in accordance with industry best practice and in compliance with all governmental requirements that apply to the services. Purchaser's acceptance or use of or payment for the Products or services does not diminish Supplier's warranty obligations. The warranty period

for (a) Products is 30 months from date of delivery from Supplier to Purchaser, and (b) services is 24 months from the date of Purchaser's acceptance thereof. If the Products or services do not conform with the above warranties ("**Non-Conforming Products**" and "**Non-Conforming Services**"), Supplier shall, at Purchaser's option: (1) repair or replace Non-Conforming Products or re-perform Non-Conforming Services within 48 hours; or (2) issue a credit note for the corresponding amount or refund the purchase price. If Product is repaired or replaced or a service is re-performed, the warranty period shall restart. Supplier shall pay for or reimburse Purchaser for all defective Product costs, including but not limited to labor (direct and indirect) and materials (A) to return, store, or dispose of any Non-Conforming Products; (B) to inspect, sort, evaluate, and/or disassemble any Non-Conforming Products wherever located; (C) to transport and install replacement product; (D) to repair and re-work Non-Conforming Products if Supplier is unable to repair or replace the same to meet Purchaser's time and quantity needs; (E) incurred in performance of value-add or installation activities prior to discovery of the non-conformity; and (F) an administrative fee equivalent to USD \$300 per claim.

**13. Indemnity.** Supplier agrees to indemnify and defend Purchaser, its Affiliates and their respective customers (whether direct or indirect), and their respective employees, officers, directors, agents, successors and assigns, from and against all liability, loss, damage, and expenses (including without limitation reasonable attorneys' fees) arising from or in connection with any third-party claims or demands for personal injury or death, property damage, or economic loss allegedly caused by or contributed to by (i) any of the Products supplied by Supplier, regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability, product liability, or any other legal or equitable theories, (ii) the performance of any service or work by Supplier or its employees, agents, representatives, or sub-contractors on the property of Purchaser or its customer, or the use by Supplier of the property of Purchaser or its customer, or (iii) allegations or claims

that the use or resale of Products by Purchaser and its customers infringe, misappropriate or otherwise violate a third party's intellectual property or proprietary rights. The indemnification obligations in clauses (i) and (ii) apply to the extent of fault of Supplier and its employees, agents, representatives, and subcontractors, and regardless of whether both Supplier and Purchaser are negligent or otherwise at fault. Supplier's indemnification obligations under clause (iii) do not apply to the extent the infringement or violation arises from Supplier's compliance with particular requirements of Purchaser that differ from Supplier's standard specifications for the Product. Supplier shall undertake at its expense the defense of any such suit or proceeding using reputable counsel reasonably acceptable to Purchaser. If either party receives notice of an alleged infringement by any Product, or if a party reasonably believes that such a claim is likely, Purchaser may require Supplier, at Supplier's expense, (i) procure for Purchaser and its customers the right to continue using or reselling the Product and receiving services and using any results of the services, (ii) modify the allegedly infringing Product or services so that they are no longer infringing, or (iii) replace the Product or re-perform the services so that they become non-infringing; provided always that the modified or replaced Product or services do not modify or detract from agreed functionality.

**14. Assignment & Subcontracting.** Supplier shall not assign, transfer or delegate (whether by operation of law, merger, change of control, sale of assets, or otherwise) any of its rights or obligations under the Agreement without Purchaser's express written consent, which consent shall not be unreasonably withheld. Subject to the foregoing, the Agreement inures to the benefit of and is binding upon the parties and their successors and permitted assigns.

**15. Fair Labor Certification.** In performing its obligations under this Agreement and each Order, Supplier hereby certifies that it shall: (i) not use child labor (as defined by local law), (ii) not use forced or compulsory labor, (iii) not physically abuse labor, and (iv) respect employees' rights to choose whether to be represented by third parties

and to bargain collectively in accordance with local law. In addition, Supplier hereby certifies that it shall comply with all applicable laws and regulations relating to wages and benefits, working hours and overtime, and health, safety, and environmental matters. If requested by Purchaser, Supplier shall demonstrate Supplier's compliance with all requirements in this Section 15 to the reasonable satisfaction of Purchaser.

**Where applicable, federal contractors and sub-contractors in the United States shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their age, race, color, religion, creed, sex, marital status, sexual orientation, gender identity, genetic information, citizenship status, or national origin. Moreover, these regulations require that covered prime contractors and sub-contractors take affirmative action to employ and advance in employment individuals without regard to age, race, color, religion, creed, sex, marital status, sexual orientation, gender identity, genetic information, citizenship status, national origin, protected veteran status, or disability. Where applicable, the parties agree to abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under U.S. federal labor laws.**

**16. Insurance.** Supplier shall maintain commercial general liability (or public liability) coverage, including products completed operations, blanket contractual liability, bodily injury and property damage, and automobile coverage (bodily injury and property damage), each with minimum limits of USD \$2,000,000 per occurrence unless a higher limit is specified in the Order. If the Order covers services to be performed on Purchaser's premises, Supplier shall maintain and provide evidence of statutory Workmen's Compensation or equivalent coverage in accordance with the laws of the location in which the work is performed, including employer's liability with a limit of



USD \$1,000,000 unless a higher limit is specified in the Order.

**17. Quality Control.** Supplier shall comply with the Supplier Quality Manual (the “SQM”) provided by Purchaser in connection with the Products. Supplier shall continuously carry out quality control tests to ensure that the Products comply with (i) technical specifications; (ii) any specification of Purchaser; (iii) the SQM and any other quality requirements agreed upon in writing; and (iv) quality standards required by law and regulations, including food and drug laws, these Standard Terms, or the Order. Supplier shall conduct all necessary controls prior to preparing and packing the Product for shipment. At any time prior to dispatch and during Supplier’s business hours, Purchaser shall have the right at its cost upon reasonable notice to audit Supplier’s compliance with the above requirements at the premises where the Products are manufactured. Supplier will ensure that Purchaser’s rights in this respect are included in Supplier’s contracts with subcontractors (if any). Purchaser is not required to perform incoming inspection of any Products supplied or of any services performed. The SQM is available at <https://www.xylem.com/en-us/support/xylem-supplier-quality-manual/>.

**18. Product Content.** Supplier shall comply with all laws and regulations relating to Product content applicable to the sale of goods sold hereunder, and Purchaser shall advise Supplier of countries into which the goods shall be sold. Supplier agrees to provide Purchaser with Product content information required to satisfy both Purchaser’s content reporting obligations and Purchaser’s customer’s reporting obligations, in each case as required by law or regulation, including without limitation “conflict minerals”. Supplier hereby certifies that it is compliant with Purchaser’s Conflict Minerals Policy Statement available at <https://www.xylem.com/en-us/about-xylem/conflict-minerals-policy-statement/>.

**19. Force Majeure.** In the event that war, fire, explosion, flood, riot, act of governmental authority, act of terrorism, act of God, or a natural disaster, in each case beyond the reasonable control of a party, delays or stops a party’s performance

hereunder, then that performance will be excused while the force majeure event continues, without liability, provided that the party unable to carry out its obligations hereunder has first notified the other party of the delay, the reason for the delay, consequences of the delay, and the likely duration of the delay promptly after it is aware of the beginning of any excusable delay. The party excused from performance shall use its best efforts to eliminate the cause of the force majeure event and resume performance of its obligations hereunder with the least possible delay. If the nonperformance extends for a period greater than 30 days, then the other party may terminate the Agreement, in whole or in part, on 15 days’ prior written notice.

**20. Termination.** Purchaser may terminate all or part of the Agreement or any Order without cause on 60 days’ notice. Purchaser’s liability for termination for convenience will be limited to Supplier’s actual cost for work and materials applicable solely to the Order and consistent with agreed purchase order commitments, if any, for raw material, work in process, and furnished Products. Supplier shall cancel all purchase commitments for raw materials and other Product inputs when it receives notice of termination from Purchaser. If prior to delivery, Supplier becomes insolvent or bankrupt, or bankruptcy or insolvency proceedings are filed by or against Supplier, or Supplier otherwise is deemed to be bankrupt or insolvent, Purchaser may terminate the Agreement in whole or in part immediately by sending Supplier written notice.

Purchaser may terminate all or part of the Agreement or any Order with immediate effect upon written notice to Supplier if Supplier materially breaches any of its obligations hereunder and the breach is not remedied within 30 days after Supplier’s receipt of notice. Except as otherwise provided, upon termination for any reason, the rights and obligations of the parties that arose under this Agreement prior to its termination and are reasonably expected to continue following its termination will survive.

**21. Disputes, Applicable Law.** The Agreement and all Orders shall be governed by the laws of the jurisdiction where Purchaser is located without regard

to its conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods, to the extent it may be deemed to apply, does not apply to the Agreement or any Order.

**22. Severability.** If any provision contained in the Agreement is found invalid or unenforceable, the balance of the Agreement will remain in full force and effect.

**23. Waiver.** No waiver of any provision of the Agreement, or any right or default hereunder, is effective unless in writing and signed by the party against whom the waiver is sought to be enforced. Waivers are effective only for the instance given and do not operate as a waiver with respect to any other right or obligation under the Agreement or applicable law in connection with any other instance or circumstance.

**24. Compliance.** Supplier shall adhere to all laws, rules and regulations applicable to both itself and the commercial relationship with Purchaser. In particular, Supplier shall comply with all applicable laws, rules and regulations relating to the export or re-export of technical data and products. Supplier will, at its reasonable expense, provide Purchaser with information, documentation, and electronic transaction records relating to the Products supplied or services performed necessary for Purchaser to fulfill any customs, origin marking, or labeling requirements, certification or local content reporting requirements, and to enable Purchaser to claim preferential duty treatment for products eligible under applicable trade preference regimes. If any compliance or legal violation occurs, Purchaser may immediately terminate all Orders and/or transactions with Supplier. Supplier shall adhere to Purchaser’s Supplier Code of Conduct available at <https://www.xylem.com/en-us/about-xylem/supplier-code-of-conduct/>.

**25. Remedies; Continued Performance.** No right or remedy under this Agreement conferred on, or reserved to, either party is intended to be exclusive of any other right or remedy, and every right and remedy is cumulative and in addition to any other right or remedy under this Agreement, at law, or in equity. Supplier will continue

performing its obligations while a dispute is being resolved except to the extent the issue in dispute precludes performance

(disputes regarding amounts owed will not be deemed to preclude performance). If there is a breach of this obligation,

Purchaser will be entitled to seek and obtain injunctive relief, without posting bond or proving damages.