

MASTER SERVICES AGREEMENT

This Master Services Agreement (this "Agreement") made as of \_\_\_\_\_ between [INSERT XYLEM ENTITY] having a place of business at [INSERT ADDRESS] ("Xylem" or "Client") and \_\_\_\_\_, a \_\_\_\_\_, having a place of business at \_\_\_\_\_ ("Vendor", and, together with Xylem, collectively referred to herein as the "Parties").

WITNESSETH THAT:

IN CONSIDERATION OF the promises and mutual covenants and agreements herein contained, the Parties agree as follows:

SCOPE OF WORK. Vendor shall furnish services (the "Services") as detailed and specified in schedules containing a Statement of Work executed and attached to this Agreement by the Parties (each, a "Statement of Work"). Attached hereto as Exhibit A is the initial Statement of Work. An individual Statement of Work shall be executed for each additional project agreed to by the Parties, provided nothing contained herein shall be construed as obligating Client to enter into any additional or subsequent Statement of Works. Each subsequent Statement of Work shall reference this Agreement and incorporate the terms hereof as well as contain a description of the services performed by Vendor, and any applicable fee, billing and/or invoice information as well as additional information required for the successful completion of Services. Any Services performed prior to the full execution any Statement of Work will be deemed non-fee services. A particular Statement of Work may contain terms in addition to those contained herein, provided that the terms do not conflict with the provisions of this Agreement. The provisions of this Agreement shall control over any conflicting provisions in any Statement of Work, except to the extent that a provision of this Agreement is expressly superseded in such Statement of Work.

TERM. This Agreement shall commence on the date first above written (the "Effective Date") and continue in effect until terminated as provided in the Standard Terms and Conditions (as defined below).

COMPENSATION AND PAYMENT. As consideration for providing the Services in accordance with the Statement of Work, and for assigning the rights in any resulting invention(s), design(s), patent(s), trademark(s), copyright(s), or other work product, Client agrees to pay the Vendor the amounts specified in the applicable Statement of Work. Expenses shall be paid solely in accordance with the Standard Terms and Conditions unless superseded by an applicable Statement or Work

ADDITIONAL CONDITIONS. The Standard Terms and Conditions set forth in Exhibit "B" attached hereto is hereby incorporated by reference herein and shall be deemed incorporated into all Statements of Work.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

VENDOR:

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

\_\_\_\_\_  
Name and Title

CLIENT:

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

\_\_\_\_\_  
Name and Title

**EXHIBIT "A"**

STATEMENT OF WORK

This Statement of Work (the "SOW") is being entered into between Xylem Inc. ("Xylem" or "Client") and \_\_\_\_\_ ("Vendor") as of this \_\_\_ day of \_\_\_\_\_, 201\_ pursuant and subject to that certain Master Services Agreement, dated as of \_\_\_\_\_, 201\_ (the "MSA"), all terms and conditions of which are hereby incorporated herein (the SOW, together with the MSA, this "Agreement"). Any conflict between the terms of this SOW and the MSA shall be resolved in favor of the MSA.

*[Note to drafter (to be deleted from final version): Either attach SOW provided by other side and add "[See attached]" below this comment and delete remainder of this page or, if no SOW provided by other side, fill in below details.]*

General Description of Scope of Project:

Description of Specific Services:

Deliverables:

1. Description of Deliverables:
2. Schedule of Delivery of Word Product and/or Services:

Fees & Expenses:

1. Schedule of payment:

*[Internal note to Xylem drafter [delete prior to sending to the other side]: include milestones that trigger payments – avoid frontloading payments and try to tie as much of our payment to the completion of services]*

"VENDOR"

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

XYLEM

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "B"**

**STANDARD TERMS AND CONDITIONS**

1. **GOVERNING PROVISIONS.** Unless specifically agreed to in writing by Client, no additional or different terms contained in Vendor's quotation, acknowledgment, invoice or other forms shall become a part of the contract between Vendor and Client, notwithstanding any failure by Client to specifically object to such terms. Notwithstanding the foregoing, this Agreement shall be deemed to include (1) any warranties in addition to those expressly contained in this Agreement made available to Client by Vendor or otherwise generally made available by Vendor to its customers; and (2) any representations or promises running to the benefit of Client that may have been included in any response to Client's Request for Proposal (if any) made by Vendor and not otherwise addressed or included within this Agreement.

2. **COMPENSATION.** Payments for services rendered shall be made in the amount and manner specified in the applicable Statement of Work attached hereto (such amount, the "Fee"). Unless otherwise agreed to in an applicable Statement of Work, Vendor shall be entitled to invoice Client on a monthly basis for reasonable, out-of-pocket pre-approved expenses incurred on Client's behalf in connection with the Services and that are in accordance with Client's travel and any out of pocket expense policy then in effect. All travel expenses shall be subject to Client's prior written approval. Expenses shall be billed to Client on a cost-basis only, without mark-up. Payments for the Services and reasonable expenses to which Client is entitled shall be made within forty-five (45) days after receipt by Client of an invoice from Vendor therefore. Such invoice shall reference the applicable Statement of Work (in the event Vendor is performing services under multiple Statements of Work) and shall include a detailed and itemized description of materials and services and, if applicable, expenses provided by Vendor thereunder. Client shall not be obligated to make, and Vendor waives any right to receive, payment for any undisputed invoice received by Client more than three (3) months after Vendor was entitled to invoice Client therefore. Because Vendor is an independent contractor and not an employee of Client, Client shall not be obligated or liable in any manner to pay or withhold federal or state income taxes or other payroll taxes or to provide any insurance coverage for Vendor.

3. **CONFIDENTIAL MATTERS.** The Vendor agrees for itself, its employees and its agents to keep in strictest confidence all information either identified by Client as secret or confidential, or which, from the circumstances, in good faith ought to be treated as secret or confidential, which would include all such information ascertained by Vendor during the course of performing services hereunder. Confidential information shall include, by way of example and without limitation, information relating to Client or its affiliates or their respective products, manufacturing processes, price lists, customer lists, technical information, or other business information which the Vendor may acquire in connection with or as a result of the performance of this Agreement (collectively, "Confidential Information"). Vendor will neither publish, communicate, divulge or disclose to unauthorized persons any such Confidential Information during the period of this Agreement or at any time subsequent thereto without the prior written consent of the Client. The Vendor shall use such Confidential Information solely and only to the extent necessary to exercise rights and perform duties pursuant to this Agreement, and shall not in any way use the Client's Confidential Information to the detriment of the Client.

Nothing in this Agreement shall be construed as granting any rights to Vendor, by license under any copyrights, patents, trade secret or

trademark theory/law, or otherwise, by the disclosure of the Confidential Information hereunder, except for any licenses granted by Vendor pursuant to this Agreement. All right, title and interest in and to all Confidential Information disclosed hereunder shall remain the property of the Client.

Vendor understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement will cause Client irreparable harm, the amount of which may be difficult to ascertain, and therefore the Parties agree that Client shall be entitled to specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as shall be deemed appropriate. Such right shall be in addition to the remedies otherwise available at law or in equity. Vendor expressly waives the defense that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond. The confidentiality obligations set forth in this paragraph shall survive the termination of the Agreement.

4. **GENERAL RELATIONSHIP.** In all matters relating to this Agreement, the Vendor shall be acting as an independent contractor. Neither the Vendor nor employees of the Vendor, if any, are employees of Client under the meaning or application of any Federal or State Unemployment or Insurance Laws or Workman's Compensation Laws, or otherwise. The Vendor shall be solely responsible for and assumes all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Vendor, if any, in the performance of this Agreement. The Vendor shall not have any authority to assume or create any obligation, express or implied, on behalf of Client and the Vendor shall have no authority to represent itself as an agent, employee, or in any other capacity of Client.

5. **SUBCONTRACTING.** Vendor shall not subcontract any services hereunder in whole or in part without the prior written approval of Client. Vendor's obligations to Client under this Agreement shall also be binding upon any subcontractors. Vendor covenants and agrees to include in every subcontract or agreement between it and any subcontractor a provision by which each subcontractor assumes all the terms, covenants and conditions of this Agreement, including, without limitation, those relating to Intellectual Property set forth below. Client retains the right to refuse the services of the proposed subcontractor. Consent by Client to any subcontract will not under any circumstances relieve Vendor of its obligation under this Agreement and Vendor shall remain primarily responsible for the performance of obligations which it subcontracts hereunder and shall reasonably supervise such work. All work produced by the subcontractor must be clearly indicated on Vendor's billing invoice, and a copy of the subcontractor's invoice must be attached to the applicable Vendor invoice submitted to Client. Subcontractors will not exceed ten (10) percent of total Vendor's resources within each Statement of Work, unless agreed upon by Client.

6. **INTELLECTUAL PROPERTY**

6.1. Vendor hereby agrees not to use any part of Client's patents, unpatented inventions, trade secrets, know-how, expertise, experience, technical design, engineering and test data and other information including, but not limited to, prints, drawings, computer discs, technical brochures, parts lists, test specifications and vendor lists known, owned, or controlled by Client (collectively "Technical Information") or other Confidential Information for work performed for

any third party or on its own behalf. Upon termination, Vendor shall immediately cease its use of the Technical Information.

6.2. Vendor agrees and acknowledges that all intellectual property rights, title and interests for the entire world in and to the Work Product produced under this Agreement shall fully vest in Client on the creation of the same. "Work Product" shall mean work performed, design or other inventions, methods, techniques, improvements, deliverables, designs, computer programs, writings, formulas, models, samples, drawings, photographs, strategies, data and other original works of authorship made, conceived or reduced to practice or authored by Vendor or Vendor's employees, either solely or jointly with others, during the performance of this Agreement or with the use of information, materials or facilities of Client while providing Services under any Statement of Work or otherwise under this Agreement or any extensions or renewals thereof.

6.3. The Vendor hereby assigns to Client the entire right, title and interest for the entire world in and to all Work Product.

6.4. The Vendor shall promptly disclose to Client all Work Product.

6.5. The Vendor shall sign, execute and acknowledge or cause to be signed, executed and acknowledged without cost, but at the expense of Client, any and all documents and to perform such acts as may be necessary, useful or convenient for the purpose of securing to Client or its nominees, patent, trade-mark, or copyright protection throughout the world upon all such Work Product title to which Client may acquire in accordance with the provisions of this clause.

6.6. The Vendor has acquired or shall acquire from each of his employees, agent or, if applicable, subcontractors, the necessary rights to all Work Product made by such employees, agent or subcontractor by the Vendor in performing services under this Agreement and to obtain the cooperation of each such employee, agent or subcontractor to secure to Client or its nominees the rights to such Work Product.

6.7. Vendor grants to Client a non-exclusive, worldwide, royalty-free, irrevocable, perpetual, transferable, and sub-licenseable license to any intellectual property right (whether of Vendor or otherwise): (1) to the extent necessary for Client to exercise its rights in the Work Product as reasonably contemplated by this Agreement; and (2) in connection with all goods and services which are necessary for Client to use, import, copy, execute, reproduce, display, perform, and distribute copies of and modify (including creating improvements and derivative works based on) any Work Product.

7. NON-ASSERTION OF RIGHTS BY VENDOR OR OTHERS. During and after the term of this Agreement, Vendor shall not assert or permit any other party to assert against Client, its subsidiaries, vendors and customers, both direct and indirect, any patent or other rights with respect to which Vendor has the right to assert or license at the termination or expiration of this Agreement because of the practice of any process or the manufacture, use or sale of any product arising out of the subject matter of this Agreement.

8. NOTICES. Any notice required to be given hereunder by shall be deemed to have been sufficiently given either when served by registered or certified mail return receipt requested or facsimile confirmed to:

CLIENT:  
Xylem Inc.  
Attn: Legal Department

1 International Drive, Rye Brook, NY 10583

VENDOR: To the address provided in the introductory paragraph to this Agreement above unless Vendor provides a different address in writing.

9. REPORTS. The Vendor, when directed, shall provide written reports with respect to the services rendered hereunder.

10. SAFETY AND SECURITY REGULATIONS. Prior to commencing Services, Vendor shall provide Client's designated project manager with a list of any personnel who will need access to Client's facilities and any equipment, chemicals or similar materials Vendor intends to bring into Client's facilities. Vendor's personnel shall comply with all applicable government and Client's safety, security and other rules and regulations now in effect or which hereinafter may be applicable, and with all oral or written instructions from authorized Client personnel while in Client's facilities. Vendor shall not remove any classified material from any Client facility; and Vendor shall not disclose classified information to unauthorized persons, either on or off the premises of Client. Vendor shall make every reasonable effort to avoid or minimize any disruption to Client's operations or alteration to its facilities.

Vendor shall be solely responsible for initiating, maintaining and supervising all health and safety precautions and programs in conjunction with the Services. Vendor shall take all reasonable precautions in the area where Services are performed to protect health and safety of persons (including employees of Vendor and Client) and to protect the property of Vendor, Client and others against damage, contamination, loss or theft. Vendor shall comply with all laws and regulations now in effect or which hereinafter may be applicable relating to health, safety and environment, including the Occupational Safety and Health Act (OSHA), and with all health, safety and environmental rules, regulations and procedures at Client's facilities. Compliance with such requirements shall represent the minimum standard required of Vendor and shall be provided at no additional cost to Client. Vendor shall be responsible for examining all requirements and determining whether additional or more stringent health, safety, and security provisions are required for the Services to be performed hereunder. Nothing contained in this Section shall affect Vendor's status as an independent Vendor. Vendor shall ensure that the provisions of this Section are made binding on all subcontractors.

11. FAIR LABOR CERTIFICATION & EQUAL OPPORTUNITY.

11.1. In performing its obligations under this Agreement, Vendor hereby certifies that it will not use child labor as defined by local law, will not use forced or compulsory labor, will not physically abuse labor and will respect employees' rights to choose whether to be represented by third Parties and to bargain collectively as required by local law. In addition, in all wage and benefit, working hours and overtime and health, safety and environmental matters, Vendor will comply with all applicable laws and regulations. Vendor further agrees that, if requested by Purchaser, it shall demonstrate, to the satisfaction of Purchaser, compliance with all requirements in this paragraph. Purchaser shall have the right to inspect any site of Vendor involved in work for Purchaser, and failure to comply with the obligations in this paragraph shall be cause for immediate termination without penalty or further liability to Purchaser.

11.2. Where applicable, Vendor and its subcontractors (if any) shall abide by the requirements of United States 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 race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

12. **INSURANCE.** The Vendor shall, at the Vendor's own cost and expense, purchase and keep in effect the following forms of insurance on an "occurrence" basis:

12.1. commercial general liability insurance, including products and completed operations and contractual liability coverage, with a limit of not less than \$5 million for each occurrence and aggregate for bodily injury and property damage. Client shall be named as additional insureds on a primary and non-contributory basis on liability policies carried by Agreement.

12.2. workers' compensation, or its local country equivalent, in amounts no less as required by applicable law and employers' liability of no less than \$5 million per accident and in the aggregate.

12.3. If, and at all times while, Vendor is providing design, engineering or other professional services, professional liability ("errors and omissions") insurance with limits of no less than \$5 million.

12.4. automobile liability insurance with limits of not less than \$5 million per occurrence and aggregate.

13. **INDEMNIFICATION.** Vendor hereby agrees to indemnify and hold harmless Client, its affiliates, and their respective officers, directors, shareholders, customers, and employees from and against any and all liabilities, losses, damages and expenses (including legal expenses) of any kind or character arising from claims or allegations asserted and legal proceedings instituted in respect of (a) any breach of this Agreement, or (b) any act, omission or misrepresentation of Vendor, its personnel or any other agents, employees or subcontractors of Vendor, including, without limitation, any claims related to the performance of the Services and any claims of its personnel under any applicable employment or labor law.

14. **WARRANTY.** Vendor warrants that for a period of twelve (12) months from Client's receipt thereof, any product or service delivered hereunder shall be free from any defects in materials or workmanship and shall conform to any and all specification, either published or provided to Client (the "Warranty"). Vendor shall, at Client's option, replace, repair or provide a refund for any product that breaches the Warranty and shall, at Client's option, either provide a refund for any service breaching the Warranty or cure the defect causing the same.

15. **STRICT LOYALTY.** The Vendor hereby warrants that there is no conflict of interest in Vendor's full time employment, if any, or other consulting contracts, if any, with the activities to be performed hereunder. And Vendor shall avoid all circumstances and actions, which would place the Vendor in a position of divided loyalty with respect to the obligations undertaken under this Agreement. Notwithstanding the generality of the foregoing, while this Agreement is in force, Vendor shall not perform services in connection with any product or project which is competitive with those of Client without first obtaining written consent of the Client.

16. **SUPERSEDING EFFECT.** This Agreement supersedes all prior oral or written agreements, if any, between the Parties, and constitutes the entire agreement between the Parties. This Agreement may only be modified or amended provided said modifications and/or amendments are in writing and agreed to by both Parties.

17. **TERMINATION.** This Agreement shall commence on the Effective Date and shall remain in effect until terminated as provided below.

17.1. Client may terminate this Agreement and any and all then-effective Statements of Work for any reason and at any time, in which case:

17.1.1. Vendor shall, to the extent commercially practicable, immediately cancel any of its obligations to receive undelivered or unfulfilled goods and services from third Parties relating to the applicable Services.

17.1.2. Vendor shall be entitled to that portion of the Fee that is attributable to Services actually performed, as well as reasonable expenses incurred prior to the effective date of termination in accordance with the applicable Statement of Work which could not be cancelled or terminated as required above.

17.1.3. Client shall be entitled to receive, within thirty (30) days, all pre-paid or advanced amounts provided to Vendor relating to services not yet performed as of the date of termination.

17.2. Vendor may terminate this Agreement for any reason and at any time only so long as no Statement of Work is then in effect or no services are otherwise being performed hereunder.

17.3. Either party shall have the right to immediately terminate this Agreement in the event that the other party breaches any term or condition hereof and such breach is not cured within ten (10) days following written notice thereof from the complaining party.

17.4. Either party shall have the right to immediately terminate this Agreement in the event that the other party becomes insolvent, has voluntary or involuntary bankruptcy proceedings filed by or against it, or makes an assignment for the benefit of creditors.

17.5. NEITHER CLIENT NOR VENDOR SHALL BE LIABLE TO THE OTHER FOR DAMAGES OF ANY KIND, INCLUDING INCIDENTAL, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES, ON ACCOUNT OF THE TERMINATION OF THIS AGREEMENT. Vendor acknowledges and agrees that Vendor has no expectation and has received no assurances that its business relationship with Client will continue beyond the stated term of this Agreement or its earlier termination, that any investment by Vendor in the performance of the Services will be recovered or recouped, or that Vendor shall obtain any anticipated amount of profits by virtue of this Agreement.

In the event of the termination or expiration of this Agreement, Vendor shall return to Client within one (1) business day after said termination or expiration of this Agreement all Work Product, deliverables (finished or otherwise), equipment, instruments, documents, materials, and tangible property of Client. All Confidential Information shall be returned to Client or destroyed as directed by Client.

18. **TITLE TO INFORMATION AND EQUIPMENT.** All information, developed under this Agreement, of whatever type relating to the work performed under this Agreement shall be the exclusive property of Client. All machines, instruments and products purchased, manufactured or assembled by Vendor pursuant to this Agreement

and paid for by Client shall be the exclusive property of Client. Upon termination of this Agreement, Vendor shall dispose of such items as directed by Client.

19. **AUDIT.** Vendor agrees to keep proper records and books in connection with Client's account, detailing expenses incurred on Client's behalf as well as all other information necessary to determine accurate payment hereunder including, without limitation, time spent on Services.

Upon reasonable written notice and at its own expense, Client or its representative may inspect and audit the books and records of Vendor or any of its affiliates (solely as such books and records relate to services provided hereunder) during their normal hours of business operation. Upon discovery of any overpayment by Client to Vendor hereunder, Vendor shall immediately return the full amount of such overpayment plus interest in the amount equal to two percent (2%) per month.

The fees and expenses of Client or its representatives performing an audit in accordance with this Section shall be borne by Client. However, if an error in charges of more than three percent (3%) of the total amounts due under any billing period is discovered, then such fees and expenses shall be borne by Vendor, and Vendor shall promptly reimburse Client for its audit expenses.

20. **BUSINESS ETHICS.** The Vendor represents and warrants that:

20.1. in the course of performing the services contemplated by this Agreement, no expenditures for other than lawful purposes will be made;

20.2. no payments will be made to government officials or representatives of Client's customers;

20.3. Consultant shall not retain, employ or permit as an owner, director, officer or employee of Consultant, any government official who has responsibility for, or authority over, the award of contracts to Client or any of its affiliates. Consultant shall promptly notify Client in writing of any government employees or officials employed by Consultant during the term of this Agreement; failure to so notify Client shall be grounds for termination under this Agreement. Consultant warrants upon signing this Agreement that no current owner, director, officer or employee of Consultant is a government official or employee.

20.4. In the event that during the term of the Agreement any principal in the Consultant's firm accepts a temporary or permanent government position, the Consultant shall immediately notify Client. Client shall review the facts and circumstances and reserves the right to immediately suspend or terminate the Agreement.

20.5. For purposes of this Agreement, a government official is any officer or employee of any department, agency or instrumentality of a Government (includes municipal, provincial, central, federal or any other level of Government), including employees of government-owned or

controlled entities, and legislators, political party officials and employees, and candidates for political office.

20.6. Consultant warrants and represents that it is familiar with and will strictly comply with the requirements of the U.S. Foreign Corrupt Practices Act of 1977, as amended to date, and shall execute the Statement of Compliance appended to this Agreement prior to performing any services under this Agreement. Consultant warrants and represents that it will not offer, pay or promise, give, or authorize payment of any money or anything of value to any government or public official (including political parties, officials or candidates for political office) for the purpose of influencing any act or decision of such official in his official capacity, including failure to perform his official function (see Schedule C and D attached hereto).

20.7. that all work performed hereunder shall be in compliance with all laws and regulations of the United States of America and any other jurisdiction which are applicable to the work performed hereunder;

20.8. that in the course of performing any services contemplated by this Agreement, Vendor shall comply with and adhere to the letter and spirit of the Code of Corporate Conduct, including any amendments, a copy of which has been made available at <http://www.xylem.com/en-us/about-us/code-of-conduct/Pages/default.aspx> and Xylem's Supplier Code of Conduct, a copy of which has been made available at <http://www.xylem.com/en-us/sustainability/governance-and-ethics/Pages/Supplier-Code-of-Conduct1.aspx>, and each of which Vendor hereby acknowledges it has received and represents it has read;

20.9. that, whenever requested, the Vendor will furnish to Client a certificate of compliance with these undertakings.

20.10. Consultant agrees to immediately give written notice and disclose to Client, at any time during the term of this Agreement, any of the following: (a) any allegation, investigation or proceeding against Consultant or any of its directors, officers, employees, and agents, for any violation of professional ethics or standards, or for engaging in any other misconduct related to the business of the Consultant; (b) any allegation, investigation, or proceeding against Consultant or any of its directors, officers, employees, or agents, by any industry association or licensing authority; or (c) any criminal complaint, indictment or criminal proceeding in which Consultant, or any of its directors, officers, employees, or agents, is named as a defendant; and

20.11. Vendor warrants and represents that notwithstanding any other provision, this Agreement shall terminate immediately if Vendor violates any portion of this Section. In the event of such termination, Client shall be relieved of all liability and obligations of any kind hereunder.

21. **STANDARD OF CARE.** Vendor represents and warrants that it has all the necessary skills, training, and expertise required to accomplish the requirements of this Agreement. Vendor represents and warrants that it shall perform the work hereunder in compliance with this

Agreement and all applicable laws and legal requirements, and the standards of care and diligence normally practiced by nationally recognized firms performing services of a similar nature.

22. TIME OF THE ESSENCE. Time is of the essence in the performance of the Services.

23. WAIVER. The Client's failure to enforce any of the provisions of this Agreement at any time shall not be construed to be a waiver of such provisions, or in any way affect the validity of this Agreement.

24. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be considered an original for all purposes.

25. SUBSIDIARIES AS THIRD PARTY BENEFICIARIES. This Agreement shall inure to the benefit of, and may be enforced by, any subsidiary or affiliate at any level of Xylem Inc.

26. ASSIGNMENT. This Agreement is for personal services and neither it, nor the performance of any services or the rights to receive any payment hereunder, shall be transferred or assigned by the Vendor without prior written consent of Client, and any assignment in breach of the foregoing shall be deemed void.

27. PUBLICITY. Neither party shall use the name, trademark, trade names or other designation of the other party in advertising, publicity or other promotional activity without the prior written consent of the other party.

28. CHOICE OF LAW AND VENUE. This agreement shall be governed by the laws of jurisdiction where Client is located without regard to its conflict of laws provisions.

**SCHEDULE C  
GENERAL DESCRIPTION  
U.S. FOREIGN CORRUPT PRACTICES ACT  
("FCPA")**

[Name of VENDOR]

The U.S. Foreign Corrupt Practices Act of 1977 ("FCPA") is a criminal law of the United States ("U.S.") that prohibits U.S. companies -- and their agents and employees -- from corruptly giving, offering, promising, or authorizing anything of value to foreign (non-U.S.) officials or foreign political parties, officials or candidates, for the purpose of influencing them to misuse their official capacity to obtain, keep, or direct business or gain any improper business advantage.

The FCPA also prohibits misrepresentations in a company's books and records and requires that a company's books, records and accounts be maintained in reasonable detail accurately representing transactions or any payment.

In addition to prohibiting corrupt payments to foreign officials, the FCPA also forbids offering or paying anything of value to any person or entity (for example, a third party) when it is known that all or part of the payment will be transmitted to a foreign official for the improper purposes mentioned above. Under the FCPA, a person's state of mind is deemed "knowing" when payment is made either with actual knowledge or in conscious disregard of circumstances that should reasonably alert one of the high probability of the improper conduct.

The crime has been committed once an offer, promise or authorization for a corrupt payment (bribe) has been made. In other words, the corrupt act does not have to succeed in order to violate the law.

A "Foreign Official" for purposes of the FCPA means any:

- non-U.S. government official (includes municipal, provincial, central, federal or any other level of government);
- officer or employee of a foreign government (non-U.S.) or any department, agency, ministry or instrumentality thereof (includes executive, legislative, judicial or regulatory);
- person acting in an official capacity on behalf of a foreign government or any department, agency, ministry or instrumentality thereof;
- officer or employee of a company or business owned or controlled in whole or in part by a foreign (non-U.S.) government ("state owned enterprise");
- officer or employee of a public international organization such as the United Nations or World Bank;
- member of a royal family;
- foreign political party, member, or official thereof;
- candidate for foreign political office; and
- elected officials of foreign (non-U.S.) countries, civil servants and military personnel.

The term also includes the children, spouse or other close relatives of Foreign Officials.

"Anything of value" for purposes of the FCPA includes cash and cash equivalents such as unauthorized travel expenses, vacations, gifts, services, and lavish entertainment.

The FCPA applies to Xylem Inc. operations worldwide, its employees and to all persons and entities, wherever located, acting on behalf of Xylem Inc., such as marketing representatives, distributors, consultants, and agents.

Companies that violate the FCPA anti-bribery provisions may be subject to extensive financial penalties. Individual officers, directors, employees, marketing representatives, consultants or agents found to have willfully violated the FCPA may be fined and imprisoned for up to five years for each violation.

Acknowledged and Received by Vendor:

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**COMPLIANCE CERTIFICATION**

In accordance with the execution of this Services Agreement between Client and [REDACTED] ("VENDOR"), Vendor states and acknowledges that it is the policy of Vendor to comply strictly with the laws and regulations of the Territory, the United States, and other countries in which it does business. Vendor undertakes to ensure that its authorized officers, employees, and if authorized under this Agreement, any agents, consultants and other persons acting on behalf of Vendor comply with this policy.

Vendor hereby represents and warrants as follows:

- (1) No principal, employee, agent, or representative in Vendor's firm is a government or political, employee or official who has responsibility for, or authority over the award of contracts to Client, or is a candidate for election or appointment to such position;
- (2) No government official or political candidate will be retained by Vendor during the term of the referenced Agreement (or renewal thereof) with Client;
- (3) Neither Vendor nor any of its employees, or any person with a substantial interest in Vendor's firm is known to be, or related to, an employee or official of Xylem Inc. or any of its affiliates;
- (4) No officer, employee, agent, consultant or other person acting on behalf of Vendor shall, directly or indirectly, make any payment or transfer anything of value to any customer, representative, government employee or official, political party, or political candidate or undertake any unlawful or improper means of obtaining business that will violate the laws of the Territory, the laws of the United States, including the U.S. Foreign Corrupt Practices Act, or the laws of any country in which Vendor is doing business.
- (5) Vendor will not make any political or charitable contributions for the purpose of obtaining or retaining business.

Vendor acknowledges receipt of the attached General Description of the U.S. Foreign Corrupt Practices Act.

Vendor hereby reaffirms each of the Representations and Warranties contained in this Agreement.

Vendor: \_\_\_\_\_  
(Signature)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_