

TERMS AND CONDITIONS FOR EQUIPMENT PURCHASE

1. DEFINITIONS:

- (a) "Confidential Information" shall mean confidential and/or proprietary data and information that are not in the public domain and are owned by or licensed to DXN and/or its licensors, including but not limited to trade secrets, technical know-how and other intellectual property; DXN' proposal and pricing; sales methods, distribution methods, pricing, consumer profiles, advertising strategies, lists of suppliers and clients, and manufacturing processes; and proprietary engineering, drawings, specifications and/or instructions created by DXN or its licensor.
- (b) "Effective Date" means the date when Seller accepts the Order, whether upon express acceptance by any means of communication, beginning performance, or upon any other method of acceptance stated on the face of the Order.
- (c) "DXN" means the DXN Solutions entity that is submitting the purchase order, as indicated on the face thereof.
- (d) "Goods" means any materials, machinery, equipment, components, or items provided for in the Order.
- (e) "Modern Slavery" has the meaning given in the *Modern Slavery Act 2018 (Cth)* and for the avoidance of doubt includes exploitation of workers, human trafficking, slavery, slave-like behavior, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), or requires reporting or any other action in relation to the risks of those activities.
- (f) "Modern Slavery Laws" means (a) Division 270 and 271 of the *Criminal Code Act 1995 (Cth)*; (b) the *Modern Slavery Act 2018 (Cth)*; (c) the Modern Slavery Act 2015 of the United Kingdom; and (d) any other relevant law which has as its objective the prohibition of Modern Slavery (as defined in Article 1(e)), and is applicable in the jurisdiction in which the Seller and DXN are registered or conduct business or in which activities relevant to the supply and delivery of the Goods are to be performed.
- (g) "Order" means the purchase order issued by DXN, these Standard Terms and Conditions for Equipment Purchase, and any specifications, drawings, supplemental or project specific terms and conditions or other documents incorporated by reference into such purchase order.
- (h) "Owner" means the person, firm, or corporation owning the plant for which the Goods are purchased or leased under the Order.
- (i) "Seller" means the person, firm, or corporation to whom the Order is issued.
- (j) "Services" means the design and/or, as the case may be, other services to be performed by Seller as stated in the Order.
- (k) "Party" means either Seller or DXN and "Parties" means both DXN and Seller.
- (l) "Work" means the manufacture and supply of the Goods, performance of Services, and other work to be performed by Seller as stated and described in the Order.

2. PREVAILING DOCUMENTATION:

- (a) These Terms and Conditions are an essential part of the Order.
- (b) The Order becomes a binding contract on the Effective Date. The Order consists of these Terms and Conditions, the terms and conditions stated on the face of the Order, and any attachments attached to or referenced in this Order. The Order rejects and voids any additional, different and other terms offered by Seller and any other communication or document submitted by Seller, whether in any event made or submitted before, contemporaneous with or after the Effective Date but except to the limited extent expressly stated in the Order. The Order is intended by the Parties as a final expression of their agreement and as a complete and exclusive statement of its terms. The Order incorporates and supersedes all prior and contemporaneous agreements and negotiations, with the specific exception of any existing nondisclosure or confidentiality agreements between the Parties, which are confirmed to remain in force according to their terms.
- (c) Notwithstanding any rule of law to the contrary, the Order may only be amended by a written Change Order to the extent stated in Article 4 or by a formal written amendment of these Terms and Conditions signed by authorized representatives of both Parties. The Order cannot be amended (or otherwise be deemed or held by an arbitrator or other tribunal of competent jurisdiction to have been amended) orally, by conduct, by informal writing, by waiver, or by any combination thereof.
- (d) Article headings are provided for convenience and are not to be used in construing the Order.

3. DRAWINGS, SPECIFICATIONS AND TECHNICAL INFORMATION:

- (a) The true construction, interpretation and meaning of specifications, drawings and data shall be decided only by DXN. In case of conflict or inconsistency among the Order and any other Order documents, or in case of discrepancies, omissions or errors, Seller shall submit a written description of the matter immediately to DXN for determination.
- (b) No specification or specifications with respect to any part of this Order shall constitute a warranty, express or implied, by DXN against any claims for infringement of patents, copyrights or trademarks and DXN shall not be responsible to Seller, as indemnitor or otherwise, for or on account of any such claim or liability.

4. CHANGES:

- (a) DXN may at any time, by written notice, without notice to any sureties or assignees, make changes to the Work, including, but not limited to, changes in quantity, size or capacity, in drawings and specifications, methods of shipment and packaging, performance schedules or place of delivery, or performance of technical advisory services. Within seven (7) days after receipt of DXN' notice, Seller shall submit a request for adjustments to the Order price and/or, as the case may be, the time of completion for the effects caused by the change. No claim by Seller for any adjustment the Order price or time of delivery will be valid unless received by DXN within the foregoing seven (7) day period. Should any change increase or decrease the cost of, or the time required for performance of the Order, an equitable adjustment shall be made to price or delivery schedule or both, as the case may be, to be reflected in a written modification of the Order. For changes that are made by Owner through DXN, Seller shall receive such adjustments to the Order price and/or, as the case may be, the time of delivery or completion as and to the extent that DXN receives corresponding adjustments from Owner for changes to the Work. Nothing contained in this clause shall relieve Seller from proceeding without delay in performance of the Order without regard to whether a proper adjustment has yet been made.
- (b) Seller may deviate from the specified requirements only with the prior written approval of DXN. All proposed deviations shall be clearly shown on shop drawings and catalogs and shall be fully described in their transmittal letter. Seller shall bear any and all costs or damages incurred as result of deviations.

5. PRICE:

The price for the Work shall be the price shown on the face of the Order. Otherwise, the applicable price shall be Seller's most favourable price in effect on the date of delivery for like Work to preferred customers in the same class as DXN.

6. PACKING AND SHIPPING:

- (a) The Order price includes all costs for shipment, including, but not limited to, packing, crating, drayage and storage prior to delivery, unless otherwise stated in the Order. Seller shall pack and otherwise prepare all items for shipment in accordance with the instructions under the Order and to secure the lowest transportation rates consistent with timely delivery, meet carrier's requirements and safeguard against damage from weather and transportation. Seller shall mark the number of the Order on air containers, packing slips, bills of lading and invoices and enclose a packing slip

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with each shipment. Where applicable, any packing or crating materials which are to be returned to DXN by Seller will be returned to DXN in accordance with DXN' policies and to the point designated by DXN in the Order or as otherwise directed by DXN. When multiple packages comprise a single shipment, each package shall also be consecutively numbered. On the date shipment is made, Seller shall fax or E-Mail (followed by regular mail to DXN) invoices, shipping documents and a copy of the packing slip. Seller shall not make partial shipments or deviate from the shipping instructions of the Order without DXN' prior written consent. Furthermore, Seller shall not deliver nonconforming Goods, unless so authorized by DXN in writing.

- (b) When making delivery of Goods for overseas shipment, the weight information from the Seller must comply with the IMO, International Convention for the Safety of Life at Sea (SOLAS) regulations in effect at the time. The weight stated in the packing slip by the Seller must be the Verified Gross Weight (VGM) in accordance with the SOLAS regulations, method 1 or 2. The weighing equipment used by the Supplier must meet the accuracy certification and calibration requirements in the Seller's country or where the weighing is performed. Seller shall note stimate the weight in the packing slip for the packages and/or containers. If the SOLAS regulations are violated, Seller shall be responsible for all demurrage, all costs and damages incurred by DXN if delivery of Goods is delayed, and all sanctions or fines that may be imposed on Seller or DXN.
- (c) Seller must comply (and ensure all its personnel, agents and contractors comply) with all laws, regulations, industrial awards, statutory duties and agreements relating to road transport (including those with respect to load, mass, dimension, load restraint and fatigue management) ("Chain of Responsibility Legislation") in effect in all states and territories in which the Goods are to be transported or Work is undertaken, and shall upon request provide DXN with all documentation reasonably required to verify Seller's compliance. Seller must immediately give written notice to DXN of any breach of Chain of Responsibility Legislation in connection with the Work and/or other enforcement action taken or threatened against Seller by any regulatory body in relation to the same. Seller's compliance with this Article 7(c) is a material term of the Order.

7. SPECIAL TOOLING:

- (a) If the Order price includes the cost of special tooling (e.g., special dies, jigs, tools, patterns, etc.) to be used for the Work, such special tooling shall become the property of DXN, which DXN may re-sell to the Owner.
- (b) Any material (including, but not limited to, tooling such as dies, jigs, tools, patterns, etc. and specifications or drawings, and other material or products for decorating, finishing or processing, etc.) furnished by DXN to Seller for use in connection with the Work shall be and remain the property of DXN. Such special tooling and such materials shall be kept in good condition by Seller without expense to DXN. All risk of loss to such special tooling and such materials shall be and remain with Seller during the time they are in Seller's possession. The actual cost of changes to such special tooling or material resulting from DXN' change of design or specification shall be paid for by DXN. No such special tooling and no such material belonging to DXN or Owner shall be used in the production, manufacture, or design of any Goods or parts thereof other than those called for by the Order or other Order(s) of DXN. When such special tooling or such material is no longer required for use in connection with the Order or such other Order(s), the same shall be returned to DXN or otherwise disposed of as DXN shall direct.

8. DELIVERY:

- (a) Delivery shall be made in accordance with the delivery terms and the time of delivery stated in the Order. Seller shall immediately notify DXN in writing if it discovers that any part of the Goods cannot be delivered within the time specified, stating the cause or causes of the delay. Seller shall promptly submit a plan to DXN and take all steps necessary to eliminate or, if that is not commercially feasible, mitigate the delay at its expense. With respect to delays to the Work for which DXN may be entitled to a change order under its contract with Owner, Seller shall cooperate with DXN and provide all information concerning the delay and its impacts on the Work, the Order price and the schedule as and when required by DXN. In that event, DXN shall issue a change order to Seller for an adjustment of the Order price and/or, as the case may be, the schedule if and only to the extent that DXN receives a corresponding adjustment from Owner for delay of the Work.
- (b) Delay: Time of performance is an essential element of the Order. Failure to make timely delivery or to comply with the notice requirement may result in the incurring of substantial additional costs or damages by DXN. The Parties agree that such damages for failure to meet the delivery dates would be extremely difficult and impractical to calculate. Therefore, in the event the delivery dates are not met, excluding delay caused by DXN or a Force Majeure event, Seller shall notwithstanding anything stated in Article 24(a) pay, as liquidated damages and not as a penalty, the liquidated damages amount stated on the face of the Order or if no amount is specified, two point five percent (2.5%) of the total Order price for each calendar week (or pro-rated part thereof) the delivery is delayed, up to a maximum of ten percent (10%) of the total Order price. In addition, DXN reserves the right to cancel the Order without cancellation charge and without waiving any other rights under the Order, or at law, if any delivery is not made within thirty days of the applicable delivery date and in the event of such cancellation the Seller shall be responsible for DXN' costs in obtaining substitute Goods.
- (c) If freight is allowed, or purchase made at delivered price, freight charges must be prepaid. Carrier claims resulting from in transit damage will be the sole responsibility of Seller. If Goods are shipped on a freight-collect

basis, all Goods shall be forwarded in accordance with DXN' instructions or in the absence of such instructions by the route involving the lowest transportation rate. Excess transportation cost will be borne by Seller. All invoices with transportation charges must be supported by a receipted freight bill.

9. OVERSHIPMENTS:

Unless otherwise specified, an increase in the quantities called for by the Order will not be accepted by DXN. Any increased quantity shipped to DXN without prior acceptance may be returned by DXN to Seller at Seller's sole expense.

10. EXPEDITING, INSPECTION AND TESTING:

- (a) The Work shall be subject to expediting and inspection by DXN or the Owner. DXN' and Owner's representatives shall be afforded free access during working hours to Seller's plants.
- (b) All inspections and tests shall be made as required by the Order. Seller shall deliver to DXN copies of all test reports, test data, and other documents, in the number specified at the mailing address set forth in the Order. DXN shall be entitled but shall not be required to perform inspections at Seller's or its vendors' and subcontractors' premises of all Goods at any stage in the manufacturing process, during normal business hours. Seller shall advise DXN ten days in advance when the Goods are ready for inspection. No such inspection or failure to inspect shall relieve Seller of any responsibility or liability with respect to the Work nor be interpreted in any way to imply acceptance thereof by DXN. DXN shall be entitled to reject any partially completed Work that fails to conform to the requirements of the Order.
- (c) DXN shall be entitled to reject any Work that fails to conform to the requirements of the Order. All Work found to be nonconforming or defective will be corrected, repaired or replaced by Seller without expense to DXN or, at option of DXN, Seller will refund the price on all such nonconforming or defective Work.

11. PAYMENT:

- (a) Payment will be made in accordance with the Order's payment terms or, if there are no payment terms, within ninety (90) days after receipt and

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acceptance of the Goods. If discounts are offered, DXN shall have the option to pay invoices according to discount terms. Discount periods, if applicable, will be computed from the date of delivery of Goods with receipt of acceptable invoices or after the resolution of any dispute to render payment, whichever is later. Invoices shall be mailed to DXN at the address indicated in the Order. If advanced payments or progress payments are made by DXN to the Seller, all Work in progress is deemed to be identified to the Order, and the Seller hereby grants DXN a security interest therein to the extent of such advanced or progress payment. DXN may set-off from amounts due under invoices rendered by Seller any amounts due and owing to DXN, or which the Seller is liable to pay to DXN, under the Order (including, without limitation, liquidated damages for delay under Article 8).

- (b) If specified on the face of the Order, the Seller must within fourteen days of the date of the Order and as a condition precedent to any payment being made pursuant to Article 11, provide DXN with an unconditional undertaking as security for the performance of the Seller's obligations under the Order for (i) the amount specified; (ii) in the agreed format; (iii) with an expiry date being the expiry of the warranty period specified in Article 15 plus 6 months; (iv) issued by a bank or other financial institution acceptable to DXN. DXN may have recourse to any unconditional undertaking provided and use the proceeds of such unconditional undertaking, including in any one or more of the following circumstances (i) to satisfy any amount due and payable from the Seller to DXN; (ii) to pay for any costs, losses, expenses or damages that DXN has incurred or suffered or which DXN reasonably considers that it will incur or suffer as a consequence of any breach of the Order by, or negligent act or omission of the Seller (including any stamp duty payable in connection with the unconditional undertaking); (iii) in the event of termination of the Order or the Seller becoming insolvent. The Seller must not take any steps whatsoever to injunct the issuer of that unconditional undertaking or DXN in respect of dealing with that unconditional undertaking or restrain DXN from exercising its rights under that unconditional undertaking. If a change order has been issued pursuant to Article 4 extending any time required for performance of the Order, then the Seller must also provide to DXN an amended unconditional undertaking which extends the expiry date by the same period as a condition precedent to any payment being made pursuant to Article 11. DXN must release the unconditional undertaking within 14 days after receipt of a written request from the Seller, which can only be made provided the Seller has otherwise complied with its obligations under the Order or if a dispute arises under the Order, after the final determination of the dispute (whichever occurs last).

12. TAXES:

- (a) Unless otherwise provided herein, all federal, state, and local sales, use, excise or similar taxes shall be for Seller's account. DXN shall, upon Seller's request, furnish any exemption certificates available to DXN. Any such taxes agreed to be for DXN's account shall be entered on invoice as a separate item.
- (b) Seller hereby accepts exclusive liability for the payment of all contributions or taxes, for unemployment insurance, social security, old age pensions or annuities, and any other taxes, assessments or charges in connection herewith whether measured by wages, salaries, or other remuneration of Seller's employees, agents, independent contractors, or others, as far as any of the same may affect the Work, and Seller further agrees to indemnify DXN against the assessment of any such taxes or charges.

13. TITLE AND RISK OF LOSS:

Title to the Goods shall pass to DXN upon the earlier of payment by DXN to the Seller for the Goods (prorated to the portion of the Order price paid) or receipt by DXN or the Owner (as applicable) of such Goods at the destination location designated in the Order. Risk of loss will pass to DXN upon receipt by DXN or the Owner (as applicable) of the Goods in undamaged condition at the destination location stated in the Order.

14. LIENS:

Where Seller's manufacturing facilities are located in Australia, and an advance or progress payment is made pursuant to Article 11, then the Parties intend this to create a purchase money security interest in respect of the Goods and Seller agrees to execute any document required by DXN to perfect its security interest in the pursuant to the terms of the *Personal Property Securities Act 2009 (Cth)* (PPSA). The Seller agrees to the extent permitted under the PPSA, the Seller has no right (i) to receive notice of removal of an accession under the PPSA under Chapter 4 of the PPSA; or (iii) under the PPSA to receive a copy of any verification statement or financing change statement under the PPSA. Where the Seller's manufacturing facilities are located outside Australia, Seller shall discharge at once, or shall furnish to DXN a bond satisfactory to DXN against any mechanic's lien or other lien, encumbrance or claim that may be filed in connection with the Work. Seller hereby expressly waives and releases any and all right of lien in connection with the Goods and agrees to furnish, or cause to be furnished, to DXN, such waiver of lien as may be requested by DXN as a condition precedent to any payment hereunder. If, at any time, there should be evidence of any lien or claim for which DXN might become liable, DXN shall have the right to retain out of any payment then due or thereafter to become due to Seller an amount sufficient to completely indemnify DXN against such lien or claim. If any lien or claim should remain unsatisfied after all payments are made to Seller, Seller will refund to DXN all monies that DXN may be compelled to pay in discharge of such lien or claim together with all costs and reasonable attorney's fees.

15. WARRANTY:

Seller expressly warrants that all Goods will be new, in accordance with the Order, including, but not limited to, the design specifications, drawings, samples or other descriptions and free from defects in material, workmanship and design. Unless otherwise stated on the face of the Order, this warranty shall run to DXN and Owner and shall remain in effect as to each item for a period of eighteen (18) months after the item is applied to the ultimate use for which it was intended or twenty-four (24) months after final delivery, whichever is shorter.

All warranties shall survive inspection, acceptance and final payment by DXN and shall run to DXN and subsequent purchasers of the items or end products of which they are a part. Seller agrees to save, defend, indemnify, and hold DXN and such purchasers harmless from all liability, loss, costs and expenses, including all court costs, expert witness fees, investigative costs and attorneys' fees, resulting from any breach of any or all such warranties. Notice of breach shall be deemed sufficient if given within ninety days after discovery thereof by DXN. Seller agrees to immediately repair or replace any nonconforming or defective items with conforming items at no cost to DXN and shall indemnify DXN for any and all costs, expenses, claims or damages (by whomever made) associated with any such nonconformance or defect. Seller further warrants that the repair or replacement shall not interrupt, delay or otherwise adversely impact DXN or its customers' operations.

THE WARRANTIES SET FORTH IN THE ORDER SHALL EXCLUDE ALL IMPLIED WARRANTIES (EXCEPT OF TITLE). THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE.

16. LAWS:

- (a) Seller shall upon request from DXN certify, on such standard forms as it customarily uses and/or as may reasonably be required by DXN from time to time (including via supporting statutory declarations), its compliance with applicable laws, orders, rules and regulations relating to, without limitation, security of payment requirements, non-discrimination, labour hire (if applicable), employment of its personnel and any other legislative or regulatory compliance matters relevant to the nature of the Work.
- (b) Seller warrants that the Goods sold and Work performed hereunder shall comply in all respects with the applicable state and/or federal Occupational

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Health, Safety and Environment Act(s) (as amended); all applicable federal, state and local health, safety, environmental, hazardous materials, labour hire and export control laws, and all applicable regulations, rulings, orders and standards promulgated thereunder, or with analogous laws applicable in the country where the Goods originate or the Work is performed. Seller further warrants that the Goods will comply with all generally recognised industrial safety standards. Seller agrees to correct any non-conformance at its expense.

- (c) Seller agrees to hold DXN, its customer(s) and Owner(s) harmless from any and all liabilities, claims, civil fines, penalties and awards, damages, losses, settlements and expenses, including attorney's fees, which may arise out of Seller's actions or omissions which do not meet these requirements.

17. CORPORATE SOCIAL RESPONSIBILITY:

- (a) DXN acknowledges the UN Global Compact, and expects its suppliers and contractors to maintain and apply policies and procedures that ensure compliance with the law and which support generally acknowledged sustainable business practices, including, but not limited to: (i) respecting basic human rights as set out in the principles of the UN Declaration of Human Rights, including to refrain from any use of forced labour, and to respect ethnical, cultural, religious and political diversity; (ii) respecting the UN Convention on the Rights of the Child with respect to any use of child labour; (iii) respecting basic labour rights as stated by the International Labour Organization (ILO), including the freedom for employees to organize themselves and to collectively bargain employment terms; (iv) avoiding conflicts of interest and to refrain from any use of corruption in their business practices, including bribery, extortion and kickbacks, and from participation in any kind of money laundering; (v) complying with anti-competition and export control regulations; and (vi) conducting its business in full respect of DXN' and/or any third party's intellectual property.
- (b) Seller is responsible for the safe execution of the Work in compliance with all local regulations, and shall take all necessary safety measures, including safe working conditions and training in safe working methods, appropriate personal safety equipment, and other precautions to protect all persons and property against injury or damage.
- (c) Seller must ensure that its employees are provided with access to normal health Services in the country where the Work is performed, and that all mandatory social insurances for its employees are being complied with.
- (d) Without limiting any other part of this Article 17, Seller must comply with all Modern Slavery Laws (including reporting requirements where applicable) and warrants to DXN that:
 - (i) it investigates and assesses the risk of Modern Slavery within its operations and supply chains and addresses (or will address) such risks by implementing appropriate due diligence and remediation programs;
 - (ii) it will notify DXN as soon as possible of any actual or formally alleged instances of Modern Slavery or breaches of Modern Slavery Laws involving the Seller and/or its personnel or suppliers of any tier;
 - (iii) it has in place the necessary processes, procedures and compliance systems in place to comply with this Article 17 and will upon request by DXN provide reasonable evidence to validate compliance and/or allow DXN nominated personnel to undertake verification activities upon request, including reasonable access to the Seller's premises and relevant records;
 - (iv) it will cooperate with DXN where requested to collaboratively identify and address (in a commercially reasonable manner) actual or potential Modern Slavery risks relating to the Seller's product and/or service offering; and
 - (v) it will include in all contracts it enters into with suppliers a clause requiring compliance with Modern Slavery Laws.
- (e) In the event the Seller breaches this Article 17 or does not remedy or provide an acceptable plan to remedy any identified instance of Modern Slavery or breach of Modern Slavery Laws by the Seller within a reasonable period following notice from DXN to do so, DXN will be entitled to terminate the Order in accordance with Article 22.

18. CONFIDENTIAL INFORMATION:

All supplies, blueprints, sketches, drawings, specifications, and other technical or commercial information furnished by or on behalf of DXN or created or produced by Seller for DXN in furtherance of the Order shall remain or become DXN' property and shall be deemed to be the confidential information of DXN. Such confidential information shall not be reproduced, given or disclosed to any third Party by Seller without DXN' prior written consent and nothing in the Order shall be deemed to grant Seller any rights to use all or any of DXN' confidential information except for the purposes contemplated in the Order. All confidential information shall be returned to DXN or DXN' designated representative upon completion of the Order or upon DXN' demand. Any information which DXN may disclose to Seller with respect to the design, manufacture, sale or use of the items covered by the Order shall be deemed to have been disclosed to Seller for use only in connection with the Order. Seller, therefore, shall not supply such items to others without DXN' prior written consent.

19. PATENT INDEMNIFICATION:

To the extent the Goods are not manufactured or performed according to designs specified by DXN, Seller shall indemnify and hold DXN, its agents and customers harmless from any loss, damage or liability for infringement of Australian or foreign patents or copyrights, or for unauthorized use of trade secrets or proprietary information of a third party with respect to such items and their process of manufacture, or the performance of such services. Seller shall, at its own expense, defend any action in which such infringement or unauthorized use is alleged with respect to the manufacture, sale or use of such items delivered hereunder or Services performed hereunder. Notwithstanding the above, DXN may elect to maintain its own defense of such claims at the cost of Seller.

20. INDEMNIFICATION:

- (a) Seller shall defend, indemnify, and hold harmless DXN from any and all third-person claims for damages, losses, costs and expenses (including all fines and penalties as well as reasonable attorneys' fees, consultant fees and litigation expenses) arising out of or resulting from or related to personal injury to or death of any person, and damage to or destruction of tangible third-person property to the extent arising out of defects in Goods furnished by, or acts or omissions, negligence, gross negligence, or willful misconduct of Seller, its subvendors of any tier, or their respective directors, officers or employees.
- (b) DXN shall promptly notify Seller of any suit, claim, action or other proceeding covered by this Article that is threatened or asserted against it. The Parties shall cooperate fully with one another in the defense and settlement of the suit, claim, action or other proceeding.

21. INSURANCE:

During the term of the Order and through to the end of the warranty period, the Seller shall maintain the insurance coverages listed below with reputable insurers: (a) Workers' Compensation Insurance against any liability for death of, or injury to persons employed (or deemed to be employed) by the Seller in the performance of Seller's activities under the Order whether under statute or common law, for an amount not less than the minimum statutory requirement and Seller shall provide for or require all subcontractors to maintain similar coverage for the subcontractor's employees employed; (b) Public and Product Liability Insurance for the minimum amount of \$20,000,000 for any one claim and unlimited in the aggregate (c) Motor Vehicle Insurance in

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respect of third party property damage and death or injury to persons for all plant, equipment and motor vehicles to be used in connection with the Seller's activities under this Order for an amount of \$10,000,000 for any one claim and unlimited in the aggregate in respect of third party property damage, and not less than the minimum statutory requirement in respect of compulsory third party; (d) Property Damage and transportation coverage at 110% of the Order price for loss of or damage to the Goods while in manufacture and in transit to delivery of such Goods if and to the extent DXN has made payments prior to delivery; and (e) if the Work comprises professional services, Professional Indemnity Insurance for the minimum amount of \$5,000,000 for any one claim. Seller shall cause DXN to be noted as an interested party under Seller's insurance required under clause (b) and (c) above. The insurance coverages above shall be primary to and not in excess of any other insurance available to DXN. Seller shall obtain from its insurers for insurance coverage in clause (b) and (c) a waiver of subrogation in favor of DXN. Certificate(s) evidencing that the foregoing coverages are in place shall be submitted to DXN before Work commences under the Order. If Seller fails to furnish such insurance coverages, DXN may, without prejudice to any other remedy available to it, terminate the Order or, at its option, upon the giving of fifteen (15) days' notice by ordinary mail to Seller, obtain any required insurance and charge the cost thereof to Seller. Cancellation of any policy shall not relieve Seller of its responsibility to obtain and maintain such insurance protection for DXN, Owner and itself. Specified insurance coverage limits do not limit the amount or degree of any liability or indemnification for which Seller is responsible under the Order.

22. TERMINATION AND SUSPENSION:

- (a) Default: DXN may at its election, by delivery to Seller of written notice of termination or suspension, cancel or suspend the Order or any part hereof without any obligation or liability whatsoever, if Seller (i) fails to deliver the Goods within thirty (30) days from the Order's delivery date schedule or perform the Work or Services in accordance with the delivery or any other schedule specified in the Order, or (ii) fails to comply with any of the other material provisions of the Order. In the event of any such failure by Seller, and whether or not the Order shall be cancelled, DXN may purchase similar materials elsewhere or secure the manufacture and delivery thereof and Seller shall be liable to DXN for all costs and damages suffered or incurred by DXN arising or resulting from such failure or failures by Seller. If it is determined that Seller was not in default, or that the default was excusable, the termination will be deemed to have been ordered pursuant to the termination for convenience clause set forth herein.
- (b) Convenience: DXN reserves the right to cancel or suspend the Order in whole or part by written notice, for its convenience. DXN may further cancel the Order after any period of suspension. In the event of such termination or suspension, Seller may claim reasonable costs incurred plus a reasonable allowance for profit (in the case of termination only) and overhead only on Work completed as of the effective date of termination or suspension, to be determined in accordance with (i) and (ii) below. Any claim by Seller must be made in writing no later than ten (10) business days after receipt of the notice of cancellation or suspension from DXN. If it appears that Seller would have sustained a loss on the entire Order had it been completed, no allowance for profit and overhead shall be allowed.
 - (i) If the Order covers materials manufactured or fabricated to DXN' specifications or specifications especially prepared by Seller for DXN, the following provisions shall apply: (A) immediately upon receipt of such notice of termination or suspension, or upon such other date as may be specified in said notice, Seller shall stop all Work in connection with the Order, except as otherwise directed by DXN; (B) In the case of cancellation for convenience, DXN shall pay and Seller shall accept as full compensation, Seller's reasonable costs to the date Work is stopped, including Seller's reasonable expense in connection with termination or suspension of any subcontracts, all as approved by DXN, plus ten percent (10%) of such costs as full overhead and profit, provided, however, that in no event shall the total amount to be paid to Seller upon such termination or suspension plus payments previously made exceed that proportion of the aggregate total purchase price specified herein that the Work actually completed hereunder to the date Work is stopped bears to the entire work to be performed hereunder; (C) all completed Goods and Work in progress shall become and remain the property of DXN and Seller shall safely hold the same for a reasonable time subject to receipt of DXN' written shipping or other disposition instructions; and (D) in the case of suspension of the Order, Seller shall resume production and deliveries in accordance with DXN' written instructions. Upon completion of the resumed Work, Seller shall receive the total purchase price in the manner and amount as specified herein, less any payments previously made under the Order.
 - (ii) If the Goods covered by the Order are standard stock merchandise, DXN shall have no obligation for cancellation charges or otherwise hereunder, except to make payment subject to other applicable terms hereof, for the materials actually shipped and in transit prior to such termination or suspension, and to make payment for any materials as to which the Order is not terminated or suspended which are shipped subsequent to such termination or suspension. Upon completion of the Order after resumption, Seller shall receive the total purchase price in the manner and amount as specified herein, less any payments previously made under the Order.
- (c) Upon termination under any of the foregoing circumstances, Seller will be deemed to have offered to DXN an assignment of all its subcontracts and purchase orders related to the Order.

23. FORCE MAJEURE:

If Seller is unable by reason of Force Majeure to carry out any of its obligations under the Order, then upon Seller giving notice and particulars in writing to DXN within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended for the duration of Force Majeure. "Force Majeure" shall be defined as stated in DXN's contract with the Owner. Otherwise, "Force Majeure" is defined to include: catastrophic events (for example, fires and explosions); Acts of God (including, but not limited to, floods, tornadoes, hurricanes and earthquakes); riots, insurrections, or civil unrest; acts or threatened acts of piracy or terrorists; war, blockades or other acts or threatened acts of war or military action; trade embargoes or restrictions imposed after the date of the Order, the imposition of which was not generally known or anticipated before that date; changes in applicable law after the date of the Order; governmental or judicial acts, decrees, injunctions, restrictions or other orders that were not requested, promoted or caused by the affected Party; or any other unforeseeable causes that are not reasonably within the control of Seller or DXN. DXN shall issue a change order to Seller for a time extension if and to the same extent that DXN obtains a time extension from Owner for delay of the Work caused by Force Majeure.

24. LIMITATION OF LIABILITY:

- (a) Neither DXN nor Seller shall under any circumstances be liable to one another for claims for or arising from loss of profits, revenue, or interest; judgement interest; additional or increased interest or other financing charges or expenses; loss of use; loss by reason of plant shutdown, interruption, or nonoperation; cost of substitute power, equipment, facilities or services; additional usage of fuel or utilities; loss of customers or business; business interruption losses, damages or expenses; delays or disruptions of or interferences with the Work; or for any special, incidental, indirect, exemplary, punitive or consequential damages, whether or not such loss or damage is based in contract, warranty, tort (including, but not limited to negligence and strict liability), indemnity, or otherwise. Unless otherwise stated in these Terms and Conditions, this paragraph applies to all rights, claims, remedies and liabilities that either Party may have under or in connection with the Order.
- (b) Each Party's maximum aggregate liability to the other Party for any claim whether in contract, warranty, tort (including, but not limited to, negligence and strict liability), or other theory of recovery for any loss or damage concerning, arising out of, or resulting from the Goods or the Order shall be capped at one hundred percent (100%) of the Order price. The limitations and caps on liability that are stated or referenced herein shall not apply to the following: (i) Seller's duty to defend, indemnify, and hold harmless DXN under Articles 19, 20; (iii) claims for willful misconduct, bad faith, or gross negligence; and (iv) claims that are covered by the Seller's insurance policies including under Article 21 liability for which is capped at the

TERMS AND CONDITIONS FOR EQUIPMENT PURCHASE

limits shown in that Article, but with no cap applying to third-party personal injury/death claims.

25. GOVERNING LAW AND FORUM:

- (a) The Order shall be interpreted, construed and enforced as written in accordance with, and all other matters in connection with the Order and/or its performance shall be governed by, the laws of the state of Western Australia.
- (b) The Parties expressly waive application and jurisdiction of the UN Convention on the International Sale of Goods.
- (c) All disputes and claims between the Parties concerning, arising from or relating in any way to the Order (collectively, "Disputes") that cannot be settled by good faith discussion, shall be resolved through binding arbitration administered by the Australian Centre for International Commercial Arbitration ("ACICA") pursuant to the ACICA Arbitration Rules in effect at the time. The arbitration shall be held in Sydney, NSW, Australia and conducted in English. The arbitrators shall have no right to add to, subtract from or modify any of the provisions of the Order, and shall not exceed any limitations of liability and remedy provided in the Order. The arbitration award shall not be appealable or subject to recourse to or review by any court or other arbitration panel. Each Party shall be responsible for payment of one-half (1/2) of the deposit for the advanced costs of the arbitration (as they are defined and in accordance with the ACICA Arbitration Rules) and for their own costs of arbitration, provided however the arbitrators shall award the substantially prevailing Party reimbursement of all such costs as assessed by or through the ACICA in accordance with the ACICA Rules.

26. NOTICE:

Notice under this Order shall be given by hand-delivery, ordinary mail, courier, fax, or e-mail at the address set forth in the Order, or to such address as such party may provide in writing from time to time. All notices shall be effective upon receipt.

27. ASSIGNMENTS:

Neither Party shall assign this Order or any benefits arising therefrom without prior written consent of the other Party.

28. SUBCONTRACTING:

Seller shall not subcontract any part of the Work without first securing the written approval of DXN. In the event that Seller so subcontracts without first securing the written approval of DXN, DXN may cancel that portion of the Order relating to such items without any liability to DXN.

29. DOCUMENTATION, PREVAILING LANGUAGE AND DATES:

Unless specifically provided for elsewhere in the Order, all documentation, including drawings and written materials, shall be in the English language. In the event the text of the Order is translated into a language other than English, the English text shall prevail, control and be binding in the event of any conflict or discrepancy. All dates shall be based on the Gregorian calendar.

30. ADVERTISING:

Seller shall not advertise or publish the fact of or details relating to the Order to any third party except as specified in the Order, permitted by DXN, or as required to perform the Order.

31. WAIVER OF BREACH:

A Party's payment or receipt of payment, failure to insist on strict performance, or waiver of a breach of the Order shall not constitute a waiver by that Party of any other breach of the Order or its right to enforce the other Party's compliance with its obligations hereunder.

32. SEVERABILITY:

If any term or other part of the Order is held to be unenforceable or invalid by an arbitrator or court of competent jurisdiction, the validity and enforceability of all other terms and parts shall not be affected thereby.

33. ENVIRONMENTAL MANAGEMENT SYSTEM ASSURANCE:

DXN maintains an Environmental Management System ("EMS") under ISO 14001 that establishes environmental performance requirements for the reduction of wasted resources and operating cost during the engineering design, procurement, manufacture, transportation, use, and final disposition of the Goods. Seller and its subcontractors and suppliers of every tier shall (i) apply, environmental performance requirements that are consistent with the EMS in the performance of Work under and in connection with this Order and (ii) maintain documented records of their compliance those requirements. DXN may audit compliance with this Article, and Seller shall provide access to and copies of all such records as DXN may request.

34. SURVIVAL OF TERMS:

Articles 12 (Taxes), 16 (Laws), 18 (Confidential Information), 19 (Patent Indemnification), 20 (Indemnification), 24 (Limitation of Liability), 25 (Governing Law and Forum), 30 (Advertising) 31 (Waiver of Breach), and 33 (Environmental Management System Assurance) shall survive completion or termination of the Order.

STANDARD TERMS AND CONDITIONS FOR PURCHASE OF SERVICES

1. DEFINITIONS:

- (a) "Consultant" means the person or entity named on the face of the PO (as defined below) to whom/which the PO is issued.
- (b) "Contract" means these Terms and Conditions, the PO, and the terms and conditions from DXN' contract with the Owner (to the extent referenced or attached to the PO).
- (c) "Effective Date" means the date when Consultant accepts the PO, whether upon express acceptance by any means of communication, beginning performance, or upon any other method of acceptance stated on the face of the PO.
- (d) "DXN" means the DXN Solutions entity that is submitting the PO, as indicated on the face thereof.
- (e) "Modern Slavery" has the meaning given in the *Modern Slavery Act 2018 (Cth)* and for the avoidance of doubt includes exploitation of workers, human trafficking, slavery, slave-like behavior, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), or requires reporting or any other action in relation to the risks of those activities.
- (f) "Modern Slavery Laws" means (a) Division 270 and 271 of the *Criminal Code Act 1995 (Cth)*; (b) the *Modern Slavery Act 2018 (Cth)*; (c) the *Modern Slavery Act 2015* of the United Kingdom; and (d) any other relevant law which has as its objective the prohibition of Modern Slavery (as defined in Article 1(e)), and is applicable in the jurisdiction in which the Consultant and DXN are registered or conduct business or in which activities relevant to the supply and delivery of the Work are to be performed.
- (g) "Owner" means the person or entity identified in the PO for whose Project the Work is to be performed.
- (h) "Party" means either Consultant or DXN and "Parties" means both Consultant and DXN.
- (i) "PO" means the purchase order document issued by DXN that lists and describes Work to be performed by Consultant; the price, delivery, completion and other terms pertinent to the Work; all attachments; and all documents, standards and other matters referenced on the face of the purchase order.
- (j) "Project" means the Work and all other work to be performed by DXN and others under separate contracts with the Owner.
- (k) "Site" is the location where the Project will be performed or constructed.
- (l) "Subcontractor" means any person or entity of any tier approved by DXN in writing to whom/which Consultant subcontracts part of the Work.
- (m) "Work" means the services and other work that are specified or described in the PO and includes all activities that are incidental to the Work and all materials, equipment, labor and administrative time that are necessary to perform and complete the Work in complete conformity with the requirements of the Contract.

2. PREVAILING DOCUMENTATION:

- (a) These Terms and Conditions are an essential part of the Contract.
- (b) The Contract comes into effect on the Effective Date.
- (c) The Contract is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of its terms. The Contract incorporates and supersedes all prior and contemporaneous agreements and negotiations regarding its subject matters, with the specific exception of any existing nondisclosure or confidentiality agreements between the parties, which are confirmed to remain in force according to their terms. Notwithstanding any rule of law to the contrary, the Contract may only be amended by a formal written amendment signed by authorized representatives of the Parties and cannot be amended (or otherwise be deemed or held by an arbitrator or other tribunal of competent jurisdiction to have been amended) orally, by conduct, by informal writing, by waiver, or by any combination thereof.
- (d) Article headings are provided for convenience and are not to be used in construing the Contract.
- (e) If there is a conflict between a term or condition on the face of the PO and any of these Terms and Conditions, the conflicting term or condition on the face of the PO shall prevail.

3. All terms and conditions offered or submitted by Consultant before, contemporaneously with or after the effective date of the Contract which are not expressly stated on or referenced in the face of the PO are void and are not part of the Contract.

4. SCOPE OF THE WORK:

- (a) To the extent applicable to the Work, the scope of the Work also includes checking for and eliminating conflicts and interferences within Consultant's own Work and between its Work and plans and drawings that DXN provided to Consultant for the Work. Consultant shall promptly take all actions at its expense that are necessary to correct errors or defects in the Work for which Consultant and/or its Subcontractors are responsible and reissue all corrected drawings, documents, information, and data. Consultant shall pay costs that are incurred by, backcharged to or claimed against DXN as a result of such errors or defects.
- (b) Consultant shall perform all Work in a good and workmanlike manner, exercising the degree of skill, care and diligence in the performance of its Work as normally is exercised by parties performing similar work in the Consultant's profession and industry, and to the satisfaction of DXN. If deviations, defects, or deficiencies in the Work are not remedied to the satisfaction of DXN within a reasonable time after DXN's having given Consultant notice of them, or if Consultant fails or neglects to perform any of its obligations in a good and workmanlike manner, then DXN, without any prejudice to any other right or remedy, may correct any such deviations, defects, or deficiencies itself, and Consultant agrees to reimburse DXN for the entire cost either by way of deduction from any payment then due.
- (c) Consultant shall ensure that its Work does not harm or interfere with DXN's, the Owner's or third parties operations and property while at the Site. Consultant shall advise DXN of any obvious defects in the installation, overhaul, repair, maintenance, or operation of equipment which are reasonably observable at the time the Work is performed.
- (d) Consultant agrees to keep the work premises free of waste material and rubbish caused by his work. Consultant further agrees to remove all such waste material and rubbish on the termination of the contract, together with all his tools, equipment, machinery and surplus materials. If Consultant fails to perform this requirement, DXN may have this work performed at Consultant's expense.
- (e) Consultant warrants that if any materials or equipment are furnished by it under this Contract they will be new (unless otherwise specified) and free from faults or defects for a period of one year, commencing with the date of final payment under this contract. Consultant further warrants that all materials, equipment, and work furnished under this Contract will be in compliance with the provisions of the applicable state Occupational Health and Safety Act (as amended) and the standards and regulations issued hereunder, and that Consultant shall hold and save harmless DXN from all damages or penalties assessed against DXN as a result of Consultant's breach of this warranty.

5. CHANGES:

- (a) DXN may at any time, by written notice, without notice to any assignees, make changes to the Contract. Within seven (7) days after receipt of DXN' notice, Consultant shall submit a request for adjustments to the Contract price and/or, as the case may be, the time of completion for the effects caused by the change. No claim by Consultant for any adjustment the Contract price or time of delivery will be valid unless received by DXN within the foregoing seven (7) day period. Should any change increase or decrease the cost of, or the time required for performance of the

STANDARD TERMS AND CONDITIONS FOR PURCHASE OF SERVICES

Contract, an equitable adjustment shall be made to price or delivery schedule or both, as the case may be, to be reflected in a written modification of the Contract. For changes that are made by Owner through DXN, Consultant shall receive such adjustments to the Contract price and/or, as the case may be, the time of completion as and to the extent that DXN receives corresponding adjustments from Owner for changes to the Work. Nothing contained in this clause shall relieve Consultant from proceeding without delay in performance of the Contract as directed without regard to whether a proper adjustment has yet been made.

- (b) Consultant may deviate from the specified requirements only with the prior written approval of DXN. All proposed deviations shall be clearly shown on shop drawings and shall be fully described in their transmittal letter. Any and all costs or damages incurred as result of deviation will be paid by Consultant.

6. FORMAT FOR COMPLETING THE WORK:

Consultant's plans, drawings and other submittals shall comply with all formatting requirements referenced in the PO

7. TIME OF PERFORMANCE OF THE WORK AND PROGRESS REPORTS:

- (a) The Work shall be completed by the interim/milestone and completion date(s) set forth in the PO. If Consultant is unable by reason of Force Majeure to carry out any of its obligations under the Contract, then upon Consultant giving notice and particulars in writing to DXN within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended for the duration of the Force Majeure. "Force Majeure" shall be defined as stated in DXN's contract with the Owner. Otherwise, "Force Majeure" is defined to include, catastrophic events (for example, fires and explosions); Acts of God (including, but not limited to, floods, tornadoes, hurricanes and earthquakes); riots, insurrections, or civil unrest; acts or threatened acts of piracy or terrorists; war, blockades or other acts or threatened acts of war or military action; trade embargoes or restrictions imposed after the date of the Contract, the imposition of which was not generally known or anticipated before that date; changes in applicable law after the date of the Contract; governmental or judicial acts, decrees, injunctions, restrictions or other orders that were not requested, promoted or caused by the affected Party; unavailability of parts, goods or any other causes that are not reasonably within the control of Consultant. DXN shall issue a change order to Consultant for a time extension if and to the same extent that DXN obtains a time extension from Owner for delay of the Work caused by Force Majeure.
- (b) In the event of any dispute or disagreement between the Parties, Consultant shall continue with the Work and shall not withhold delivery of any drawings or other submittals or otherwise suspend or fail to proceed with any part of the Work.
- (c) Consultant shall promptly notify DXN in writing of any delays in receipt of information from DXN or Owner that Consultant needs to complete the Work by the date(s) shown in the PO.
- (d) Consultant shall submit to DXN monthly updates and/or progress reports as set forth in the Contract. Consultant shall immediately notify DXN in writing if it discovers that any part of the Work cannot be completed and delivered within the time specified, stating the cause or causes of the delay. Consultant shall promptly submit a plan to DXN and take all steps necessary to eliminate or, if that is not commercially feasible, mitigate the delay at its expense. With respect to delays to the Work for which DXN may be entitled to a change order under its contract with Owner, Consultant shall cooperate with DXN and provide all information concerning the delay and its impacts on the Work, the Contract price and the schedule as and when required by DXN. In that event, DXN shall issue a change order to Consultant for an adjustment of the Contract price and/or, as the case may be, the time for completion if and only to the extent that DXN receives a corresponding adjustment from Owner for delay of the Work.

8. PRICE, PAYMENT TERMS AND TRAVEL EXPENSE REIMBURSEMENT:

- (a) The Contract price is stated on the face of the PO. Except as stated in Article 7(c), and unless otherwise stated in the Contract, the Contract price is all-inclusive for all Work performed under this PO, including but not limited to telephone calls, facsimiles, mail, courier services and copying costs. The Contract price shall be paid in Australian Dollars.
- (b) Payment will be made in accordance with the payment terms as shown on the face of the PO or, if no payment term is expressed, within ninety (90) days after receipt of the Consultant's invoice.
- (c) Reimbursement of travel expenses, if included on the face of the PO, is limited to Work performed with DXN' prior consent away from Consultant's offices or such other locations where Consultant normally works, excluding Consultant's interoffice travel. The following travel expenses will be reimbursed at cost: economy class air or rail fare; lodging and meals; car rental fees and related out-of-pocket fuel costs; tolls and parking fees; taxi fees; business phone calls, fax and internet charges; miscellaneous travel-related expenses (for example, laundry charges). Reimbursement does not apply to expenses for travel by personal vehicle or vehicle owned by Consultant. Such travel expenses shall be reimbursed at the cents per kilometer (ATO) rate existing at the time of travel. Consultant shall itemize the foregoing reimbursable travel expenses in its invoices and attach to its invoices copies of all supporting receipts and other documents substantiating the expenses.

9. TAXES:

Consultant is responsible for all national, federal, state/provincial and local taxes as they might apply to the Work and/or Consultant's performance of the Contract.

10. LIENS:

If and to the extent permitted by the law of the state where the Site is located, Consultant (a) expressly waives and releases any right that it may have to file liens against the Site with respect to payments it claims to be due for performing Work on the Project; (b) shall obtain the same waiver from each Subcontractor in writing; (c) shall provide DXN with such written lien waivers when and in such forms as DXN may be required to provide under its contract with Owner; (d) shall withdraw, remove or cause to be withdrawn or removed any lien or notice of lien asserted or threatened by Consultant or a Subcontractor with respect to any payments claimed to be due for performance of the Work; and, (e) shall defend, indemnify and hold DXN, Owner and Owner's property harmless against any lien, notice of lien or claim on the lien asserted by Consultant or a Subcontractor and related costs (including, but not limited to attorneys' fees) that DXN and/or Owner may incur.

11. LICENSING LAWS, CODES, STANDARDS CONTROLLING THE WORK:

- (a) If any part of the Work constitutes the practice of "engineering" under the statutes of the country, state or province where the Project is located, Consultant shall: (i) comply with the licensing, certification and registration requirements of that country, state or province to the extent they are applicable to Consultant; and (ii) ensure that plans, drawings, calculations and other documents are prepared, signed and sealed by a professional engineer who is licensed in accordance with such statutes.
- (b) In addition to the requirements and standards stated or referenced in the Contract, Consultant shall comply with the following (if applicable to the Work), as prevailing at the time of the Work: (i) laws, regulations, and ordinances (including all applicable requirements of state and/or federal

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Occupational Health, Safety and Environment Act(s) and legislation), if any, that are pertinent to Consultant's Work; (ii) building codes pertinent to the location of the Site and applicable to the Work;

(iii) industry and professional codes and Australian standards; and (iv) generally accepted engineering practices relating to the Work. If there is an inconsistency or conflict between or among any of these requirements, the more stringent requirements shall apply.

- (c) If Consultant does not comply with its obligations under this Article, it shall: (i) take all steps reasonably necessary to cure its non-compliance as expeditiously as circumstances will reasonably permit after receipt of notice of non-compliance from DXN or Owner; and, (ii) defend, indemnify and hold DXN and Owner harmless from any costs (including but not limited to costs of repair or replacement and reasonable attorney's fees), damages or actions incurred by them or asserted against them as a result of Consultant's non-compliance.

12. CERTIFICATION OF COMPLIANCE WITH LAWS:

Consultant shall upon request from DXN certify, on such standard forms as it customarily uses and/or as may reasonably be required by DXN from time to time (including via supporting statutory declarations), its compliance with applicable laws, orders, rules and regulations relating to, without limitation, security of payment requirements, non-discrimination, labour hire (if applicable), employment of its personnel and any other legislative or regulatory compliance matters relevant to the nature of the Work.

13. CORPORATE SOCIAL RESPONSIBILITY:

- (a) DXN Acknowledges to the UN Global Compact, expects its consultants, suppliers and contractors to maintain and apply policies and procedures that ensure compliance with the law and which support generally acknowledged sustainable business practices, including, but not limited to: (i) respecting basic human rights as set out in the principles of the UN Declaration of Human Rights, including to refrain from any use of forced labour, and to respect ethnic, cultural, religious and political diversity; (ii) respecting the UN Convention on the Rights of the Child with respect to any use of child labour; (iii) respecting basic labour rights as stated by the International Labour Organization (ILO), including the freedom for employees to organize themselves and to collectively bargain employment terms; (iv) avoiding conflicts of interest and to refrain from any use of corruption in their business practices, including bribery, extortion and kickbacks, and from participation in any kind of money laundering; (v) complying with anti competition and export control regulations; and (vi) conducting its business in full respect of DXN' and/or any third party's intellectual property.
- (b) Consultant is responsible for the safe execution of the Work in compliance with all local regulations, and shall take all necessary safety measures, including safe working conditions and training in safe working methods, appropriate personal safety equipment, and other precautions to protect all persons and property against injury or damage.
- (c) Consultant must ensure that its employees are provided with access to normal health services in the location where the Work is performed, and that all mandatory social insurances for its employees are being complied with.
- (d) Without limiting any other part of this Article 12, Consultant must comply with all Modern Slavery Laws (including reporting requirements where applicable) and warrants to DXN that:
- (i) it investigates and assesses the risk of Modern Slavery within its operations and supply chains and addresses (or will address) such risks by implementing appropriate due diligence and remediation programs;
 - (ii) it will notify DXN as soon as possible of any actual or formally alleged instances of Modern Slavery or breaches of Modern Slavery Laws involving the Consultant and/or its personnel or suppliers of any tier;
 - (iii) it has in place the necessary processes, procedures and compliance systems in place to comply with this Article 12 and will upon request by DXN provide reasonable evidence to validate compliance and/or allow DXN nominated personnel to undertake verification activities upon request, including reasonable access to the Consultant's premises and relevant records;
 - (iv) it will cooperate with DXN where requested to collaboratively identify and address (in a commercially reasonable manner) actual or potential Modern Slavery risks relating to the Consultant's product and/or service offering; and
 - (v) it will include in all contracts it enters into with suppliers a clause requiring compliance with Modern Slavery Laws.
- (e) In the event the Consultant breaches this Article 12 or does not remedy or provide an acceptable plan to remedy any identified instance of Modern Slavery or breach of Modern Slavery Laws by the Consultant within a reasonable period following notice from DXN to do so, DXN will be entitled to terminate the Contract in accordance with Article 17.

14. CONFIDENTIALITY AND WORK FOR HIRE:

- (a) All supplies, blueprints, sketches, drawings, specifications, and other technical or commercial information furnished by or on behalf of DXN or created or produced by Consultant for DXN in furtherance of the Contract shall remain or become DXN' property and shall be deemed to be DXN' confidential information. Such confidential information shall not be reproduced, given or disclosed to any third person by Consultant without DXN' prior written consent. Nothing in the Contract shall be deemed to grant Consultant any rights to use all or any of DXN' confidential information except for the purposes contemplated in the Contract. All confidential information shall be returned to DXN or DXN' designated representative, upon completion of the Contract or upon DXN' demand. Any information which DXN may disclose to Consultant with respect to the design, manufacture, sale or use of the items covered by the Contract shall be deemed to have been disclosed to Consultant for use only in connection with the Contract. Consultant, therefore, shall not supply such items to others without DXN' prior written consent.
- (b) The Work shall be considered work for hire and therefore, DXN owns all right, title and interest in the Work at all stages of its development and the finished product; Consultant and Subcontractors have no ownership, proprietary or other rights in the Work; Consultant and Subcontractors agree the copyright in all Work produced by the Consultant shall vest in DXN; and DXN may use the Work on other projects or for other purposes, in which event Consultant shall have no liability for such the use or application and DXN shall proceed at its own risk.

15. PATENT INDEMNIFICATION:

To the extent the Work is not solely based on design or technical know-how that DXN provided to Consultant, Consultant shall indemnify and hold DXN, its agents and Owner harmless from any loss, damage or liability for infringement of Australian or foreign patents or copyrights, or for unauthorized use of trade secrets or proprietary information of a third party with respect to such items and their process of manufacture, or the performance of such services. Consultant shall, at its own expense, defend any action in which such infringement or unauthorized use is alleged with respect to the manufacture, sale or use of such items delivered hereunder or services performed hereunder. Notwithstanding the above, DXN may elect to maintain its own defense of such claims at the cost of Consultant.

16. INDEMNIFICATION:

Consultant shall defend, indemnify, and hold harmless DXN from any and all third-person claims for damages, losses, costs and expenses (including all fines and penalties as well as reasonable attorneys' fees, consultant fees and litigation expenses) arising out of or resulting from or related to personal injury to or death of any person, and damage to or destruction of tangible third-person property to the extent caused by the tortious conduct

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of Consultant, its Subcontractors of any tier or their respective directors, officers or employees. DXN shall promptly notify Consultant of any suit, claim, action or other proceeding covered by this Article that is threatened or asserted against it. The Parties shall cooperate fully with one another in the defense and settlement of the suit, claim, action or other proceeding.

17. INSURANCE:

During the term of the Contract and through to the end of the warranty period, the Consultant shall maintain the insurance coverages listed below with reputable insurers: (a) Workers' Compensation Insurance against any liability for death of, or injury to persons employed (or deemed to be employed) by the Consultant in the performance of Consultant's activities under the Contract whether under statute or common law, for an amount not less than the minimum statutory requirement and Consultant shall provide for or require all subcontractors to maintain similar coverage for the subcontractor's employees employed; (b) Public and Product Liability Insurance for the minimum amount of \$20,000,000 for any one claim and unlimited in the aggregate; (c) Motor Vehicle Insurance in respect of third party property damage and death or injury to persons for all plant, equipment and motor vehicles to be used in connection with the Consultant's activities under this Contract for an amount of \$10,000,000 for any one claim and unlimited in the aggregate in respect of third party property damage, and not less than the minimum statutory requirement in respect of compulsory third party; and (d) where applicable, Professional Indemnity Insurance for the minimum amount of \$5,000,000 for any one claim. Consultant shall cause DXN to be noted as an interested party under Consultant's insurance required under clause (b) and (c) above. The insurance coverages above shall be primary to and not in excess of any other insurance available to DXN. Consultant shall obtain from its insurers for insurance coverage in clause (b) and (c) a waiver of subrogation in favor of DXN. Certificate(s) evidencing that the foregoing coverages are in place shall be submitted to DXN before Work commences under the Contract. If Consultant fails to furnish such insurance coverages, DXN may, without prejudice to any other remedy available to it, terminate the Contract or, at its option, upon the giving of fifteen (15) days' notice by ordinary mail to Consultant, obtain any required insurance and charge the cost thereof to Consultant. Cancellation of any policy shall not relieve Consultant of its responsibility to obtain and maintain such insurance protection for DXN, Owner and itself. Specified insurance coverage limits do not limit the amount or degree of any liability or indemnification for which Consultant is responsible under the Contract.

18. TERMINATION AND SUSPENSION:

- (a) Termination for Default. DXN may terminate the Contract if Consultant is in default of the Contract and Consultant (i) fails to initiate actions reasonably acceptable to DXN to cure the breach within seven days after receipt of written notice from DXN of such breach and/or (ii) fails to diligently pursue such actions to completion as expeditiously as circumstances reasonably permit after receipt of DXN' notice. DXN shall specify in its notice with reasonable precision the part of the Contract that it believes Consultant has breached; the act, omission or conduct that constitutes the breach; and actions that are required to cure the breach. In the event of termination by DXN, DXN may purchase similar services elsewhere, and Consultant shall be liable to DXN for all net costs and damages suffered or incurred by DXN that result from Consultant's breach. If it is determined that Consultant was not in default, or that the breach was excusable, termination shall be deemed to have been made for DXN' convenience.
- (b) Termination for Convenience. DXN may terminate the Contract in whole or part for its convenience by written notice to Consultant. The effective date of termination shall be the date stated in the notice. Upon the effective date, DXN shall pay Consultant an amount equal to (i) the percentage of all Work completed up to the date of the termination plus (ii) all reasonable, out-of-pocket, documented costs incurred in complying with DXN' instructions for terminating the Contract, minus the total amount of all previous payments made by DXN under the Contract. In no event, however, shall Consultant be paid more than the Contract price.
- (c) Suspension. DXN may suspend the Work in whole or in part at any time for its convenience by providing written notice of suspension to Consultant. The effective date of the suspension shall be the date stated in DXN' notice. Upon the effective date of suspension, Consultant shall submit an invoice in the same manner set forth in the Contract for all Work performed between the last invoiced period prior to suspension and the effective date of suspension plus any reasonable, out-of-pocket, documented costs that Consultant incurs in complying with DXN' instructions for suspending the Work. DXN shall pay that invoice within the time stated in the Contract. Consultant shall resume the Work when and to the extent directed in writing by DXN.
- (d) Immediately upon the effective date of termination or suspension pursuant to this Article, Consultant shall no longer be authorized to and shall cease performance of the Work (except to the extent stated in the notice) and shall follow all instructions that DXN may give. Consultant shall deliver to DXN all completed Work and Work in progress unless DXN otherwise directs, in which case Consultant shall safely hold the same for a reasonable time subject to receipt of DXN' written instructions.

19. LIMITATION OF LIABILITY:

- (a) Neither DXN nor Consultant shall under any circumstances be liable to one another for claims for or arising from loss of profits, revenue, or interest; pre-judgement interest; additional or increased interest or other financing charges or expenses; loss of use; loss by reason of plant shutdown, interruption, or nonoperation; cost of substitute power, equipment, facilities or services; additional usage of fuel or utilities; loss of customers or business; business interruption losses, damages or expenses; delays or disruptions of or interferences with the Work; or for any special, incidental, indirect, exemplary, punitive or consequential damages, whether or not such loss or damage is based in contract, warranty, tort (including, but not limited to negligence and strict liability), indemnity, or otherwise. Unless otherwise stated in these Terms and Conditions, this paragraph applies to all rights, claims, remedies and liabilities that either Party may have under or in connection with the Contract.
- (b) Each Party's maximum aggregate liability to the other Party for any claim whether in contract, warranty, tort (including, but not limited to, negligence and strict liability), or other theory of recovery for any loss or damage concerning, arising out of, or resulting from the Work shall be capped at one hundred percent (100%) of the Contract price. The limitations and caps on liability that are stated or referenced herein shall not apply to the following: (i) Consultant's duty to defend, indemnify, and hold harmless DXN under Articles 14 (Patent Indemnification) and 15 (Indemnification); (ii) claims for willful misconduct, bad faith, or gross negligence; or (iii) claims that are covered by Consultant's insurance policies under Article 16 (Insurance), liability for which is capped at the limits shown in that Article, but with no cap applying to third-party personal injury/death claims.

20. GOVERNING LAW AND DISPUTE RESOLUTION:

- (a) The Contract shall be interpreted, construed and enforced as written in accordance with, and all other matters in connection with the Contract and/or its performance shall be governed by, the laws of the state of Western Australia.
- (b) All disputes and claims concerning, arising from or relating in any way to the Contract (collectively, "Disputes") that cannot be settled by good faith discussion, shall be resolved through binding arbitration administered by the Australian Centre for International Commercial Arbitration ("ACICA") pursuant to the ACICA Arbitration Rules in effect at the time. The arbitration shall be held in Sydney, NSW, Australia and conducted in English. The arbitrators shall have no right to add to, subtract from or modify any of the provisions of the Contract, and shall not exceed any limitations

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of liability and remedy provided in the Contract. The arbitration award shall not be appealable or subject to recourse to or review by any court or other arbitration. Each Party shall be responsible for payment of one-half (1/2) of the deposit for the advanced costs of the arbitration (as they are defined and in accordance with the ACICA Arbitration Rules) and for their own costs of arbitration, provided however the arbitrators shall award the substantially prevailing Party reimbursement of all such costs as assessed by or through the ACICA in accordance with the ACICA Rules.

21. NOTICE:

Notice under this Contract shall be given by hand-delivery, ordinary mail, courier, fax, or e-mail at the address set forth in the PO, or to such address as such party may provide in writing from time to time. All notices shall be effective upon receipt.

22. ASSIGNMENTS:

Neither Party shall assign this Contract or any benefits arising therefrom without prior written consent of the other Party.

23. SUBCONTRACTING:

Consultant shall not procure, nor contract for the procurement of, any part of the Work without first securing the written approval of DXN. In the event that Consultant so subcontracts without first securing the written approval of DXN, DXN may cancel that portion of the Contract relating to such Work without any liability to DXN.

24. DOCUMENTATION, PREVAILING LANGUAGE AND DATES:

Unless specifically provided for elsewhere in the Contract, all documentation, including drawings and written materials, shall be in the English language. In the event the text of the Contract is translated into a language other than English, the English text shall prevail, control and be binding in the event of any conflict or discrepancy. All dates shall be based on the Gregorian calendar.

25. ADVERTISING:

Consultant shall not advertise or publish the fact of or details relating to the Contract to any third party except as specified in the Contract, permitted by DXN, or as required to perform the Contract.

26. WAIVER OF BREACH:

A Party's payment or receipt of payment, failure to insist on strict performance, or waiver of a breach of the Contract shall not constitute a waiver by that Party of any other breach of the Contract or its right to enforce the other Party's compliance with its obligations hereunder.

27. SEVERABILITY:

If any term or other part of the Contract is held to be unenforceable or invalid by an arbitrator or court of competent jurisdiction, the validity and enforceability of all other terms and parts shall not be affected thereby.

28. SURVIVAL OF TERMS:

Articles 8 (Taxes), 10 (Licensing Laws, Codes, Standards Controlling the Work), 11 (Certification of Compliance with Laws), 13 (Confidentiality and Work for Hire), 14 (Patent Indemnification), 15 (Indemnification), 18 (Limitation of Liability), 19 (Governing Law and Dispute Resolution), 24 (Advertising), 25 (Waiver of Breach) shall survive completion or termination of the Contract, and 28 (Environmental Management System Assurance).

29. ENVIRONMENTAL MANAGEMENT SYSTEM ASSURANCE:

DXN maintains an Environmental Management System ("EMS") under ISO 14001 that establishes environmental performance requirements for the reduction of wasted resources and operating cost during the engineering design, procurement, manufacture, transportation, use, and final disposition of goods. Consultant and its subcontractors and suppliers of every tier shall (i) apply, environmental performance requirements that are consistent with the EMS in the performance of work under and in connection with this contract and (ii) maintain documented records of their compliance those requirements. DXN may audit compliance with this Paragraph, and Consultant shall provide access to and copies of all such records as DXN may request.