

**ERGOFLEX SYSTEMS, LLC d/b/a XYBIX SYSTEMS**  
**STANDARD TERMS AND CONDITIONS**  
**FOR THE SALE OF PRODUCTS AND SERVICES**

1. Applicability; Contract Formation; Order of Precedence.

(a) These standard terms and conditions (these “**Terms**”) shall govern each sale of Products and Services, defined below, delivered or provided by Ergoflex Systems, LLC, a Delaware limited liability company, d/b/a Xybix Systems, (“**Xybix**”) to the customer identified in the applicable Sales Confirmation (“**Buyer**”).

(b) Material Defined Terms:

(i) “**Products**” includes all goods, of every character or kind, sold by Xybix, including, without limitation, furniture, workstations, consoles, components, and accessories.

(ii) “**Services**” includes any services provided by Xybix, including without limitation, design services, space-planning, project-management, delivery, installation, commissioning, training, and Product support.

(iii) A “**Sales Confirmation**” means a quotation, proposal, order acknowledgment, statement of work, or other written purchase order document issued to Xybix that identifies the Products or Services and the applicable price.

(iv) A “**Project Form**” means a Xybix customer profile, site survey, shipping or installation questionnaire, installation punch list, acceptance or completion certificate, warranty registration, or similar Xybix form completed or signed for the applicable project.

(v) These Terms, together with a Sales Confirmation, each applicable Change Order (as set forth in Section 11 below), and each Project Form (to the limited extent stated in Section 1(e)), collectively constitutes the “**Contract**.”

(c) Each Sales Confirmation is an offer by Xybix, and acceptance is expressly limited to and conditioned on Buyer’s assent to the Contract. Buyer accepts the Contract by signing or electronically accepting a Sales Confirmation, issuing a purchase order that references a Sales Confirmation, paying a deposit, instructing or authorizing Xybix to begin work, or accepting delivery or performance after receiving or having access to these Terms. To the extent Buyer’s purchase order is deemed an offer rather than an acceptance of a Sales Confirmation, Xybix’s acceptance is expressly conditional on Buyer’s assent to the Contract, and Xybix is unwilling to proceed on any other terms.

(d) Xybix objects to and rejects all additional or different terms in any purchase order, procurement portal, vendor-registration form, bid document, acknowledgment, website, correspondence, or other document provided by Buyer, whether submitted before or after a Sales Confirmation, except as expressly and explicitly accepted by a signed written acknowledgement and acceptance made by a duly appointed officer of Xybix. Xybix’s reference to a purchase-order number, access to a procurement portal, shipment, invoice, commencement or continuation of work, or signature on a delivery receipt, time sheet, or similar administrative document shall not constitute Xybix’s acceptance of Buyer’s terms or amend the Contract. A Buyer purchase order may supply only mutually agreed administrative details, such as billing and shipping addresses, project identification, quantities, and requested delivery information, and only to the extent consistent with the Contract.

(e) The Contract documents are intended to be complementary. If there is an irreconcilable conflict, the following order of precedence applies: (i) a separately negotiated agreement signed by authorized representatives of both parties that specifically states it overrides these Terms and identifies the provisions overridden; (ii) a later Change Order; (iii) the Sales Confirmation; (iv) a Xybix product-specific warranty or software license, solely as to the subject matter it addresses; (v) a signed Installation Punch List or acceptance or completion form, solely as to acceptance or completion status and the corrective items it identifies; (vi) a signed customer profile, site, shipping, delivery, or installation form, solely as to the factual project, billing, tax, site, access, safety, and logistics information it records; (vii) these Terms; and (viii) consistent administrative details in Buyer’s purchase order. A Project Form does not change price, scope, schedule, risk allocation, or another commercial term unless it also qualifies as a Change Order or an amendment under Section 30(d). No general or blanket incorporation of Buyer’s terms changes this order of precedence.

(f) The Contract is the entire agreement concerning its subject matter and supersedes prior or contemporaneous proposals, negotiations, representations, and communications concerning that subject matter. No subsequent purchase order or other Buyer document supersedes or modifies the Contract except through a Change Order or amendment that satisfies Section 30(d). A later Project Form supplements the Contract only for the limited purpose stated in Section 1(e) and does not incorporate any additional terms printed, linked, or referenced by Buyer.

2. Products and Services.

(a) Xybix shall provide only the Products and Services expressly described in the Sales Confirmation and the final drawings, specifications, finish selections, equipment schedules, and other documents approved in accordance with Section 3 (collectively, the “**Specifications**”). Any item, activity, or responsibility not expressly included is excluded from Xybix’s scope.

(b) Xybix shall perform the Services in a professional and workmanlike manner using personnel with skills reasonably appropriate for the Services. Unless the Sales Confirmation states otherwise, Xybix may determine the means, methods, sequences, and procedures used to perform the Services, subject to the Contract, applicable law, and reasonable site rules disclosed before pricing.

(c) Catalog descriptions, renderings, photographs, samples, and demonstrations are illustrative unless expressly incorporated into the Specifications. Dimensions, capacities, performance criteria, and other characteristics are binding only to the extent expressly stated in the Specifications or applicable written Xybix warranty.

3. Design Information; Specifications; Approvals.

(a) Buyer shall review and approve or reject with specific comments all layouts, drawings, dimensions, equipment schedules, finish selections, and other submittals within the time stated in the project schedule or, if no time is stated, within ten business days after receipt. Buyer’s failure to respond timely may extend the schedule and result in additional costs under Sections 6 and 11. Xybix may rely on approvals given by Buyer’s designated project representative.

(b) Buyer is responsible for the completeness and accuracy of information Buyer or its representatives supply, including site dimensions, equipment dimensions and weights, monitor and accessory requirements, cable paths, power and data requirements, building conditions, and operational constraints. Xybix may rely on that information without independent verification unless verification is expressly included in the Sales Confirmation.

(c) Unless expressly stated in the Sales Confirmation, Xybix is not providing licensed architectural, structural, electrical, mechanical, life-safety, data-cabling, or code-consulting services. Buyer shall retain qualified professionals as needed to verify building conditions, structural capacity, accessibility, egress, electrical and data systems, and compliance of the site and overall project with applicable codes and permit requirements. Xybix remains responsible for the conformity of its Products and Services to the express Specifications and laws directly applicable to Xybix’s scope.

(d) Buyer’s approval confirms the approved arrangement, dimensions, equipment assumptions, and selections, but does not relieve Xybix from complying with its express obligations. Xybix is not responsible for an error or incompatibility caused by inaccurate Buyer information, a Buyer-directed design, or a change made after approval. Any post-approval change is subject to Section 11.

(e) Natural materials and commercially produced finishes may have reasonable variations in grain, texture, shade, pattern, or sheen. Minor variations from samples or between production lots are not nonconformities if they are within customary commercial tolerances and do not materially impair intended use.

4. Delivery and Performance.

(a) Xybix shall use commercially reasonable efforts to deliver the Products and perform the Services in accordance with the schedule in the Sales Confirmation, if any. Unless a date is expressly identified as a firm commitment, delivery, installation, and completion dates are good-faith estimates rather than guarantees. Xybix shall notify Buyer promptly after learning of a material anticipated delay.

(b) Xybix may perform Services and deliver Products in phases or installments when consistent with the project schedule or commercially

reasonable logistics. Each completed phase or installment may be inspected, accepted, and invoiced separately.

(c) Unless the Sales Confirmation states otherwise, Xybix's obligation to install Products ends at the connection points expressly identified in the Specifications. Buyer and its other contractors are responsible for building construction, electrical service, data cabling, network configuration, equipment programming, and other work outside Xybix's scope unless the Sales Confirmation specifically states otherwise. Xybix shall not be responsible for installing any products provided by Buyer, unless otherwise specified in the Sales Confirmation, and shall in no event be responsible for any defects or delay caused by products provided by Buyer.

#### 5. Buyer Responsibilities; Site Conditions.

(a) Buyer shall cooperate with Xybix; timely provide decisions, approvals, information, access, escorts, badges, and security clearances; coordinate Buyer's personnel and contractors; and make knowledgeable representatives available during delivery, installation, testing, training, and acceptance activities. Buyer shall designate in a Project Form or other writing a project representative authorized to participate in installation walk-throughs, identify punch-list items, and sign acceptance and completion acknowledgments. Xybix may rely on that representative for those purposes, but the representative may not amend commercial terms unless separately authorized under Section 30(d).

(b) At Xybix's request and no later than the date Xybix reasonably specifies, Buyer shall complete, sign, and return the then-current Xybix customer profile and any requested site, shipping, delivery, installation, tax-exemption, or security forms. Buyer shall provide complete and accurate billing and shipping addresses and contacts, tax-exemption information, delivery hours, loading-dock and pallet-jack availability, floor location, stairs and elevator information, route dimensions and access restrictions, staging information, security-clearance or escort requirements, required safety gear, and any other condition reasonably relevant to freight, delivery, or installation. Buyer shall promptly update Xybix if any of that information changes.

(c) Before scheduled delivery or installation, Buyer shall provide a safe, secure, weather-protected, and reasonably clean site that is ready for Xybix's work, including the loading, unloading, staging, elevator, access-route, security, escort, and safety arrangements stated in the applicable Project Forms; floor and wall conditions capable of supporting the Products; temporary and permanent power as applicable; lighting; heat or cooling reasonably required for the work; and completed work by other trades. Buyer shall protect installed Products from damage by Buyer and other contractors.

(d) Buyer shall disclose known hazardous materials, concealed conditions, security restrictions, labor requirements, and other site conditions that may affect Xybix's work. Xybix is not responsible for identifying, handling, or remediating asbestos, mold, lead, hazardous substances, or other environmental conditions unless expressly included in the Sales Confirmation. Xybix may stop work in an unsafe condition without being in breach.

(e) Xybix is entitled to rely on visible site conditions and information supplied or confirmed by Buyer in a Project Form or otherwise. Concealed, unknown, or materially different conditions, including unsuitable walls, floors, utilities, pathways, access routes, or structural support, are treated as a change under Section 11. Xybix is responsible for physical damage to Buyer's tangible property only to the extent caused by Xybix's negligence or willful misconduct and subject to Section 22.

(f) Xybix may postpone affected shipment, delivery, installation, or other performance without breach if Buyer does not timely complete, sign, and return a required Project Form or if information supplied by Buyer is incomplete, inaccurate, or no longer current. Any resulting delay is a Buyer delay under Section 6, and Buyer shall pay reasonably resulting additional charges, including freight, redelivery, detention, lift-gate or restricted-access charges, storage, standby labor, travel, safety-equipment, security, escort, demobilization, and remobilization costs. Failure to disclose required site or logistics information may delay the project and result in additional charges.

(g) Buyer is responsible for the security, backup, and lawful use of Buyer data and systems and for safeguarding Buyer-owned equipment at the site. Xybix is not responsible for lost data, network interruption, or damage to

Buyer equipment except to the extent directly caused by Xybix's failure to exercise reasonable care and subject to Section 22.

#### 6. Schedule; Buyer Delays; Storage.

(a) Any schedule agreed to by Xybix is conditioned on Xybix's timely receipt of any required deposit, credit information or assurance, approvals, accurate Buyer information, completed and signed Project Forms, site access, and site readiness. Xybix shall receive a reasonable extension of time for delay caused by Buyer, Buyer's contractors, incomplete or inaccurate Project Forms, concealed or changed site conditions, a Change Order, or a Force Majeure Event, including reasonable remobilization time.

(b) To the extent a delay or disruption is caused by Buyer or a matter within Buyer's control, Xybix is entitled to an equitable adjustment in price and schedule for reasonably resulting labor, material, escalation, storage, freight, travel, standby, demobilization, remobilization, and other costs. The parties shall document the adjustment in a Change Order, but Buyer's failure to execute a Change Order does not waive Xybix's right to recover documented amounts for work or cost Buyer caused or directed.

(c) If Buyer is unable or unwilling to accept delivery or permit scheduled work, Xybix may, after notice, reschedule the work and store or arrange for the storage of Products at Buyer's risk and expense. If Buyer's failure continues for five business days after notice that Products are ready or delivery has been attempted, the Products are deemed tendered for purposes of risk of loss, progress billing, and payment, without constituting final acceptance of latent defects.

(d) If a Buyer-caused suspension or delay continues for more than sixty consecutive days, Xybix may treat the affected portion of the Contract as cancelled by Buyer for convenience under Section 16 unless the parties agree in a Change Order to resume performance on revised commercial terms.

#### 7. Shipping; Partial Deliveries.

(a) Shipping method, delivery location, and freight allocation are as stated in the Sales Confirmation. If the Sales Confirmation is silent, Xybix may select a commercially reasonable carrier and arrange shipment to Buyer's designated delivery location, with freight, handling, insurance requested by Buyer, and similar charges invoiced to Buyer.

(b) Buyer shall provide accurate delivery instructions, disclose the conditions described in Section 5(b), and provide the loading, access, security, escort, safety, and other resources stated in the applicable Project Forms. Buyer shall be responsible for all additional carrier, redelivery, detention, lift-gate, inside-delivery, restricted-access, storage, standby, or similar charges caused by Buyer's actions, Buyer's provision of incomplete or inaccurate information, or site conditions.

(c) Xybix may make commercially reasonable partial deliveries. Each partial delivery constitutes performance of that portion of the Contract and may be separately invoiced, but partial delivery does not excuse Xybix from completing the remaining scope.

(d) Buyer shall note visible shipping damage or shortages on the carrier's delivery receipt and notify Xybix within five business days after delivery, with reasonable supporting information. Xybix shall provide reasonable assistance with a carrier claim with responsibility for the claim following the risk-of-loss allocation in Section 8.

#### 8. Title; Risk of Loss; Security Interest.

(a) Unless the Sales Confirmation states otherwise, risk of loss or damage passes to Buyer upon delivery of the Products at Buyer's designated delivery location, before installation. If Buyer selects the carrier, takes possession at Xybix's facility, or delays delivery as described in Section 6(c), risk passes when the Products are tendered to the carrier, Buyer, or storage facility, as applicable.

(b) Title to Products passes to Buyer only when Xybix has received payment in full for those Products. Until then, Buyer shall not transfer or encumber the Products and shall keep them identifiable, protected, and insured, subject to Buyer's right to use them in the ordinary course after delivery.

(c) As security for all amounts owing under the applicable Contract, Buyer grants Xybix a purchase-money security interest in the Products, including accessions, replacements, and identifiable proceeds, and authorizes Xybix to file financing statements and other documents reasonably necessary to perfect or evidence that interest. Buyer shall reasonably cooperate with such filings. This security interest does not limit any other remedy.

(d) Nothing in the Contract waives any mechanic's lien, payment-bond, stop-notice, reclamation, or other statutory payment-security right available to Xybix. Xybix shall provide legally required releases or waivers upon receipt of the payment to which the release or waiver relates.

**9. Inspection; Acceptance; Installation Punch List; Substantial Completion.**

(a) Buyer shall inspect delivered Products and completed Services promptly. For an installation, Buyer shall make its designated project representative available for a joint walk-through when Xybix notifies Buyer that the installation has reached Substantial Completion (defined below). Xybix may prepare its installation punch-list form identifying remaining incomplete or corrective items (the "**Installation Punch List**"), and Buyer shall review and sign it before Xybix's installation personnel leave the site or, if same-day signature is not reasonably practicable, within three business days after Buyer receives it.

(b) Buyer shall identify on the Installation Punch List every apparent incomplete or corrective item that Buyer in good faith contends is within Xybix's original scope. By signing it, Buyer acknowledges that, except for the items specifically listed, the installation is accepted and complete. The Installation Punch List is effective when signed by Buyer's designated representative and Xybix's installer or other representative. A signed Installation Punch List may not be supplemented unless Xybix agrees in writing; a latent defect or timely warranty claim is governed by Section 17.

(c) If Buyer does not sign the Installation Punch List or deliver specific, good-faith written objections within three business days after receiving it, the Installation Punch List and the acceptance statement in Section 9(b) are deemed accepted, provided Buyer received a reasonable opportunity to inspect. For Products delivered without installation, and for a claimed material nonconformity not reasonably discoverable during the installation walk-through, Buyer shall give Xybix written notice within ten business days after delivery of the applicable Products or notice that the applicable Services are substantially complete (the "**Inspection Period**"). The notice must describe the claimed nonconformity with reasonable specificity and include available supporting information.

(d) "**Substantial Completion**" occurs when the applicable Products and Services are sufficiently complete for Buyer to use them for their intended operational purpose, notwithstanding minor incomplete or corrective items that do not materially impair safe and intended use. "**Beneficial Use**" occurs when Buyer places the Products or a completed portion into ordinary-course operations, excluding agreed testing, training, commissioning, or evaluation use.

(e) Acceptance of the applicable Products or Services occurs upon the earliest of: (i) Buyer's written acceptance or signature or deemed acceptance of an Installation Punch List; (ii) Beneficial Use; (iii) expiration of the Inspection Period without a timely, specific rejection; or (iv) completion of an objective acceptance test stated in the Sales Confirmation. Buyer may reject only for a material failure to conform to the Contract. For installed work, acceptance is subject to Xybix's obligation to complete the agreed Installation Punch List items and to Buyer's rights concerning latent defects and the Product Warranty.

(f) Xybix shall, at no additional charge, complete or correct each agreed Installation Punch List item that reflects a failure of Xybix's Products or Services to conform to the original Contract scope. A requested addition or change outside that scope is subject to Section 11. Xybix shall complete agreed items within a commercially reasonable time considering parts availability, Buyer access, security requirements, and Buyer's operational constraints. Buyer shall provide reasonable access and cooperation to the extent requested by Xybix. Completion, correction, or covered replacement is Xybix's obligation and Buyer's remedy for an agreed Installation Punch List item.

(g) After Xybix notifies Buyer that all agreed Installation Punch List items have been completed, corrected, or delivered, as applicable, Buyer shall inspect them and, within three business days, sign Xybix's final completion acknowledgment stating that all agreed items have been received and the job is complete, or deliver a specific, good-faith written objection identifying an agreed item that remains incomplete. If Buyer does neither, all agreed Installation Punch List items and the job are deemed complete.

(h) Minor Installation Punch List items do not prevent Substantial Completion or acceptance and do not justify withholding payment other than a good-faith disputed amount directly attributable to an uncorrected

item under Section 14(b). Any warranty period stated herein begins on shipment. Acceptance does not waive a timely claim for a latent defect that could not reasonably have been discovered during the applicable inspection process or any right under the Product Warranty. Buyer's use of a Product after identifying an alleged defect must be reasonable under the circumstances and may not increase damage or interfere with Xybix's cure.

**10. Nonconforming Products; Returns.**

(a) If Buyer timely establishes that Products or Services materially fail to conform to the Contract, Xybix shall, at its option and within a commercially reasonable time, repair or reperform the affected item, replace it with a conforming item, or credit or refund the allocable price of the affected item. Xybix is entitled to a reasonable opportunity to inspect and cure before Buyer obtains substitute performance or incurs chargebacks.

(b) No Product may be returned without Xybix's written return authorization and shipping instructions. Buyer shall package authorized returns to prevent damage. Xybix bears reasonable return-shipping cost for a valid nonconformity or warranty claim; Buyer bears cost and risk for an unauthorized or invalid return.

(c) Custom, special-order, configured, modified, or discontinued Products are nonreturnable except for a valid nonconformity or warranty claim. Any discretionary return of unused standard Products is subject to Xybix's written approval and its reasonable inspection, freight, refurbishment, and restocking charges.

(d) For a timely claim of non-delivery or quantity shortage, Xybix's obligation is limited to delivering the missing conforming Products within a reasonable time or crediting the applicable price. The remedies in this Section and Section 17 are Buyer's exclusive remedies for nonconforming Products or Services, subject to nonwaivable rights under applicable law.

**11. Changes and Change Orders.**

(a) Either party may request a change in scope, Specifications, quantity, sequence, schedule, site conditions, or other Contract requirement. A "**Change Order**" is a written or electronically authenticated document that identifies the change and is approved by authorized representatives of both parties. An email or procurement-system approval is sufficient only if it clearly approves the identified change and is sent or made by a representative authorized for that purpose.

(b) A Change Order should state the resulting adjustment, if any, to price, payment schedule, delivery or completion dates, acceptance criteria, and other affected terms. Xybix is not required to proceed with a requested change before the parties approve a Change Order, and delay while a change is evaluated or negotiated is not an unexcused Xybix delay. Any Change Order affecting price shall be invoiced immediately by Xybix upon acceptance. Pursuant to Section 14(a), payment from Buyer shall be due thirty days after the invoice date.

(c) A Buyer request or direction, inaccurate or incomplete Buyer information, concealed or changed site condition, interference by Buyer or another contractor, change in applicable law after the Sales Confirmation, or other event within Buyer's control, or that is designated as Buyer's responsibility under the Contract, that changes Xybix's cost or time entitles Xybix to an equitable adjustment. If Buyer directs Xybix in writing to proceed before price is finalized, Buyer shall pay Xybix's reasonably allocable cost of the changed work plus Xybix's customary markup for similar work or, if no customary markup applies, a reasonable profit margin.

(d) Xybix may make a nonmaterial change in manufacturing method or substitute a component of equal or better quality and functionality when reasonably necessary because of availability, obsolescence, safety, or manufacturability, provided the change does not materially reduce appearance, performance, warranty coverage, or useful life or increase Buyer's price. Xybix shall notify Buyer of a substitution that is reasonably likely to be material to Buyer's operations or approved aesthetic selections.

(e) No oral direction, field conversation, course of dealing, course of performance, purchase-order revision, or unilateral document changes the Contract. This Section does not prevent Xybix from taking reasonable emergency action necessary to protect persons or property, provided Xybix gives prompt notice and the parties document any resulting equitable adjustment.

12. Price; Taxes; Freight; Expenses.

(a) Buyer shall pay the price stated in the Sales Confirmation, as adjusted by Change Orders and the Contract. Unless expressly stated otherwise, prices are in U.S. dollars and are based on the scope, schedule, quantities, assumptions, and site conditions stated in the Sales Confirmation and Specifications.

(b) Prices exclude sales, use, excise, value-added, gross-receipts, customs, tariff, duty, and similar taxes or governmental charges imposed on the transaction, Products, or Services. Buyer shall pay those amounts, except taxes based on Xybix's net income, payroll, or ownership of property. Buyer must provide any valid exemption certificates before the applicable invoice; Buyer is responsible for assessments resulting from an invalid or late certificate.

(c) Freight, handling, storage, travel, lodging, permits, bonds, special insurance, and out-of-pocket expenses are included only to the extent expressly stated in the Sales Confirmation. Otherwise, Buyer shall reimburse reasonable amounts incurred for items requested by Buyer or reasonably necessary because of Buyer, the site, or an approved change.

(d) A new or increased tariff, duty, tax, government fee, or legally mandated labor or material requirement imposed after acceptance of the Sales Confirmation and directly affecting Xybix's performance is treated as a change under Section 11 to the extent not reasonably avoidable and not already included in the price.

13. Progress Billing; Right to Payment for Performance Completed to Date.

(a) Xybix may invoice deposits, milestones, progress payments, and final amounts in accordance with the Sales Confirmation. A stated billing or payment schedule establishes when Xybix may invoice and when payment is due, but does not limit the amount Xybix earns or its underlying right to payment as performance occurs.

(b) If the Sales Confirmation does not state a complete progress-billing schedule, Xybix may invoice monthly based on its reasonable determination of percentage of completion for the applicable project or performance obligation. Xybix may measure progress using a cost-to-cost input method - reasonably allocable costs incurred to date compared with the current estimate of total reasonably allocable costs - or another reasonable input or output method that faithfully depicts progress. Xybix may make reasonable cumulative true-ups to reflect changes in cost estimates or approved scope.

(c) Buyer acknowledges that Products identified as custom, special-order, configured, modified, or engineered for Buyer, and the related work in process, are created for Buyer-specific dimensions, configurations, equipment, finishes, site conditions, or operational requirements and ordinarily cannot be redirected to another customer without significant rework, delay, discount, or economic loss. To that extent, those Products and work in process have no practical alternative use to Xybix.

(d) At all times during performance, including before a scheduled invoice or milestone, Xybix has a present and enforceable contractual right, if Buyer cancels or the Contract is terminated for any reason other than Xybix's uncured material breach, to payment for performance completed to date in an amount that approximates the selling price of that performance. That amount includes Xybix's reasonably allocable costs incurred through the effective date plus a reasonable profit margin that reflects a reasonable proportion of the profit Xybix expected to earn under the Contract based on the extent of performance completed. This right is not limited to deposits, milestone payments, or amounts previously invoiced and is implemented through Section 16(c).

14. Payment Terms; Invoice Disputes; No Retainage.

(a) Unless the Sales Confirmation states otherwise, each invoice is due thirty days after the invoice date ("*Net 30*"). Buyer shall pay in U.S. dollars by a payment method reasonably specified by Xybix, without deduction except as expressly permitted in this Section.

(b) Buyer shall notify Xybix in writing of a good-faith invoice dispute within fifteen calendar days after the invoice date. The notice must identify the disputed amount, the specific basis, and available supporting information. Buyer shall timely pay all undisputed amounts. An invoice is deemed accepted if Buyer does not timely dispute it, except for a mathematical error, duplicate charge, fraud, or other error that was not reasonably discoverable during the review period.

(c) Buyer shall not impose or withhold retainage, holdback, pay-if-paid or pay-when-paid amounts, or other contingent payment. Buyer may withhold only the portion of the particular invoice that is the subject of a timely, good-faith dispute under Section 14(b), and may not set off or recoup an unrelated, unliquidated, or disputed claim against amounts due to Xybix.

(d) The parties shall work in good faith to resolve an invoice dispute promptly. Any amount determined to be due is payable within five business days after resolution or on the original due date, whichever is later, and bears interest from the original due date to the extent the dispute was not asserted in good faith.

(e) Payment does not waive a valid warranty claim or constitute acceptance before acceptance occurs under Section 9, but Buyer may not delay payment for accepted or conforming work because minor Installation Punch List or warranty work remains.

15. Late Payments; Credit Assurance; Suspension.

(a) An undisputed amount not paid when due bears a service charge in the amount of one percent per month (twelve percent per year) or the maximum lawful rate, accrued daily on a simple-interest basis from the due date until paid, in Xybix's sole and absolute discretion. Buyer shall reimburse Xybix for reasonable costs of collecting overdue undisputed amounts, including reasonable attorneys' fees and court costs.

(b) If an undisputed amount remains unpaid for ten days after its due date, Xybix may, after five business days' written notice, suspend production, shipment, delivery, installation, or other performance until Xybix receives payment and reasonable assurance of future payment. Warranty coverage and service are separately conditioned on payment as stated in Section 17, and Xybix may defer warranty service while the applicable account is not paid in full, except for emergency safety support that Xybix elects to provide or applicable law requires. Xybix receives an equitable schedule and price adjustment for any suspension and remobilization.

(c) If Xybix has reasonable grounds for insecurity regarding Buyer's performance or creditworthiness, Xybix may request adequate assurance, including a deposit, progress payment, letter of credit, guaranty, or cash-before-delivery terms reasonably proportionate to the risk. Xybix may suspend affected performance until it receives adequate assurance, to the extent permitted by law.

(d) Suspension, a credit accommodation, or acceptance of a partial or late payment does not waive Xybix's rights, and no notation on a payment instrument creates an accord and satisfaction unless Xybix's authorized representative expressly agrees in a signed writing.

16. Cancellation and Termination.

(a) Buyer may terminate the Contract for convenience, subject to this Section 16.

(b) Buyer may terminate the materially affected portion of the Contract for cause if Xybix materially breaches the Contract and fails to cure within thirty days after receiving reasonably detailed written notice, or, immediately if the breach cannot reasonably be cured within thirty days. The time period for Xybix to cure any breach shall be reasonably extended to the extent Xybix timely begins to cure a breach and diligently continues after the expiration of the initial cure period. Xybix may terminate or suspend for Buyer's nonpayment as provided in Section 15, for another material breach not cured within fifteen days after notice, or immediately upon insolvency, bankruptcy, assignment for creditors, or cessation of business to the extent permitted by applicable law.

(c) Upon Buyer's cancellation or termination, or Xybix's termination because of Buyer's breach, Buyer shall pay, without duplication: (i) all amounts previously invoiced and unpaid; (ii) the allocated Contract price for completed Products and Services; (iii) for partially completed Products and Services, all reasonably allocable costs incurred through the effective date - including direct labor, materials, engineering and design, project management, manufacturing, installation, subcontractor cost, and allocated overhead - plus a reasonable profit margin equal to a reasonable proportion of the profit Xybix expected to earn under the Contract based on the extent of performance completed; (iv) noncancelable commitments and reasonable supplier and subcontractor cancellation or restocking charges; (v) reasonable storage, protection, demobilization, remobilization, closeout, and return-travel costs; and (vi) applicable taxes and freight, less amounts previously paid and any net salvage value Xybix actually realizes from materials it is reasonably able to reuse or resell.

(d) Xybix may determine the extent of performance and the amount under Section 16(c) using the same cost-to-cost or other reasonable progress measure used under Section 13. Xybix shall provide reasonable supporting detail with its termination invoice, which is due Net 30. Except for third-party cancellation charges and storage, protection, demobilization, or similar costs caused by Buyer, the termination compensation under Section 16(c) will not exceed the unpaid Contract price for the terminated scope. The compensation is intended to pay for performance and costs, not to impose a penalty.

(e) If Buyer properly terminates because of Xybix's uncured material breach, Buyer shall pay for conforming Products and Services accepted or retained by Buyer through the effective date. At Buyer's request, and after payment, Xybix shall deliver transferable work in process and project documents for which Buyer has paid, to the extent reasonably usable. Xybix shall refund any payment exceeding amounts properly due, and the parties' remaining rights are subject to Section 22.

(f) Upon termination, each party shall reasonably cooperate in an orderly wind-down of the transaction contemplated by the Contract. Xybix shall use commercially reasonable efforts to mitigate avoidable termination costs but is not required to divert custom work, cancel a commitment that would materially harm Xybix, disclose proprietary cost records beyond reasonable support, or sell materials at an unreasonable loss. Accrued payment obligations and provisions that by their nature survive remain effective.

#### **17. Product and Service Warranties; Exclusive Remedies.**

(a) Xybix will furnish or make available to Buyer, with the Sales Confirmation or otherwise before commencing the affected work, the written Xybix product warranty applicable to the Products (the "**Product Warranty**"). Unless the Sales Confirmation identifies a different warranty, Xybix's Premier Plus Warranty applies. If the Product Warranty conflicts with these Terms concerning product coverage, duration, exclusions, claim procedures, or remedies, the Product Warranty controls for the affected Product.

(b) Subject to any component-specific schedule or exclusions in the Product Warranty, the Premier Plus Warranty generally provides: (i) for Xybix-manufactured components other than limited-term components, repair or replacement at Xybix's sole option, with a covered replacement component provided at no charge, for as long as the original purchaser owns the Product; (ii) for lift columns, electronic controls, switches, heating devices, and other moving parts, repair or replacement at Xybix's option during the first five years of original ownership; and (iii) for other Products or components supplied by Xybix, five-year coverage, including shipping and labor, as identified in the Product Warranty. Labor and associated expenses for covered Xybix-manufactured Products are provided for five years from the date of shipment, and labor and shipping for limited-term components are covered for the first five years of original ownership. The detailed Product Warranty, including any component schedule, controls to the extent it differs from this summary.

(c) Xybix warrants that Services will be performed in a professional and workmanlike manner consistent with generally recognized standards for similar services. Buyer must notify Xybix of a claimed breach within ninety days after Substantial Completion of the affected Services, with reasonable detail.

(d) To obtain Product Warranty service, Buyer shall give prompt notice, provide reasonable diagnostic information and access, and cooperate with the Xybix customer service team. With Xybix's guidance, Buyer shall perform basic troubleshooting and reasonable self-correction or replacement tasks before on-site assistance is required. Required troubleshooting and simple replacement tasks do not void a valid warranty. For a simple covered replacement, Xybix will promptly ship the replacement part and will assume shipping and return-shipping expenses for a defective Product covered by the Product Warranty.

(e) For a component that requires on-site repair, Xybix will provide appropriate personnel, and the repair will be performed during normal work hours as scheduled by the Xybix customer service team. Any 24/7 customer support described in the Product Warranty consists of access to the phone, video, or other support resources described there; on-site work is scheduled as stated in the preceding sentence unless Xybix agrees otherwise.

(f) If an on-site visit or other work results from a circumstance outside warranty coverage, or if Buyer imposes a condition or restriction that increases the cost of warranty work, Buyer shall reimburse Xybix for the

resulting additional expense, including applicable product, shipping, installation, transportation, accommodation, and hourly labor charges. Buyer shall dispose of replaced parts and packing materials unless Xybix instructs Buyer to return them.

(g) The Product Warranty does not apply to normal wear and tear or consumable items such as light bulbs; matching of color, grain, or texture; damage, misuse, abuse, vandalism, neglect, improper maintenance, negligence, accident, or alteration; unauthorized modification, reconfiguration, relocation, integration, or repair; AC power disturbances or improper power, data, environmental, building, or site conditions; use outside the Specifications; Buyer-provided designs, materials, or equipment; third party hardware or software, tablets, mobile devices, or other software; Products shipped outside the United States; or a defect caused by a third-party product, except to the extent the Product Warranty expressly provides otherwise. Warranty service is not available for an account that is not paid in full, and Xybix may defer warranty performance until Buyer pays all undisputed amounts under the applicable Contract in full.

(h) A repair, substitute product, or replacement of equal or higher value does not extend the warranty period applicable to the original Product. For a valid Product Warranty claim, Xybix's exclusive obligation and Buyer's exclusive remedy are, at Xybix's option, repair or replacement of the affected Product or component. For a valid Service warranty claim, Xybix's exclusive obligation and Buyer's exclusive remedy are, at Xybix's option, repair or reperformance of the affected Service or, if Xybix determines repair or reperformance is not commercially reasonable, a credit or refund of its allocable price.

**(i) EXCEPT FOR THE EXPRESS WARRANTIES IN THE CONTRACT, XYBIX DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. XYBIX DOES NOT WARRANT A PARTICULAR HEALTH, ERGONOMIC, PRODUCTIVITY, UPTIME, OR OPERATIONAL OUTCOME EXCEPT TO THE EXTENT EXPRESSLY STATED IN THE SALES CONFIRMATION OR PRODUCT WARRANTY. THESE DISCLAIMERS APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.**

#### **18. Software and Third-Party Products.**

(a) A Product may incorporate or be supplied with hardware, software, accessories, or other items manufactured, licensed, or supported by a third party ("**Third-Party Products**"). Except to the extent the Product Warranty expressly provides Xybix coverage, Third-Party Products are subject to the manufacturer's or licensor's applicable warranty and support terms, which Xybix shall pass through to Buyer to the extent transferable.

(b) Software and firmware are licensed, not sold, and are subject to any license terms supplied with them. Buyer shall comply with those terms and shall not copy, modify, reverse engineer, circumvent, or transfer software except as the applicable license or nonwaivable law permits.

(c) Buyer is responsible for network access, cybersecurity controls, account administration, backups, software updates not included in Xybix's scope, and compatibility with Buyer systems, except for express integration requirements in the Specifications. Xybix is not responsible for a third party's discontinuation, update, security vulnerability, or service outage, but shall reasonably cooperate regarding a covered claim.

(d) If a specified Third-Party Product becomes unavailable or obsolete before delivery, Xybix may propose a reasonably equivalent substitute under Section 11. Any material change in cost, compatibility, or schedule requires a Change Order unless the substitution qualifies as nonmaterial under Section 11(d).

#### **19. Intellectual Property; Project Documents.**

(a) Xybix and its licensors retain all right, title, and interest in and to their preexisting and independently developed inventions, designs, drawings, specifications, software, firmware, tools, methods, processes, know-how, trade secrets, trademarks, and other intellectual property, together with improvements and reusable elements developed in performing the Contract ("**Xybix Materials**"). No Xybix Materials are works made for hire, and no ownership transfers except as expressly stated.

(b) Buyer retains ownership of information, drawings, data, trademarks, and other materials Buyer supplies ("**Buyer Materials**"). Buyer grants Xybix a nonexclusive license to use and reproduce Buyer Materials as reasonably necessary to perform the Contract and represents that doing so as directed will not infringe another person's rights.

(c) After full payment for the applicable Contract, Xybix grants Buyer a perpetual, nonexclusive, nontransferable (except with an allowed assignment of the Products), royalty-free license to use final project-specific drawings and documentation delivered by Xybix solely to install, operate, maintain, repair, reconfigure, and replace the purchased Products at Buyer's facilities. Buyer may share such materials with its employees and contractors to the extent reasonably necessary and subject to the confidentiality obligations set forth below.

(d) Buyer may not use Xybix Materials to manufacture or procure competing products, create derivative commercial designs, or disclose them for those purposes. Except for the limited license above, no license is granted by implication, estoppel, or otherwise. Xybix may use general skills, experience, ideas, and know-how retained in unaided memory, provided it does not disclose Buyer Confidential Information.

#### 20. Confidentiality.

(a) Each party ("**Receiving Party**") shall protect nonpublic information disclosed by the other party ("**Disclosing Party**") that is marked confidential or that a reasonable person would understand to be confidential given its nature and the circumstances, including pricing, designs, drawings, security information, business plans, and technical information ("**Confidential Information**"). The Receiving Party shall use Confidential Information only to perform or exercise rights under the Contract and protect it using at least reasonable care.

(b) The Receiving Party may disclose Confidential Information to its employees, affiliates, professional advisers, insurers, financing sources, and contractors who have a need to know and are bound by confidentiality obligations at least as protective as set forth in this Section. The Receiving Party shall be responsible for third-party compliance.

(c) Confidential Information excludes information the Receiving Party can document: (i) is or becomes public without breach; (ii) was lawfully known without restriction before disclosure; (iii) is received lawfully from a third party without a duty of confidentiality; or (iv) is independently developed without use of the Disclosing Party's Confidential Information.

(d) If disclosure is required by law, subpoena, court order, or public-records requirement, the Receiving Party may disclose only the legally required portion and, to the extent legally permitted, shall give prompt notice and reasonable cooperation so the Disclosing Party may seek protection. No party shall have any obligations to withhold information that applicable law requires it to disclose.

(e) These obligations continue for three years after the last disclosure, except that trade secrets remain protected for so long as they qualify as trade secrets under applicable law. Upon request or termination, the Receiving Party shall return or destroy Confidential Information, subject to routine backups, legal retention, and one archival copy maintained for compliance. Any separate signed nondisclosure agreement controls to the extent it expressly provides greater or more specific protection than as set forth in these Terms.

#### 21. Indemnification.

(a) Xybix shall defend, indemnify, and hold harmless Buyer and its officers and employees from a third-party claim for bodily injury, death, or physical damage to tangible property, but only to the extent caused by the negligent or willful act or omission of Xybix or a subcontractor for whom Xybix is responsible in performing the Contract.

(b) Buyer shall defend, indemnify, and hold harmless Xybix and its officers and employees from a third-party claim for bodily injury, death, or physical damage to tangible property, but only to the extent caused by the negligent or willful act or omission of Buyer or a person for whom Buyer is responsible, an unsafe site condition within Buyer's responsibility, or Buyer's misuse or unauthorized modification of a Product.

(c) Xybix shall defend Buyer from a third-party claim brought in the United States alleging that an unmodified Product designed and manufactured by Xybix, when used as authorized, directly infringes a United States patent, copyright, or trademark, and shall indemnify Buyer for damages finally awarded or included in an approved settlement. Xybix has no obligation to the extent a claim arises from Buyer Materials or specifications, a Third-

Party Product, a modification not made by Xybix, a combination not supplied or approved by Xybix, or continued use after Xybix offers a reasonable noninfringing alternative.

(d) For a claim under Section 21(c), Xybix may obtain the right to continue use, modify or replace the affected item with a materially equivalent noninfringing item, or, if those options are not commercially reasonable, accept return and refund the allocable price less reasonable depreciation for use received. Buyer shall indemnify Xybix against a third-party intellectual-property claim to the extent caused by Buyer Materials, Buyer-mandated specifications, or an unauthorized modification or combination. This Section states the parties' exclusive remedies for third-party intellectual-property claims.

(e) The indemnified party shall give prompt notice, reasonable cooperation, and control of the defense and settlement to the indemnifying party. A delayed notice reduces the obligation only to the extent of material prejudice. The indemnifying party may not settle a claim in a manner that admits fault by, imposes nonmonetary obligations on, or fails to fully release the indemnified party without that party's prior written consent, not to be unreasonably withheld. Each indemnity is reduced to the extent of the indemnified party's negligence or willful misconduct and applies only to the fullest extent permitted by law.

#### 22. Limitation of Liability.

(a) **TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR LOSS OF USE, REVENUE, PROFIT, BUSINESS OPPORTUNITY, PRODUCTION, UPTIME, OR DATA, ARISING OUT OF OR RELATING TO THE CONTRACT, EVEN IF THE POSSIBILITY WAS KNOWN AND REGARDLESS OF THE THEORY OF LIABILITY. THIS EXCLUSION DOES NOT LIMIT BUYER'S PAYMENT OBLIGATIONS OR AMOUNTS PAYABLE TO A THIRD PARTY UNDER SECTION 21.**

(b) **TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO A SALES CONFIRMATION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, WILL NOT EXCEED THE TOTAL PRICE PAID OR PAYABLE UNDER THE SALES CONFIRMATION GIVING RISE TO THE CLAIM.** Claims arising from the same or related facts are aggregated.

(c) The liability cap in Section 22(b) does not apply to: (i) Buyer's obligation to pay amounts due; (ii) a party's indemnification obligation for a third-party claim under Section 21; (iii) a party's unauthorized use or disclosure of the other party's intellectual property or Confidential Information; (iv) gross negligence, fraud, or willful misconduct; or (v) death, bodily injury, or physical damage to tangible property to the extent liability cannot lawfully be limited.

(d) The allocations in this Section are reflected in the price and apply notwithstanding failure of an exclusive remedy or any contrary provision. Nothing in the Contract excludes or limits liability that applicable law prohibits the parties from excluding or limiting.

#### 23. Insurance.

(a) During performance, each party shall maintain insurance customary and commercially reasonable for its operations and obligations, issued by financially responsible insurers. Xybix's coverage will include workers' compensation as required by law and commercial general liability appropriate to its Services.

(b) Buyer shall maintain property insurance covering the Products after risk of loss passes and insurance appropriate for the site, Buyer's operations, and work by Buyer's other contractors. Each party is responsible for its deductibles and self-insured retentions.

(c) Upon reasonable request, a party shall provide certificates evidencing required coverage. Project-specific limits, endorsements, additional-insured status, waivers of subrogation, bonds, or other special requirements apply only if identified before pricing and expressly included in the Sales Confirmation or a Change Order. Insurance does not enlarge or reduce liability otherwise allocated by the Contract.

#### 24. Compliance with Law; Permits; Government Terms.

(a) Each party shall comply with laws directly applicable to its performance. Xybix is responsible for licenses and permits customarily required for Xybix's business and for compliance of its Products and Services with laws expressly applicable to Xybix's scope. Buyer is responsible for laws governing the site, building, Buyer's operations and intended use, and work outside Xybix's scope.

(b) Buyer shall obtain building, occupancy, electrical, data, security, and other owner or site permits and approvals unless the Sales Confirmation expressly assigns a specific permit to Xybix. If Xybix agrees to obtain a permit for Buyer, Buyer shall timely provide required owner information, signatures, and fees.

(c) Each party shall comply with applicable export-control, sanctions, anti-bribery, and anti-corruption laws. Buyer shall not export, reexport, transfer, or use Products or technical information in violation of law and shall obtain required end-use or end-user approvals.

(d) A government, public-agency, grant, prevailing-wage, domestic-content, bonding, certified-payroll, cybersecurity, background-check, project-labor, flow-down, or other procurement requirement binds Xybix only to the extent it is mandatory under applicable law or is specifically disclosed before pricing and expressly accepted by an authorized Xybix representative in the Sales Confirmation or a signed amendment. Mandatory law controls only to the minimum extent required and does not incorporate the remainder of Buyer's procurement terms. A requirement disclosed after acceptance is treated as a change under Section 11.

#### 25. Force Majeure.

(a) Neither party is liable for delay or failure to perform, other than Buyer's obligation to pay for performance already completed, to the extent caused by a Force Majeure Event beyond the affected party's reasonable control that could not reasonably have been avoided or overcome. Lack of funds and ordinary market-price changes alone are not Force Majeure Events.

(b) The affected party shall give reasonably prompt notice describing the event and expected effect, use commercially reasonable efforts to mitigate it, and resume performance as soon as reasonably practicable.

(c) The schedule is extended for the period reasonably affected, including remobilization, and the parties shall cooperate regarding reasonable sequencing or substitution. A Force Majeure Event does not excuse payment of an invoice for performance completed or cost already incurred and does not impair Xybix's right to payment under Sections 13 and 16.

(d) If a Force Majeure Event prevents a material portion of performance for more than ninety consecutive days, either party may terminate the affected unperformed portion on written notice. Buyer shall pay the amounts due for performance completed and costs incurred through termination under Section 16(c), without a profit amount attributable solely to unperformed work.

(e) For purposes of these Terms and this Contract, a "**Force Majeure Event**" includes, without limitation:

(i) acts of God; fire; flood; travel restriction; shelter-in-place order; or other natural disaster or casualty, including the occurrence, or consequences of public-health emergency, together with any related governmental, regulatory, commercial, workforce, supply-chain, transportation, health, or safety response, restriction, or consequence;

(ii) war, civil commotion, terrorism or threatened terrorism, trade restriction, national or regional emergency, declaration of martial law, or similar political or geopolitical event;

(iii) any act, order, law, regulation, governmental investigation, governmental delay, or other action or inaction of any federal, state, local, or other governmental, judicial, administrative, or quasi-governmental authority including the imposition, modification, or change in any tariff, customs duty, or other governmental charge or trade measure affecting the cost, availability, or delivery of any Products or Services;

(iv) shortages, interruptions, delays, or material increases in the cost of raw materials, components, parts, fuel, electricity, labor, transportation, or other goods or services reasonably necessary for performance, including those caused by supply-chain disruption, or other transportation or distribution impairment;

(v) inability, after commercially reasonable efforts, to obtain any required permit, license, approval, or other input necessary to perform, including any failure, interruption, or unavailability of telecommunications, utility services, or other critical systems or services;

(vi) abrupt or extraordinary market disruption, or other material disruption in financial or commercial markets that materially impairs performance; and

(vii) failure, delay, default, or inability to perform by any supplier, manufacturer, subcontractor, carrier, or other third party upon whom Xybix reasonably relies, if and to the extent such failure, delay, default, or inability is itself caused by an event or circumstance that would constitute a Force Majeure Event under this Section if experienced directly by Xybix.

(viii) A Force Majeure Event need not render performance objectively or physically impossible. It shall be sufficient that the Force Majeure Event materially delays, impairs, interferes with, increases the risk associated with, or materially increases the cost or burden of performance such that continued performance on the pricing, schedule, quantity, specifications, or other terms originally agreed would, in Xybix's reasonable commercial judgment, be impracticable, commercially unreasonable, uneconomic, unsafe, or inconsistent with prudent business practices.

#### 26. Assignment; Subcontracting.

(a) Buyer may not assign the Contract or delegate a material obligation without Xybix's prior written consent, not to be unreasonably withheld, conditioned, or delayed. Buyer may assign the entire Contract to an affiliate or successor in a merger or sale of substantially all relevant assets upon prior written notice if the assignee assumes the Contract in writing and has reasonably adequate financial and operational ability. No assignment relieves the assignor of accrued obligations unless Xybix agrees.

(b) Xybix may assign the Contract to an affiliate or successor to its relevant business and may assign receivables or grant a security interest in them without Buyer's consent. Xybix shall provide notice of an assignment that changes the party responsible for performance.

(c) Xybix may use qualified subcontractors and suppliers and remains responsible for their performance to the same extent as for its own performance, subject to the Contract. Any prohibited assignment or delegation is void to the extent permitted by law.

#### 27. Relationship of the Parties; No Third-Party Beneficiaries.

(a) The parties are independent contractors. The Contract does not create a partnership, joint venture, franchise, fiduciary, employment, or agency relationship. Neither party may bind the other or incur an obligation on the other's behalf without express written authority.

(b) The Contract benefits only the parties and their permitted successors and assigns. No owner, end user, architect, contractor, employee, affiliate, lender, or other person is a third-party beneficiary, except an indemnified person solely to the extent of Section 21.

#### 28. Governing Law; Venue; Dispute Resolution.

(a) The Contract and all related claims are governed by the internal laws of the State of Colorado, without regard to conflict-of-laws rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

(b) Before filing a lawsuit, a party shall give written notice of the dispute and the parties shall cause representatives with settlement authority to meet by telephone or videoconference within fifteen business days and attempt in good faith to resolve it. This requirement does not delay an action to collect an undisputed amount, perfect or enforce a lien or security interest, preserve a limitations period, or obtain temporary or injunctive relief.

(c) Subject to Section 24(d), each party submits to the exclusive jurisdiction of the state courts located in Arapahoe County, Colorado, and the United States District Court for the District of Colorado for an action arising out of or relating to the Contract and waives an objection based on personal jurisdiction, improper venue, or inconvenient forum.

(d) A party may seek interim, protective, or enforcement relief in another jurisdiction when reasonably necessary to protect Confidential Information or intellectual property, enforce a lien or security interest, or reach property or a person not subject to the courts identified above. Seeking that relief does not waive the agreed forum for the merits.

#### 29. Notices.

(a) A formal notice under the Contract must be in writing and addressed to the recipient at the address or email stated in the Sales Confirmation, or at a replacement address designated by notice. A notice to Xybix concerning breach, termination, indemnity, or litigation must also be sent to the attention of its President or other legal-notice contact identified by Xybix.

(b) Notice may be delivered personally, by nationally recognized overnight courier, by certified or registered mail with return receipt, or by email with

a copy sent by one of the preceding methods for a notice of breach, termination, indemnity, or litigation. Routine project communications, approvals, invoice disputes, and Change Orders may be sent by email to the designated project representatives.

(c) Notice is effective upon receipt, except that an email sent before 5:00 p.m. recipient local time on a business day without a delivery-failure notice is deemed received that day, and otherwise on the next business day. Refusal or failure to collect a properly addressed delivery is deemed receipt on the date delivery was attempted.

### 30. Miscellaneous.

(a) No waiver is effective unless stated in a writing signed or electronically authenticated by the waiving party. A failure or delay in exercising a right is not a waiver, and a waiver on one occasion is not a continuing waiver. Rights and remedies are cumulative unless the Contract expressly states a remedy is exclusive.

(b) If a provision is invalid, illegal, or unenforceable, it will be enforced to the maximum extent permitted or, if necessary, reformed to most closely reflect the original lawful intent, and the remaining provisions remain effective. Invalidity in one jurisdiction does not invalidate the provision elsewhere.

(c) Provisions concerning payment, security interests and liens, termination compensation, warranty remedies, confidentiality, intellectual property, indemnification, limitations of liability, governing law, dispute resolution, and any provision that by its nature should survive will survive expiration, completion, cancellation, or termination.

(d) Except for a Change Order under Section 11 and a Project Form given effect solely for the limited purpose stated in Section 1(e) or Section 9, the Contract may be amended only by a written or electronically authenticated agreement that specifically states it amends the Contract and is approved by authorized representatives of both parties. An Installation Punch List or other Project Form may document factual project information, acceptance or completion status, agreed corrective items, or warranty registration, but does not change price, scope, schedule, risk allocation, or another commercial term unless it separately qualifies as a Change Order or amendment. No purchase order, portal term, policy, field directive, oral statement, course of dealing, or course of performance amends the Contract. A representative is authorized to amend commercial terms only if identified as authorized in the Sales Confirmation or designated in writing by an officer or contracting authority of that party.

(e) Electronic signatures, authenticated electronic approvals, and counterparts are effective as originals and together constitute one instrument. A scanned signature page and an electronic signature complying with applicable law satisfy a requirement for a signed writing.

(f) Headings are for convenience only. "Including" means "including without limitation"; the singular includes the plural as context requires; and "business day" means a day other than Saturday, Sunday, or a federal holiday in the United States. The parties have had the opportunity to review the Contract, and no presumption against the drafter applies.