

AqWiFi Pump Application Terms of Service

About This Agreement, Our Services, And Your Rights

This AqWiFi Terms of Service (“Agreement”) describes the terms and conditions under which Fluid Handling, LLC, business unit of Xylem Inc. (“Xylem,” “we,” “us,” or “our”) will provide you (“you,” “your,” or “Customer”), use of our on-line web portal (“AqWiFi Portal”) to access your Pump Monitoring Device Information (“PMDI”) services including but not limited to pump/controller adjustments, software updates, and access to information related to the pump (collectively “Services”).

The terms and conditions in the “GENERAL TERMS AND CONDITIONS” section below are applicable to all Services unless otherwise indicated. Additional terms and conditions applicable to any physical equipment used in connection with the Services are included in this Agreement in the section titled “MAINTENANCE AND OWNERSHIP OF EQUIPMENT.”

We may change our prices, fees, the Services and/or the terms and conditions of this Agreement in the future. Basic AqWiFi Services are provided at no cost, however, a monthly service fee may apply for additional capabilities. Unless this Agreement or applicable law specifies otherwise, we will give you thirty (30) days prior notice of any significant change to this Agreement. If you find the change unacceptable, you have the right to cancel your Service(s) by providing us with notice that you terminate your Services. However, if you continue to receive Service(s) after the end of the notice period (the “Effective Date”) of the change, we will consider that you have accepted the changes. You may not modify this Agreement by making any typed, handwritten, or any other changes to it for any purpose. We may provide such notice on your monthly bill, as a bill insert, using the email address you have provided to us, using the AqWiFi Portal, or other communication permitted under applicable law.

General Terms And Conditions

1. Acceptance Of This Agreement

You will have accepted this Agreement, including the Privacy Statement which can be found here <http://www.goulds.com/aqwifi> and be bound by its terms if you use the Services or otherwise indicate your affirmative acceptance of such Services.

2. Changes To Services

Subject to applicable law, we may change our Services, prices, fees, and/or the terms and conditions of this Agreement in the future. We also may rearrange, delete, add to or otherwise change features or offerings contained in the Services. Unless this Agreement or applicable law specifies otherwise, we will give you thirty (30) days prior notice of any significant change to this Agreement. If you find the change unacceptable, you have the right to cancel your Service(s) by providing us with notice that you terminate your Services. However, if you continue to receive Service(s) after the Effective Date of the change, we will consider that you have accepted the changes. We may provide such notice using the email address you have provided to us, using the AqWiFi Portal, or other communication permitted under applicable law.

3. Maintenance And Ownership Of Equipment

Xylem has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that you elect to use in connection with the Services (the “Customer Equipment”). To use the Services, you will need a broadband gateway / router that meets our specifications. It is your responsibility to keep the gateway connected, and your Internet connection active, at all times.

a. **Non-Recommended Configurations:** Customer Equipment that does not meet our minimum technical or other specifications constitutes a “Non-Recommended Configuration.” NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT A NON-RECOMMENDED CONFIGURATION WILL ENABLE YOU TO SUCCESSFULLY INSTALL, ACCESS, OPERATE OR USE THE SERVICES. YOU ACKNOWLEDGE THAT ANY SUCH INSTALLATION, ACCESS, OPERATION, OR USE COULD CAUSE CUSTOMER EQUIPMENT TO FAIL TO OPERATE OR CAUSE DAMAGE TO CUSTOMER EQUIPMENT, YOU, AND YOUR PREMISES. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY SUCH FAILURE OR DAMAGE. We reserve the right to deny you customer support for the Services and/or terminate Services if you use a Non-Recommended Configuration.

b. **No Unauthorized Devices or Tampering:** You agree not to attach any unauthorized device to the Services. If you make any unauthorized connection or modification to the Services, we may terminate your Service and recover such damages as may result from your actions. Unless expressly authorized by us, you agree not to install anything to intercept or receive any of the Services offered to you or to assist any person in intercepting or receiving any of the Services offered to you. You also agree that you will not attach anything to Customer Equipment, whether installed by you or us, which singly or together impairs the integrity of the Services.

4. Use of Services

You agree that the Services will be used only by you and the members of your immediate household or business establishment located at the same address, and only for non-commercial purposes, unless otherwise specifically authorized by us in writing. You agree and represent that you will not resell or permit another to resell the Services in whole or in part. You will not use or permit another to use the Services, directly or indirectly, for any unlawful purpose, including, but not limited to, in violation of any posted Xylem policy applicable to the Services. Use of the Services for transmission, communications or storage of any information, data or material in violation of any U.S. federal, state or local regulation or law is prohibited.

You acknowledge that you are accepting this Agreement on behalf of all persons who use the Services in your household or premises and that you shall have sole responsibility for ensuring that all other users understand and comply with the terms and conditions of this Agreement and any applicable Xylem policies including, but not limited to, acceptable use and privacy policies. You further acknowledge and agree that you shall be solely responsible for any transactions,

including, without limitation, purchases made through or in connection with the Services. You agree to indemnify, defend and hold harmless Xylem and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) arising out of the use of the Services and/or the Customer Equipment or the breach of this Agreement or any of the applicable Xylem policies by you or any other user.

5. Assignability

This Agreement and the Services furnished hereunder may not be assigned by you. The foregoing shall not apply in the event you no longer live at the Premises, provided: (i) You agree to notify us immediately of any changes of ownership or occupancy of the Premises, and (ii) the new occupant of the Premises establishes a new account and accepts the terms and conditions set forth in this Agreement by accessing the AqWiFi Portal. We may freely assign our rights and obligations under this Agreement with or without notice to you.

6. Termination Of This Agreement

a. Term. This Agreement will be in effect from the time the Services are activated until (i) it is terminated as provided for by this Agreement or (ii) it is replaced by a revised Agreement.

b. Termination by You. You have the right to cancel your Services by providing us with notice that you terminate your Services.

c. Suspension and Termination by Xylem. Xylem reserves the right, subject to applicable law, to act immediately and without notice to terminate or suspend the Services at Xylem's sole discretion, with or without cause.

d. Your Obligations upon Termination.

You agree that upon termination of this Agreement and/or Services you will immediately cease all use of the Services.

7. No Warranty

THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT THE SERVICES WILL DELIVER SPECIFIC RESULTS OR MEET YOUR REQUIREMENTS, PROVIDE UNINTERRUPTED USE, OR OPERATE AS REQUIRED, WITHOUT DELAY, OR WITHOUT ERROR. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT ANY COMMUNICATIONS WILL BE TRANSMITTED IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW.

8. Limitation Of Xylem's Liability

a. **Application.** The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of Xylem and its affiliates, suppliers, employees, agents or contractor, including underlying third-party service providers (and their respective officers, employees, agents, or contractors) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.

b. **Customer Equipment.** CUSTOMER EQUIPMENT MAY BE DAMAGED OR SUFFER SERVICE OUTAGES AS A RESULT OF THE INSTALLATION, SELF-INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, AND REMOVAL OF THE SERVICES. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER XYLEM NOR ANY OF ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION TO THE CUSTOMER EQUIPMENT. IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY XYLEM, ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS, WE SHALL PAY AT OUR SOLE DISCRETION FOR THE REPAIR OR REPLACEMENT OF THE DAMAGED CUSTOMER EQUIPMENT UP TO A MAXIMUM OF FIFTY (\$50.00) DOLLARS. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO SUCH ACTIVITY. YOU UNDERSTAND THAT YOUR COMPUTER OR OTHER DEVICES MAY NEED TO BE ACCESSED OR USED EITHER BY YOU OR BY US OR OTHER THIRD PARTIES, IN CONNECTION WITH THE INSTALLATION OR REPAIR OF THE XYLEM'S HARDWARE OR SERVICES. THE OPENING, ACCESSING OR USE OF YOUR COMPUTER OR OTHER DEVICES USED IN CONNECTION WITH YOUR COMPUTER MAY VOID WARRANTIES PROVIDED BY THE COMPUTER OR DEVICE MANUFACTURER OR OTHER PARTIES RELATING TO THE COMPUTER'S OR DEVICE'S HARDWARE OR SOFTWARE. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER AS THE RESULT OF THE VOIDING OF ANY SUCH WARRANTIES.

c. **Other Services or Equipment.** BY ACCEPTING THIS AGREEMENT, YOU WAIVE ALL CLAIMS AGAINST XYLEM FOR INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY BETWEEN THE SERVICES AND ANY OTHER SERVICE, SYSTEMS, OR EQUIPMENT. IN THE EVENT OF SUCH INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY, YOUR SOLE REMEDY SHALL BE TO TERMINATE THE SERVICES IN ACCORDANCE WITH SECTION 8(h).

d. **Software.** When you use certain features of the Services, such as online features (where available), you may require special software, applications, and/or access to the Internet. Xylem makes no representation or warranty that any software or application installed on Customer Equipment, downloaded from the Service, or available through the Internet does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any Customer Equipment from damage to its software, files, and data

as a result of any such virus or other harmful feature. We may, but are not required to, terminate all or any portion of the installation or operation of the Services if a virus or other harmful feature or software is found to be present on your Customer Equipment. We are not required to provide you with any assistance in removal of viruses. If we decide, in our sole discretion, to install or run virus check software on your Customer Equipment, we make no representation or warranty that the virus check software will detect or correct any or all viruses. You acknowledge that you may incur additional charges for any service call made or required on account of any problem related to a virus or other harmful feature detected on your Customer Equipment. We may, but are not required to, provide automatic firmware and software updates from time to time. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY HARDWARE, SOFTWARE, FILES, OR DATA RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE IT. In addition, as part of the installation process for the software and other components of the Service, system files on your Customer Equipment may be modified. Xylem does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any Customer Equipment including without limitation your computer(s), or cause the loss of files. Xylem does not represent, warrant, or covenant that the installation of the special software or applications or access to our Web portal(s) will not cause the loss of files or disrupt the normal operations of any Customer Equipment, including but not limited to your computer(s). FOR THESE AND OTHER REASONS, YOU ACKNOWLEDGE AND UNDERSTAND THE IMPORTANCE OF BACKING UP ALL FILES TO ANOTHER STORAGE MECHANISM PRIOR TO SUCH ACTIVITIES. YOU UNDERSTAND AND ACCEPT THE RISKS IF YOU DECIDE NOT TO BACK UP FILES. NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY SOFTWARE, FILES, OR DATA.

e. **Disruption of Service.** The Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to injury to business, persons, property or environment (“High Risk Activities”). You expressly assume the risks of any damages resulting from High Risk Activities. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Services, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any internet connection; failure of utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Services. **IN NO EVENT SHALL XYLEM BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM WHATEVER CAUSE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR WAGES.**

f. **Third Parties.** Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Services, including without limitation their services, equipment, infrastructure or content. Xylem is not responsible for the performance (or non-performance) of third-party services, equipment, infrastructure or content, whether or not they constitute components of the Services. Xylem shall not be bound by any undertaking, representation or warranty made by an agent or employee of Xylem or of our underlying third-party providers and suppliers in connection with the installation, maintenance or provision of the Services, if that undertaking, representation or warranty is inconsistent with the terms of this Agreement. In addition, you understand that you will have access to the services and content of third parties through the Service(s), including without limitation that of content providers (whether or not accessible directly from the Service). Xylem is not responsible for any services, equipment, infrastructure and content that are not provided by us (even if they are components of the Service), and we shall have no liability with respect to such services, equipment, infrastructure and content. You should address questions or concerns relating to such services, equipment, infrastructure and content to the creators of such services, equipment, infrastructure and content. We do not endorse or warrant any third-party products, services or content that are distributed or advertised over the Services.

g. **Damages.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER XYLEM NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL UNDER ANY CIRCUMSTANCES OR UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO TORT OR CONTRACT) HAVE ANY LIABILITY TO THE CUSTOMER OR TO ANY OTHER PERSON OR ENTITY FOR THE FOLLOWING LOSSES, DAMAGES, OR COSTS: (I) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, PERSONAL INJURIES OR DEATH) THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH (A) YOUR RELIANCE ON OR USE OF THE SERVICES OR (B) THE INSTALLATION, SELF-INSTALLATION, MAINTENANCE, FAILURE, OR REMOVAL OF THE SERVICES (INCLUDING BUT NOT LIMITED TO ANY MISTAKES, OMISSIONS, INTERRUPTIONS, COMPUTER OR OTHER HARDWARE OR SOFTWARE BREACH, FAILURES OR MALFUNCTIONS, DELETION OR CORRUPTION OF FILES, WORK STOPPAGE, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN TRANSMISSION OR FAILURE OF PERFORMANCE OF THE SERVICE, THE CUSTOMER EQUIPMENT, OR ANY OTHER MISTAKES, OMISSIONS, LOSS OF INFORMATION OR DATA); OR (II) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES, LEGAL FEES, OR OTHER COSTS THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH ANY ALLEGATION, CLAIM, SUIT, OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE SERVICES BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES UPON THE CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

h. Customer's Sole Remedies. Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. If the above limitations, the exclusion or limitation of implied warranties, or the limitation or exclusion of incidental or consequential damages are not permitted by law, the liability of Xylem and its employee, affiliates, suppliers, agents and contractors is limited to the maximum extent permitted by law.

i. Survival of Limitations. All representations, warranties, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

9. Indemnification And Liability Of Customer

YOU AGREE THAT YOU SHALL BE RESPONSIBLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS XYLEM AND ITS EMPLOYEES, AFFILIATES, SUPPLIERS, AGENTS AND CONTRACTORS AND SHALL REIMBURSE US FOR ANY DAMAGES, LOSSES OR EXPENSES (INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) INCURRED BY US IN CONNECTION WITH ANY CLAIMS, SUITS, JUDGMENTS AND CAUSES OF ACTION ARISING OUT OF (I) YOUR MISUSE OF THE SERVICE; (II) VIOLATION OR INFRINGEMENT OF CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS ARISING FROM YOUR MISUSE OF THE SERVICE OR ANY UNAUTHORIZED APPARATUS OR SYSTEM; AND (III) YOUR BREACH OF ANY PROVISION OF THIS AGREEMENT.

10. General

a. Entire Agreement. This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and they replace any and all prior written or verbal agreements. If any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. If Xylem fails to insist upon or enforce strict performance of any provision of this Agreement, it shall not thereby waive any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

b. Additional Representations and Warranties. In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that:

- i. Age: You are at least the age of majority.**

ii. **Customer Information:** During the term of this Agreement, you have provided and will provide to Xylem information that is accurate, complete and current, including without limitation your legal name, address, telephone number(s), email address and payment data (including without limitation information provided when authorizing recurring payments). You agree to notify us promptly, in accordance with the terms of this Agreement, if there is any change in the information that you have provided to us. If you fail to provide and maintain accurate information, you will breach this Agreement.

c. **Information Provided to Third Parties.** Xylem is not responsible for any information provided by you to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy notice for the Services. You assume all privacy, security and other risks associated with providing personally identifiable information to third parties via the Services. For a description of the privacy protections associated with providing information to third parties, you should refer to the privacy policies, if any, provided by those third parties.

d. **Revocable License.** The Services and AqWiFi Portal are protected by trademark, copyright, patent and/or other intellectual property laws and international treaty provisions. You are granted a revocable license to use the AqWiFi Portal and the Services in accordance with this Agreement. You acknowledge and understand that you are not granted any other license to use the firmware or software used to provide the Services. You shall not take any action nor allow anyone else to take any action that will reverse compile, disassemble, or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

e. **Protection of Xylem's Information and Marks.** All Service information, documents, and materials on our Web sites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All Web sites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "marks") of Xylem and its affiliates are and shall remain the exclusive property of Xylem. Nothing in this Agreement shall grant you the right or license to use any of the marks.

f. **Export Laws.** You expressly agree to comply with all applicable export and re-export laws, including but not limited to the Export Administration Act, the Arms Export Control Act, and their implementing regulations. You further expressly agree not to use the Services in any way that violates any provision of the exports and re-export laws or their implementing regulations.

g. **Retention of Rights.** Nothing contained in this Agreement shall be construed to limit Xylem's rights and remedies available at law or in equity. Upon termination of this Agreement for any reason, Xylem and its suppliers reserve the right to delete all your data, files, electronic messages or other Customer information that is stored on Xylem's or its suppliers' servers or systems. We shall have no liability whatsoever as the result of the loss of any such data.

h. Choice of Law; Venue. The terms of this section entitled “Dispute Resolution” will apply to all disputes that may arise out of, are connected with or relate to this Agreement or the Services, subject only to the following two exceptions: (1) if Xylem reasonably believes that you have in any manner acted or failed to act in any manner that may cause harm to Xylem or any third party, Xylem may seek injunctive or other appropriate relief in any court of competent jurisdiction; or (2) any dispute may, at the option of the claiming party, be resolved in small claims court in New York County, New York, provided that all claims by all parties in the dispute fall within the jurisdiction of the small claims court but subject to the informal resolution below. Furthermore, in no event will the terms of this section limit Xylem’s ability to investigate complaints or reported violations of this Agreement or to take any action Xylem deems necessary and appropriate to mitigate actions against Xylem, including reporting any suspected unlawful activity to law enforcement officials, regulators, or other third parties.

- i. **Informal Resolution.** If you have any dispute with us or any related third party, arising out of, relating to, or connected with the Services, you agree to contact us; provide a brief, written description of the dispute and your contact information (including your username, if your dispute relates to an account); and give Xylem thirty (30) days within which to resolve the dispute to your satisfaction. If Xylem does not resolve the dispute through good faith negotiations under this informal process, you may pursue the dispute in accordance with the arbitration agreement below.
- ii. **Arbitration Agreement.** Any claims by Xylem, or claims by you that are not resolved by the informal resolution procedure as provided above, arising out of, relating to, or connected with this Agreement or the Services must be asserted individually in binding arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules and Supplementary Procedures for Consumer-Related Disputes (including utilizing desk, phone or video conference proceedings where appropriate and permitted to mitigate costs of travel). This Agreement and each of its parts evidence a transaction involving interstate commerce, and the Federal Arbitration Act (9 USC §1, et. seq.) will apply in all cases and govern the interpretation and enforcement of the arbitration rules and arbitration proceedings. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. In addition to and notwithstanding the terms stated above, the following will apply to your disputes: (1) the arbitrator, and not any federal, state, or local court or agency, will have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this Agreement including any claim that all or any part of this Agreement is void or voidable; (2) the arbitrator will not have the power to conduct any form of class or collective arbitration nor join or consolidate claims by or for individuals; and (3) you hereby irrevocably waive any right you may have to a court trial (other than small claims court as provided below) or to serve as a representative, as a private attorney general, or in any other representative capacity, or to participate as a member of a class of claimants, in any lawsuit, arbitration or other proceeding against us or related third parties arising out of, relating to, or connected with this Agreement.

11. Notice Method For Changes To This Agreement

You agree to accept all communications from us regarding use of the Services at the addresses and/or email address you provide during registration. Please promptly update any changes to your registration information using the AqWiFi Portal. Xylem is entitled to rely on the email address and U.S. mail address that you last provided to us. You agree to waive all claims resulting from failure to receive communications because of changes in your email or U.S. mail address. From time to time we would like to send you information about Xylem products and services. If you register for a Service, you are granting Xylem permission to communicate with you by email. You can opt not to receive such information from us in the future through the AqWiFi Portal.

You agree to be bound by any affirmation, assent or agreement you transmit through the Services you access by computer or other electronic device, including internet, telephonic and wireless devices, including but not limited to any consent you give to receive communications from us solely through electronic transmission. You agree that, when in the future you click on an “I agree,” “I consent” or other similarly worded “button” or entry field with your mouse, keystroke or other device, your agreement or consent will be legally binding and enforceable and the legal equivalent of your handwritten signature.