

# ABB GENERAL TERMS AND CONDITIONS

## FOR PURCHASE OF SITE SERVICES

### ABB GTC/SITE SERVICES (2018-1 GERMANY)

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**DATE:** January 1<sup>st</sup>, 2018

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In this document, the following terms shall have the following meaning:

**“ABB Contractor”**: the purchasing ABB entity being party to the Subcontract;

**“ABB Contractor Data”**: any data or information acquired by Subcontractor in preparation of or during the fulfilment of the Subcontract, irrespective of whether such data or information relates to ABB Contractor, its Affiliates or their respective customers or suppliers, including but not limited to all technical or commercial know-how, drawings, specifications, inventions, processes or initiatives which are of a confidential nature as well as data or information belonging to ABB Contractor or its Affiliates (i) relating to an identified or identifiable individual or legal entity or any other entity which is subject to applicable data protection or privacy laws and regulations, and/or (ii) being qualified as “personal data”, “personal information”, or “personally identifiable information” within the meaning of the applicable laws;

**“ABB GTC/Site Services”**: the present ABB General Terms and Conditions for Purchase of Site Services (2018-1 Germany);

**“Affiliate”**: any entity, whether incorporated or not, which presently or in the future, directly or indirectly owns, is owned by, or is under common ownership with a Party, by virtue of a controlling interest of 50 % or more of the voting rights or the capital;

**“Client”**: the person, firm or company who has employed or will employ ABB Contractor for the execution of the Project;

**“Effective Date”**: the day when the Subcontract comes into full force and effect as stated in the Subcontract;

**“Main Contract”**: the contract entered into between Client and ABB Contractor in respect of the Project;

**“Order”**: ABB Contractor's purchase order (PO) issued to Subcontractor requesting the provision of Services as specified in the Order, which is subject to the ABB GTC/Site Services and, inter alia, the Special Terms and Conditions, as the case may be. An Order can be placed either (i) as an electronic Order, or (ii) as a written Order; in both cases the Order shall contain a reference to the ABB GTC/Site Services;

**“Party”**: either ABB Contractor or Subcontractor, collectively referred to as “Parties”;

**“Project”**: the project to be executed by ABB Contractor under the Main Contract;

**“Project Designed Goods”**: the material, components, machinery and equipment, supplies and other items delivered by a third party for the completion of the Project and defined in the Subcontract;

**“Schedule”**: the time for completion of the Services as specified in the Subcontract;

**“Services”**: the services to be provided by Subcontractor on Site which are specified in the Subcontract, including but not limited to supervision of civil and installation works, provision of commissioning and testing of Project Designed Goods and all other undertakings, obligations and responsibilities of Subcontractor specified in the Subcontract, including all equipment required for the proper provision of the Services;

**“Site”**: the location where Subcontractor shall provide the Services;

**“Special Terms and Conditions”**: any additional terms and conditions agreed between ABB Contractor and Subcontractor (e. g. derived from the Main Contract);

**“Subcontract”**: a written contract, comprising of (in the following order of precedence):

- the subcontract execution document and/or the Order, which is accepted by Subcontractor (either expressly by written statement or impliedly by fulfilling the Subcontract in whole or in part),
- Special Terms and Conditions (if any),
- the HSE related documents and requirements as referred to in Clause 4.2 (as between them: in the order of precedence as laid down in Clause 4.2),
- ABB GTC/Site Services, and
- annexes to any of the documents above (if any);

**“Subcontractor”**: the party of the Subcontract responsible for providing the Services;

**“Subcontract Price”**: the price to be paid by ABB Contractor to Subcontractor as specified in the Subcontract for the performance of the Services;

**“Variation Order”**: ABB Contractor’s written instruction of a change to the Subcontract such as to alter the Schedule, and/or to amend, to omit, to add to, or otherwise to change the Services or any parts thereof.

1.2 Unless otherwise specified in the present ABB GTC/Site Services or the Subcontract:

1.2.1 References to Clauses are to Clauses of the ABB GTC/Site Services;

1.2.2 Headings to Clauses are for convenience only and do not affect the interpretation of the ABB GTC/Site Services;

1.2.3 The use of the singular includes the plural and vice versa.

1.3 Capitalized terms used in the ABB GTC/Site Services and the Subcontract shall have the meaning and shall be interpreted in the way described under Clause 1.1 above or as otherwise expressly defined in the ABB GTC/Site Services, or the Subcontract.

## 2. APPLICATION OF TERMS

2.1 The Subcontract, including the ABB GTC/Site Services, shall be the exclusive terms and conditions upon which ABB Contractor is willing to deal with Subcontractor, and the terms of the Subcontract, including the ABB GTC/Site Services, shall govern the contractual relationship between ABB Contractor and Subcontractor. To the extent not otherwise provided for in the ABB GTC/Site Services or in other parts of the Subcontract, the order of precedence shall apply as set out in the definition “Subcontract” in Clause 1.1.

2.2 No terms or conditions endorsed upon, delivered with or contained in Subcontractor’s quotations, acknowledgements or acceptances, specifications or similar documents will form part of the Subcontract, and Subcontractor waives any right which it otherwise might have to rely on such other terms or conditions.

2.3 Any amendment to the Subcontract or deviations from the provisions of the Subcontract shall have no effect unless expressly agreed in writing by the Parties.

## 3. SUBCONTRACTOR’S RESPONSIBILITIES

3.1 Subcontractor shall provide the Services:

3.1.1 in accordance with the applicable laws and regulations;

3.1.2 in accordance with the quality standards stated under Clause 11.1 and further specified in the Subcontract;

3.1.3 free from defects and from any rights of third parties;

3.1.4 on the dates specified in the Schedule;

3.1.5 in the quantity specified in the Subcontract; and

3.1.6 in accordance with ABB Contractor’s reasonable instructions which may be issued from time to time; and

3.1.7 by skilled, experienced and competent engineers, foremen and labour, hired in numbers necessary for the proper and timely provision of the Services.

3.2 Subcontractor shall not substitute or modify any of the Services without ABB Contractor’s prior written approval.

3.3 Subcontractor shall access the Site only with ABB Contractor’s prior written approval. ABB Contractor shall grant Subcontractor access to the respective portions of the Site (as may be required in accordance with the Schedule) to enable Subcontractor to perform its obligations under the Subcontract.

3.4 Subcontractor shall co-operate with ABB Contractor’s request in scheduling and providing the Services to avoid conflict or interference with work provided by other contractors and third parties at Site.

3.5 Subcontractor shall co-ordinate the performance of the Services with ABB Contractor’s Site management, taking into account the conditions prevailing on the Site. Subcontractor shall supply all equipment required to perform the Services, including without limitation any special tools of whatever kind, commissioning spares and consumables required for these Services, but excluding consumables required for the

Project Designed Goods. In case of maintenance Services Subcontractor shall supply the required spare parts. For the avoidance of doubt, special tools shall include without limitation all items required to work on the instrumentation and the control equipment and to install, set-up and configure the controls and transmitters provided with the Project Designed Goods. All commissioning spare parts, special tools and consumables as well as spare parts shall become the property of ABB Contractor.

3.6 Subcontractor shall in a timely manner obtain and pay for all permits, licenses, visas and approvals necessary to allow its personnel to execute the Services in accordance with the Schedule. Personnel shall comply with particular country specific travel safety instructions and/or restrictions as provided by ABB Contractor. Subcontractor shall employ and provide sufficient number of competent and experienced personnel for the execution of the Services. Upon ABB Contractor’s request Subcontractor shall remove forthwith from the Site any person who, in the reasonable opinion of ABB Contractor, misconducts or is incompetent or negligent. Any person so removed shall be replaced within fifteen (15) calendar days by a competent substitute. All costs relating to such removal shall be borne by Subcontractor. Subcontractor shall employ only persons free from contagious diseases. Subcontractor shall, if reasonably requested by ABB Contractor, perform medical examination of his employees and provide ABB Contractor with the results of such examination, unless such provision would violate applicable laws.

3.7 Subcontractor shall satisfy itself as to the specifics of the Site, and all aspects thereof insofar as they affect the execution of the Services. Subcontractor shall also satisfy itself as to the means of access to the Site, the accommodation which may be required, the extent and nature of work and materials necessary for execution and completion of the Services, and whether Subcontractor has reasonably considered all such aspects in the Subcontract Price.

3.8 ABB Contractor may request Subcontractor to nominate and use a local sub-supplier to provide Services or parts thereof in the country of Site and to enter into the respective supply agreement with such sub-supplier if and to the extent the Subcontract (e. g. the Special Terms and Conditions) indicates such required local content. In all cases where Subcontractor nominates a sub-supplier for this purpose, Subcontractor warrants and undertakes to ABB Contractor that Subcontractor will coordinate its respective duties and obligations with the duties and obligations of that sub-supplier. Subcontractor will also ensure that Subcontractor and its sub-supplier jointly provide the Services.

3.9 Subcontractor shall be responsible for any activities performed by its employees in relation to the Subcontract, and in particular the following shall apply:

3.9.1 Subcontractor assumes full and exclusive responsibility for any accident or occupational disease occurred to its employees in relation to the performance of the Subcontract.

3.9.2 It is expressly agreed that the Subcontract does not imply any employment relationship between ABB Contractor and Subcontractor, or between ABB Contractor and Subcontractor’s employees assigned to the execution of the Subcontract. ABB Contractor shall remain free of any direct or indirect responsibility or liability for labour, social security or taxes with respect to Subcontractor and its employees assigned to the performance of the Subcontract.

3.9.3 Subcontractor shall hire in its own name all employees required to perform effectively the Subcontract, who shall under no circumstances act as ABB Contractor’s employees.

3.9.4 Subcontractor shall be solely and exclusively responsible for any claims and/or lawsuits filed by its employees in connection with the Services and – unless caused by ABB Contractor’s gross negligence or intentional act – hold ABB Contractor entirely safe and harmless from such claims and/or lawsuits. Subcontractor undertakes to voluntarily appear in court, recognizing its status as sole and exclusive employer,

and to provide ABB Contractor with any and all requested documentation necessary to ensure proper legal defence of ABB Contractor in court.

3.9.5 Subcontractor shall neither employ for the performance of the Subcontract any person who does not have the aliens' labor permit required, nor employ any subcontractor or any hiring company for temporary workers ("*Verleiher von Leiharbeitnehmern*") without prior written approval by ABB Contractor. Subcontractor shall obtain from any of its direct or indirect subcontractors and from any hiring company in the contractual chain of companies (hereinafter collectively, but excluding Subcontractor: "*Employed Third Parties*") a written commitment in line with the requirements in Clauses 3.9.5 and 3.9.6 (including, but not limited to, the obligation to impose the obligations on the additional Employed Third Parties) prior to the start of their performance under the Subcontract.

3.9.6 The following provisions shall apply to the extent that the German legislation concerning the delegation of employees (*Arbeitnehmer-entsendegesetz*), the German legislation concerning the compliance with labor agreements (*Tarifvertragesgesetz*) and the German legislation concerning the payment of minimum wages (*Mindestlohngesetz*) is/are applicable (all hereinafter together: the "*Special Labor Laws*"): (i) Subcontractor undertakes to comply with the Special Labor Laws and to procure compliance therewith by Employed Third Parties; (ii) Subcontractor shall indemnify and hold ABB Contractor harmless from and against any liability or obligation of ABB Contractor towards third parties for Subcontractor's or Employed Third Parties' breach of any of the Special Labor Laws, including without limitation any administrative fines, fees and cost, save as where ABB Contractor has acted intentionally; (iii) in case of Subcontractor's or Employed Third Parties' non-compliance with any Special Labor Laws, ABB Contractor shall be entitled to rescind the Subcontract or to terminate the Subcontract with immediate effect; and (iv) in case ABB Contractor reasonably suspects that Subcontractor or any Employed Third Party has breached any Special Labor Laws, Subcontractor shall prove by appropriate means compliance with such laws. "Appropriate means" shall include without limitation: inspection of payrolls on wages and salaries or time accounts (in pseudonymized form) or submission of comparably meaningful documents evidencing compliance with the Special Labor Laws.

3.9.7 ABB Contractor is authorized to make any payments due to Subcontractor's employees performing the Subcontract, in order to avoid lawsuits. Such payments may be made through withholding Subcontractor's credits, through offsetting or in any other way. Subcontractor shall provide any support requested by ABB Contractor with regard to such payments and indemnify ABB Contractor for any payments made.

#### **4. HEALTH, SAFETY AND ENVIRONMENT (HSE)**

4.1 Subcontractor shall comply and ensure compliance by any of its employees and subcontractors with all applicable laws relating to HSE throughout the performance of the Subcontract.

4.2 Subcontractor shall comply with the documents (i)–(iii) and further requirements set out below in the following order of precedence: (i) ABB Contractor's HSE instructions for the Site, (ii) ABB's Code of Practice for Safe Working, (iii) Client's instructions concerning HSE at Site, (iv) applicable industry standards and good engineering practice and (v) statutory provisions applicable to the Site. In case the requirements for one or more aspects as per a level with lower priority are apparently stricter than the requirements of a higher level, such requirements being stricter shall apply instead of the requirements being less strict. On Subcontractor's request ABB Contractor will make available the aforementioned documents.

4.3 Subcontractor shall ensure that all its personnel, and its subcontractors' personnel, working on Site shall have received relevant training and induction before being allowed to work on Site. Subcontractor without undue delay shall remove from Site any person who, in ABB Contractor's reasonable opinion, fails to comply with the provisions of the relevant legislation, regulations and rules as appropriate or such other HSE legislation, which from time to time may be in force.

4.4 Subcontractor shall be solely responsible for the health and safety of all its employees and subcontractors at Site and without undue delay shall advise ABB Contractor and the relevant authority, if so required, of the occurrence of any accident, incident or near-miss on or about the Site or otherwise in connection with the provision of the Services. Within twenty four (24) hours after the occurrence of any such accident, incident or near-miss, Subcontractor shall furnish ABB Contractor with a written report, which shall be followed within fourteen (14) calendar days by a final report. Subcontractor shall also provide such a report to the appropriate authority when required. This procedure shall not relieve Subcontractor from the full responsibility to protect persons and property, and from its liability for damages.

4.5 Subcontractor shall notify ABB Contractor of all hazardous materials (as such term is defined in applicable laws or regulations) to be used for the performance of the Services. Subcontractor shall furnish ABB Contractor with copies of all applicable material safety data sheets and provide any appropriate special handling instructions no later than ten (10) calendar days prior to (i) the commencement of the Services, or (ii) in case the decision to use a particular material will be taken later: the first use of such materials.

#### **5. VARIATION ORDERS**

5.1 ABB Contractor may request Subcontractor to alter the Schedule, to amend, omit, add to, or otherwise change the Services or any parts thereof.

5.2 Upon receipt of a request as per Clause 5.1, Subcontractor shall within ten (10) calendar days of such request submit its written proposal for performing any such request and (if applicable) a programme for the implementation of such request. In addition, such proposal shall reflect any adjustment of the Subcontract Price and/or the Schedule, if Subcontractor believes that any such request of ABB Contractor involves or constitutes a change to the Schedule and/or the Subcontract Price. Without any limitation of Subcontractor's obligation to provide a proposal in other cases, the Parties agree: Subcontractor shall not deny to make a proposal for the variation with a view to ABB Contractor's responsibility (if any) for the planning for the Services, if ABB Contractor (a) has made the planning in the manner and to the extent and detail of the original planning made by ABB Contractor, and (b) has handed over such planning to Subcontractor. In case of increased Services Subcontractor shall be responsible for planning of the variation. After receiving Subcontractor's written proposal, ABB Contractor shall respond by either approving or commenting Subcontractor's written proposal.

5.3 Where ABB Contractor approves Subcontractor's written proposal, ABB Contractor shall issue a Variation Order. Where ABB Contractor comments Subcontractor's written proposal, ABB Contractor and Subcontractor shall agree on the performance of such request and a change to the Schedule and/or the Subcontract Price (if any); however, if no such agreement is achieved between Subcontractor and ABB Contractor within a reasonable period of time, ABB Contractor may instruct the performance of such request, and the Parties shall agree on the consequences for the Schedule and/or the Subcontract Price (if any) afterwards. Subcontractor shall not postpone or delay the performance of such request and/or a Variation Order on the grounds of dispute, or that it is subject to acceptance by Subcontractor, or agreeing to the value amount, and/or time extension to Schedule. Except as expressly provided hereinbefore, Subcontractor shall carry out a variation only upon receipt of a written Variation Order and continue to be bound by the provisions of the Subcontract.

5.4 The value of a Variation Order shall be calculated in accordance with the agreed unit price list as defined in the Subcontract or, in the absence of such unit price list, as a lump sum to be agreed between ABB Contractor and Subcontractor, and then be added to or deducted from the Subcontract Price. In addition, the Variation Order shall, as the case may be, express the amount of time by virtue of which the Schedule shall be shortened or extended accordingly. Subcontractor

shall comply with the calculation of the value of the Variation Order when preparing its written proposal as per Clause 5.2.

5.5 If Subcontractor believes that any act or omission (other than a request as per Clause 5.1) of ABB Contractor involves or constitutes a change to the Subcontract, Subcontractor shall within twenty-eight (28) calendar days of such act or omission request ABB Contractor to issue a Variation Order by submitting its written proposal for such a Variation Order.

5.6 Any request by ABB Contractor as per Clause 5.1, or acts or omissions of ABB Contractor as per Clause 5.5, which (i) do not affect the Schedule or do not result in additional cost, or (ii) are due to Subcontractor's default, shall in no case entitle Subcontractor to any time extension and/or cost compensation (as the case may be).

## 6. PROVISION OF THE SERVICES

6.1 Subcontractor shall provide the Services and meet the Schedule both as specified in the Subcontract. Partial performance is not accepted unless confirmed or requested by ABB Contractor in writing or where the Services reasonably require partial performance.

6.2 Subcontractor shall submit for ABB Contractor's approval a detailed execution plan (including agreed milestones as specified in the Subcontract) for the performance of the Subcontract and shall assist ABB Contractor with regard to the scheduling and planning process, and cooperate with ABB Contractor in all respects of the Subcontract scheduling and planning.

6.3 Unless requested otherwise, Subcontractor shall at least monthly in the form requested by ABB Contractor (if any), report the status of the provision of the Services. Subcontractor shall anticipate that the Services may be interfered with or incidentally delayed from time to time due to concurrent performance of work by others. The report shall be provided to ABB Contractor within five (5) calendar days from the end of the month covered by the report. If the provision of the Services or any part thereof is behind the Schedule, Subcontractor shall submit in writing a recovery plan specifying its activities for reaching compliance with the Schedule. Upon ABB Contractor's request, Subcontractor shall provide ABB Contractor at any time with all information regarding the provision of the Services. ABB Contractor shall have the right to withhold payments under the Subcontract in a reasonable amount if Subcontractor fails to submit any of the reports.

6.4 Subcontractor must indicate latest at the time of acceptance of the Subcontract the customs tariff numbers of the country of consignment and the countries of origin for all Services; proofs of preferential origin, if a free trade agreement between the country of consignment and the country where the Site is located exists. For controlled items (goods, services, software, technology), the relevant national export control numbers must be indicated and, if the Services are subject to U.S. export regulations, the U.S. Export Control Classification Numbers (ECCN) or classification numbers of the International Traffic In Arms Regulations (ITAR) must be specified. Proofs of preferential origin as well as conformity declarations and marks of the country of consignment or destination are to be submitted without being requested; certificates of origin upon request. For the performance of the Subcontract, Subcontractor shall not deploy nor subcontract persons or subcontractors, which are listed in actual sanction lists of following regulations:

- (EG) Nr. 2580/2001 Terrorism;
- (EG) Nr. 881/2002 Al-Qaida;
- (EU) Nr. 753/2011 Afghanistan;
- Embargo Regulations of EU.

## 7. TIME FOR PROVIDING THE SERVICES, DELAY

7.1 If Subcontractor does not comply with the Schedule, ABB Contractor reserves the right to instruct Subcontractor in writing to expedite its performance under the Subcontract. Subcontractor shall take such measures (in accordance with ABB Contractor's reasonable instructions) as required for acceleration of progress so as to complete the provision of the Services, or the relevant part thereof, on time. Subcontractor shall not be entitled to any additional payment for taking such steps

to accelerate the work to meet the Schedule, unless Subcontractor has not caused the failure by negligence or by wilful misconduct. Subcontractor shall notify ABB Contractor in writing within twenty four (24) hours of the occurrence and cause of any delay and also to make every effort to minimise or mitigate the costs or the consequences of such delay.

7.2 If Subcontractor fails to provide the Services in accordance with the Schedule, Subcontractor shall pay to ABB Contractor the agreed penalty. The penalty shall be payable at a rate specified in the Subcontract. Subcontractor shall pay the penalty upon written demand or upon receipt of an invoice from ABB Contractor. The amount of penalty being due may be deducted by ABB Contractor from any payments due or which may become due to Subcontractor without prejudice to any other recovery method. The agreed penalty shall not affect ABB Contractor's claim for damages whatsoever nor shall the payment of such penalty relieve Subcontractor from any of its obligations and liabilities under the Subcontract. ABB Contractor shall be entitled to reserve the right to assert the penalty up to the time of final payment.

7.3 If the delay in providing the Services is such that ABB Contractor is entitled to maximum amount of the penalty and if the Services are still not provided, ABB Contractor may in writing demand provision of the Services within a final reasonable period which shall not be less than one week.

7.4 If Subcontractor does not provide the Services within such final period and this is not due to any circumstance for which ABB Contractor is responsible, then ABB Contractor shall have the right to:

7.4.1 rescind the Subcontract or terminate the Subcontract with immediate effect pursuant to Clause 15.1.2 (Termination);

7.4.2 refuse any subsequent provision of the Services which Subcontractor attempts to make;

7.4.3 in addition to the penalty under Clause 7 recover from Subcontractor any costs or expenditure incurred by ABB Contractor in obtaining the services in substitution from another Subcontractor;

7.4.4 claim in addition to the penalty under Clause 7 for any exceeding additional costs, losses or damages incurred whatsoever by ABB Contractor which are reasonably attributable to Subcontractor's failure to comply with the Subcontract.

7.5 ABB Contractor shall also have the right to rescind the Subcontract or terminate the Subcontract with immediate effect by notice in writing to Subcontractor, if it is clear from the circumstances that there will occur a delay in providing the Services which under Clause 7 would entitle ABB Contractor to maximum amount of the penalty.

## 8. MONITORING AND ACCEPTANCE OF THE SERVICES

8.1 Subcontractor shall allow ABB Contractor and/or its authorised representatives to monitor the provision of the Services at any time.

8.2 Notwithstanding any monitoring, Subcontractor shall remain fully responsible for the Services' compliance with the Order. This applies whether or not ABB Contractor has exercised its right of monitoring and shall not limit Subcontractor's obligations under the Order. For the avoidance of doubt, monitoring of Services by ABB Contractor Customer and/or its authorised representatives shall in no event exempt Subcontractor from nor limit Subcontractor's warranties or liability in any way.

8.3 The Services provided by Subcontractor shall be subject to acceptance by ABB Contractor. Acceptance should be made in writing. ABB Contractor will issue an acceptance declaration, if the Services are completely finished, have passed all required tests and are free from material deficiencies and defects. Such acceptance declaration shall constitute acceptance of the Services. Any fictions of acceptance provided by applicable law under the Subcontract shall require that the Services have been completely finished and are substantially in line with the Subcontract. Cases where the applicable law provides for partial acceptance shall in any case be unaffected.

## 9. SUSPENSION OF THE SUBCONTRACT

9.1 ABB Contractor shall have the right to suspend performance of the Subcontract at any time for convenience for a period of 90 calendar days in the aggregate without any compensation to Subcontractor. In case the suspension extends beyond 90 calendar days, Subcontractor shall be compensated by ABB Contractor for the reasonable incurred costs of such suspension, such as cost of protection, storage and insurance. The agreed time for performance of the Subcontract or the concerned part thereof shall be extended by the time period of the suspension.

9.2 Subcontractor shall suspend the performance of the Subcontract or any part thereof, including postponing the provision of the Services, for such times and in such manner as ABB Contractor reasonably considers necessary (i) for Subcontractor's default to comply with proper HSE during execution of the Subcontract, or (ii) due to any other default by Subcontractor, in which case Subcontractor shall bear all costs and be liable for the delay arising from such suspension.

9.3 Unless otherwise provided by applicable law or the Subcontract, Subcontractor shall have no right to suspend performance of the Subcontract.

## 10. FORCE MAJEURE

10.1 Neither Party shall be liable for any delay in performing or for failure to perform its obligations under the Subcontract if the delay or failure results from an event of "Force Majeure", provided that the affected Party serves notice to the other Party within ten (10) calendar days from occurrence of the respective event of Force Majeure and of the time Subcontractor becomes aware of such event or should reasonably be aware thereof.

10.2 "Force Majeure" means the occurrence of any event which is unforeseeable and beyond the control of the Party affected that results in the failure or delay by such Party of some performance under the Subcontract, in full or part. Each Party shall use its reasonable endeavours to minimise the effects of any event of Force Majeure.

## 11. WARRANTY

11.1 Subcontractor warrants that the Services:

11.1.1 comply with the Subcontract, including but not limited to any specification as stipulated in the Subcontract, and with good engineering practices;

11.1.2 are fit for the particular purpose of the Project, whether expressly or impliedly made known to Subcontractor in the Subcontract;

11.1.3 are free from defects; and

11.1.4 comply with Clauses 3.1.1 and 16 (Compliance, Integrity).

11.2 The warranty period shall be thirty six (36) months from acceptance of the Services and in the absence of such acceptance without Subcontractor's default, the warranty period shall be thirty six (36) months from completion of the Services in full compliance with the Subcontract.

11.3 In the event of a breach of warranty, the warranty period shall be extended by a time period which is equal to the time period for the performance of the remedial work by Subcontractor. For all other parts of the Services which cannot be used for the purposes of the Project as a result of a defect or damage, the same warranty extension shall apply. Any other provisions leading to an extension, starting anew or halt of the warranty period shall remain unaffected.

11.4 In case of non-compliance with the warranty provided under this Clause 11, ABB Contractor shall be entitled to request Subcontractor to carry out any additional work necessary to ensure that the terms and conditions of the Subcontract are fulfilled, within twenty (20) calendar days from ABB Contractor's notice or such longer or shorter period reasonably to be granted by ABB Contractor in view of the circumstances involved. If not otherwise agreed in writing by the Parties, such remedial work requires acceptance by ABB Contractor;

11.5 In case Subcontractor fails or refuses to remedy the defects within the period as provided in Clause 11.4 or in other cases where the applicable law waives the requirement to set a time period for remedy, ABB Contractor shall be entitled to either:

11.5.1 perform any additional work necessary to make the Services comply with the Subcontract or to instruct a third party to do so;

11.5.2 refuse to accept any further provision of the Services, but without exemption from Subcontractor's liability for the defective Services for which ABB Contractor shall be entitled to a price reduction, instead of requiring their correction, replacement or removal. A Variation Order will be issued to reflect an equitable reduction in the Subcontract Price. Such adjustments shall be effected whether or not final payment has been made;

11.5.3 claim such costs and damages as may have been sustained by ABB Contractor as a result of Subcontractor's breach or failure; and/or

11.5.4 terminate the Subcontract with immediate effect in accordance with Clause 15 (excluding Clause 15.5) or to rescind the Subcontract.

11.6 The remedies as per Clauses 11.4 and 11.5 shall be at Subcontractor's own expense (including, without limitation, costs of transportation to Site, disassembly, cleaning, upgrade, assembly, installation, testing, inspection, insurance, completion, and acceptance) and risk.

11.7 The rights and remedies available to ABB Contractor and contained in the Subcontract are cumulative and are not exclusive of any rights or remedies available in view of defects whatsoever.

## 12. PRICES, PAYMENT TERMS, INVOICING

12.1 The Subcontract Price shall be deemed to cover the fulfilment by Subcontractor of all its obligations under the Subcontract and include the costs of the Services specified and the costs for everything which is necessary for the execution, completion, and warranty of the Services, including but not limited to supervision, fees, taxes, duties, transportation, profit, overhead, licences, permits, and travel, whether indicated or described or not. Subcontractor shall bear and pay without undue delay all customs and import duties to national authorities for all goods and material imported to the country where the Site is located.

12.2 The prices stipulated in the Subcontract are fixed during the complete time of performance and any extension thereof unless otherwise provided in a Variation Order.

12.3 The payment terms and the applicable procedures shall be specified in the Subcontract.

12.4 Subcontractor shall submit invoices complying with Subcontractor's and ABB Contractor's applicable local mandatory law, generally accepted accounting principles and ABB Contractor requirements set forth in the Subcontract, which shall contain the following minimum information: Subcontractor name, address and reference person including contact details (telephone, e-mail etc.); invoice date; invoice number; Order number (same as stated in the Order); Subcontractor number (same as stated in the Order); address of ABB Contractor; quantity; specification of Services supplied; price (total amount invoiced); currency; tax or VAT amount; tax or VAT number; Authorized Economic Operator and/or Approved Exporter Authorization number and/or other customs identification number, if applicable.

12.5 Invoices shall be accompanied by interim release of rights in the Services as referred to in Clause 12.6 below and shall be issued to ABB Contractor as stated in the Subcontract. Invoices shall be sent to the invoice address specified in the Subcontract. The submission of an invoice shall be deemed to be a confirmation by Subcontractor that it has no additional claims for the Services invoiced, except as may already have been submitted in writing, for anything that has occurred up to and including the last day of the period covered by such invoice.

12.6 Subcontractor shall make payment in due time for all equipment and labour used in, or in connection with, the performance of the Subcontract in order to avoid the imposition of any rights against any portion of the Services and/or the Project. In the event of the imposition of any such rights by any person who has supplied any such equipment or labour, or by any other person claiming by, through or under Subcontractor, Subcontractor shall, at its own expense, without undue delay

take any and all action as may be necessary to cause such rights to be released or discharged. Subcontractor shall furnish satisfactory evidence, when requested by ABB Contractor, to verify compliance with the above. As an alternative, ABB Contractor may pay to release such rights and withhold such amounts from Subcontractor.

12.7 ABB Contractor shall have the right to withhold the whole or part of any payment to Subcontractor which, in the reasonable opinion of ABB Contractor, is necessary for protection of ABB Contractor from loss on account of claims against Subcontractor, or failure by Subcontractor to make due payments to its sub-suppliers or employees, or not having paid taxes, dues and social insurance contributions. ABB Contractor reserves the right to set off such amount owed to Subcontractor, or withhold payment for Services not provided in accordance with the Subcontract. However, Subcontractor shall not be entitled to set off any amounts owed by ABB Contractor to Subcontractor, unless prior approval has been granted by ABB Contractor in writing.

### 13. LIABILITY AND INDEMNITY

13.1 Subcontractor shall indemnify ABB Contractor against all liabilities, losses, damages, injuries, cost, expenses, actions, suits, claims, demands, charges or expenditures whatsoever arising in connection with death or injury suffered by persons employed by Subcontractor or any of its sub-suppliers to the extent that the respective liabilities, losses, damages, injuries, cost, expenses, actions, suits, claims, demands, charges or expenses were caused by or arise from acts or omissions of Subcontractor, unless caused by ABB Contractor's gross negligence or intentional act.

13.2 Without prejudice to applicable mandatory law or unless otherwise agreed between the Parties, Subcontractor shall compensate/indemnify ABB Contractor and Client for all liabilities, losses, damages, injuries, cost, actions, suits, claims, demands, charges or expenses whatsoever arising out of or in connection with the performance of the Subcontract and/or the Services (i) for Subcontractor's culpable breaches of the Subcontract, and (ii) for any claim made by a third party (including employees of Subcontractor) against ABB Contractor in connection with the Services and to the extent that the respective liabilities, losses, damages, injuries, cost, actions, suits, claims, demands, charges or expenses were caused by or arise from culpable acts or omissions of Subcontractor and/or from the Services.

13.3 Subcontractor shall be responsible for the acts, omissions, defaults, negligence or obligations of any of its subcontractors, sub-suppliers, its agents, servants or workmen as fully as if they were the acts, omissions, defaults, negligence or obligations of Subcontractor.

13.4 ABB Contractor reserves the right to set off any indemnity/liability claims under the Subcontract against any amounts owed to Subcontractor.

13.5 In case Subcontractor is obliged to indemnify ABB Contractor as per Clauses 13.1, 13.2 or 13.3, Subcontractor shall defend ABB Contractor at its cost against any third party claims upon ABB Contractor's request.

### 14. INSURANCE

14.1 Subcontractor shall maintain as required in the Special Terms and Conditions and at its expense with reputable and financially sound insurers acceptable to ABB Contractor the following type of insurances: professional liability insurance, public liability insurance, statutory worker's compensation/employer's liability insurance.

14.2 All insurance policies (except for statutory worker's compensation/employer's liability insurance) shall be endorsed to include ABB Contractor as additional insured and provide a waiver of insurer's right of subrogation in favour of ABB Contractor. Subcontractor shall not later than Effective Date provide to ABB Contractor certificates of insurance covering such policies as well as confirmation that premiums have been paid. Subcontractor shall also provide upon ABB Contractor's request copies of such insurance policies.

14.3 In case of loss and damage related to the covers in Clause 14, any and all deductibles shall be for Subcontractor's account.

14.4 Subcontractor shall furnish notice to ABB Contractor within thirty (30) calendar days of any cancellation or non-renewal or material change to the terms of any insurance.

14.5 All Subcontractor policies (except worker's compensation/employer's liability) shall be considered primary insurance and any insurance carried by ABB Contractor shall not be called upon by Subcontractor's insurers to contribute or participate on the basis of contributing, concurrent, double insurance or otherwise.

14.6 Should Subcontractor fail to provide insurance certificates and maintain insurance according to Clause 14, ABB Contractor shall have the right to procure such insurance cover at the sole expense of Subcontractor.

14.7 Any compensation received by Subcontractor shall be applied towards the replacement and/or restoration of the Services.

14.8 Nothing contained in this Clause 14 shall relieve Subcontractor of any liability under the Subcontract or any of its obligations to make good any loss or damage. The insured amounts can neither be considered nor construed as a limitation of liability.

### 15. TERMINATION

15.1 Without prejudice to any other rights (including the right to terminate based on other provisions) or remedies to which ABB Contractor may be entitled, ABB Contractor may either terminate the Subcontract with immediate effect or rescind the Subcontract (herein collectively: "terminate") in the event that:

15.1.1 Subcontractor commits a material breach of its obligations under the Subcontract, and fails to remedy that breach within ten (10) calendar days of receiving written notice from ABB Contractor requiring its remedy (unless otherwise stated under the Subcontract or within such longer period reasonably to be granted by ABB Contractor in view of the circumstances involved); or

15.1.2 the preconditions of Clause 7.4 are fulfilled, or it is clear from the circumstances that as per Clause 7.5 a delay will occur in providing the Services which would entitle ABB Contractor to maximum amount of the penalty; or

15.1.3 there is any materially adverse change in the position, financial or economic, of Subcontractor, or a resolution on winding-up in view of the Subcontractor (taken by the Subcontractor's shareholders); or

15.1.4 Subcontractor ceases, or threatens to cease, performing a substantial portion of its business, whether voluntarily or involuntarily, that has or will have an adverse effect on Subcontractor's ability to perform its obligations under the Subcontract; or

15.1.5 an interim order is made against Subcontractor materially affecting the performance of the Subcontract; or

15.1.6 any representation made by Subcontractor in the Subcontract is not true, or inaccurate and if such lack of truth or accuracy would reasonably be expected to result in an adverse impact on ABB Contractor, unless cured within twenty (20) calendar days after the date of written notice of such lack; or

15.1.7 there is a material change of control of Subcontractor.

15.2 Upon termination according to Clause 15.1, ABB Contractor shall be entitled to either (i) in case of rescission: reclaim all sums which ABB Contractor has paid to Subcontractor under the Subcontract and to return all Services or parts thereof to Subcontractor, or (ii) in case of other termination: to pay to Subcontractor the part of the Subcontract Price applicable to the Services or parts thereof performed by Subcontractor until the termination which ABB Contractor intends to retain. Any payment due to Subcontractor as per this Clause 15.2 shall be reduced by any payments made by ABB Contractor prior to termination to Subcontractor for the performance of the Services; should payments made to Subcontractor prior to such termination exceed the amount of payments Subcontractor is entitled to as per this Clause 15.2, ABB Contractor shall be entitled to claim all such exceeding sums from Subcontractor. In addition to the rights set forth in this Clause 15.2, ABB Contractor shall be entitled to claim compensation for any costs, losses

or damages incurred whatsoever in connection with such termination (including without limitation any expenses as per Clause 15.3), and ABB Contractor shall be entitled to set-off any such amounts against payments due to Subcontractor.

15.3 Upon termination according to Clause 15.1, ABB Contractor may complete the Subcontract or employ other suppliers to complete the Subcontract. Any such work shall be performed at Subcontractor's risk and expense.

15.4 Upon termination according to Clause 15.1, ABB Contractor shall have the right to enter into, and Subcontractor shall undertake to assign, any agreements with Subcontractor's sub-suppliers. Any costs related to such assignments of agreements with sub-suppliers from Subcontractor to ABB Contractor shall be for the account of Subcontractor.

15.5 ABB Contractor has the right to terminate the Subcontract or parts of the Subcontract without cause at any time with immediate effect at its sole discretion by written notice to Subcontractor. Upon receipt of such notice Subcontractor shall stop all provision of the Services and performance of the Subcontract unless otherwise directed by ABB Contractor. ABB Contractor shall pay Subcontractor for the Services provided. Subcontractor shall have no further claim for compensation due to such termination. Claims for compensation of loss of anticipated profits are excluded.

15.6 On termination of the Subcontract, Subcontractor without undue delay shall deliver to ABB Contractor all copies of information or data provided by ABB Contractor to Subcontractor for the purposes of the Subcontract. Subcontractor shall certify to ABB Contractor that Subcontractor has not retained any copies of such information or data.

15.7 On termination of the Subcontract, but not in case ABB Contractor has returned all Services performed to Subcontractor as per Clause 15.2, Subcontractor without undue delay shall deliver to ABB Contractor all specifications, programs and other information, data, and Subcontractor Documentation regarding the Services which exist in any form whatsoever at the date of such termination, whether or not then complete.

15.8 Termination of the Subcontract, however arising, shall not affect or prejudice the accrued rights of the Parties as at termination, or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

15.9 The ABB GTC/Site Services shall not limit either Party's right provided by applicable law to terminate the Subcontract for important reason ("aus wichtigem Grund"). If the applicable law in such cases also provides for a partial termination, the termination of the whole Subcontract shall only be admissible if the important reason requires the termination of the whole Subcontract (as opposed to partial termination).

## 16. COMPLIANCE, INTEGRITY

16.1 Subcontractor shall provide the Services in compliance with all relevant legislation, laws, rules, regulations, and codes of practice, guidance and other requirements of any relevant government or governmental agency. To the extent that such regulations are advisory rather than mandatory, the standard of compliance to be achieved by Subcontractor shall be in compliance with the generally accepted best practice of the relevant industry.

16.2 To the extent applicable, Subcontractor must comply with the ABB Lists of Prohibited and Restricted Substances and with the reporting and other requirements regarding Conflict Minerals made available under [www.abb.com](http://www.abb.com) – **Supplying – Material Compliance** or otherwise and shall provide ABB Contractor with respective documents, certificates and statements if requested. Any statement made by Subcontractor to ABB Contractor (whether directly or indirectly, e. g. where applicable via the ABB Supplier Registration and Pre-Qualification System) with regard to materials used for or in connection with the Services will be deemed to be a representation under the Subcontract.

16.3 Subcontractor represents and warrants that it is knowledgeable with, and is and will remain in full compliance with all applicable trade and customs laws, regulations, instructions, and policies, including, but not limited to, securing all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the provision of services, the release or transfer of goods, hardware, software and technology to non U.S. nationals in the U.S., or outside the U.S., the release or transfer of technology and software having U.S. content or derived from U.S. origin software or technology.

16.4 No service, material or equipment included in or used for the Services shall originate from any company or country listed in any relevant embargo issued by the authority in the country where the Services shall be used or an authority otherwise having influence over the services, equipment and material forming part of the Services. If any of the Services are or will be subject to export restrictions, it is Subcontractor's responsibility to inform ABB Contractor without undue delay in writing of the particulars of such restrictions.

16.5 Both Parties warrant that each will not, directly or indirectly, and that each has no knowledge that the other Party or any third parties will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of each Party, or any other party in a manner contrary to applicable laws (including but not limited to the U. S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials), and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing in the Subcontract shall render either Party or any of its Affiliates liable to reimburse the other for any such consideration given or promised.

16.6 Subcontractor herewith acknowledges and confirms that Subcontractor has received a copy of ABB's Code of Conduct and ABB's Supplier Code of Conduct or has been provided information on how to access both ABB Codes of Conduct online under [www.abb.com/Integrity](http://www.abb.com/Integrity). Subcontractor is obliged and agrees to perform its contractual obligations in accordance with both ABB Codes of Conduct, including but without limitation to all employment, health, safety and environmental requirements specified therein.

16.7 ABB has established the following reporting channels where Subcontractor and its employees may report suspected violations of applicable laws, policies or standards of conduct: Web portal: [www.abb.com/Integrity](http://www.abb.com/Integrity) – **Reporting Channels**; telephone and mail address: specified on this Web portal.

16.8 Any violation of an obligation contained in this Clause 16 shall be a material breach of the Subcontract. Either Party's material breach shall entitle the other Party to rescind the Subcontract or to terminate the Subcontract with immediate effect and without prejudice to any further right or remedies under such Subcontract or applicable law.

16.9 Notwithstanding anything to the contrary contained in the Subcontract, Subcontractor shall, without any limitations, indemnify and hold harmless ABB Contractor from and against any liabilities, claims, proceedings, actions, fines, losses, cost or damages arising out of or relating to any such violation of the above mentioned obligations and the termination of the Subcontract, or arising from export restrictions concealed by Subcontractor. With respect to export restrictions solely attributable to ABB Contractor's use of the Services, the now said commitment shall only apply to the extent Subcontractor has knowledge of or reasonably should have been aware of such use.

## 17. ASSIGNMENT AND SUBCONTRACTING

17.1 Subcontractor shall neither novate nor assign, subcontract, transfer, nor encumber the Subcontract nor any parts thereof (including any monetary receivables from ABB Contractor) without prior written approval of ABB Contractor.

17.2 ABB Contractor may at any time assign, novate, encumber, subcontract or deal in any other manner with all or any of its rights or obligations under the Subcontract.

## 18. NOTICES AND COMMUNICATION

Any notice shall (unless otherwise agreed upon) be given in the language of the Subcontract by sending the same by registered mail, courier, fax or by e-mail to the address of the relevant Party as stated in the Subcontract or to such other address as such Party may have notified in writing to the other for such purposes. E-mail and fax notices expressly require written confirmation issued by the receiving Party. Electronic read receipts may not under any circumstances be deemed as confirmation of notice. Electronic signatures shall not be valid, unless expressly agreed in writing by duly authorised representatives of the Parties.

## 19. WAIVERS

Failure to enforce or exercise, at any time or for any period, any term of the applicable ABB GTC/Site Services or the Subcontract does not constitute, and shall not be construed as, a waiver of such term and shall not affect the right later to enforce such term or any other term herein contained.

## 20. GOVERNING LAW AND DISPUTE SETTLEMENT

20.1 The Subcontract shall be governed by and construed in accordance with the laws of the country (and/or the state, as applicable) of ABB Contractor's legal registration, however under exclusion of its conflict of law rules and the United Nations Convention on International Sale of Goods.

20.2 For domestic dispute resolution matters, whereby ABB Contractor and Subcontractor are registered in the same country, any dispute or difference arising out of or in connection with the Subcontract, including any question regarding its existence, validity or termination or the legal relationships established by the Subcontract, which cannot be settled amicably or by mediation, shall be submitted to the jurisdiction of the competent courts at the place of ABB Contractor's registration, unless other courts or arbitration are agreed in writing between the Parties.

20.3 For cross border dispute resolution matters, whereby ABB Contractor and Subcontractor are registered in different countries, unless agreed otherwise in writing between the Parties, any dispute or difference arising out of or in connection with the Subcontract, including any question regarding its existence, validity or termination or the legal relationships established by the Subcontract, which cannot be settled amicably or by mediation, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The place of arbitration shall be the location where ABB Contractor is registered, unless otherwise agreed in writing. The language of the proceedings and of the award shall be English. The decision of the arbitrators shall be final and binding upon both Parties, and neither Party shall seek recourse to an ordinary state court or any other authority to appeal for revisions of the decision.

## 21. CONFIDENTIALITY, DATA SECURITY, DATA PROTECTION

21.1 Subcontractor shall:

21.1.1 Unless otherwise agreed in writing, keep in strict confidence all ABB Contractor Data and any other information concerning ABB Contractor's or its Affiliates' business, its products and/or its technologies which Subcontractor obtains in connection with the Services to be provided (whether before or after acceptance of the Subcontract). Subcontractor shall restrict disclosure of such confidential material to such of its employees, agents or subcontractors or other third parties as need to know the same for the purpose of the provision of the Services to ABB Contractor. Subcontractor shall ensure that such employees, agents, subcontractors or other third parties are subject to and comply with the same obligations of confidentiality as applicable to Subcontractor and shall be liable for any unauthorized disclosures;

21.1.2 Apply appropriate safeguards, adequate to the type of ABB Contractor Data to be protected, against the unauthorised access or disclosure of ABB Contractor Data and protect such ABB Contractor Data in accordance with the generally accepted standards of protection in the related industry, or in the same manner and to the same degree that it protects its own confidential and proprietary information – whichever standard is higher. Subcontractor may disclose confidential information to "Permitted Additional Recipients" (which means Subcontractor's authorised representatives, including auditors, counsels, consultants and advisors) provided always that such Permitted Additional Recipients sign with Subcontractor a confidentiality agreement with terms substantially similar hereto or, where applicable, are required to comply with codes of professional conduct ensuring confidentiality of such information;

21.1.3 Not (i) use ABB Contractor Data for any other purposes than for providing the Services, or (ii) reproduce ABB Contractor Data in whole or in part in any form except as may be required by the respective contractual documents, or (iii) disclose ABB Contractor Data to any third party, except to Permitted Additional Recipients or with the prior written consent of ABB Contractor;

21.1.4 Install and update at its own costs required adequate virus protection software and operating system security patches for all computers and software utilized for providing the Services;

21.1.5 Inform ABB Contractor without delay about suspicion of breaches of data security or other serious incidents or irregularities regarding any ABB Contractor Data.

21.2 Subcontractor agrees that ABB Contractor shall be allowed to provide any information received from Subcontractor to Client and/or Client's direct and/or indirect customers and/or any Affiliate of ABB Contractor. Subcontractor shall obtain in advance all necessary approval or consent for ABB Contractor to provide such information to Client and/or Client's direct and/or indirect customers and/or ABB Contractor's Affiliates if such information is confidential for any reason or subject to applicable data protection or privacy laws and regulations.

21.3 In case the type of ABB Contractor Data affected is particularly sensitive and therefore, according to ABB Contractor's reasonable opinion, requires a separate confidentiality and non-disclosure agreement, Subcontractor agrees to enter into such agreement. The same applies with regard to data privacy topics which are not covered by this Clause 21 and which may require a separate data processing agreement according to applicable laws and regulations.

21.4 The obligations under this Clause 21 exist for an indefinite period of time and therefore shall survive the expiration or termination of the Subcontract for any reason.

## 22. SEVERABILITY

The invalidity or unenforceability of any term or of any right arising pursuant to the Subcontract shall not adversely affect the validity or enforceability of the remaining terms and rights. The respective terms or rights arising pursuant to the Subcontract shall be given effect as if the invalid, illegal or unenforceable provision had been deleted and replaced by a provision with a similar economic effect to that of the deleted provision if this can be achieved by another provision.

## 23. SURVIVAL

23.1 Provisions of the Subcontract which either are expressed to survive the termination of the Subcontract or from their nature or context it is contemplated that they are to survive such termination shall remain in full force and effect notwithstanding such termination.

23.2 The obligations set forth in Clauses 11 (Warranty), 13 (Liability and Indemnity) and 21 (Confidentiality, Data Security, Data Protection) shall survive expiration and termination of the Subcontract.

## 24. ENTIRETY

The Subcontract constitutes the entire agreement and understanding between the Parties and replaces any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.



**25. RELATIONSHIP OF PARTIES**

The relationship of the Parties is that of independent parties dealing at arm's length and nothing in this Subcontract shall be construed to constitute any kind of an agency or partnership with ABB Contractor or Client, and Subcontractor is not authorised to represent ABB Contractor or Client.

**26. FURTHER ASSURANCES**

The Parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by the Subcontract.