

ABB GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND/OR SERVICES ABB 货物和/或服务采购一般条款

ABB GTC/GOODS AND/OR SERVICES (2015-1 STANDARD)

ABB GTC/货物和/或服务 (2015-1 标准)

DATE: January 1st, 2015

日期: 2015 年 1 月 1 日

FOR: ABB Affiliates' purchases of tangible movable items (goods) and/or services.

适用范围: ABB 关联公司采购有形可移动物品 (货物) 和/或服务。

1. DEFINITIONS AND INTERPRETATION

定义和解释

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

在本文中, 以下术语定义如下:

“ABB GTC/Goods and/or Services”: these ABB General Terms and Conditions for Purchase of Goods and/or Services (2015-1 Standard);

“ABB GTC/货物和/或服务”: 当前的《ABB 货物和/或服务采购一般条款》(2015-1 标准);

“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;

“关联公司”: 现在或将来直接或间接以拥有 50% 控制利益或以上投票权或股本的方式控制一方、被一方控制或与一方一起受其他方控制的任何公司制或非公司制实体;

“Contract”: a written contract, agreement or Frame Agreement, and/or the Order for the purchase of Goods, Services and/or Work Products, in any case including and incorporating the ABB GTC/Goods and/or Services by reference as applicable terms and conditions, which is accepted by Supplier (either expressly by written statement or impliedly by fulfilling the Contract in whole or in part);

“合同”: 供应商通过书面声明明示或通过完整或部分履行合同暗示接受的书面合同, 协议或者框架协议, 和/或采购货物、服务和/或工作成果的订单, 且任何情况下包括和引用 ABB GTC/货物和/或服务作为适用条款。

“Customer”: the purchasing ABB Affiliate ordering Goods, Services and/or Work Products from Supplier;

“客户”: 从供应商处订购货物、服务和/或工作成果的 ABB 关联公司;

“Customer Data”: any data or information acquired by Supplier in preparation of or during the fulfilment of the Contract, irrespective of whether such data or information relates to Customer, 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 Customer 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;

“客户数据”: 供应商在准备或履行合同过程中获得的任何数据或信息, 无论此种数据或信息是否和客户、其关联公司或它们的

相关客户或供应商有关, 包括但不限于具有保密性质的所有技术或商业专有技术、图纸、规格、发明、流程或首创以及属于客户或其关联公司的下列数据或信息: (i) 与须遵守适用的数据保护或隐私法律法规的已知的或可知的个人或法律实体或任何其他实体有关的, 和/或(ii)根据适用法律被归为“个人数据”、“个人信息”、或“可知个人信息”;

“Delivery”: delivery completion of Goods and/or Work Products by Supplier in accordance with INCOTERMS 2010 FCA (named place as specified in the Contract), unless agreed otherwise in the Contract;

“交付”: 供应商按照《国际贸易术语解释通则 2010》FCA 术语定义 (地点见合同) 完成货物和/或工作成果交付, 除非合同另有规定;

“Embedded Software”: software necessary for operation of Goods and/or Work Products, and embedded in and delivered as integral part of Goods and/or Work Products, however excluding any other software, which shall be subject to a separate licence agreement;

“嵌入式软件”: 嵌入货物和/或工作成果之中、作为货物和/或工作成果一部分交付的并对于货物和/或工作成果运转而言必要的软件, 不包括需遵守单独许可协议的任何其他软件;

“Frame Agreement”: a contract under which one or several Customers may place multiple Orders;

“框架协议”: 一个或多个客户可能基于其下多个订单的合同;

“Goods”: the tangible movable items to be delivered by Supplier in accordance with the Contract;

“货物”: 供应商根据合同交付的有形可移动物品;

“Intellectual Property (Rights)”: all proprietary rights in results created intellectually (by thought) and protected by law, including but not limited to patents, patent applications and related divisionals and continuations, utility models, industrial designs, trade names, trademarks, copyrights (regarding software source codes, documentation, data, reports, tapes and other copyrightable material) and respective applications, renewals, extensions, restorations, or proprietary rights in results created intellectually (by thought) which are protected by confidentiality, including but not limited to know-how and trade secrets;

“知识产权 (权利)”: 受法律保护的智力 (思维) 劳动成果中的所有专属权利, 包括但不限于专利、专利申请和相关分项申请和后续申请、实用新型、工业设计、商品名称、商标、版权 (关于软件源代码、资料、数据、报告、磁带和其他享有版权的材料) 和相关申请、续期、延期、恢复, 或者受到保密条款保护的智力 (思维) 劳动成果中的专属权利, 包括但不限于专有技术和商业秘密;

“IPR Indemnification”: reimbursement of Customer by Supplier for costs, claims, demands, liabilities, expenses, damages or losses (including without limitation to any direct, indirect, or consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal

and other professional costs and expenses) arising out of third party Intellectual Property Right infringements for which Supplier is responsible;

“知识产权侵权赔偿”: 供应商就其需负责的侵犯第三方知识产权产生的成本、索赔、要求、债务、费用、损害或损失（包括但不限于任何直接、间接或继发损失、利润损失、声誉损失以及所有利息、罚金和法律及所有专业成本和费用）对客户进行的赔偿；

“Open Source Software (OSS)”: publicly available and accessible software which can be used, modified and further developed by everybody, however always in compliance with the relevant publicly available underlying licence terms and conditions;

“开源软件 (OSS)”: 任何人都可使用、修改和进一步开发的可公开利用和存取软件，但是应始终遵守相关的公开的开源软件许可条款；

“Order” or “Purchase Order” or “PO”: Customer’s order issued to Supplier for the purchase of Goods, Services and/or Work Products as specified in the Order, which is subject to the ABB GTC/Goods and/or Services and the Contract, 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/Goods and/or Services; any of Supplier’s reply, correspondence, information or documentation related to Customer’s Order must be provided by Supplier in the same language as used in Customer’s Order;

“订单”或“采购订单”或“PO”: 客户就订单中载明的货物、服务和/或工作成果的采购对供应商发出的订单，并视情况遵守 ABB GTC/货物和/或服务及合同。订单可以(i) 以电子订单形式出具，或(ii) 以书面订单形式出具；在两种情况下订单需包含对 ABB GTC/货物和/或服务的援引；供应商的任何关于客户订单的回复、信函、信息或文件须使用与客户订单中相同语言；

“Party”: either Customer or Supplier;

“一方”: 客户或供应商；

“Services”: the services to be provided by Supplier in accordance with the Contract;

“服务”: 供应商根据合同将提供的服务；

“Supplier”: the party providing the Goods, Services and/or Work Products to Customer in accordance with the Contract;

“供应商”: 根据合同向客户提供货物，服务和/或工作成果的一方；

“Variation Order”: a change to the Order such as to alter, to amend, to omit, to add to, or otherwise to change the Order or any parts thereof;

“变更单”: 对订单进行的变更，比如更改、修改、删除、添加订单或变更订单或其任何部分。

“VAT”: value added tax or any sales tax to be paid by a purchaser to a seller or service provider as part of or in addition to the sales price;

“VAT”: 采购者向销售者或服务提供者支付作为销售价格一部分或销售价格之外的增值税或任何销售税；

“Work Product”: all materials, documents, or other items which are the result of Services provided by Supplier under the respective Contract in any form or media, including but without limitation to data, diagrams, drawings, reports, specifications and drafts.

“工作成果”: 由供应商在各合同项下提供服务产生的以任何形式或介质的所有资料、文件、或其他项目，包括但不限于数据、图表、图纸、报告，规范和草稿。

1.2 Unless otherwise specified in the ABB GTC/Goods and/or Services:

除非“ABB GTC/货物和/或服务”条款中另有规定，否则：

1.2.1 References to clauses are to clauses of the ABB GTC/Goods and/or Services;

参考条款是指参考“ABB GTC/货物和/或服务”中的条款；

1.2.2 Headings to clauses are for convenience only and do not affect the interpretation of the ABB GTC/Goods and/or Services;

条款标题仅为提供方便，不应影响“ABB GTC/货物和/或服务”条款的解释；

1.2.3 The use of the singular includes the plural and vice versa; 单数词语的使用包含其复数，反之亦然；

1.2.4 The use of any gender includes all genders.

指明任何性别的词语包含所有性别。

2. APPLICATION

适用

2.1 The ABB GTC/Goods and/or Services (latest version available to Supplier when entering into the Contract) are the only terms and conditions upon which Customer is prepared to deal with Supplier for the provision of Goods, Services and/or Work Products, and they shall govern the Contract between Customer and Supplier to the exclusion of all other terms or conditions, except if and to the extent otherwise expressly agreed in writing between Customer and Supplier.

“ABB GTC/货物和/或服务”（签订合同时供应商可获得最新版本）是客户就货物、服务和/或工作成果提供与供应商进行交易依据的唯一条款，并应适用于客户和供应商之间的合同，所有其他条款被排除在外，除非客户和供应商通过书面形式另外明确达成一致条款。

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

供应商报价单、确认书或订单接受函、规范或类似文档上背书的、随带的或包含的条款不应构成合同的一部分，供应商放弃任何其针对这些条款享有的权利。

2.3 Customer’s Order may specify a limited time period for acceptance; after expiry of such time period without Supplier’s acceptance, the Order shall no longer be binding on Customer.

客户的订单中可以指定接受期限；该期限届满而供应商未接受，则订单对客户不具约束力。

2.4 Any amendments to the Contract, including the ABB GTC/Goods and/or Services, shall have no effect unless expressly agreed in writing and signed by duly authorised representatives of Customer and Supplier.

任何对合同，包括“ABB GTC/货物和/或服务”的修改不应具备法律效力，除非客户和供应商正式授权代表书面一致明确同意并予以签署。

2.5 References in the ABB GTC/Goods and/or Services to any statute or statutory provision shall be construed as a reference to that statute or provision as in effect at the date when the Order was placed, unless decided otherwise by Customer.

除客户另行决定，“ABB GTC/货物和/或服务”援引的任何法律或法规应解释为援引下订单时有效的法律或法规。

3. SUPPLIER’S RESPONSIBILITIES

供应商的职责

3.1 Supplier shall deliver the Goods and/or Work Products and provide the Services:

供应商应按照下列条件交付货物和/或工作成果和提供服务：

3.1.1 in accordance with the applicable laws and regulations;

遵守相应的法律法规；

3.1.2 in accordance with the quality standards stated under Clause 9.1 and specified in the Contract;

遵照 9.1 条说明的和合同中指明的质量标准；

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

没有任何瑕疵并且不存在第三方的任何权利；

3.1.4 on the due date specified in the Contract;

按照合同的规定日期；

3.1.5 in the quantity specified in the Contract;

符合合同的规定数量。

3.1.6 in accordance with all specifications, specified materials, workmanship, and respective documentation;

符合所有规格、指定材料、工艺和相关文件；

3.1.7 in accordance with all Customer instructions, including but without limitation to its health, safety and environmental requirements and policies; and

遵从所有客户指示，包括但不限于健康、安全和环境要求及政策；和

3.1.8 fit for any particular purpose expressly or impliedly made known to Supplier in the Contract or, in absence thereof, fit for the purposes for which goods, work products, or services of the same description or the same or similar type would ordinarily be used.

适合于合同中向供应商明示或暗示的任何特别目的，如果非以上情况，则适合于相同类型或相同或相似品种的货物、工作成果或服务的通常使用目的。

3.2 Supplier shall not substitute or modify any of the materials contained in the Goods and/or Work Products, or used for provision of the Services, or make any changes to the design of the Goods and/or Work Products without Customer's prior written approval.

未经客户的事先书面批准，供应商不得替换或更改货物和/或工作成果中的或为提供服务使用的任何材料，或对货物和/或工作成果设计进行任何变更。

3.3 Supplier shall take care that the Goods and/or Work Products are contained or packaged in the manner usual for such Goods and/or Work Products or, where there is no such manner, in a manner adequate to preserve and protect the Goods and/or Work Products until Delivery.

供应商应保证以适用于该货物和/或工作成果的通常方式进行包装或装箱，如果没有这种通常方式，应利用足以保存和保护货物和/或工作成果直到交付的方式对货物和/或工作成果进行包装或装箱。

3.4 Supplier shall submit invoices in an auditable form, complying with Supplier's and Customer's applicable local mandatory law, generally accepted accounting principles and the specific Customer requirements, containing the following minimum information: Supplier name, address and reference person including contact details (telephone, e-mail etc.); invoice date; invoice number; Order number (same as stated in the Order); Supplier number (same as stated in the Order); address of Customer; quantity; specification of Goods, Services and/or Work Products 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; payment terms.

供应商应遵照供应商和客户当地适用的强制性法律、通用会计准则和客户的具体要求提交可供审计的发票，并至少包含下列信息：供应商名称、地址和联系人（包括详细联系信息，如电话、电子邮件等）；发票日期；发票号码；订单号码（与订单上的相同）；供应商编号（与订单上的相同）；客户地址；数量；货物、服务和/或工作成果规格；价格（开票总价）；货币；税款或增值税金额；税号或增值税编号；经认证的经营者和/或经批准的出口商授权号和/或其他海关识别码，如适用；支付条件。

3.5 Supplier shall invoice Customer separately from despatch of the Goods and/or Work Products and/or provision of the Services. Invoices shall be sent to the billing address specified in the Order.

供应商应在发送货物和/或工作成果和/或提供服务后向客户分别开具发票。开具的发票应寄送至订单中载明的账单地址。

3.6 Expenses not agreed in writing by Customer will not be reimbursed.

未经客户书面同意的费用将不予报销。

3.7 Services provided and charged on the basis of hourly rates require written confirmation of Supplier's time sheets by Customer. Supplier shall submit the respective time sheets to Customer for such confirmation in due time. Confirmation of the time sheet shall not be construed as acknowledgement of any claims. Customer shall not be obliged to pay invoices based on time sheets which are not confirmed in writing by Customer.

以小时提供和收费的服务需要客户书面确认供应商的时间表。供应商应按时向客户提交相关时间表以供确认。对时间表的确认不应被解释为对任何索赔的确认。客户没有义务对未经客户确认的时间表进行结账。

3.8 Customer may issue Variation Orders to Supplier to alter, amend, omit, add to, or otherwise change ordered Goods, Services and/or Work Products or parts thereof, and Supplier shall carry out all such reasonable Variation Orders. The Parties shall agree on the impact of the Variation Order on applicable prices. In case no such agreement on the price impact is reached within reasonable time, Supplier shall perform the Variation Order with the agreement that the impact on the price or possible compensation payments shall be calculated in accordance with the following principles and their hierarchical order: (i) agreed unit price list, (ii) lump sum to be agreed between the Parties, (iii) agreed cost plus profit margin basis or, (iv) as a combination of these methods. If the agreed unit price list does not cover the subject matter of the Variation Order, an additional price list used for similar goods, services and/or work products shall be agreed by the Parties and added to the existing unit price list. Supplier shall not postpone or delay the performance of a Variation Order on the grounds of dispute, or that the Variation Order is subject to acceptance by Supplier, or agreeing to the value amount, or extension of time. Variation Orders requested by Supplier shall only become effective after express written confirmation by Customer.

客户可向供应商下达变更单，以更改、修改、删除、添加或变更已订购的货物、服务和/或工作成果或其任何部分，供应商应履行此种合理的变更单。双方应就变更单对适用的价格造成的影响达成协议。如果在合理时间内未对价格影响达成协议，供应商应根据以下原则以及次序就对价格的影响或可能的补偿支付进行计算来履行变更单(i) 约定的单位价格清单，(ii) 双方约定的一次性价格，(iii) 约定的成本加利润基础或，(iv) 结合这些方式。如果约定的单位价格清单未涵盖变更单的主要事项，双方应约定另一份相似货物、服务和/或工作成果的价格清单，并加入已有单位价格清单。供应商不应以争议，或变更单应由供应商接受，或约定价格金额，或延期为由，推迟或延迟履行变更单。供应商需要的变更单仅在客户书面明确确认后才生效。

3.9 In no event Supplier shall suspend or delay the Delivery of any Goods and/or Work Products or the provision of any Services to Customer. In the event of Force Majeure Clause 16 shall apply.

供应商绝不应向客户推迟或延迟任何货物和/或工作成果的交付或任何服务的提供。如遇第 16 条不可抗力，则可适用。

3.10 Supplier shall hire in its own name all employees required to effectively provide the Goods, Services and/or Work Products, who shall not, under any circumstances, act as Customer's employees.

供应商应以其自身名义雇佣有效提供货物、服务和/或工作成果所需的所有员工，这些人在任何情况下不应作为客户的员工。

3.11 Supplier assumes full and exclusive responsibility for any accident or occupational disease occurred to its employees and its subcontractors in relation to the provision of the Goods, Services and/or Work Products.

供应商对其员工和其分包商发生的与提供货物、服务和/或工作成果有关的任何事故或职业病承担完全的排他性的责任。

3.12 Supplier shall be solely and exclusively responsible for any claims and/or lawsuits filed by its employees and/or subcontractors, and shall,

without any limitations, defend, indemnify and hold Customer harmless from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any such claims and/or lawsuits, and any noncompliance with legislation, regulations, codes of practice, guidance and other requirements of any relevant government or governmental agency applicable to Supplier, its employees or subcontractors, and Supplier shall compensate Customer for all losses and expenses whatsoever resulting therefrom. Supplier undertakes to voluntarily and at its own cost appear in court, if requested by Customer, acknowledging its status as sole and exclusive employer, and to provide Customer with any and all requested documentation and information necessary to ensure proper legal defence of Customer in court. The preceding sentence shall not apply if and to the extent the liability or damage was caused by Customer's gross negligence or intentional act.

供应商应单独及排他性地对其员工和/或分包商提起的任何索赔和/或诉讼负责，且应无限制地为客户辩护、赔偿客户并使客户免受由任何此种索赔和/或诉讼，和任何违反法律、法规、规范、指引和其他任何适用于供应商、其员工或分包商的相关政府或政府机构的要求而导致或与其有关的任何索赔、诉讼、行动、罚款、损失、费用和损害，且供应商应就此导致的所有损失和费用补偿客户。供应商承诺，如客户要求，其会自愿并自担费用出庭，并承认其单独和排他性的雇主的身份，并向客户提供保证能使客户在法庭中有适当的法律辩护的任何和所有所需文件和信息。如果责任或损害是由客户的重大过失或故意行为引起，则前一句的承诺不适用。

3.13 Customer is authorized to make any payments due to Supplier's employees and subcontractors performing Services, or providing Goods and/or Work Products under the Contract, in order to avoid lawsuits, liens or encumbrances. Such payments may be made through withholding Supplier's credits, through offsetting or in any other way. Supplier shall provide any support requested by Customer with regard to such payments and indemnify Customer for any payments made.

为避免诉讼、留置或抵押，客户被授权向合同项下履行服务，或提供货物和/或工作成果的供应商的员工和分包商支付任何到期款项。此种付款通过扣除给予供应商的信用额度、抵消或以其他方式来进行。供应商应客户要求提供关于此种付款所需的任何支持且对客户进行补偿。

4. CUSTOMER'S RESPONSIBILITIES

客户的职责

4.1 In consideration of the Goods and/or Work Products delivered, or the Services provided by Supplier in accordance with the Contract, Customer shall pay to Supplier the purchase price stated in the Contract within the agreed payment terms provided the invoice fulfils the requirements of Clauses 3.4 and 3.5. In the event that the payment terms are determined by mandatory applicable law, such terms shall prevail. 作为供应商按照合同交付货物和/或工作成果，或提供服务的对价，客户应按约定的付款条件向供应商支付合同中载明的采购价格，前提条件是发票满足 3.4 条和 3.5 条的要求。如果强行法对付款条件有明确规定，则适用该付款条件。

4.2 If Goods and/or Work Products delivered or Services provided are subject to inspection, testing, or acceptance by Customer and/or its authorised representatives, no payments shall become due before the results of such inspection, testing, or acceptance are available and confirm that the Goods, Services and/or Work Products conform with the Contract and with any specifications and/or patterns supplied or advised by Customer to Supplier.

如果交付的货物和/或工作成果或提供的服务须经客户和/或其授权代表检验、测试或接受，则在此种检验、测试或接受的结果出具，及确认货物、服务和/或工作成果符合合同及任何客户对供应商提供或建议的规格和/或模式之前，任何款项不得视作到期。

4.3 Customer reserves the right to set off such amount owed to Supplier, or withhold payment for Goods, Services and/or Work Products not provided in accordance with the Contract.

客户有权抵销供应商欠客户的金额，或客户有权扣减未遵照合同规定所供货物、服务和/或工作成果的款项。

5. DELIVERY, PERFORMANCE OF SERVICES

交付，履行服务

5.1 Unless agreed otherwise in the Contract, the Goods and/or Work Products shall be delivered in accordance with INCOTERMS 2010 FCA, to the place defined in the Contract, or, if no such place has been defined, to Customer's place of business.

除非合同中另有约定，货物和/或工作成果应根据《国际贸易术语解释通则 2010》FCA 术语交付至合同中载明的地点，或没有载明该地点，应交付至客户营业地点。

5.2 The Services shall be provided at the place specified in the Contract, or, if no such place has been specified, at Customer's place of business.

应在合同中载明的地点提供服务，或没有载明该地点，应在客户营业地点提供该服务。

5.3 Supplier shall deliver latest at the time of acceptance of the Contract the following minimum information (unless where explicitly not required by Customer): Order number, date of Order, number of packages and contents, the customs tariff numbers of the country of consignment, and the countries of origin for all Goods and/or Work Products to be delivered. For controlled Goods, Services and/or Work Products, the relevant national export control numbers must be indicated and, if the Goods, Services and/or Work Products 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. Supplier shall state the accurate and complete Order number disclosed to Customer on all invoices (in particular but not limited to commercial, pro forma or customs invoices). Supplier shall be fully liable for all damages resulting from a breach of this obligation, in particular but not limited to damages for delay.

供应商应最迟在接受合同时至少发送以下信息（除非客户明确表示不需要）：订单号码、订单日期、包裹数量和容量、起运国的海关关税号，所有将交付的货物和/或工作成果的来源国。对于受监管的货物、服务和/或工作成果，必须注明相关的国家出口控制号，如果货物、服务和/或工作成果须遵守美国出口法律，必须注明《美国出口控制分类编号》(ECCN)或《国际武器运输条例》(ITAR) 分类号。无要求，应提交优惠原产地证明、合规申报和起运国或目的国标志；一旦要求，提交原产地证书。供应商应在所有发票上注明正确和完整的订单编号（特别是但不限于商业、形式或海关发票）。供应商对因违反此义务造成的损害赔偿负全部责任。特别是但不限于因延迟造成的损害赔偿。

5.4 The Goods and/or Work Products shall be delivered, and Services shall be provided during Customer's business hours unless otherwise requested by Customer.

除非客户另有要求，否则应在客户的营业时间内交付货物和/或工作成果，提供服务。

5.5 Upon Delivery, Supplier (or its appointed carrier) shall provide Customer, together with a delivery note, any other required export and import documents not mentioned in Clause 5.3. In the event that Customer has approved partial delivery, such delivery note shall also include the outstanding balance remaining to be delivered.

交付时，供应商（或其指定承运人）应随交货单一起向客户提供任何第 5.3 条中未提及的其他所需的出口和进口文件。如果客户批准部分交付，则交货单应包含剩余未交付的数量信息。

5.6 Ownership (title) of the Goods and/or Work Products shall pass to Customer at Delivery, except if agreed otherwise in writing. To the extent that the Goods and/or Work Products contain Embedded Software, ownership (title) regarding such Embedded Software shall not be passed to Customer, however Customer and all users shall have a worldwide, irrevocable, perpetual, transferable, non-exclusive, royalty-free right to use the Embedded Software as an integral part of such Goods and/or Work Products or for servicing either of them. In the event the Embedded Software or any part thereof is owned by a third party, Supplier shall be responsible for obtaining the respective software licences necessary from the third party before Delivery to comply with its obligations under the Contract.

货物和/或工作成果的所有权（所有权凭证）在交付时应转移给客户，除非另外书面达成一致。如果货物和/或工作成果包含嵌入式软件，相关嵌入式软件的所有权（所有权凭证）不应转移给客户，但是对于作为货物和/或工作成果一部分或服务于其中任一嵌入式软件，客户和所有用户应享有全球性的、不可撤消的、永久性的、可转移的、非排他性的、免使用费的使用嵌入式软件的权利。如果嵌入式软件或其任何部分属于第三方所有，供应商应负责在交付前从该第三方处获得相应的软件许可，以遵守其在合同项下的义务。

6. ACCEPTANCE

接受

6.1 Customer shall not be deemed to have accepted any Goods, Services and/or Work Products until it has had reasonable time to inspect or test them following Delivery or, in case a defect in the Goods, Services and/or Work Products was not reasonably detectable during the inspection, within a reasonable time period after such defect has become apparent. Any obligation of Customer to inspect the Goods, Services and/or Work Products, shall be limited to quantity and type, and visible defects or damages resulting from transport.

在交付后有合理时间检验或测试前，或者若货物、服务和/或工作成果有瑕疵且该种瑕疵无法在检验中被合理发觉的情况下，该瑕疵变得明显之后的合理时间之前，不应视为客户接受了任何货物、服务和/或工作成果。任何客户检验货物、服务和/或工作成果的义务仅限于数量和型号，和因运输造成的可见的瑕疵或损害。

6.2 The Parties may agree on a certain acceptance procedure, in which case acceptance shall be subject to Customer's explicit written acceptance statement. Supplier shall inform Customer in writing within a reasonable time period in advance when the Goods, Services and/or Work Products are ready for inspection, testing, or acceptance.

双方可以约定某种接受程序，客户发出明确的书面接受声明视为接受。供应商应在合理时间内就货物、服务和/或工作成果可供检验、测试或接受的时间事先书面通知客户。

6.3 If any Goods, Services and/or Work Products do not comply with Clause 3 (Supplier's Responsibilities), or are otherwise not in conformity with the Contract, then, without limiting any other right or remedy that Customer may have under Clause 10 (Remedies), Customer may reject the Goods, Services and/or Work Products and/or request replacement by Goods, Services and/or Work Products conforming with the Contract or recover all payments made to Supplier.

如果任何货物、服务和/或工作成果没有遵守第3条（供应商的职责）的规定，或者不符合合同的规定，那么，在不影响客户根据第10条（救济）享有的任何其他权利或救济的情况下，客户可拒收货物、服务和/或工作成果，和/或要求更换成符合合同的货物、服务和/或工作成果，或要求供应商全额退回客户已支付的款项。

7. DELAY

延迟

If the Delivery of Goods and/or Work Products or the provision of Services does not comply with the agreed date(s) then, without prejudice to any other rights which it may have, Customer shall have the right to:

如果货物和/或工作成果或服务没有按照预定日期交付或提供，那么，在不影响任何其他权利的情况下，客户应有权：

7.1 terminate the Contract in whole or in part;

全部或部分终止合同；

7.2 refuse any subsequent delivery of the Goods and/or Work Products, or provision of Services which Supplier attempts to make;

拒绝供应商任何后续的试图交付的货物和/或工作成果或提供的服务；

7.3 recover from Supplier any expenditure reasonably incurred by Customer in obtaining the Goods, Services and/or Work Products in substitution from another supplier;

要求供应商赔偿客户从其他供应商处获得替代货物、服务和/或工作成果合理产生的任何费用；

7.4 claim damages for any additional costs, loss or expenses incurred by Customer which are reasonably attributable to Supplier's failure to deliver the Goods and/or Work Products, or to provide the Services on the agreed date; and

就可合理归因于供应商未按时交付货物和/或工作成果，或提供服务的任何额外成本、损失或费用进行索赔；和

7.5 claim additional compensation for liquidated damages as agreed in the Contract.

按合同约定要求额外的违约赔偿金。

8. INSPECTION

检查

8.1 Supplier shall allow Customer and/or its authorised representatives during Supplier's business hours to (i) inspect the Goods and/or Work Products, and Supplier's manufacturing units upon providing reasonable notice, and/or request test samples of the respective Goods and/or Work Products, or any parts or materials thereof, and/or (ii) inspect the provision of the Services, and/or (iii) test the Goods and/or Work Products, or parts thereof.

供应商允许客户和/或其授权代表在供应商营业时间内(i)在提供合理通知的情况下，检验货物和/或工作成果，和供应商的生产装置，和/或要求相关货物和/或工作成果的测试样品，或任何其部分或材料，和/或(ii)检验提供的服务，和/或(iii)测试货物和/或工作成果，或其任何部分。

8.2 If the results of such inspection or tests cause Customer to be of the opinion that the Goods, Services and/or Work Products do not conform or are unlikely to conform with the Contract or with any agreed specifications, including all specified material, workmanship and the like, documentation and quality requirements, or are not performed in accordance with generally accepted practices, procedures and standards of the respective industry, Customer shall inform Supplier and Supplier shall without undue delay take such action as is necessary to ensure conformity with the Contract. In addition Supplier shall carry out necessary additional inspection or testing at Supplier's own cost whereby Customer shall be entitled to attend.

如果此种检验或测试的结果使客户认为货物、服务和/或工作成果不符合或不可能符合合同或任何约定的规格，包括所有载明的材料、工艺和同类性质要求、文件和质量要求，或没有按照相关行业的通常接受的实践、程序和标准履行，客户应通知供应商，供应商不应延迟地采取必要措施使保证符合合同。另外，供应商应自担费用进行必要的额外的检查或测试，并且客户有权参与。

8.3 Notwithstanding any inspection or tests by Customer, Supplier shall remain fully responsible for compliance of the Goods, Services and/or Work Products with the Contract. This applies whether or not Customer has exercised its right of inspection and/or testing and shall not limit Supplier's obligations under the Contract. For the avoidance of doubt, inspection or testing of Goods, Services and/or Work Products by Customer shall in no event exempt Supplier from or limit Supplier's warranties or liability in any way.

不管客户采取了何种检查或测试，供应商应完全负责货物、服务和/或工作成果符合合同要求。这适用于不管客户是否行使其检查和/或测试的权利，并且不应限制供应商在合同项下的义务。为避免疑义，客户检查或测试货物、服务和/或工作成果在任何情况下都不应以任何方式免除或限制供应商的保证或责任。

9. WARRANTY

质保

9.1 Supplier warrants that the Goods, Services and/or Work Products: 供应商保证货物、服务和/或工作成果：

9.1.1 comply with the Contract, including all specifications, specified material, workmanship and the like, documentation and quality requirements, or in absence thereof are provided or performed in accordance with generally accepted practices, procedures and standards of the respective industry, and are fit for the purposes for which goods, services or work products of the same description or the same or similar type would ordinarily be used, and keep the functionality and performance as expected by Customer according to Supplier's information, documentation and statements;

符合合同，包括所有规格，规定材料、工艺和同类性质要求、资料和质量要求，或在没有以上要求的情况下，应依据各个行业一般公认的做法、程序和标准提供或履行并且符合相同类型或相同或相似的货物、服务和/或工作成果的通常用途，并根据供应商的信息、资料和声明保持具有客户期望的功能和性能；

9.1.2 are fit for any particular purpose expressly or impliedly made known to Supplier in the Contract;

符合在合同中明示或默示告知供应商的任何特定用途；

9.1.3 are new and unused at the date of Delivery;

在交付日期是全新未用的；

9.1.4 are free from defects and rights of third parties;

没有任何瑕疵并且不存在第三方权利；

9.1.5 possess the qualities which Supplier has held out to Customer as a sample or model; and

具有供应商提供给客户的样品，或模型同样的质量；和

9.1.6 comply with Clause 12 (Compliance, Integrity).

符合第 12 条规定（诚信合规）。

9.2 Unless otherwise agreed in the Contract, the warranty period shall be twenty four (24) months from Delivery of Goods and/or Work Products, or the acceptance of the Services.

除非合同另有约定，质保期为交付货物和/或工作成果，或接受服务后二十四（24）个月。

9.3 In case of non-compliance with the warranties provided under this Clause 9, Customer shall be entitled to enforce the remedies provided in Clause 10 (Remedies) hereunder.

如果没有遵守第 9 条中的质保规定，客户有权执行第 10 条（救济）中规定的救济。

10. REMEDIES

救济

10.1 In case of breach of any warranty under Clause 9 (Warranty) or if Supplier otherwise fails to comply with any of the terms of the Contract, Customer shall give notice in writing to Supplier of such breach and provide Supplier an opportunity to remedy it. If Supplier has not successfully remedied such breach within forty eight (48) hours of receiving such Customer notification or within such other remedy period agreed in writing between the Parties, Customer shall be entitled to any one or more of the following remedies at its own discretion and at Supplier's expense:

如果违反第 9 条（质保）中的任何质保规定或供应商没有遵守任何合同条款，客户应就该违约行为向供应商发出书面通知，并向供应商提供能补救的机会。如果供应商没有在收到客户通知后四十八（48）小时内或双方另行书面约定的补救期限内采取补救该

违约的措施，客户可自主决定并由供应商承担费用享有下列任何一项或多项救济：

10.1.1 to give Supplier another opportunity to carry out any additional work necessary to ensure that the Contract is fulfilled;

给予供应商另一个机会采取额外的必要措施，以确保满足合同要求；

10.1.2 to carry out (or to instruct a third party to carry out) any additional work necessary to make the Goods, Services and/or Work Products comply with the Contract;

采取（或指示第三方采取）任何额外的必要措施使货物、服务和/或工作成果符合合同要求；

10.1.3 to obtain prompt repair or replacement of the defective Goods, Services and/or Work Products by Goods, Services and/or Work Products conforming with the Contract without defects;

迅速修理或利用符合合同要求没有瑕疵的货物、服务和/或工作成果更换有瑕疵的货物、服务和/或工作成果；

10.1.4 to refuse any further Goods, Services and/or Work Products, but without exemption from Supplier's liability for the defective Goods, Services and/or Work Products provided by Supplier;

拒收任何后续货物、服务和/或工作成果，但不免除供应商针对瑕疵货物、服务和/或工作成果所应承担的责任；

10.1.5 to claim such damages as may have been sustained by Customer as a result of Supplier's breaches of the Contract;

就供应商违反合同给客户遭受的损失进行索赔；

10.1.6 to terminate the Contract; in such event Customer shall have no obligation to compensate Supplier for the already provided but unpaid parts of the Goods, Services and/or Work Products, and Supplier shall be obliged to pay back to Customer any remuneration received from Customer for the Goods, Services and/or Work Products, and to take back the Goods and/or Work Products at Supplier's own cost and risk. 终止合同；在此情况下，客户没有义务就已提供但未被偿付的货物、服务和/或工作成果补偿供应商，及供应商有义务返客户任何从客户处收取的货物、服务和/或工作成果的款项，并自担费用和 risk 取回货物和/或工作成果。

10.2 In the event that Clauses 10.1.1, 10.1.2 or 10.1.3 apply, the entire warranty period of Clause 9.2 shall be restarted.

如果 10.1.1、10.1.2 或 10.1.3 条适用，9.2 条规定的整个质保期应重新开始计算。

10.3 The rights and remedies available to Customer and contained in the Contract are cumulative and are not exclusive of any rights or remedies available at law or in equity.

客户享有的包含在合同中的权利和救济是累积性的，并不排除根据法律或衡平法享有的任何权利或救济。

11. INTELLECTUAL PROPERTY

知识产权

11.1 Supplier hereby grants Customer, or undertakes to procure that Customer is granted, a worldwide, irrevocable, perpetual, transferable, non-exclusive, royalty-free licence to use the Intellectual Property Rights in the Goods, including Embedded Software, if any.

供应商在此授予客户，或使客户被授予全球范围内的、不可撤销的、永久的、可转让的、非排他性的、免费的使用货物，包括嵌入式软件（如有）的知识产权的许可。

11.2 Supplier assigns herewith to Customer full ownership rights in and to any Intellectual Property in the Work Products arising from the Services for the full duration of such rights, wherever in the world enforceable. Supplier further agrees to execute, upon Customer's request and at its cost, all further documents and assignments and do all such further things as may be necessary to perfect Customer's ownership title to the Intellectual Property or to register Customer as owner of the Intellectual Property with any registry, including but not limited to governmental registration authorities or private registration organisations.

供应商在该权利的整个期间向客户转让服务所产生“工作成果”的任何知识产权的完整所有权，并在世界的任何地方可执行。一旦客户要求并承担其费用，供应商进一步同意签署所有文件和转让，并且采取所有的措施完善客户对知识产权的所有权或在任何登记机构将客户注册为知识产权的所有人，包括但不限于政府登记机关或私人登记组织。

11.3 The Intellectual Property Rights in any Work Products created by or licensed to Supplier prior to the respective Contract or outside of such Contract, and any subsequent modifications to the same (“Pre-Existing Works”) will remain vested in Supplier or the respective third party owner. To the extent that Pre-Existing Works are embedded in any Work Products delivered by Supplier, Customer and its Affiliates shall have a worldwide, irrevocable, perpetual, transferable, non-exclusive, royalty-free licence to use the Pre-Existing Works as part of such Work Products, including the right to further improve, develop, market, distribute, sublicense, exploit or otherwise use the Work Products containing such Pre-Existing Works. Supplier shall not be prevented or restricted from using its own know-how or its Pre-Existing Works in the course of providing the Services.

在相应的合同生成之前或在该合同的范围之外，由供应商创造或许可给供应商的任何“工作成果”的知识产权，以及随后对其进行的任何修改（“既存成果”）由供应商或相应的第三方所有。如果“既存成果”被嵌入供应商交付的任何“工作成果”中，客户及其关联公司应对该“工作成果”一部分的“既存成果”有全球性的、不可撤销的、永久性的、可转让的、非独家的、免许可费的许可进行使用，包括但不限于进一步改进、开发、营销、分销、分许可、利用或以其他方式使用含有“既存成果”的“工作成果”的权利。供应商在提供服务的过程中，不被妨碍或限制使用其专有技术或“既存成果”。

11.4 In the event the Embedded Software contains or uses Open Source Software, Supplier must specify and inform Customer in writing and prior to Delivery about all Open Source Software implemented into or used by the Embedded Software. In the event that Customer does not approve any Open Source Software components contained in or used by the Embedded Software, Supplier agrees to replace or substitute at its own cost the affected Open Source Software component(s) contained in or used by the Embedded Software with software of at least the same quality and functionality and which is accepted by Customer. 如果嵌入式软件包含或使用开源软件，供应商应在交付之前以书面形式就嵌入式软件使用或实施所有开源软件的情况说明和告知客户。如果客户不认可嵌入式软件中包含或使用的任何开源软件元件，供应商同意自担费用以客户接受的至少具有相同质量和功能的软件更换或代替嵌入式软件中包含或使用的受影响开源软件元件。

11.5 In the event that the Goods and/or Work Products (and/or the Embedded Software) delivered, or Services provided infringe any third party Intellectual Property Rights, Supplier shall, notwithstanding anything provided to the contrary or otherwise contained in the Contract, provide IPR Indemnification to Customer. The IPR Indemnification does not limit any further compensation rights of Customer. Supplier’s obligation to indemnify Customer as provided under this Clause shall not apply if and to the extent the liability or damage was caused by Customer’s own pre-existing Intellectual Property Rights contributed to, or implemented into the Goods, Services and/or Work Products.

如果交付的货物和/或工作成果（和/或嵌入式软件），或提供的服务侵犯了任何第三方知识产权，不管合同是否有相反规定或其他规定，供应商应向客户提供知识产权侵权赔偿。知识产权侵权赔偿适用并且不限制客户获得任何进一步赔偿的权利。如果由客户自身既存知识产权用于或实施于货物、服务和/或工作成果中造成的责任或损失，本条款规定的供应商向客户赔偿的义务不应适用。

11.6 If any infringement claim is made against Customer, Supplier shall at its cost, but at Customer’s discretion (i) procure for Customer the right to continue using the Goods, Services and/or Work Products;

(ii) modify the Goods, Services and/or Work Products so that they cease to be infringing; or (iii) replace the Goods, Services and/or Work Products so that they become non-infringing.

如果客户被提起任何侵权索赔，供应商应自担费用，由客户决定 (i) 为客户获得继续使用货物、服务和/或工作成果的权利；(ii) 修改货物、服务和/或工作成果使之侵权停止；或 (iii) 更换货物、服务和/或工作成果使它们不侵权。

11.7 In the event Supplier cannot fulfil the measures requested by Customer under Clause 11.6, Customer shall be entitled to terminate the Contract and to reclaim all sums which Customer has paid to Supplier thereunder. In any event, Customer may claim compensation in accordance with Clause 11.5 for any costs, losses or damages incurred whatsoever.

如供应商不能按照第 11.6 条按客户要求履行措施，客户有权终止合同并索回所有客户已付给供应商的所有款项。任何情况下，客户可以根据第 11.5 条就任何招致的成本、损失或损害进行索赔。

12. COMPLIANCE, INTEGRITY 诚信合规

12.1 Supplier shall provide the Goods, Services and/or Work Products 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 Supplier shall be in compliance with the generally accepted best practice of the relevant industry.

供应商应遵照所有相关法律、规则、法规、规范、指南以及任何相关政府或政府机构的其他要求提供货物、服务和/或工作成果。如果这些规定是建议性的而非强制性的，适用于供应商的合规标准应为遵守相关行业公认的最佳做法。

12.2 Supplier and its subcontractors 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 – **Supplying – Material Compliance** or otherwise and shall provide Customer with respective documents, certificates and statements if requested. Any statement made by Supplier to Customer (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 Goods, Services and/or Work Products will be deemed to be a representation under the Contract.

供应商和其分包商必须遵守《ABB 禁用和限制物质清单》规定，以及有关冲突矿产的报告及其它要求，参见：www.abb.com – **Supplying – Material Compliance**，或经要求应向客户提供相关文件、证明和声明。任何供应商向客户所做的关于用于货物、服务和/或工作成果的或与货物、服务和/或工作成果有关材料之声明（无论是直接的还是间接的，例如通过 ABB 供应商注册及预审系统（如适用）），将被视为合同下的一种陈述。

12.3 Supplier 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.

供应商陈述并保证其熟知并将一直遵守所有适用的贸易和海关法律，规定，指令以及政策，包括但不限于：向有管辖权的政府机构获取所有必须的清关要求，来源地证明，向其取得进出口许可和豁免，完成所有适当的备案，和/或披露有关向在美国境内的非美国公民或美国境外提供服务，货物、硬件，软件和技术之转让或

转移，将含有与美国有关内容的或由美国原产的软件或技术衍生的技术和软件进行转让或转移。

12.4 No material or equipment included in or used for the Goods, Services and/or Work Products shall originate from any company or country listed in any relevant embargo issued by the authority in the country where the Goods, Services and/or Work Products shall be used or an authority otherwise having influence over the equipment and material forming part of the Goods, Services and/or Work Products. If any of the Goods, Services and/or Work Products are or will be subject to export restrictions, it is Supplier's responsibility to promptly inform Customer in writing of the particulars of such restrictions.

若货物、服务和/或工作成果在某一国家使用或某一机构以任何方式对构成货物、服务和/或工作成果的设备及材料有影响力，则货物、服务和/或工作成果不应包含或使用来自于被该国国家列于禁止或限制贸易清单上的公司或国家的材料或设备。如果任何货物、服务和/或工作成果受到或将要受到出口限制，供应商应负责立即书面告知客户有关该等限制的具体情况。

12.5 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 Contract shall render either Party or any of its Affiliates liable to reimburse the other for any such consideration given or promised.

双方特此保证，任何一方不会，且未知悉另一方或任何第三方会，直接或间接地，以违反相关法律（包括但不限于美国《反海外贿赂法》以及适用的经合组织成员国为实施《禁止在国际商业交易中贿赂外国政府官员公约》制定的立法）规定的方式，向各方或任何其他客户、政府官员、双方的代理、董事和员工或任何第三方付款、赠送礼物或做出其他承诺，并且双方应遵守所有有关贿赂和腐败的法律、法规、条例和规定。本合同的任何规定均不使任何一方承担义务偿付另一方任何已给予的或承诺的此种对价。

12.6 Supplier herewith acknowledges and confirms that Supplier 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. Supplier 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.

供应商在此认可并确认，其已收到一份 ABB 的行为准则和《ABB 供应商行为准则》或已知悉如何在线获取 ABB 行为准则（www.abb.com/Integrity）的信息。供应商有义务并同意按照 ABB 的行为准则履行其合同义务，包括但不限于所列的所有雇佣、健康、安全和环境要求。

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

ABB 已建立了如下报告渠道，供应商和其员工可以通过此渠道报告可疑的违反适用的法律、政策或标准的行为：网址：www.abb.com/Integrity – Reporting Channels；电话和邮寄地址：见网站。

12.8 Any violation of an obligation contained in this Clause 12 shall be a material breach of the Contract. Either Party's material breach shall entitle the other Party to terminate the Contract with immediate effect

and without prejudice to any further right or remedies under such Contract or applicable law.

任何对第 12 条的义务的违反将是对合同的实质性违约。任何一方实质性违约，另一方有权终止合同并立即生效，且不影响其根据合同或适用的法律获得任何进一步的权利或救济。

12.9 Notwithstanding anything to the contrary contained in the Contract, Supplier shall, without any limitations, indemnify and hold harmless Customer from and against any liabilities, claim, proceeding, action, fine, loss, cost or damages arising out of or relating to any such violation of the above mentioned obligations and the termination of the Contract, or arising from export restrictions concealed by Supplier. With respect to export restrictions solely attributable to Customer's use of the Goods, Services and/or Work Products, the now said commitment shall only apply to the extent Supplier has knowledge of or reasonably should have been aware of such use.

无论合同中有任何相关规定，供应商应无任何限制条件地赔偿并使客户免受因其违反上述义务、终止合同，或供应商隐瞒出口限制而导致的或相关的任何责任、索赔、法律程序、诉讼、罚款、损失和损害。仅因客户使用货物、服务和/或工作成果导致的出口限制，此种承诺仅限于供应商已知晓或合理应已知晓的使用。

13. CONFIDENTIALITY, DATA SECURITY, DATA PROTECTION

保密，数据安全，数据保护

13.1 Supplier shall:

供应商应：

13.1.1 Unless otherwise agreed in writing, keep in strict confidence all Customer Data and any other information concerning Customer's or its Affiliates' business, its products and/or its technologies which Supplier obtains in connection with the Goods, Services and/or Work Products to be provided (whether before or after acceptance of the Contract). Supplier 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 Goods, Services and/or Work Products to Customer. Supplier 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 Supplier and shall be liable for any unauthorized disclosures;

除非另行书面约定，供应商严格保密其获得的所有关于货物、服务和/或工作成果（无论是接受合同之前或之后）的客户数据和其他任何关于客户或其关联公司业务、产品和/或技术的信息。供应商应对因向客户提供货物、服务和/或工作成果之目的而需知晓此类保密材料的供应商的员工、代理或分包商或其他第三方限制披露此类保密材料。供应商应保证这些员工、代理或分包商或其他第三方遵守和符合适用于供应商的同样的保密义务，并应对任何未经授权披露负责。

13.1.2 Apply appropriate safeguards, adequate to the type of Customer Data to be protected, against the unauthorised access or disclosure of Customer Data and protect such Customer 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. Supplier may disclose confidential information to "Permitted Additional Recipients" (which means Supplier's authorised representatives, including auditors, counsels, consultants and advisors) provided always that such Permitted Additional Recipients sign with Supplier 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;

使用足以保护客户数据的合适的保护措施防止未经授权进入或披露客户数据，根据相关行业通常接受的保护标准保护客户数据，或与保护其自有保密和专有信息相同方式和相同程度保护数据-以高者为准。供应商可向“例外许可接收者”（指供应商授权的代

表,包括审计师、顾问、咨询师和提供建议者)披露保密信息,如果此种例外许可接收者与供应商签署条款与本合同实质相似的保密协议,或须遵守确保信息保密的专业行为准则,如适用。

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

不应(i)为非提供货物、服务和/或工作成果之目的使用客户数据;或(ii)以任何形式全部或部分复制客户数据,除非该等复制是履行相关合同文件所需的;(iii)向任何第三方披露客户数据,向例外许可接收方披露和客户事先书面同意除外;

13.1.4 Install and update at its own costs required adequate virus protection software and operating system security patches for all computers and software utilized in connection with providing the Goods, Services and/or Work Products;

自担费用为与提供货物、服务和/或工作成果有关的所有电脑和软件安装和更新所需的足够的病毒防护软件和操作系统安全补丁。

13.1.5 Inform Customer without delay about suspicion of breaches of data security or other serious incidents or irregularities regarding any Customer Data.

不延迟地通知客户对于违反数据安全的怀疑或其他严重事件或任何和客户数据有关的不寻常事件。

13.2 Supplier agrees that Customer shall be allowed to provide any information received from Supplier to any Affiliate of Customer. Supplier shall obtain in advance all necessary approval or consent for Customer to provide such information to Customer's Affiliates if such information is confidential for any reason or subject to applicable data protection or privacy laws and regulations.

供应商同意客户可以向客户的任何关联公司提供来自于供应商的任何信息。供应商应就客户向客户的关联公司提供此种信息为客户事先获得所必要的批准或同意,如果此种信息因任何原因或须遵守适用的数据保护或隐私法律法规而是保密的。

13.3 In case the type of Customer Data affected is particularly sensitive and therefore, according to Customer's opinion, requires a separate confidentiality and non-disclosure agreement, Supplier agrees to enter into such agreement. The same applies with regard to data privacy topics which are not covered by this Clause 13 and which may require a separate data processing agreement according to applicable laws and regulations.

如果受影响的客户数据特别敏感,须根据客户的意见另行签订保密和不披露协议,供应商同意签署此协议。此情况同样适用于未被第13条涵盖的数据隐私,可根据适用的法律法规另行签订数据处理协议。

13.4 The obligations under this Clause 13 exist for an indefinite period of time and therefore shall survive the expiration or termination of the Contract for any reason.

无论合同因何种原因终止,第13条(保密和数据保护)中说明的义务应在合同终止后一直有效。

14. LIABILITY AND INDEMNITY

责任和赔偿

14.1 Without prejudice to applicable mandatory law or unless otherwise agreed between the Parties, Supplier shall compensate/indemnify Customer for/from all damages and losses in connection with the Goods, Services and/or Work Products (i) for Supplier's breaches of the Contract and (ii) for any claim made by a third party (including employees of Supplier) against Customer in connection with the Goods, Services and/or Work Products, except for IPR Indemnification for which Clause 11 (Intellectual Property) exclusively applies, and in all cases to the extent that the respective liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods,

Services and/or Work Products provided by Supplier and/or its subcontractors. Upon Customer's request Supplier shall defend Customer against any third party claims.

在不影响适用的强制性法律的情况下或除非双方之间另有约定,不管供应商是疏忽还是过错,供应商应就(1)供应商违反合同,和(2)第三方(包括供应商员工)针对客户进行的与货物、服务和/或工作成果相关的任何索赔,第11条(知识产权)适用的知识产权侵权赔偿除外,和任何情况下第三方(包括供应商员工)就供应商和/或其分包商提供的货物、服务和/或工作成果造成、引起、导致的相关责任、损失、损害、伤害、成本或费用针对客户进行的任何索赔,对与货物、服务和/或工作成果相关的所有损害和损失向客户进行赔偿/补偿。在客户的要求之下,供应商应为客户就任何第三方索赔进行辩护。

14.2 Supplier shall be responsible for the control and management of all of its employees, its suppliers and/or subcontractors, and it shall be responsible for the acts, defaults, negligence or obligations of any of its employees, suppliers and/or subcontractors, its agents, servants or workmen as fully as if they were the acts, defaults, negligence or obligations of Supplier.

供应商应负责对其所有员工、其供应商和/或其分包商进行控制和管理并应对其任何员工、供应商和/或分包商、其代理、雇员或工人的行为、违约、疏忽或义务负责,就如这些行为、违约、疏忽或义务是供应商的行为。

14.3 The provisions of this Clause 14 shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any substituted or replacement Goods, Services and/or Work Products provided by Supplier to Customer.

第14条的规定应在遵照本合同在任何执行、接受或付款后继续生效,并应扩展适用于供应商提交给客户的任何更换或替代的货物、服务和/或工作成果。

14.4 Supplier shall maintain in force, and upon request provide evidence of, adequate liability insurance and statutory worker's compensation/employer's liability insurance with reputable and financially sound insurers. Nothing contained in this Clause 14 shall relieve Supplier from any of its contractual or other legal liabilities. The insured amount cannot be considered nor construed as limitation of liability.

供应商应有效保存并要求提供在声誉和经济状况良好的保险机构投保的足够的责任保险和法定的劳工保险/雇主责任保险的证明。第14条包含的任何内容不应使供应商免于承担其任何合同或其他法律责任。投保额不应被视为或解释为责任限制。

14.5 Customer reserves the right to set off any claims under a Contract against any amounts owed to Supplier.

客户有权以合同项下的任何索赔额抵销应付给供应商的任何款项。

15. TERM AND TERMINATION

期限和终止

15.1 A Contract between the Parties may be terminated for convenience in whole or in part by Customer upon giving Supplier thirty (30) calendar days written notice. In such event Customer shall pay to Supplier the value of the already delivered but unpaid parts of the Goods, Services and/or Work Products provided and proven direct costs reasonably incurred by Supplier for the not yet provided and unpaid Goods, Services and/or Work Products, however in no event more than the agreed price for the Goods, Services and/or Work Products under the respective Contract. No further compensation shall be due to Supplier. Compensation for any expenditures made with regard to Goods, Services and/or Work Products not yet provided shall be expressly excluded.

双方之间的合同在客户提前三十(30)个日历日向供应商发出书面通知的情况下方便地全部或部分终止。在这种情况下,客户应向供应商支付已提供的但未被偿付的货物、服务和/或工作成果的价值和未提供的货物、服务和/或工作成果所产生的经过证实的直接合理成本,但是在任何情况下该支付金额不应超过相关合同项

下的货物、服务和/或工作成果价格。供应商不应获得任何进一步补偿。应明确排除未提供的有关货物、服务和/或工作成果产生的任何花费的补偿。

15.2 In the event of Supplier's breach of the Contract, Customer shall be entitled to terminate the Contract if Supplier fails to take adequate action to remedy a breach within 48 hours as requested by Customer in accordance with Clause 10.1. In such event, Customer shall have no obligation to compensate Supplier for the already delivered but unpaid parts of the Goods, Services and/or Work Products provided and Supplier shall be obliged to pay back to Customer any remuneration received from Customer for the Goods, Services and/or Work Products and to take back the Goods and/or Work Products at its (Supplier's) own cost and risk.

在供应商违反合同的情况下，如果供应商在 48 小时内未应客户的要求按照第 10.1 条采取足够的措施来补救这种违约行为，客户有权终止合同。在这种情况下，客户没有义务补偿供应商已交付但未被偿付的货物、服务和/或工作成果，并且供应商应向客户退还其从客户处收到的对货物、服务和/或工作成果支付的任何款项，并要自担费用和风险地取回货物和/或工作成果。

15.3 Customer shall have the right to terminate the Contract with immediate effect forthwith by notice in writing to Supplier in the event that an interim order is applied for or made, or a voluntary arrangement approved, or a petition for a bankruptcy order is presented or a bankruptcy order is made against Supplier or any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order or other similar or equivalent action is taken against or by Supplier by reason of its insolvency or in consequence of debt.

若针对供应商已申请临时指令、或批准的自愿安排、或已申请破产指令或已经做出破产指令，或者出现了法院或债权人指定了接管人、行政接管人或管理人的任何情形，或者提交了自愿清算申请或做出了自愿清算指令或因破产或由此产生的债务已提起针对供应商的或供应商提起的其他类似的行动，客户有权通过书面通知供应商终止合同并立即生效。

15.4 Upon termination Supplier shall immediately and at Supplier's expense safely return to Customer all respective Customer property (including any Customer Data, documentation, and retransfer/transfer of applicable Intellectual Property) and Customer information then in Supplier's possession or under Supplier's control and provide Customer with the complete information and documentation about the already supplied Goods, Services and/or Work Products or the respective parts thereof.

一旦合同终止，供应商应自担费用立即安全地将所有相关的客户财产（包括任何客户数据、文档、和再转让和转让的适用的知识财产）和供应商拥有或控制的客户信息返还给客户，并向客户提供关于已提供的货物、服务和/或工作成果或相关零件的完整信息和资料。

16. FORCE MAJEURE

不可抗力

16.1 Neither Party shall be liable for any delay in performing or for failure to perform its obligations under a Contract if the delay or failure results from an event of "Force Majeure". For clarification, Force Majeure means an event that was not foreseeable by the affected Party at the time of execution of the respective Contract, is unavoidable and outside the reasonable control of the affected Party, and for which the affected Party is not responsible, provided such event prevents the affected Party from performing its obligations under the respective Contract despite all reasonable efforts, and the affected Party provides notice to the other Party within five (5) calendar days from occurrence of the respective event of Force Majeure.

任何一方都不应对由于“不可抗力”事件导致的延迟履行或未能履行相应合同项下的义务负责。为明确含义，不可抗力事件指受影响方在执行相应合同时不能预见、不可避免的和在受影响方合

理控制之外、受影响方不负有责任的事件，前提条件是尽管付出了所有合理努力，这种事件依然阻止了受影响方执行相应的合同项下的义务，并且受影响方在发生相应的不可抗力事件后五（5）个日历日内通知了另一方。

16.2 If an event of Force Majeure occurs which exceeds thirty (30) calendar days, either Party shall have the right to terminate the relevant Contract forth with by written notice to the other Party without liability to the other Party. Each Party shall use its reasonable endeavours to minimise the effects of any event of Force Majeure.

如果不可抗力事件持续超过三十（30）个日历日，任何一方都有权通过书面形式通知另一方终止相应的合同，而无需对另一方承担责任。每方都应尽其合理努力，最大限度减轻不可抗力事件的影响。

17. ASSIGNMENT AND SUBCONTRACTING

转让和分包

17.1 Supplier shall neither assign, nor subcontract, transfer, nor encumber the Contract nor any parts thereof (including any monetary receivables from Customer) without prior written approval of Customer.

未经客户的事先书面批准，供应商不得转让、分包、转移或抵押合同或其任何部分（包括来自客户的任何应收款）。

17.2 Customer may at any time assign, transfer, encumber, subcontract or deal in any other manner with all or any of its rights under the Contract to any of its own Affiliates.

客户可随时将其合同项下的全部或任何权利转让、转移、抵押、分包或以其他方式交易给任何其关联公司。

18. NOTICES

通知

Any notice shall be given by sending the same by registered mail, courier, fax or by e-mail to the address of the relevant Party as stated in the Contractor to such other address as such Party may have notified in writing to the other for such purposes. E-mail and fax 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 the Parties.

任何通知都应以挂号信、快件、传真或电子邮件的方式发送至合同中说明的相关方的地址或该方以书面形式通知另一方的其他地址。电子邮件和传真明确要求接收方的书面确认。电子回执在任何情况下不能被视作通知确认函。电子签名应无效，除非双方通过书面形式明确达成一致。

19. WAIVERS

弃权

Failure to enforce or exercise, at any time or for any period, any term of the Contract 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.

在任何时间或任何期限未能实施或执行合同的任何条款，不构成和不应解释为放弃该条款，并且不影响以后执行该条款或其他条款的权利。

20. GOVERNING LAW AND DISPUTE SETTLEMENT

管辖法律和争议解决

20.1 The Contract (including, but not limited to the ABB GTC/Goods and/or Services) shall be governed by and construed in accordance with the laws of the country (and/or the state, as applicable) of Customer's legal registration, however under exclusion of its conflict of law rules and the United Nations Convention on International Sale of Goods.

合同（包括但不限于 ABB GTC/货物和/或服务）应受客户注册国（和/或州，若适用）的法律管辖并据其予以解释，《联合国国际货物销售合同公约》和其冲突法规则不适用。

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

对于客户和供应商在同一国家注册的国内争议解决而言, 任何合同导致或与之相关的争议或差异, 包括任何关于其存在、有效性或终止或由此形成的法律关系的问题, 如果不能友好协商解决, 应提交客户注册地的管辖法院进行裁决, 除非双方通过书面形式就其他法院或仲裁达成一致。

20.3 For cross border dispute resolution matters whereby Customer and Supplier 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 Contract, including any question regarding its existence, validity or termination or the legal relationships established thereby, which cannot be settled amicably, 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 Customer 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.

对于客户和供应商在不同国家注册的跨国争议解决而言, 除非双方另外通过书面形式达成一致, 否则任何由合同导致或与之相关的争议或差异, 包括任何关于其存在、有效性或终止或由此形成的法律关系的问题, 如果不能友好协商解决, 应按照《国际商会仲裁规则》由遵照该规则指定的三名仲裁员进行最终裁决。仲裁地应为客户的注册地, 除非另外通过书面形式达成一致。仲裁程序和裁决语言应为英语。仲裁员的裁决应是终局裁决, 并对双方均具约束力。任何一方都不应向普通州法院或任何其他权威机构上诉改变原裁决。

20.4 In case of any dispute, the defeated Party shall reimburse the succeeding Party for attorney's fees and other costs reasonably incurred in connection with the dispute.

在任何争议中, 败诉方应承担胜诉方因争议合理产生的律师费和其他成本。

21. SEVERABILITY

可分割性

The invalidity or unenforceability of any term or of any right arising pursuant to the Contract shall not adversely affect the validity or enforceability of the remaining terms and rights, and the Contract 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.

合同项下的任何权利无效或不可实施不应对其余条款和权利的有效性或可实施性造成不利影响, 若另一条款可以达成如下效力, 合同应给予效力, 如同无效、非法或不可实施条款已被删除并以具有类似经济效果的条款取代被删除的条款。

22. SURVIVAL

持续性

22.1 Provisions of the ABB GTC/Goods and/or Services which either are expressed to survive its termination 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.

ABB GTC/货物和/或服务中明确表示在终止后继续生效或其属性或上下文中推测在终止后继续生效的条款应在终止后继续保持全部效力。

22.2 The obligations set forth in Clauses 9 (Warranty), 10 (Remedies), 11 (Intellectual Property), 13 (Confidentiality, Data Security, Data Protection) and 14 (Liability and Indemnity) shall survive termination.

第9条(质保)、第10条(救济)、第11条(知识产权)、第13条(保密, 数据安全, 数据保护)和第14条(责任和赔偿)规定的义务应在终止后继续生效。

23. ENTIRETY

完整性

The Contract constitutes the entire agreement and understanding between the Parties and replaces any prior agreement, understanding or arrangement between the Parties with regard to its subject, whether oral or in writing.

本合同构成了双方之间的完整协议和谅解, 并可取代双方之间此前就此达成的书面或口头协议、谅解或安排。

24. RELATIONSHIP OF PARTIES

双方关系

24.1 The relationship of the Parties is that of independent parties dealing at arm's length and nothing in the Contract shall be construed to constitute Supplier as an agent or employee of Customer or so as to have any kind of partnership with Customer, and Supplier is not authorised to represent Customer as such.

双方之间是独立的公平交易方, 双方之间的合同不得解释为供应商为客户的代理或员工或双方有合伙关系, 并且供应商并未得到有权代表客户的授权。

24.2 It is expressly agreed that the Contract does not imply any employment relationship between Customer and Supplier, or between Customer and Supplier's employees assigned to the execution of the Contract. Customer shall remain free of any direct or indirect responsibility or liability for labour, social security or taxes with respect to Supplier and its employees assigned to the provision of the Goods, Services and/or Work Products under the Contract.

双方明确同意, 合同并不意味着客户和供应商之间存在任何雇佣关系或者在客户和供应商执行合同的员工之间有任何雇佣关系。对于供应商和其委派提供合同项下货物、服务和/或工作成果的员工, 客户不承担任何直接或间接的劳动、社会保险或税务有关的责任或债务。

25. FURTHER ASSURANCES

进一步保证

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 Contract.

双方应采取合理的所有进一步措施和行动来实现合同项下所赋予的权利和预期的交易。