



**GENERAL TERMS AND CONDITIONS  
APPLICABLE TO THE SALE OF GOODS, WORK  
AND SERVICES BY ABB**

**1. DEFINITIONS**

**Delivery of goods:** delivery of Goods by ABB in accordance with article 8.2.

**Contractor or ABB:** The Supplier of Goods or the Execution of work to the Client (an ABB entity in the Benelux).

**Client:** each legal entity and/or natural person with whom the Contractor concludes agreements.

**Agreement:** the agreements made in writing between the Client and the Contractor.

**Execution of work:** the designing and/or execution of work, including but not limited to the realization of tangible work, and/or carrying out services, whether or not combined with the Delivery of goods, not being an employment contract. The execution of work includes advisory, design and supervisory work, installation, assembly, manufacturing, renovation, reparation, inspection, measuring, analysis, commissioning, testing and maintenance work. This summary is not intended to be exhaustive.

**Goods:** the tangible movable goods and the Execution of work supplied by the Contractor, insofar as expressly included in the Agreement.

**2. GENERAL**

**2.1** These terms and conditions apply to all offers made by and all orders submitted to ABB to sell Goods and the Execution of work by ABB, and to each associated Agreement.

**2.2** The applicability of terms and conditions of the Client is hereby explicitly rejected. The Client received a copy of these general terms and conditions of ABB. The Client is deemed to have read, understood and accepted these, without any reservation, provided that an express written objection has not been submitted to ABB within five days of receipt of ABB's general terms and conditions.

**2.3** The Client may only invoke conditions deviating from these terms and conditions if and insofar as they have been accepted by ABB in writing.

**2.4** The Agreement, including the documents and annexes referred to in and appended to this Agreement, forms the entire Agreement between the Parties in relation to the subject thereof and replaces all preceding agreements, whether written or verbal, in relation to the subject of this Agreement. Any amendment, waiver or termination of the previous sentence will only apply if signed by an authorized representative of the party against whom a claim for the amendment, waiver or termination is being made.

**2.5** ABB may transfer and assign its rights and/or obligations resulting from the Agreement to one or more third parties without prior written consent of the Client.

**3. OFFERS/ORDERS/AGREEMENT**

**3.1** All offers made by ABB are indicative and without obligation.

**3.2** Orders and acceptances of offers by the Client are considered to be irrevocable.

**3.3** ABB is only bound if it has accepted an order in writing or has commenced to execute the order and has confirmed such in writing. ABB is only bound by verbal promises or agreements in the event that ABB has confirmed these promises or agreements in writing. The Client is responsible and liable for the lack of clarity or incorrect details in the order.

**3.4** In the event that the Agreement is amended or supplemented, the current terms and conditions of the Agreement will also apply to those amendments and/or additions.

**4. IMAGES/SPECIFICATIONS/PAPERS/STUDY/DOCUMENTS**

**4.1** Details found in catalogs, brochures, images, diagrams, measurement and weight specifications and in similar documents are only binding for ABB if and insofar that has been expressly agreed upon in writing.

**4.2** Construction, manufacturing and detailed drawings are not to be supplied by ABB, unless the Parties have agreed this in writing.

**4.3** If ABB provides foundation and/or installation drawings, these serve solely as a guide. These drawings are not based on static or dynamic calculations.

**4.4** Unless agreed otherwise in writing or if required by law, documents and details originating from ABB are drawn up in a language of the choice of ABB and may not be supplied by the Client to third parties, or shared by verbal or other means, unless ABB has provided its express written consent.

**4.5** Each study, specification, documentation, description, plan, diagram or drawing drawn up by or supplied by ABB is and remains the exclusive property of ABB. The Client shall only use this information for the purpose and subject of the Agreement.

**4.6** The Client commits itself, its employees and third parties employed by the Client to consult, read and comply with the assembly instructions and technical instructions (including the instructions for the specialist or the installer) supplied by the Contractor, in relation to the Goods it supplies to the Client, as well as the instructions that can be consulted via the websites of the different ABB Group companies which manufacture these Goods.

**5. PRICE**

**5.1** The prices specified by ABB or agreed upon with ABB are net, hence amongst others exclude VAT. The prices also exclude the costs of packing, packaging, loading, shipping, unloading, insurance, installation, assembly, permits and/or other services.

**5.2** ABB supplies the Goods in accordance with INCOTERMS 2010 EXW (ex works) or from the warehouse (ex warehouse), unless agreed otherwise in writing by the Parties.

**5.3** In the event that ABB has taken on packaging, packing, loading, shipping, unloading, insurance, installation, assembly, permit or other services without expressly having agreed upon a price in writing, it has the right to charge the Client the actual costs and/or ABB's usual rates.

**5.4** Prices specified by ABB or agreed with ABB are based on the cost price at the time the offer is made or an order is accepted by ABB. In the event that the cost price subsequently increased, ABB has the right to charge the Client a corresponding price raise.

**6. PAYMENT/GUARANTEE**

**6.1** Payment must be made within 30 days of the invoice date. However, ABB has the right to demand whole or partial advance payment and/or otherwise obtain a guarantee of payment at any time.

**6.2** The Client relinquishes any right to set off any amounts mutually due. Payment guarantees and/or other agreements made by the Client and/or third parties do not suspend the Client's payment obligations.

**6.3** In the event that the Client fails to pay any amount due by him based on the preceding, he is legally in default without prior notice of default. As soon as the Client is in default with any payment, all other claims of ABB against the Client are due and payable and the Client is by operation of law and without any prior notification of default also immediately in default in relation to those claims. With effect from the day on which the Client is in default, he must legally pay ABB delay interest of 1% of the value of the order, including additional work, per month or part of a month over which the default continues, by operation of law and without prior notice of default.

**6.4** Failure to make payment or a delay in payment also gives ABB the right to suspend its performance and/or to legally terminate and/or dissolve the Agreement without prior notice of default, without prejudice to the right of ABB to payment for all loss and damage it has suffered as a result of failure on the part of the Client. The same also applies if the Client fails to observe concluded agreements or if the solvency of the Client comes under threat, regardless of what deed or circumstance forms the basis of this, even if this is in no way linked to the execution of the Agreement.

**7. INSPECTION/TESTING**

**7.1** The Client must cooperate in any agreed inspection and/or test at his own expense and without delay. If the Client fails to cooperate or fails to cooperate at the agreed time in the inspection and/or test, the Delivery of goods and/or Execution of work is deemed to have been approved.

**7.2** In the event that the Client fails to cooperate or fails to cooperate at the agreed time in the inspection, test or purchase, the Delivery of goods and/or the Execution of work, contrary to the provision in article 8.2 (Delivery period/Delivery), is deemed to have been delivered at the time that ABB might have requested or expected such inspection, test or take up.

**7.3** ABB has a right to demand compensation from the Client for damages and costs resulting from Client's refusal to cooperate or delay in cooperation in the inspection, test and/or take up.

**7.4** The Client must report any non-conformity and visible defects that may be discovered during the inspection and/or test immediately and at the latest five working days after discovery, failing which any claim in respect of ABB on these grounds shall lapse.

**7.5** ABB shall be given the opportunity to remedy any shortcomings discovered during inspection and/or testing, before the Delivery of goods and/or the Execution of work can be rejected. If the Client does not make use of an opportunity for inspection or testing, the Delivery of goods and/or the Execution of work shall be deemed to have been approved.

**8. DELIVERY PERIOD/DELIVERY**

**8.1** The delivery period for the Delivery of goods commences after the following cumulative conditions have been met: the Agreement has been established, and once ABB has all items, documents, details and confirmations to be provided by the Client in its possession and once ABB has received any agreed advance payment or a security for payment has been furnished for the benefit of ABB. The delivery period, in connection with the Execution of work by ABB, only enters into force from the day on which the Client, in each stage of the execution, has fulfilled its obligations and/or prior or preparatory conditions.

**8.2** Subject to the exception cited in article 7.2 (Inspection/Testing), the Goods to be delivered by ABB will be deemed to have been delivered as soon as ABB has sent the Client the notification that the Goods for shipping to or for the Client may leave ABB's factory or warehouse.

**8.3** If the Client has agreed a particular end date or duration for the Delivery of goods and/or the Execution of work with ABB and if this end date or duration is exceeded due to circumstances that can be attributed to ABB, the Client shall grant ABB in writing a reasonable period within this must yet occur. If ABB continues to default, the Client has the right to terminate the Agreement in respect of the part not executed by means of a written statement, without prejudice to the provision in article 14 (Liability/Indemnification). This right to terminate cannot be invoked for partial deliveries. Exceeding of the agreed end date or duration of the reasonable period for the Delivery of goods and/or Execution of work set by the Client does not give the Client the right to suspend any obligations ensuing from the Agreement nor to any additional or alternative compensation.

**8.4** If and insofar as ABB has agreed a penalty for exceeding the delivery period, that penalty will only be payable if the exceeding is fully attributable to the negligence of ABB and the Client proves that he has suffered loss or damage as a result. ABB is only required to pay the penalty for exceeding the delivery period for the part of the Agreement that has been delayed. If the Agreement splits the Delivery of goods into partial deliveries, ABB is only required to pay the penalty for delay insofar as the end date for the complete Delivery of goods was not met.

**8.5** The penalty clause only applies if the Client and the Contractor agree a penalty in writing and following written notice of default. The penalties are exclusive and form full compensation due to liability for a delay in compliance. Exceeding delivery periods does not entitle the Client to additional or alternative compensation or to suspension of any obligations ensuing from the Agreement. The Client is only entitled to terminate the Agreement by means of a written statement once the maximum penalty has been reached, if and insofar as ABB has failed to make the Delivery of goods and/or the Execution of work within the term specified in the written notice of default.

**8.6** ABB has the right to Execute work at its own discretion, whether or not by employing third parties and whether or not in parts.

**8.7** Assembly, commissioning and operational delivery are – insofar as they must be executed by ABB – arranged in mutual consultation and laid down in writing.

**8.8** The Client is required to enable ABB to Deliver goods and Execute work without any restrictions. The Client must ensure timely provision of technical, maintenance and functional product specifications of goods to ABB on which, with which or in connection with which work must be carried out. If the work is carried out on location, the Client must also provide an accessible and safe working environment that is free of charge and in accordance with the applicable regulations and instructions, and the availability of adequate supervision, lighting, energy and energy points, hoisting and similar equipment, tools of a bulky or unique nature, small equipment and parts/spare parts, all at the Client's own expense and risk.

**8.9** If ABB carries out work on site, preparatory, associated and/or necessary excavation, foundation, demolition, masonry, brick, plastering, concrete, blacksmith, carpentry, painting, plumbing or similar work, as well as street, drainage and scaffolding work, does not form part of that work. The Client must take care of this at its own expense and risk.

## **9. RISK/TRANSFER OF OWNERSHIP**

**9.1** The risk of loss, damage or destruction of the Goods to be supplied by ABB is borne by the Client from the moment that these Goods are delivered in accordance with article 8.2 (Delivery period/Delivery).

**9.2** The risk for Client's goods on which, with which or in connection with which work is performed is borne by the Client, even if those goods are located in ABB's buildings or on ABB's sites.

**9.3** The risk for loading, shipping, unloading and insuring of Goods that are to be delivered are born by the Client, even if ABB takes care of these activities itself.

**9.4** All Goods delivered by ABB remain the property of ABB until the moment of complete payment of all claims made by ABB to the Client in connection with the underlying Agreement, including loss, damage, costs and interest. The Client is not entitled to a right to retention to those Goods. In the event that the Goods are delivered before complete payment has been made, the Client shall make a clearly legible mark on them indicating that the Goods are the property of ABB and inform and/or notify, if necessary, the creditor-pledgee and the lessor by registered letter, with a copy to ABB, unless the Parties have agreed otherwise in writing.

## **10. TAKE UP AND ACCEPTANCE**

**10.1** Unless the Parties have agreed otherwise in writing, the Client is required to take up the Goods as soon as the Goods to be delivered are ready for shipping. ABB shall notify the Client of this in writing.

**10.2** Upon receipt of each Delivery of goods, the Client must inspect them immediately. If an inspection or test has not been agreed, any non-conformity and visible defects must be reported to ABB immediately and within no more than five working days following receipt of the Goods, failing which any claim in respect of ABB shall lapse. In the event of a non-conformity and/or visible defects in the delivered Goods, ABB has the right to recover and/or replace without the Client canceling the order and/or claiming any compensation.

**10.3** The coloring, shading, the aesthetic aspect and/or other minor defects or faults in the Goods may under no circumstances constitute a reason not to accept the Goods. Once the Goods have been assembled, altered or by whatever means processed by the Client, any complaints will no longer be accepted.

**10.4** As far as the Execution of work is concerned, the signing of the Contractor's performance documents and/or P.O. and/or amendment and/or the cover sheet is considered to be indisputable evidence of acceptance by the Client of the content of the performance stated therein, and no more complaints about this will be accepted. In all other cases, complaints concerning the Execution of work and services must be reported in writing as soon as they have been discovered and within no more than five working days following Execution of the work and/or service in question, along with a detailed description of any defect.

## **11. FORCE MAJEURE**

**11.1** Without affecting article 21.3 (Termination), none of the Parties shall be liable or due to make any payment for loss or damage resulting from a cause that cannot be attributed to one or both Parties because of force majeure. Penalties for delay do not apply if the delay was caused in full or in part by force majeure. The Parties expressly agree that the following situations, among others, give rise to force majeure, both if they affect themselves or their subcontractors: statutory acts or omissions, national, regional or other general strikes not limited to the personnel of one of the Parties, nor whether they have been announced or not, sanctions, blockades, import or export restrictions as well as blockades of sites and buildings, trade embargoes, disasters, extreme weather conditions (such as severe storms and/or floods), fire, terrorist attacks, delays in the delivery of parts ordered from a third party, goods or services provided by ABB insofar as not attributable to ABB, accidents and disruptions in commercial activities, armed conflicts, wars, riots, epidemics and/or pandemics.

**11.2** In the event of force majeure on the side of ABB, its obligations will be suspended. Terms and deadlines shall be extended by the period of force majeure.

**11.3** In the event that the force majeure situation lasts longer than three months, each of the Parties may terminate and/or dissolve the contract in writing as regards the inexecutable parts of the agreement, without any liability or compensation for any loss or damage, and without affecting article 21.3 (Termination). Amounts due to ABB are immediately due and shall be paid without delay. At the moment of termination of the Agreement, costs already paid by ABB or investments made by ABB must be reimbursed by the Client at all times.

**11.4** The Party who wishes to invoke force majeure shall notify the other Party immediately in writing (including by e-mail) if a delay becomes likely or unavoidable.

## **12. WARRANTY**

**12.1** ABB guarantees that the Goods it has delivered are free of defects in construction, material or finish during the warranty period and does not provide guarantee regarding usage, suitability or availability.

**12.2** The warranty period is 12 months after delivery in accordance with article 8 (Delivery period/Delivery). For Goods that are generally in motion day and night, the warranty period is six months after delivery.

Notwithstanding the paragraph above, with regard to non-conformity and visible defects, the Client must make a claim within five working days after delivery if no inspection or test has taken place and/or has been agreed, failing which any claim against ABB shall lapse. The intervention under warranty will consist of within the scope of the initial Agreement free of charge replacement or repair, at the discretion of ABB, of the (faulty part of the) Good at the place of the delivery. The Client shall ensure that the intervention made by ABB takes place in circumstances as described above in articles 8.8 and 8.9, failing which the right to warranty shall lapse.

**12.3** Complaints in this matter with regard to shortcomings other than non-conformity and/or visible defects must, under penalty of loss of any claim against ABB, be made within 14 days after the shortcoming has been discovered or 14 days after the Client should have reasonably discovered shortcomings other than non-conformity and/or visible defects.

**12.4** Any right to guarantee shall lapse if:

- a. the instructions given by ABB for storage, placement, testing, installation, assembly, inspection, maintenance and/or use have not been followed exactly;
- b. the delivered Goods have been used improperly or not in accordance with the agreed or usual intended purpose;
- c. the Client or third parties not employed by ABB have carried out work on the Goods delivered by ABB without the consent of ABB;
- d. the Client fails to fulfill any obligation ensuing for him from the Agreement towards ABB, or fails to do so properly or in good time;
- e. the Client fails to respect the formal requirements under article 12.

**12.5** For Goods or parts of Goods purchased by ABB from third parties, the warranty obligations on the part of ABB towards the Client never exceed nor last longer than the warranty obligations of those third parties towards ABB. ABB shall be discharged of these obligations when it transfers its claim on that third party to the Client.

**12.6** The warranty does not apply to glass, porcelain or easily breakable Goods.

**12.7** If the application of the warranty to be provided by ABB is disputed, the Client must prove that the necessary conditions have been met. The application of the warranty depends on the proof by the Client that it has met all its obligations towards ABB in advance.

**12.8** Insofar as permitted by law, the warranties and remedies in the Agreement replace all statutory, implicit and/or explicit guarantees and form the full liability of ABB with regard to the quality and guarantee of the delivered Goods and Execution of work.

## **13. CHAIN LIABILITY AND/OR JOINT AND SEVERAL LIABILITY FOR SOCIAL AND FISCAL OBLIGATIONS**

In the event that work is performed by subcontractors, manufacturers and/or other third parties employed by ABB, the Client undertakes to lend its full cooperation to enable ABB to comply with the applicable law with respect to chain liability and hirer's liability (*keten- en inlenersaansprakelijkheid*), including all governmental laws, decisions and decrees relating to this.

## **14. LIABILITY/INDEMNIFICATION**

**14.1** Notwithstanding any contrary or deviating provision(s) in the Agreement and insofar as permitted under the applicable law, the Parties agree that ABB shall not be liable for indirect or consequential losses, under which but not exclusively: loss of profit, loss of revenues, interruption of operations and/or operational losses, costs relating to the replacement of the supply of energy, loss of data, increase in costs, loss of expected savings, overhead costs, loss of business, loss of electrical connection, damage caused by usage and/or cost of capital or any other specific, indirect or consequential losses of any nature whatsoever.

**14.2** Notwithstanding any contrary or deviating provision(s) in the Agreement and insofar as permitted under the applicable law, the Parties agree that ABB's total liability (including its employees, agents, subcontractors and customers) resulting from the performance or non-performance of its obligations under the Agreement, or any non-contractual obligation, indemnity or otherwise, shall not exceed the corresponding order value.

**14.3** ABB shall not, under any circumstances, be required to pay alternative or additional damages, except if and insofar as the damage suffered has been caused by intent or fraud on the part of ABB or its employees.

**14.4** Any claim in respect of ABB, except for a claim acknowledged by ABB, lapses by the mere expiration of 12 months after the claim arises.

**14.5** Conditions that limit, exclude or fix liability, which can be invoked against ABB by suppliers or subcontractors of ABB in connection with the Goods supplied may also be invoked against the Client by ABB.

**14.6** The employees of ABB or auxiliary persons employed by ABB for the execution of the Agreement may invoke against the Client all defenses arising out of the Agreement as if they themselves are party to the Agreement.

**14.7** The Client shall indemnify ABB, its employees and its auxiliary persons against any third-party claim in connection with the performance or non-performance of the Agreement by ABB, insofar as that claim is more or different than which accrue to the Client in respect of ABB pursuant to this Agreement.

**14.8** The Client shall, in connection with the Goods to be delivered, strictly abide by national or international governmental export, import and usage restrictions. The Client shall indemnify ABB for any loss or damage incurred by ABB as a result of any violation of these restrictions.

**14.9** Unless agreed to the contrary, ABB does not warrant that any Good delivered by ABB is interoperable or compatible with any other product, software or services. The Client is responsible for the interoperability and/or compatibility and shall indemnify ABB for any costs and damages as a result of (the lack of) compatibility and/or interoperability of the Goods, including but not limited to investigation and reasonable legal costs.

## 15. INSURANCE

**15.1** The Client has and shall maintain adequate insurance for professional and corporate liability. At the request of ABB, the Client shall provide the policy and proof of premium payment immediately.

**15.2** Without prejudice to the liability of each Party by law or under the Agreement, the Client may, also for the benefit of ABB and at the Client's expense, take out Construction All-Risk (CAR) insurance with a reputable Dutch, Belgian or Luxembourgish insurer that has a Standards & Poor's rating of no less than A-. The deductible, as well as any damage not covered by the policy, must be paid by the Client at all times. The Client undertakes to notify ABB immediately of all obligations determined in the policy and to comply with the obligations that are set down in the policy.

## 16. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

**16.1** The intellectual property rights (including, but not limited to, patents, brand names, copyrights [to computer programs or databases] or related rights, or trade or company names) related to the Delivery of goods, Execution of work, ordered equipment or systems, as well as assembly processes, are and shall remain the full and exclusive property of ABB.

**16.2** The intellectual property rights to or in connection with the delivered Goods shall remain with ABB or third parties right-holders and shall not be transferred to the Client under any circumstances. The same applies to all programs with which the ordered equipment or systems are equipped. The delivery and/or use of the equipment or systems delivered under the Agreement shall be based on a limited and nonexclusive license and aimed at the Client's particular needs.

## 17. COMPLIANCE, INTEGRITY AND PRIVACY

**17.1** The Client hereby guarantees that he will not make any payments, gifts or other promises to its customers, to government officials or to agents, managers, directors and employees of ABB or to any other party in a manner that is in breach with applicable law (including but not limited to the US Foreign Corrupt Practices Act, any law that has been adopted in the law applicable to the Agreement in execution of the OESO convention on Combating the Bribery of Foreign Officials, including with regard to Belgium, the Act dated 10 February 1999 concerning the punishment of corruption) and ABB's Code of Conduct. Client guarantees that it is unaware of other persons or legal entities breaching this clause, and that he will satisfy all applicable law and regulations, by-laws and rules in relation to the prevention of bribery and corruption.

**17.2** The breach by the Client of whatever obligations contained in paragraph 17.1 (Compliance, Integrity and Privacy) above, is regarded by ABB as a material breach of the Agreement and gives ABB the right to terminate the Agreement with immediate effect, without court intervention and without any liability for damages, costs or compensation to the Client. Termination does not affect any further rights or legal remedies of ABB ensuing from the Agreement or applicable legislation. The Client shall indemnify ABB against all liability, loss or damage, costs or expenses incurred by ABB as the result of such a breach of the aforementioned obligations and termination of the Agreement.

**17.4** The Client acknowledges and confirms that he has received and read ABB's Code of Conduct when entering into the Agreement. The ABB Code of Conduct can be consulted on the ABB website. The Client guarantees that he shall comply with the standards of the ABB Code of Conduct or equivalent, but not less stringent ethical codes of conduct, at all times.

**17.5** ABB has set up the following reporting channel where the Client and his employees can report suspected violations of applicable legislation, applicable policy or applicable codes of conduct:

Web portal: <http://new.abb.com/about/integrity>.

**17.6** In the event that ABB discloses personal data to the Client, the Client shall comply with all applicable legislation and regulations relating to the protection of personal data.

**17.7** The Client shall take adequate physical, technical and organizational measures to guarantee a level of security of personal data appropriate to the respective risk and the ability to ensure the ongoing confidentiality, integrity, availability and resilience of the processing systems and services.

**17.8** The Client confirms that he shall not withhold or delay its consent for changes to article 17, which in the reasonable opinion of ABB or its group companies are required to be made in order to comply with applicable data protection laws and regulations and/or with guidelines and advice from any competent supervisory authority and the Client agrees to implement such changes at no additional costs for ABB.

**17.9** The Client acknowledges that, in accordance with the Agreement, the processing of personal data may require the conclusion of additional data processing or data protection agreements with ABB or its group companies. To the extent such additional agreements are not initially concluded as part of the Agreement, at the request of ABB, the Client, his relevant group companies or subcontractors shall promptly enter into one or more of such agreements with ABB as designated by ABB and as required by mandatory law or by a competent data protection authority or other competent authority.

## 18. EXPORT CONTROL/TRADE COMPLIANCE

**18.1** The Client acknowledges that the Goods to be delivered may be subject to national and/or international statutory provisions and regulations for export controls, and without export or re-export permits from the competent authorities, may not be sold, leased out or otherwise transferred or used for purposes other than those agreed. The Client declares that it shall adhere to such provisions and regulations. The Client is aware that certain provisions and regulations may change and shall conform to the most recent version of the applicable laws and regulations at all times.

**18.2** The delivered Goods may not, in any way, whether directly, indirectly, or by any other means, be used in connection with the design, manufacturing, storage, or the use of chemical, biological or nuclear weapons or transportation systems. The delivered Goods may not be used for military or nuclear applications without the prior written consent of ABB.

**18.3** ABB's acceptance of any kind of order depends on the obtaining of export and/or re-export permits by the competent authorities in the countries of origin of the products being sold, including parts and components and/or technology, if and insofar as required by law. Refusal, withdrawal or invalidity of the aforementioned export and/or re-export permits as a result of events outside of the control of ABB, releases ABB of its contractual obligations in relation to the Delivery of goods and/or Execution of work and of its potential liability for loss or damage that may result from this.

**18.4** ABB's acceptance of any kind of order also depends on the compliance of Client with all applicable export regulations and provisions, both internal and external regulations and provisions of ABB and all applicable law.

**18.5** The offer and acceptance of an order depend on the receipt of a declaration of the proposed use (civil, not nuclear or military), if and insofar as required by law or by ABB.

## 19. CONFIDENTIALITY

The Parties are obliged to maintain the confidentiality of both the existence and content of the Agreement as well as all know-how, data and other information ("Information") of which they become aware verbally, in writing and/or by any other means in connection with entering into, executing and terminating the Agreement and shall only make use of this information in the context of entering into, executing and terminating the Agreement. Both Parties shall deal with the Information belonging to the other Party with the same care with which they deal with their own confidential information and restrict publication of the Information to employees, other auxiliary persons or third parties who are required to be aware of such information. Otherwise, the Parties shall not provide this information to others and/or make it public in another way, unless they have obtained prior written consent from the other Party to do so. This requirement for consent does not apply to passing on the information to group companies, to the extent permitted by law (in particular, in relation to competition law). The Parties shall ensure that employees and third parties, including group companies, are subject to and comply with similar confidentiality obligations that are no less stringent than the obligations that apply to the Parties in accordance with this Agreement. This confidentiality obligation survives the termination of the Agreement with a period of five years. Information that is publicly accessible or that becomes publicly accessible without being attributable to the receiving party, is not considered confidential information. The Parties shall identify confidential information as such as much as possible.

## 20. SAFETY

**20.1** The Client and his employees or third parties it engages are required to comply with safety and environmental regulations imposed by the authorities and to comply with regulations, instructions and directions relating to order, safety, environment and control that apply locally, where the work is being carried out.

**20.2** ABB enters into the Agreement under the suspensive condition that the Client proves that with regard to the equipment and/or systems to which the Execution of Work relates, and the area's in which this equipment has been erected, an assessment and evaluation of the safety risks has been carried out recently and that specific and effective safety measures have been taken as a result. If it is determined that the measures taken are insufficient, the Execution of Work or Delivery of goods will be postponed until the Client demonstrates that the situation is entirely safe.

**20.3** It is the policy of ABB to meet the ABB HSE standards as a minimum. If the Client's standards or local regulations are higher, the highest standard shall be complied with. The Client must provide a copy of the applicable standards, general safety requirements and in particular, the requirements that apply to the equipment to which the Execution of work relates, as soon as possible, yet before the Agreement is entered into.

**20.4** The Client must also send ABB a copy of his in-house regulations prior to a first visit, without these internal regulations affecting these general terms and conditions or having a restrictive effect thereon.

**20.5** The Client must draw ABB's attention to any site-specific risks to which the employees or contractors of ABB can be exposed during the Execution of work or the Delivery of goods on the site.

**20.6** During the Execution of work on site, ABB reserves the right, for health and safety reasons, to physically fence off a work zone within which ABB is able to exert control. Furthermore, ABB may refuse access to such zones by unauthorized persons, including the Client's personnel, especially during activities with a high risk factor such as constructing steel structures, testing and commissioning electrical installations.

**20.7** The representative/site manager of ABB is authorized to interrupt the Execution of work at the site for which ABB is responsible at any time if he believes that the persons involved are working in an unsafe manner or if there is a significant risk for other people involved in the work or for the environment, or if these individuals are directly violating the requirements set out in these instructions. In such circumstances, ABB shall not cover any costs that potentially have to be made as a result of the work not being completed in time.

## 21. DISSOLUTION/TERMINATION

**21.1** In the event that the Client fails to meet one or more of his obligations, or fails to do so in time or properly, is declared bankrupt, requests suspension, (provisional) suspension and/or postponement of payment, starts liquidation of his company, or if his assets are entirely or partially seized, ABB has the right to suspend execution of the Agreement or to legally terminate and/or dissolve the Agreement in whole or in part without prior notice of default by means of a written declaration, all according to its own discretion and at all times preserving any right to payment of costs, damage and interests due to it. Amounts due to ABB may be claimed immediately and shall be paid without delay.

**21.2** The Client only has the right to terminate and/or dissolve the Agreement in the cases and under the conditions determined in articles 8.3 and 8.5 (Delivery period/Delivery) of these terms and conditions and only after payment to ABB of all amounts owed to ABB at that moment, whether or not due.

**21.3** In the event that the Agreement terminates based on article 11.3 (Force majeure), ABB is entitled to part of the agreed price proportionate to the ratio of the

extent to which the goods have already been delivered when the Agreement terminates compared to the full Delivery of goods and/or Execution of work, minus the savings directly made as a result of the termination. Costs already incurred or investments made at the time the Agreement is terminated must be fully compensated by the Client at all times.

## **22. UNFORESEEN CIRCUMSANCES**

**22.1** Notwithstanding any conflicting provisions in the Agreement, the Parties agree that if ABB proves after the Agreement has come into force that:

- a. the ongoing execution of the contractual obligations has become unreasonably difficult as a result of a circumstance outside of ABB's reasonable control, of which it can reasonably be expected that ABB should have taken it into account when the Agreement was entered into if ABB would have known about the circumstance; and that
  - b. ABB could not have reasonably prevented or has prevented or adequately restrict the circumstance and/or the consequences of such,
- the Parties are required, within a reasonable period after article 22 has been invoked, to negotiate alternative contractual conditions that reasonably take into account the consequences of the circumstance.

**22.2** If the Parties fail to agree alternative contractual conditions within a reasonable period after this article has been invoked by ABB, ABB has the right to dissolve the Agreement.

## **23. DIRECTIVE 2012/19/EU REGARDING THE COLLECTION AND PROCESSING OF DISCARDED ELECTRICAL AND ELECTRONIC EQUIPMENT**

ABB and the Client agree that the Client is liable for the collection, processing and/or environmentally friendly removal (together: "Processing") of discarded electrical and electronic equipment belonging to users other than private households ("B2B-AEEA") and for all obligations or costs of or in connection with this. ABB is not required to set up facilities for the return of B2B-AEEA. The Client shall impose upon his customers (i) corresponding obligations and restrictions and (ii) the obligation to impose such obligations and restrictions upon their customers in the chain of the sale of such products. The Client shall indemnify ABB against such obligations and/or costs.

## **24. DIVISIBILITY**

**24.1** In the event that one or more provisions of these terms and conditions or of the Agreement are declared partially or fully invalid, illegal or unenforceable in whatever respect in accordance with applicable legislation, the validity, legality and enforceability of the other provisions of the terms and conditions or of this Agreement shall not be affected in any way.

**24.2** In the event that such invalid, illegal or unenforceable provision substantially affects the general terms and conditions or the Agreement, the Parties shall negotiate immediately and in good faith to find a legally valid, alternative provision.

## **25. DISPUTES/APPLICABLE LAW**

**25.1** The law of the place in which the Contractor has its registered offices governs the Agreement, with exclusion of the rules of international private law and the 'United Nations Convention on contracts for the international sales of goods 1980' (CISG) (the Vienna Convention).

**25.2** The Parties agree that they shall settle amicably and in good faith any disputes ensuing from or relating to this Agreement. Hereby the dispute will be submitted to the higher management level of the Parties, to decide whether it is possible to resolve the dispute amicably. If, within 30 days of receiving notification that the regulation for the amicable settlement of disputes commences, one or both Parties is of the opinion that the dispute cannot be resolved within a reasonable period, either party shall notify the other party that the dispute is being brought before a mediator in accordance with the ACB mediation regulations (in the event that the Contractor has its registered offices in the Netherlands) or CEPANI mediation regulations (in the event that the Contractor has its registered offices in Belgium or Luxembourg). Each party shall cover half of the costs of the mediation process. The process will be conducted in English. In the event that, within 60 days after receiving the above notification that the regulations concerning mediation are commencing, one of the Parties believes that the dispute cannot be resolved within a reasonable period or if no agreement is reached about the mediator to be appointed, the dispute will be finally settled by application of article 25.3.

**25.3** In the event that the dispute is not finally settled by application of article 25.2, the Parties shall ensure final settlement of the dispute by three arbiters in accordance with the ICC's arbitration regulations. The place of arbitration will be the place where the branch of ABB has its registered offices.

**25.4** These general terms and conditions have been drawn up in Dutch, English and French. In the event of a conflict concerning the content of the different versions, the Dutch text will be binding.