

FIXED FEE SERVICES TERMS

Version China 2019.7.15

These Fixed Fee Services Terms apply to any quote, order, and order acknowledgment, and any sale of fixed fee services by KLA Corporation, One Technology Drive, Milpitas, California, 95035 ("KLA") to any acquirer ("Customer"). KLA does not accept, expressly or impliedly, and KLA hereby rejects, any additional or different terms or conditions that Customer presents, including but not limited to, any terms or conditions contained or referenced in any order, acceptance, acknowledgment, or other document, or established by trade usage or prior course of dealing, unless KLA expressly and unambiguously agrees to such terms and conditions in a duly signed writing. By ordering, receiving, accepting or using services or otherwise proceeding with any transaction after receipt of these Fixed Fee Services Terms or after otherwise being notified that such transactions are subject to these Fixed Fee Services Terms, Customer agrees to these Fixed Fee Services Terms and KLA's General Terms, which are incorporated by reference herein and are either attached hereto, or available at www.kla.com/terms or on request.

1. **DEFINITIONS** The definitions in KLA's General Terms shall apply in addition to the following definitions:

"**Fixed Fee Services**" means services performed by KLA that KLA identifies as such or expressly agrees to provide for a fixed price or on a milestone basis (as opposed to, e.g., services performed at hourly, daily, weekly, or monthly rates). Fixed Fee Services may include, for example, re-installation of relocated or moved Hardware, and analysis and reports, such as yield technology assessment.

"**Milestone**" means a project phase or sub-task as contemplated in a Statement of Work.

"**Statement of Work**" means a statement of work or other document expressly agreed upon by the parties in writing that sets forth the specifications for Work Product. If the parties agree on Milestones, the Statement of Work shall also set forth specifications and installment payments for each Milestone.

2. FIXED FEE SERVICES

2.1 **Scope of Fixed Fee Services.** KLA will provide to Customer Fixed Fee Services based on a Statement of Work. If Customer requests services that are not covered by the Statement of Work then KLA may, at its sole discretion, either (i) agree to a duly signed amendment of the Statement of Work; or (ii) provide such services on a time & materials basis subject to KLA's then-current Time & Materials Services Terms (available at www.kla.com/terms or on request).

2.2 **Contacts and Assigned Personnel.** Each party shall appoint at least one (1) primary and one (1) substitute contact person for all technical communications with the other party in connection with the Fixed Fee Services; provided, however, that each party may replace such contacts from time to time upon written notice to the other party. KLA's personnel shall be subject to instructions and supervision exclusively by KLA. Without limiting the foregoing, KLA (i) may select, remove and replace its personnel from time to time in its sole discretion; and (ii) as between the parties, shall be exclusively responsible for administrative and human resources matters with respect to such personnel.

3. ACCEPTANCE

3.1 **Acceptance Requirement.** Work Product does not require acceptance testing or a formal acceptance, unless the parties have expressly agreed on an acceptance requirement in the applicable Statement of Work or another duly signed writing, in which case Section 3.2 (Completion and Acceptance Testing) through Section 3.4 (Deemed Acceptance) shall apply.

3.2 **Completion and Acceptance Testing.** If Work Product is subject to acceptance testing as set forth above, KLA shall notify Customer when such Work Product is ready for acceptance testing. At Customer's request, a Customer representative may attend KLA's acceptance testing. Via acceptance testing, KLA shall determine whether the Work Product conforms to the mutually agreed specifications in the applicable Statement of Work ("**Acceptance Criteria**"). If the acceptance testing demonstrates that the Acceptance Criteria are met, KLA shall provide Customer with a written summary of the results of the acceptance testing ("**Test Results**") following the completion of the acceptance testing procedure.

3.3 **Express Acceptance or Rejection.** If the Work Product materially conforms to the Acceptance Criteria, Customer shall sign a written acceptance statement (i) at the end of the acceptance testing procedure; or (ii) if no Customer representative attends the acceptance testing procedure, within ten (10) days after Customer's receipt of the Test Results. If any Work Product materially fails to conform to the applicable Acceptance Criteria, then Customer shall promptly provide KLA with a reasonably detailed written description of the perceived non-conformance ("**Rejection Notice**"). If

固定费用服务条款

2019年7月15日中国用版本

本固定费用服务条款适用于 KLA Corporation, One Technology Drive, Milpitas, California 95035, ("KLA")对任何购买人 ("客户") 的固定费用服务的任何报价、订单、订单确认书或任何出售。KLA 不明示或默示地接受而且 KLA 特此 拒绝承认客户提出的任何附加或不同的条款或条件, 包括但不限于任何订 单、接受函、确认书或其它文件中包含或提及的或商业惯例或此前的业务惯 例确立的任何条款或条件, 除非 KLA 在正式签署的书面文件中明确清楚地同 意该等条款和条件。客户在收到本固定费用服务条款后或在被以其它方式告 知交易受本固定费用服务条款约束后, 订购、接收、接受或使用服务或另行 继续任何交易的, 即表示客户同意本固定费用服务条款以及 KLA 一般条款 (该等条款经在此提及而纳入本条款, 或可从 www.kla.com/terms 网址 或向 KLA 求索获得)。

1. 定义。除下列定义外, KLA 一般条款中的定义同样适用:

"**固定费用服务**" 指 KLA 履行的 KLA 确定为该等服务的服务, 或客户明确同 意按固定价格或按重大事件 (与例如按小时、日、周或月费率履行的服务相 对) 提供的服务。固定费用服务可包括例如搬迁或移位的硬件的重新安装, 以及诸如成果技术评估等分析和报告。

"**重大事件**" 指工作说明所设想的项目阶段或分项任务。

"**工作说明**" 指双方以书面形式明示同意的其中列出工作产品规格的工作说明或其它文件。如果双方就重大事件达成一致, 则工作说明还应为每一重大事件列出规格和分期付款的数额。

2. 固定费用服务

2.1 **固定费用服务的范围。** KLA 将按照工作说明向客户提供固定费用服务。 如果客户要求工作说明之外的服务, 则 KLA 可自行决定: (i) 就一项经正式签 署的修订工作说明达成一致; 或(ii) 在受 KLA 届时实行的时间和材料服务条款 (可从 www.kla.com/terms 网址或向 KLA 求索获得) 管辖的条件下按时间 和材料提供上述服务。

2.2 **联系人和指定人员。** 每一方应至少指定一(1) 名主要联系人和一(1) 名替 代联系人, 以就固定费用服务与另一方进行一切技术交流; 但每一方可经向 另一方发出书面通知而随时更换上述联系人。KLA 的人员仅接受 KLA 的指示 和监督。在不限制前述规定的条件下, KLA (i) 可自行决定随时挑选、免除和 更换其人员; 且(ii) 在双方之间独家负责上述人员的行政和人力资源事宜。

3. 验收

3.1 **验收要求。** 工作产品无须验收测试或正式验收, 除非双方已在适用工作 说明或另一份经正式签署的书面文件中明示同意验收要求, 在此情况下, 第 3.2 条 (完成和验收测试) 至第 3.4 条 (推定接受) 应适用。

3.2 **完成和验收测试。** 如果工作产品须经上文所述验收测试, 则 KLA 应通知 客户何时可对该工作产品进行验收测试。在客户要求时, 一名客户代表可参 加 KLA 的验收测试。经验收测试, KLA 应确定该工作产品是否符合在适用工 作说明中双方商定的规格 ("验收标准")。如果验收测试表明已达到验收 标准, 则 KLA 应在完成验收测试程序后向客户提供验收测试结果 ("测试结 果") 的书面总结。

3.3 **明示接受或拒收。** 如果工作产品与验收标准实质相符, 则客户应(i) 于 验收测试程序结束时, 或(ii) 如果无客户代表出席验收测试程序, 则于客户收 到测试结果后十(10) 天内, 签署一项接受书。如果任何工作产品与 验收标准 实质不符, 则客户应迅速向 KLA 提供对被认为不相符之处的合理 详细的书面 描述 ("拒收通知")。如果 KLA 在客户收到测试结果 后十(10) 天内收到一 份有理由的拒收通知, 则 KLA 应使用商业上合理的 努力以纠正不相符之处并 按照第 3.2 条 (完成和验收测试) 和本第 3.3 条

KLA receives a justified Rejection Notice within ten (10) days after Customer has received the Test Results, KLA shall use commercially reasonable efforts to remedy the non-conformance and repeat the acceptance testing process per Section 3.2 (Completion and Acceptance Testing) and this Section 3.3.

3.4 **Deemed Acceptance.** In the absence of an express acceptance, Customer shall be deemed to have accepted Work Product upon the earlier of (i) approval of the Work Product; (ii) payment, without reservation, of any amounts with respect to the Work Product; (iii) ten (10) days after Customer's receipt of the Test Results, unless KLA receives a Rejection Notice within such period; or (iv) use of the Work Product for any purpose other than testing as necessary in order to determine conformance to the applicable Acceptance Criteria.

4. **PAYMENT.** Customer shall make payment in accordance with the applicable Statement of Work and the General Terms.

5. LIMITED WARRANTY AND DISCLAIMER

5.1 **Limited Warranty.** KLA warrants that the Work Product substantially conforms to the Statement of Work and Acceptance Criteria, if any, as of (i) the date of Customer's express acceptance or deemed acceptance in accordance with Section 3.4 (Deemed Acceptance), whichever occurs earlier, with respect to Work Product that is subject to acceptance testing (as set forth in Section 3.1 — Acceptance Requirement); or (ii) the date of KLA's invoice with respect to all other Work Product.

5.2 **Exclusive Remedies.** If Work Product materially fails to conform to the limited warranty set forth in Section 5.1 (Limited Warranty), KLA shall, at its sole discretion (i) repair or replace the non-conforming Work Product to remedy the non-conformity identified by Customer in accordance with Section 5.3 (Warranty Period); or (ii) refund to Customer the fees paid for such Work Product in exchange for return of the non-conforming Work Product, in which case all licenses granted to Customer under these Fixed Fee Services Terms for such Work Product shall be automatically revoked. THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 5.2 WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST KLA WITH RESPECT TO ANY NON-CONFORMANCE OF FIXED FEE SERVICES OR WORK PRODUCT.

5.3 **Warranty Period.** Unless KLA expressly specifies or agrees on a different warranty period in a duly signed writing, the warranty period shall be ninety (90) days. The warranty period shall begin on the date of KLA's applicable invoices; or, if an acceptance requirement has been agreed on, upon Customer's express acceptance or deemed acceptance in accordance with Section 3.4 (Deemed Acceptance), whichever occurs earlier. Customer shall have no warranty claims, unless (a) KLA receives from Customer, during the warranty period a written notice describing the warranty breach in reasonable detail ("Warranty Claim"); and (b) with respect to any Work Product that is subject to acceptance testing, the applicable non-conformity could not, with reasonable diligence, have been identified during the course of such testing and/or examination of the applicable Test Results.

5.4 **Costs and Procedure.** If KLA receives a Warranty Claim in accordance with Section 5.1 (Limited Warranty), Section 5.3 (Warranty Period), and any procedure guidelines that KLA may publish or make available to Customer (the "Warranty Guidelines"), KLA will not charge for any repair or re-performance, except for any costs that are caused by Customer's relocation of the Work Product from the destination to which it was originally delivered by KLA. If Customer's Warranty Claim fails to meet any of the requirements of Section 5.1 (Limited Warranty), Section 5.3 (Warranty Period), or the Warranty Guidelines, KLA's then-current Time & Materials Services Terms shall apply to any error identification or correction efforts, repair, replacement, and shipment costs by KLA.

5.5 **Disclaimer.** EXCEPT AS SPECIFIED IN SECTION 5.1 (LIMITED WARRANTY), KLA MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY FIXED FEE SERVICES OR WORK PRODUCT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, KLA DISCLAIMS ALL IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

6. **ALLOCATION OF PROPRIETARY RIGHTS.** The Proprietary Rights to Intellectual Property contained in Work Product or created by either party under these Fixed Fee Services shall be allocated as follows:

6.1 Preexisting Intellectual Property.

6.1.1 **Pre-existing Customer Intellectual Property.** Customer retains all Proprietary Rights that Customer holds or acquires outside the scope of these Fixed Fee Services Terms, including, but not limited to Proprietary Rights to any pre-existing Intellectual Property that Customer provides to KLA in connection with the performance of the

重复验收测试程序。

3.4 **推定接受。** 在无明显接受的情况下，客户应被推定为于下述时间（以较早发生者为准）接受工作产品：(i) 批准工作产品之时；(ii) 无任何保留地就工作产品支付任何金额之时；(iii) 客户收到测试结果后十(10)天，除非 KLA 在该期间收到拒收通知；或(iv) 为了确定是否符合有关验收标准所需测试以外的任何目的使用工作产品之时。

4. 支付。客户应按照适用的工作说明和一般条款进行支付。

5. 有限保证和免责声明

5.1 **有限保证。** KLA 保证，于下列时间，工作产品与工作说明和验收标准（如有的话）实质相符：(i) 客户就对之进行验收测试（按照第 3.1 条—验收要求的规定）的工作产品表示明示接受或按照第 3.4 条（推定接受）规定被推定接受之日（以较早发生者为准）；或(ii)KLA 关于所有其它工作产品的 发票日期。

5.2 **排他性救济。** 如果工作产品实质上不符合第 5.1 条（有限保证）中规定的有限保证，KLA 应自行决定(i) 按照第 5.3 条（保证期）的规定对不相符的工作产品进行修理或替换以纠正客户认定的不符之处；或(ii) 将为该工作产品 已付的费用退还给客户以换取将不符的工作产品退回，在此情况下，在本固定费用服务条款项下就该等工作产品向客户授予的一切许可均应自动撤销。 **本第 5.2 条明示规定的救济将是客户的唯一和排他性救济，并应取代客户就 固定费用服务或工作产品的任何不符之处而可能享有的针对 KLA 的任何其它 权利或救济。**

5.3 **保证期。** 除非 KLA 以经正式签署的书面文件明示规定或同意不同的保证期，否则保证期应为九十(90)天。保证期应始于 KLA 有关发票的日期；或者，如果已就一项验收要求达成一致，则应始于客户明示接受或按照第 3.4 条（推定接受）的规定被推定接受之时（以两者中较早发生者为准）。除非 有以下情况，否则客户不应有任何保证要求：(a) 在保证期内 KLA 从客户收到 以合理详细的程度描述违反保证的书面通知（“保证要求”）；和(b) 对于 须进行验收测试的任何工作产品而言，虽然采取合理审慎态度，仍不能在上 述测试和/或审查有关测试结果的过程中认定有关的不符之处。

5.4 **费用和程序。** 如果 KLA 按照第 5.1 条（有限保证）、第 5.3 条（保证期）以及 KLA 可能向客户公布或提供的任何程序指南（“保证指南”）收到保证要求，KLA 将不为任何修理或重新履行收取费用，但由于客户将工作产品从 KLA 原交付地点搬迁而造成的任何费用除外。如果客户的保证要求未达到第 5.1 条（有限保证）、第 5.3 条（保证期）或保证指南的任何要求，则 KLA 届时实行的时间和材料服务条款应适用于 KLA 的任何错误识别或纠正工作、修理、替换和发生的装运费用。

5.5 **免责声明。** 除在第 5.1 条（有限保证）中规定的以外，KLA 对任何固定 费用服务或工作产品未作任何明示陈述或保证。在适用法律最大允许范围内，KLA 不作出任何默示保证和陈述，包括但不限于任何**适用性、特定用途 适用性以及无侵权的默示保证和陈述。**

6. 专有权利的分配。对工作产品所载或任何一方在本固定费用服务项下创造的知识产权的专有权利应分配如下：

6.1 既有知识产权。

6.1.1 **客户既有知识产权。** 客户保留客户在本固定费用服务条款范围以外 持有或获得的一切专有权利，包括（但不限于）客户对于就履行固定费用服务而向 KLA 提供的任何既有知识产权的专有权利（“客户既有知识产权”）。

Fixed Fee Services (“Pre-existing Customer Intellectual Property”).

6.1.2 Pre-existing KLA Intellectual Property. KLA retains all Proprietary Rights that KLA holds or acquires outside the scope of these Fixed Fee Services Terms, including, but not limited to Proprietary Rights to any pre-existing Intellectual Property that KLA incorporates into Work Product (“Pre-existing KLA Intellectual Property”).

6.2 Newly Developed Intellectual Property. Subject to Section 6.1 (Pre-existing Intellectual Property), upon creation of any Intellectual Property under these Fixed Fee Services, the Proprietary Rights to such new Intellectual Property shall be allocated as follows:

6.2.1 Improvements of Either Party’s IP. Regardless of whether the Intellectual Property is created by KLA, Customer, or jointly by both parties (i) Customer shall acquire all Proprietary Rights to any improvement and modification of any Pre-existing Customer Intellectual Property that does not constitute an improvement or modification of Pre-existing KLA Intellectual Property; and (ii) KLA shall acquire all Proprietary Rights to any improvement and modification of Pre-existing KLA Intellectual Property that does not constitute an improvement or modification of Pre-existing Customer Intellectual Property.

6.2.2 Improvements of Both Parties’ or Neither Party’s IP. If newly created Intellectual Property constitutes an improvement or modification of both or neither Pre-existing KLA Intellectual Property and Preexisting Customer Intellectual Property, then all Proprietary Rights to such Intellectual Property shall be acquired by the party that solely creates such Intellectual Property, unless such newly created Intellectual Property is jointly developed by both parties, in which case the Proprietary Rights shall be jointly acquired by both parties without a right to accounting, revenue sharing or prior approval for commercialization or enforcement.

6.3 Assignments. If under mandatory law, a party is unable to acquire Proprietary Rights upon creation as provided in these Fixed Fee Services Terms, the other party hereby assigns its rights to any Intellectual Property, tangible material or software copy to the party that is entitled to acquire all Proprietary Rights according to Sections 6.1 (Pre-existing Intellectual Property) and Section 6.2 (Newly Developed Intellectual Property) (the “Entitled Party”). To the extent that under mandatory law, rights can only be assigned after creation, the parties hereby irrevocably agree to assign, immediately following the creation, their rights to the Entitled Party. To the extent that under mandatory law, Proprietary Rights may not be assigned, the parties hereby agree to grant an exclusive, irrevocable, and unconditional license to the Entitled Party. To the extent such license grant is invalid or not fully enforceable under mandatory law, the parties irrevocably agree to grant and hereby grant such right to the Entitled Party as the Entitled Party reasonably requests in order to acquire a legal position as close as possible to the legal position described in Section 6.1 (Pre-existing Intellectual Property) and Section 6.2 (Newly Developed Intellectual Property).

6.4 Realization of Proprietary Rights. In order to ensure that each party will be able to retain, acquire, and use its respective Intellectual Property and Proprietary Rights as outlined in Section 6.1 (Pre-existing Intellectual Property) and Section 6.2 (Newly Developed Intellectual Property), each party shall (i) transfer possession, ownership, and title to media, models, and other tangible objects containing Intellectual Property to the other party if the other party is the Entitled Party with respect to the Proprietary Rights to such Intellectual Property; (ii) share copies of media, models, and other tangible objects containing Intellectual Property of both parties if it is not feasible or commercially reasonable to physically separate the Intellectual Property of each party; and (iii) provide the other party with reasonable support, signatures, and information for recording and perfecting the foregoing assignment and for registering or otherwise securing, defending, and enforcing such other party’s Proprietary Rights against third parties.

6.5 Employees and Contractors. In order to ensure that both parties acquire all Proprietary Rights as outlined in Section 6.1 (Pre-existing Intellectual Property) and Section 6.2 (Newly Developed Intellectual Property), both parties shall have all their respective employees, consultants, and agents assign or otherwise transfer (as provided in Section 6.3 — Assignments) to the party which acts as their employer or principal, all Proprietary Rights arising out of any work such employees, consultants, or agents perform in connection with these Fixed Fee Services Terms.

6.6 License to Work Product. KLA grants to Customer a non-exclusive, nontransferable, and non-sublicenseable license to use such Work Product solely for Customer’s internal business purposes if and to the extent that (i) the Work Product is identified in the applicable Statement of Work and KLA intentionally makes such Work Product available to Customer as part of Fixed Fee Services (e.g., a deliverable specified under a Statement of Work); (ii) the Work Product is not covered by any other written terms or agreements between the parties (otherwise such other terms or agreements, e.g., time & materials services terms or a software license terms, shall exclusively govern); and (iii) Customer complies with all provisions of these Fixed Fee Services Terms, including but not limited to its obligation to make timely payments of all fees and other amounts hereunder, and its confidentiality obligations under KLA’s General Terms.

6.7 All Other Rights Reserved. KLA reserves ownership, title, and all rights and interest, including, but not limited to, all Proprietary Rights not expressly granted to Customer in

6.1.2 KLA 既有知识产权. KLA 保留 KLA 在本固定费用服务条款范围以外持有 或获得的一切专有权利, 包括 (但不限于) KLA 纳入工作产品的任何既有知识产权的专有权利 (“KLA 既有知识产权”).

6.2 新开发的知识产权. 在遵守第 6.1 条 (既有知识产权) 的条件下, 如在本固定费用服务项下创造了任何知识产权, 对该等新知识产权的专有权利应分配如下:

6.2.1 任何一方知识产权的改进. 不论知识产权是由 KLA、客户还是双方共同创造的, (a) 客户应获得对任何客户既有知识产权的任何改进和修改 (并不构成对 KLA 既有知识产权的任何改进和修改) 的一切专有权利; 和 (b) KLA 应获得对 KLA 既有知识产权的任何改进和修改 (并不构成对客户既有知识产权的改进或修改) 的一切专有权利.

6.2.2 双方或双方之外知识产权的改进. 如果新创造的知识产权构成 KLA 既有知识产权和客户既有知识产权两者或两者之外的改进或修改, 则对该等知识产权的一切专有权利应由独家创造该知识产权的一方获得, 除非该等新创造的知识产权是由双方共同开发的, 在此情况下, 专有权利应由双方共同获得, 但无核算、收入分享或对商业化或强制执行的事先批准权.

6.3 转让. 如果在强制法项下, 一方不能在创造知识产权后按照本固定费用服务条款的规定获得专有权利, 则另一方特此将其对任何知识产权、有形材料或软件拷贝的权利转让给有权按照第 6.1 条 (既有知识产权) 和第 6.2 条 (新开发的知识产权) 获得全部专有权利的一方 (“有权方”). 如果按照强制法的规定, 权利仅在创造知识产权后转让, 则双方特此不可撤销地同意在创造后立即将其权利转让给有权方. 如果按照强制法的规定, 专有权利不得转让, 则双方特此同意向有权方授予一项排他性的、不可撤销的无条件许可. 如果按照强制法的规定, 上述许可的授予无效或不可充分强制执行, 则双方不可撤销地同意授予并在有权方合理要求时特此向有权方授予上述权利, 以便获得尽可能接近于第 6.1 条 (既有知识产权) 和第 6.2 条 (新开发的知识产权) 所述法律地位的法律地位.

6.4 专有权利的实现. 为了确保每一方均能够保持、获得和使用第 6.1 条 (既有知识产权) 和第 6.2 条 (新开发的知识产权) 规定的各自的知识产权和专有权利, 每一方均应 (i) 将对含有知识产权的介质、模型和其它有形物体的占有权、所有权和产权转让给另一方 (如果该另一方有权获得本固定费用服务条款项下对上述知识产权的专有权利); (ii) 分享含有双方知识产权的介质拷贝、模型和其它有形物体 (如果将每一方的知识产权实际分开是不可行的或在商业上是不合理的); 和 (iii) 向另一方提供合理的支持、签字和信息, 以便记录和完善上述转让, 登记或以其它方式保证、保护和强制执行上述另一方的专有权利.

6.5 雇员和承包商. 为了确保双方按照第 6.1 条 (既有知识产权) 和第 6.2 条 (新开发的知识产权) 获得全部专有权利, 双方应促使其各自的雇员、顾问和代理人将因该等雇员、顾问或代理人进行的本固定费用服务条款有关的工作而产生的一切专有权利 (按第 6.3 条一转让的规定) 转让或以其它方式 转移给作为其雇主或委托人的一方.

6.6 对工作产品的许可. 如果且在下述范围内, KLA 向客户授予一项非排他性的、不可转让和不可授予分许可的许可, 仅为客户的内部业务目的使用该工作产品: (i) 工作产品在有关工作说明中加以认定, 而且 KLA 有意将该工作产品作为固定费用服务的一部分 (例如工作说明中规定的应交付品) 提供给客户; (ii) 双方之间任何其它书面条款或协议不适用于该工作产品 (否则上述其它条款或协议 (例如时间和材料服务条款或软件许可条款) 应排他性地适用); 和 (iii) 客户遵守本固定费用服务条款的全部规定, 包括 (但不限于) 其按时支付本条款项下一切费用和其它金额的义务以及其在 KLA 一般条款项下的保密义务.

6.7 保留其它一切权利. KLA 保留其对下述各项的所有权、产权和权益, 包括 (但不限于) 在本固定费用服务条款中未向客户明示授予的对下

these Fixed Fee Services Terms in and to (i) all Work Product; and (ii) all Pre-existing KLA Intellectual Property and all other information, materials and technology developed or acquired by KLA prior to, or independently of, the provision of Fixed Fee Services hereunder, including, without limitation, all Intellectual Property embodied therein and all Proprietary Rights therein and thereto.

7. TERM AND TERMINATION

7.1 Term. The term of any Fixed Fee Services project will continue until (i) completion of the Fixed Fee Services under the applicable Statement of Work; or (ii) termination of the applicable Statement of Work in accordance with this Section 7.

7.2 Termination for Cause. Either party may terminate a Statement of Work by written notice, effective immediately, if the other party fails to cure any material breach of the Fixed Fee Services Terms related such Statement of Work within ten (10) days after receiving written notice from the non-breaching party detailing the alleged material breach.

7.3 Consequences. Unless Customer terminates a Statement of Work because of KLA's material breach of these Fixed Fee Services Terms, Customer shall (i) pay to KLA all fees specified in the applicable Statement of Work less out-of-pocket expenses saved by KLA as a result of the early termination, or one hundred twenty percent (120%) of KLA's fully loaded costs of all Fixed Fee Services performed before termination, whichever is greater; and (ii) return to KLA all Work Product, KLA's Confidential Information and other tangibles and intangibles received in connection with the Fixed Fee Services, without retaining any copies thereof and all licenses granted to Customer under these Fixed Fee Services Terms for Work Product shall be automatically revoked

7.4 Survival. Sections 3.3 (Express Acceptance or Rejection), 3.4 (Deemed Acceptance), 4 (Payment), 5 (Limited Warranty and Disclaimer), 6 (Allocation of Proprietary Rights), and this Section 7 of these Fixed Fee Services and KLA's General Terms shall survive any termination of these Fixed Fee Services Terms, provided that if Customer does not comply with all provisions of these Fixed Fee Services Terms and KLA's General Terms, including, but not limited to, its payment obligations under Section 4 (Payment) and its confidentiality obligations under KLA's General Terms, the license to Work Product granted to Customer by KLA in Section 6.6 (License to Work Product) shall not survive termination.

8. PREVAILING LANGUAGE

The English language version of these Fixed Fee Services Terms shall be controlling and legally binding in all respects and shall prevail in case of any inconsistencies

列各项的 全部专有权利：(i) 全部工作产品；和(ii) 全部 KLA 既有知识产权以及 KLA 在提供本条款项下固定费用服务之前或独立于该等提供而开发或获得的所有其它信息、材料和技术，包括（但不限于）其中体现的一切知识产权以及与之一切有关的一切专有权利。

7. 期限与终止

7.1 期限。任何固定费用服务项目的期限均将持续，直至(i) 有关工作说明项下的固定费用服务完成；或(ii) 按照本第7条终止有关工作说明。

7.2 因故终止。如果一方未在收到守约方发出的载明指称实质违反本固定费用服务条款的书面通知后十(10)天内，纠正对与固定费用服务条款有关的工作说明的实质违约，则另一方可经书面通知该方而终止该工作说明，终止立即生效。

7.3 后果。除非客户因 KLA 对本固定费用服务条款的实质违约而终止一项工作说明，否则，客户应(i) 向 KLA 支付该有关工作说明所规定的全部费用减去 KLA 由于提前终止而节省的实付费用，或者 KLA 在终止之前履行的全部固定费用服务的 KLA 全部成本的百分之一百二十(120%)，以金额较大者为准；和(ii) 向 KLA 退还因固定费用服务而收到的全部工作产品、KLA 的保密信息和 其它有形和无形物，且不得保留其任何拷贝，而且，在本固定费用服务条款项下就工作产品向客户授予的一切许可均可自动撤销。

7.4 继续有效。本固定费用服务条款的第3.3条（明示接受或拒收）、第3.4条（推定接受）、第4条（支付）、第5条（有限保证和免责声明）、第6条（专有权利的分配）和本第7条以及 KLA 一般条款，在本固定费用服务条款的任何终止后继续有效，但是，如果客户未遵守本固定费用服务条款和 KLA 一般条款的全部规定，包括（但不限于）其在第4条（支付）项下的支付义务及其在 KLA 一般条款项下的保密义务，则 KLA 在第6.6条（工作产品的许可）中向客户授予的对工作产品的许可不得在终止后继续有效。

8. 作准文本

本固定费用服务条款的英文文本，在所有方面均为作准文本，具有法律约束力。文本间有任何不符时，以英文本为准。