

# STANDALONE SOFTWARE LICENSE TERMS

Version China 2019.7.15

These Standalone Software License Terms apply to any quote, order, and order acknowledgment, and any license or delivery of standalone software provided by KLA Corporation, One Technology, 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, using or installing software or otherwise proceeding with any transaction after receipt of these Standalone Software License Terms or after otherwise being notified that such transactions are subject to these Standalone Software License Terms, Customer agrees to these Standalone Software License Terms and KLA’s General Terms, which are incorporated by reference herein and are either attached hereto, or available at [www.kla.com/terms](http://www.kla.com/terms), or on request.

## 1. SCOPE AND DEFINITIONS

1.1 **Scope.** These Standalone Software License Terms apply only to Software that is to be installed on Third Party Products. Computer programs that are pre-installed, or to be installed, on any KLA Hardware are governed by KLA’s Pre-installed Software License Terms, which are available at [www.kla.com/terms](http://www.kla.com/terms) or on request.

1.2 **Definitions.** The definitions in KLA’s General Terms shall apply in addition to the following definition: “**Authorized Users**” means officers, employees and independent contractors of Customer, who are bound by enforceable written obligations to (i) treat the Software, Documentation and Confidential Information of KLA as confidential (as set forth in KLA’s General Terms); and (ii) use such Software, Documentation and Confidential Information only on behalf of Customer and only in accordance with these Standalone Software License Terms.

## 2. DELIVERY AND ACCEPTANCE TESTING

2.1 **Delivery.** KLA will deliver the object code of the Software Ex Works (Incoterms 2010) KLA’s premises. Customer acknowledges and agrees that KLA does not transfer title to, or ownership of, any Software, Documentation, or any Intellectual Property and only grants limited, non-exclusive licenses to Software and Documentation as specified in these Standalone Software License Terms. If KLA agrees to install Software, such services will be provided under a separate services agreement, or, if none is concluded, subject to KLA’s then-current Time & Materials Services Terms (available on request). Partial and installment shipments are authorized.

2.2 **Acceptance Testing.** If KLA expressly agrees to installation and acceptance testing in a duly signed document, Customer shall grant its express acceptance upon KLA’s demonstration that the installed Software meets the acceptance criteria provided in the Documentation. In the absence of an express acceptance, Customer shall be deemed to have accepted Software upon the earlier of (i) approval of the Software; (ii) payment, without reservation of any amounts with respect to the Software; (iii) ten (10) days after Customer’s receipt of KLA’s notice that the installation has been completed, unless KLA receives within such period a written notice from Customer that describes in reasonable detail a material failure of the installed Software to meet the acceptance criteria specified in the Documentation; or (iv) use of the Software for any purpose other than testing (whether or not such Software is used in live production and regardless of whether any revenue is generated).

## 3. License

3.1 **License Grant.** KLA grants Customer a personal, non-sublicensable, non-exclusive, non-transferable, limited license to have Authorized Users use copies of the Software in accordance with the applicable Documentation solely for Customer’s internal activities related to Customer’s manufacture, inspection, analysis or testing of semiconductor wafers within the scope of the License Parameters. KLA’s license grant is conditioned on Customer’s continuous compliance with all license limitations and restrictions described in these Standalone Software License Terms and if Customer violates any of these limitations or restrictions, the license grant will automatically and immediately expire. Customer acknowledges that the license descriptions in this Section 3.1 and in Section 3.2 (License Parameters) define the scope of rights that KLA grants to Customer and that any usage of the Software outside the scope of that license grant and the scope of any statutory rights constitutes an infringement of KLA’s Proprietary Rights as well as a material breach

# 独立软件许可条款

20019年7月15日中国用版本

本独立软件许可条款适用于 KLA Corporation, One Technology, Milpitas, California 95035 (“KLA”) 对任何购买人 (“客户”) 提供的独立软件的任何报价、订单、订单确认书和任何许可或交付。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、确认书或其他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。在收到本独立软件许可条款后或在被以其他方式告知交易受本独立软件许可条款约束后, 客户订购、接收、接受或使用产品或另行继续任何交易的, 即表示客户同意本独立软件许可条款以及 KLA 一般条款 (该等条款经在此提及而纳入本条款, 或可在 [www.kla.com/terms](http://www.kla.com/terms) 网站或向 KLA 求索获得)。

## 1. 范围和定义

1.1 **范围。** 本独立软件许可条款仅适用于将要安装在第三方产品上的软件。预装在或将安装在任何 KLA 硬件上的计算机程序, 受 KLA 预装软件许可条款约束, 该等条款可从 [www.kla.com/terms](http://www.kla.com/terms) 网站或向 KLA 求索获得。

1.2 **定义。** 除下述定义外, 适用 KLA 一般条款中的定义。“**授权用户**”指受书面的、可强制执行的下述义务约束的客户的高级职员、雇员和独立承包商: (i) 将 KLA 软件、文档和保密信息 (见 KLA 一般条款定义) 作为保密信息对待; (ii) 仅代表客户并仅按本独立软件许可条款使用该等软件、文档和保密信息。

## 2. 交付和验收测试

2.1 **交付。** KLA 将按工厂交货 (KLA 场所) 条款交付软件的目标代码。客户承认并同意, KLA 未转让任何软件、文档或任何知识产权的产权或所有权, 而仅按本独立软件许可条款, 授予有限的、非排他性的软件和文档许可。如 KLA 同意安装软件, 则将按单独的服务协议提供该等服务, 或者, 如果未签订单独的服务协议, 则将按 KLA 届时有效的时间和材料服务条款 (应索即供) 提供该等服务。允许部分和分批发货。

2.2 **验收测试。** 如果 KLA 在一份经正式签署的文件中明示同意安装和验收测试, 则客户应在 KLA 表明安装的软件达到文档规定的验收标准时, 明确予以接受。如未予以明确接受, 则推定客户于下述四者中任一者先发生之时接受软件: (i) 批准软件之时; (ii) 未扣留任何款项, 对软件付款之时; (iii) 客户收到 KLA 的安装完工通知之后十 (10) 日, 除非 KLA 在该期间从客户收到书面通知, 该通知以合理细节, 描述安装的软件未达到文档规定的验收标准的实质性缺陷; 或 (iv) 为测试之外的任何目的使用软件之时 (不论该等软件是否用于实际生产, 也不论是否产生任何收入)。

## 3. 许可

3.1 **许可的授予。** KLA 授予客户一项专有的、不可分许可的、非独占的、不可转让的有限许可, 让授权用户仅为与客户在许可参数范围内生产、检验、分析或测试半导体晶片相关的客户内部活动的目的, 按照有关文档使用软件拷贝。KLA 授予许可, 以客户持续遵守本独立软件许可条款规定的一切许可限制和约束为前提。如果客户违反任一该等限制或约束, 则授予的许可将立即自动失效。客户确认, 本第 3.1 条、第 3.2 条 (许可参数) 中的许可描述, 确定了 KLA 授予客户的权利的范围; 在该许可授权范围之外和任何法定权利之外使用软件, 即构成对 KLA 专有权利的侵权以及对本独立软件许可条款的实质违反。

of these Standalone Software License Terms.

3.2 License Parameters. Any license grant under these Standalone Software License Terms is subject to the limitations defined in this Section 3.2. Unless KLA expressly specifies or agrees otherwise in a duly signed writing, all Software shall be governed by a Basic License (see Section 3.2.1 — Basic License).

3.2.1 Basic License. Unless KLA expressly specifies in writing additional or different License Parameters per Subsections 3.2.2 (Licensed Computer) through 3.2.5 (Copies) below, Customer may install and keep one (1) copy of the Software on one (1) stand-alone computer, which may not be connected to a network in a manner that allows more than one (1) user to upload, review or otherwise create or use a copy of the Software. Customer may not use the Software other than on one (1) computer.

3.2.2 Licensed Computer. If KLA in writing identifies a certain computer (“Licensed Computer”) on which the Software may be used, then Customer may install, upload, copy, keep, view, and use the applicable Software only on such Licensed Computer. Customer may migrate the Software to a different computer or type of computer only if (i) Customer gives thirty (30) days’ prior written notice to KLA; (ii) Customer does not upload or use the Software on the Licensed Computer after installing it on the destination computer; and (iii) Customer removes all copies from the Licensed Computer within two (2) weeks after installing it on the destination computer, which will thereafter become the Licensed Computer for purposes of these Standalone Software License Terms.

3.2.3 Server-Client Architecture. If KLA identifies Software in a duly signed writing as a server software product (“Server Software”) then Customer may install, upload, copy, keep, view, and use one (1) copy of the server portion of such Software on a single server, which may not be relocated from the premises to which KLA ships the Software, at which KLA installs the Software or which KLA expressly designates in a duly signed writing (“Licensed Site”); Customer may install and use copies of the client portion of such Software on computers located within a five (5) miles radius of the server (unless KLA designates the license as a WAN license in a duly signed license, in which case Customer may install and use copies of the client portion of the Software at any location worldwide) in accordance with one of the following options:

(i) Floating Licenses. If KLA specifically describes a license for Server Software in writing as a “floating license” or “concurrent use license,” Customer may install, upload, copy, keep, view, and use the client portion of such Software on a reasonable number of individual workstations on the condition that no more than the maximum number of concurrent Authorized Users specified by KLA may use the client or server portion of the Software at any one time. If KLA does not specify in writing a different maximum number of Authorized-Users for a floating license, the maximum number of concurrent Authorized-Users shall be one (1).

(ii) Node-Locked Licenses. Unless KLA specifically describes in writing a license for Server Software as a “floating license” or “concurrent use license,” Customer may install, upload, copy, keep, view, and use the client portion of such Software only on one (1) workstation per authorized node. All activities related to the operation of the Software must be performed on the same workstation. The maximum number of authorized nodes shall be one (1), unless KLA specifies another number in writing.

3.2.4 Time Limit. If KLA specifies that a license is limited in time or duration, such license automatically shall expire on the specified date or, if no date is specified, on the one (1) year anniversary of the applicable Delivery Date.

3.2.5 Copies. Except as expressly specified herein or agreed otherwise in writing, Customer may duplicate each item of Software that KLA delivers only by (i) permanently installing one (1) copy on a computer (provided that Customer keeps the original copy that KLA delivered only as a back-up copy, separately from any actively used Software; keeps records of such original copies indicating the location of its storage; and provides such records to KLA upon request), and (ii) temporarily uploading such copy of the Software into the working memory of the computer on which it has been installed to the extent necessary for using the Software in accordance with the applicable Documentation and License Parameters. Customer may not create any other copies of the Software, unless KLA expressly permits additional copies in writing (for example, without limitation, by invoicing Customer for ten (10) Node-Locked Licenses (see Section 3.2.3(ii) — Node-Locked Licenses) with respect to an item of Software of which KLA delivers

3.2 许可参数。本独立软件许可条款项下的任何许可授予，受本 3.2 条规定的限制的约束。除非 KLA 在正式签署文件中明示规定或另行同意，否则，所有软件均至少受基本许可的约束（见第 3.2.1 条——基本许可）。

3.2.1 基本许可。除非 KLA 按第 3.2.2 条（许可计算机）至第 3.2.5 条（拷贝），明示书面规定了附加的或不同的许可参数，否则，客户可在一（1）个独立计算机上，安装、保留一（1）份软件，该计算机不能以允许一（1）个以上用户上传、检视或另行制作、使用软件拷贝的方式，与网络相链。客户不得在一（1）部以上的计算机上使用软件。

3.2.2 许可计算机。如果 KLA 书面指明了某一可使用软件的计算机（“许可计算机”），则客户仅可在该许可计算机上安装、上载、复制、保留、查看、使用有关软件。仅在下述条件下，客户方可将软件移栽到另一计算机或不同类型的计算机上：(i) 客户提前三十（30）天书面通知 KLA；(ii) 客户将软件安装到目标计算机上后未在许可计算机上上载或使用软件；(iii) 客户在将软件安装到目标计算机上后两（2）个星期内，将全部拷贝移除许可计算机，目标计算机随后将成为本独立软件许可条款所指的许可计算机。

3.2.3 服务器—客户架构。如果 KLA 在一份经正式签署的书面文件中，将软件指定为服务器软件产品（“服务器软件”），则可在一个服务器上安装、上载、复制、保留、查看和使用该等软件的服务器部分的一（1）份拷贝，该服务器不得迁离 KLA 发往软件的场所，即 KLA 安装软件或 KLA 在正式签署文件中明示指定的场所（“许可地点”）。客户可按下述方案之一，在服务器五（5）英里半径内的计算机上，安装、使用该等软件的客户部分的拷贝（除非 KLA 在正式签署的许可文件中将许可指定为 WAN 许可，这种情况下，客户可在全世界任何地方安装、使用软件的客户部分的拷贝）：

(i) 浮动许可。如果 KLA 将服务器软件许可明示书面指定为“浮动许可”或“同时使用许可”，则客户可在合理数量的单个工作stations上安装、上载、复制、保留、查看、使用该等软件的客户部分，条件是，任何一次使用软件的客户或服务部分的授权用户不得超过 KLA 规定的最大同时授权用户数。如果 KLA 未为一个浮动许可规定一个不同的最大同时授权用户数，则同时最大授权用户数为一（1）。

(ii) 节点锁定许可。除非 KLA 将一份服务器软件许可明示书面指定为“浮动许可”或“同时使用许可”，否则，客户在每一授权节点上仅可在一（1）个工作stations上安装、上载、复制、保留、查看、使用该等软件的客户部分。一切软件操作活动必须在同一工作stations上进行。除非 KLA 另行书面规定另一数量，否则授权节点的最大数量为一（1）。

3.2.4 时间限制。本条款下授予的许可是永久性的（可按本独立软件许可条款终止），除非 KLA 在一经正式签署的书面文件中指明许可是有期限限制的，这种情况下，许可于该等书面文件规定的有关日期自动失效，如无日期规定，则于有关交付日满一（1）周年日自动失效。

3.2.5 拷贝。除非本条款另有明示规定或另有书面约定，否则，客户仅可按下述方式复制 KLA 交付的每份软件：(i) 在一部计算机上永久性地安装一（1）份拷贝（但条件是，客户将 KLA 交付的原始拷贝仅作为备份拷贝，与任何使用中的软件分别保存，保留该等原始拷贝的记录，载明其存放地点，并按要求向 KLA 提供该等记录）；(ii) 在按照有关文档和许可参数使用软件所需范围内，将该等软件拷贝临时上载到安装了软件的计算机的工作内存。除非 KLA 明示书面允许制作额外的拷贝（例如但不限于 KLA 就其交付了一（1）份磁盘拷贝的软件向客户开具十（10）个节点锁定许可的发票（参见第 3.2.3(ii) 条——节点锁定许可），否则，客户不得制作任何其他软件拷贝。客户不得消除、变更或隐匿软件上的任何版权、专利、商标声明或其他法律声明，且在依本条款制作任何软件拷贝时，应完整地、准确地复制

only one (1) copy on a disk).

3.3 License Key Management. KLA may, at its sole discretion, use or combine license management programs with any Software, which automatically monitor and enforce license restrictions and limitations, provided that such precautions shall not relieve Customer of its primary responsibility to ensure compliance with these Standalone Software License Terms. Customer expressly agrees to be fully responsible for compliance by all Authorized Users with these Standalone Software License Terms, to take all actions reasonably requested by KLA to protect the rights of KLA in the Software and Documentation, and to indemnify and hold KLA harmless against any loss resulting from a breach of these Standalone Software License Terms by any Authorized User or any individual or entity that Customer caused, enabled or allowed to use the Software in any manner not authorized under these Standalone Software License Terms.

3.4 Documentation. KLA grants Customer a non-sublicensable, non-exclusive, non-transferable, limited license to use the printed versions of the Documentation that KLA provides for Customer's internal business purposes solely in support of Customer's use of the Software in accordance with these Standalone Software License Terms.

3.5 Proprietary Notices. Customer shall not remove any product identification, trademark, copyright or other notices from the Software and Documentation and shall display KLA's and its licensors' names and logos as well as the name of the Software on each copy of the Software and Documentation made by Customer.

3.6 License Restrictions. To the extent permitted by applicable law, Customer agrees not to (i) create any derivative works based on the Software or Documentation or modify or alter the Software or Documentation in any manner whatsoever; (ii) sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software or Documentation to any third parties; (iii) copy or use the Software or Documentation for any purpose or in any manner not expressly permitted in these Standalone Software License Terms; (iv) use the Software outside the permitted scope of the License Parameters; (v) use the Software or Documentation, in any format, through any timesharing service, service bureau, network or by any other means, for or in the interest of any third party other than by Authorized Users; or (vi) permit or encourage any third party to do any of the foregoing. Customer shall cooperate with KLA, and shall render all reasonable assistance requested by KLA, to assist KLA in preventing and identifying any use of, or access to, the Software and Documentation, by Authorized Users or otherwise, in violation of these Standalone Software License Terms.

3.7 Third Party Products. To the extent that Customer acquires from KLA any Third Party Products that are accompanied by end-user license terms and/or other terms (in shrink-wrap, clickthrough or other format) ("Third Party Terms") (i) Customer shall agree to such terms vis-à-vis the licensor specified in the Third Party Terms; (ii) to the extent such Third Party Terms conflict with Section 3.1 (License Grant) through 4.6 (License Restrictions), the Third Party Terms shall take precedence with respect to such Third Party Products; and (iii) Customer's right to use the Third Party Product will be defined and restricted in the accompanying Third Party Terms.

4. ALL RIGHTS RESERVED. KLA Corporation owns, retains, and reserves ownership, title, and all rights and interest, including, but not limited to, all Proprietary Rights in and to the Software and Documentation, subject only to the limited rights that KLA expressly grants in these Standalone Software License Terms. Without limiting the foregoing, Customer acknowledges that nothing herein shall constitute a sale of any Software or Documentation (or any Intellectual Property in and to Software and Documentation), including any copies and portions thereof.

5. TRANSFERS AND OTHER ACTIONS UNDER MANDATORY LAW. If Customer sells or otherwise transfers to a third party any hardware or media in which any Software is embedded or otherwise contained, Customer shall remove or delete all such Software prior to the transfer, unless KLA confirms in writing that the transferee has entered into a license agreement with KLA for such Software and has paid the applicable license fees. To the extent that Customer is expressly permitted by applicable mandatory law to transfer the Software to a third party, or copy, or use the Software in any manner not expressly authorized under these Standalone Software License Terms, Customer agrees to refrain from exercising such rights unless and until Customer has given KLA three (3) weeks' prior written notice of Customer's intent to exercise any such rights and KLA has not offered reasonable alternatives to Customer's exercise of the mandatory rights within such three (3) week period.

6. PAYMENT. Customer shall pay (i) ninety percent (90%) of the license fees thirty (30) days after receipt of KLA's invoice; and (ii) ten percent (10%) of the license fees thirty (30) days after express acceptance or deemed acceptance in accordance with Section

该等声明。

3.3 许可密钥管理. KLA 可依其自行决定, 将自动监控、实施许可限制和约束的许可管理程序与任何软件一起使用或合并, 但是, 该等防范措施并不解除客户 确保遵守本独立软件许可条款的首要责任。客户明示同意对一切授权用户遵守 本独立软件许可条款承担全部责任, 采取 KLA 合理要求的一切行动, 保护 KLA 对 软件和文档的权利, 并就客户促使、促成或允许任何授权用户、任何个人或实体违反本独立软件许可条款, 以本独立软件许可条款未予许可的任何方式使用 软件引起的任何损失, 对 KLA 进行赔偿并使其不受损害。

3.4 文档. KLA 授予客户一项不可分许可、非独占的、不可转让的有限许可, 使用 KLA 仅为支持客户按本独立软件许可条款使用软件的内部业务目的而提供的 文档的打印文本。

3.5 专有声明. 客户不得删除软件和文档中的任何产品标识、商标、版权或其他声明, 并应在客户制作的每份软件和文档拷贝上, 显示 KLA 及其许可人的名称、标志及软件名称。

3.6 许可限制. 在适用法律允许范围内, 客户同意, (i) 不基于软件或文档创作任何派生作品, 或以任何方式修改或变更软件或文档; (ii) 不向任何第三方出售、分许可、租赁、出租、出借、转让或另行转移软件或文档; (iii) 不按未经本 独立软件许可条款明示许可的任何目的或方式, 复制或软件或文档, (iv) 不在许可参数的允许范围之外, 使用或允许使用软件; (v) 不向授权用户之外的任何第三方或为其利益, 通过任何分时服务、服务机构、网络或任何其他手段, 以任何格式使用或允许使用软件或文档, (vi) 不允许或鼓励任何第三方从事任 一上述行为。客户应与 KLA 合作, 提供 KLA 要求的一切合理协助, 以协助 KLA 防 止、查明授权用户或其他人违反本独立软件许可条款, 使用或接触软件和文档 的行为。

3.7 第三方产品. 如果客户从 KLA 购买了任何随附最终用户许可条款和/或其他 (拆封包装许可、点击阅读许可或其他形式) 条款 ("第三方条款") 的任何 第三方产品, 则 (i) 客户应同意第三方条款规定的该等许可方条款; (ii) 如该等第 三方条款与第 3.1 条 (许可的授予) 至第 4.6 条 (许可限制) 冲突, 则就该等第 三方产品而言, 应以第三方条款为准; (iii) 客户对第三方产品的使用权在随附的 第三方条款中加以确定和限制。

4. 保留一切权利。除 KLA 在本独立软件许可条款中明示授予的有限权利外, KLA Corporation 拥有、保留、保持软件和文档的所有权、产权及一切权益, 包括但不限于一切专有权利。在不限制前述规定的同时, 客户认知, 本条款中的任何规定, 均不构成任何软件或文档或其任何知识产权 (包括其任 何拷贝或任何部分) 的销售。

5. 强制性法律下的转让和其他行动。如果客户向第三方出售或另行转让内嵌或 另行含有任何软件的任何硬件或介质, 客户应在转让前消除或删除所有该等软 件, 但 KLA 书面确认受让人已与 KLA 就该等软件订立许可协议, 并已支付有关许 可费时除外。如果有强制性法律明示允许客户向第三方转让软件, 或以本独 立软件许可条款未明示授权的任何方式复制或软件, 则客户同意, 在客户已提前三 (3) 个星期书面通知 KLA 其行使任何该等权利的意愿, 且 KLA 未在该 等三 (3) 个星期期限内提供客户行使强制权利的合理替代方案之前, 客户不得 行使该等权利。

6. 支付. 客户应 (i) 在收到 KLA 发票后三十 (30) 日内支付许可费的百分之九十 (90%); 和 (ii) 在按第 2.2 条 (验收测试) 进行明示接受或推定接受 (以先发生 者为准) 后三十 (30) 日内, 支付许可费的百分之十 (10%)。支付按一般条款 规定进行。客户将负责办遵守适用的中国法律、法规 (包括《中华人民共和国技术进出口管理条

2.2 (Acceptance Testing), whichever occurs earlier. Payment shall be made in accordance with the General Terms. Customer will be responsible for the completion of any contract approval and/ or recordal procedures required for compliance with applicable PRC laws and regulations, including the *Regulations for the People's Republic of China for the Administration of Technology Imports and Exports*. KLA will render reasonable assistance upon Customer's request, however Customer will be solely responsible for the consequences of late payment under this Section due to a delay in completing the applicable approval and/ or recordal procedures.

## 7. LIMITED WARRANTY AND DISCLAIMERS

7.1 Limited Warranty. KLA warrants that on the Delivery Date, the Software substantially conforms to the specifications in the applicable Documentation, subject to the limitations and exclusions in Section 7.1.1 (Excluded Causes) through Section 7.1.5 (No Third Party Rights).

7.1.1 Excluded Causes. Customer has no warranty rights with respect to defects or non-conformities caused by (i) use of the Software with hardware or software that was not expressly specified in writing by KLA as suited for use with the Software; (ii) Customer's failure to follow KLA's operating instructions; (iii) failure to implement all updates, upgrades, and other new releases of Software made available to Customer; (iv) changes to the Customer environment, in which Software was provided; (v) acts or omissions of persons other than KLA or its authorized representatives; (vi) installation or maintenance of Software by someone other than KLA or persons certified by KLA; abuse, use at an unsafe or not suitable site, unusual physical or electrical stress; any relocation of Software without, or not in accordance with, a prior written authorization by KLA, or (ix) Force Majeure conditions as defined KLA's General Terms.

7.1.2 Modifications. Customer has no warranty rights with regard to any Software (i) that has been modified by someone other than KLA, unless such modifications were directed or approved by KLA in writing and made in conformance with all specifications and instructions provided in such writing; or (ii) that KLA modified in accordance with Customer's request, specifications, or instructions, unless KLA agrees in a duly signed writing that the modified Software shall be covered by the limited warranty specified in Section 7.1 (Limited Warranty).

7.1.3 No Warranties for Updates. KLA does not extend any warranties under these Standalone Software License Terms for any updates that KLA may provide under KLA's Software Maintenance Terms. Any warranties for any updates are exclusively and finally provided for under KLA's Software Maintenance Terms.

7.1.4 No Warranty for Third Party Products. KLA does not extend any warranties and KLA disclaims all responsibilities for Third Party Products. If a manufacturer or supplier of Third Party Products makes any documentation providing for an end-user warranty available to KLA, then KLA shall forward such documentation to Customer.

7.1.5 No Third Party Rights. Any warranties extended by KLA (i) are nontransferable and for Customer's benefit only, and (ii) shall expire effective immediately if Customer transfers any Software to any third party.

7.2 Exclusive Remedies. If the Software materially fails to conform to the limited warranty set forth in Section 7.1 (Limited Warranty), KLA shall, at its sole discretion (i) repair or replace the non-conforming Software to remedy the non-conformity identified by Customer in accordance with Section 7.3 (Warranty Period); or (ii) refund to Customer the amounts paid for the Software in exchange for return of the non-conforming Software, in which case all licenses granted to Customer under these Standalone Software License Terms for such Software shall be automatically revoked. This Software warranty does not obligate KLA to provide any on-site repair or on-site replacement of Software. At KLA's discretion, repair of the Software may be made in later releases of Software and may require the purchase of additional software or hardware at Customer's expense. THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 7.2 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 SOFTWARE.

7.3 Warranty Period. Unless KLA expressly specifies or agrees on a different warranty period in a duly signed writing, the warranty period for Software shall be ninety (90) days. The warranty period shall begin on the Delivery Date. Customer shall have no warranty claims under Section 7.1 (Limited Warranty), unless KLA receives from Customer, during the warranty period (i) a written notice describing the warranty breach in reasonable detail ("Warranty Claim"); and (ii) remote and physical access to the affected Software as well as information in sufficient detail to enable KLA to reproduce

例) 所需的任何合同批准和/或登记手续。经客户要求, KLA 将提供合理的协助, 但是, 因有关批准和/或登记手续办理延误而引起的本条项下的支付延误后果, 应由客户单独承担。

## 7. 有限保证和免责声明

7.1 有限保证. KLA 保证, 于交付日, 软件与有关文档中的规格实质相符, 并受第 7.1.1 条 (除外原因) 至第 7.1.5 条 (无第三方权利) 的限制和除外规定的约束。

7.1.1 除外原因. 下列情形引起缺陷或不符的, 客户不享有保证权利: (i) 将软件与 KLA 未明示书面规定适于与软件合用的硬件或软件合用; (ii) 客户未遵循 KLA 的操作指示; (iii) 客户未实施向其提供的一切软件更新、升级和其他新版本; (iv) 提供软件的客户环境发生变化; (v) KLA 或其授权代表以外的人作为或不作为; (vi) KLA 或 KLA 认证的人之外的人安装或维护软件; (vii) 滥用, 在不安全或不适当的场地使用, 或异常物理或电气应力; (viii) 未经或未按 KLA 的事先书面的授权, 搬迁软件; 或 (ix) KLA 一般条款规定的不可抗力情形。

7.1.2 修改. 任何软件有下述修改情形的, 客户不享有保证权利: (i) KLA 之外的人修改的, 除非该等修改是 KLA 书面指示或批准的并按该等书面批准规定的一切规格和指示进行; (ii) KLA 按客户的要求、规格或指示修改的, 除非 KLA 在一经正式签署的书面文件中同意被修改的软件享有第 7.1 条 (有限保证) 规定的有限保证。

7.1.3 对更新无保证. KLA 不在本独立软件许可条款项下对 KLA 可能按 KLA 软件维护条款提供的任何更新作出任何保证。对任何更新的任何保证, 仅由 KLA 软件维护条款最终规定。

7.1.4 对第三方产品无保证. KLA 不对第三方产品作出任何保证, KLA 不对其承担任何责任。如果第三方产品的生产商或供应商制定任何文件, 为 KLA 提供最终用户保证, 则 KLA 将该等文件转给客户。

7.1.5 无第三方权利. KLA 提供的任何保证, (i) 不可转让, 且仅以客户为受益人; (ii) 如客户向任何第三方转让任何软件, 则将立即失效。

7.2 排他性救济. 如软件与第 7.1 条 (有限保证) 规定的有限保证实质不符, 则 KLA 将依其自行决定, (i) 修理或更换不符软件, 按第 7.3 条 (保证期), 补救客户发现的不符, 或 (ii) 客户退还不符软件, KLA 退还软件价款, 这时, 在本独立软件许可条款下就该软件授予的一切许可均可自动撤销。本软件保证并未对 KLA 施加提供任何现场修理或现场更换软件的义务。依其自行决定, KLA 可在软件的后继版本中修理软件, 并可要求客户付费购买额外的软件和硬件。**本第 7.2 条明示规定的救济, 是客户的唯一的、排他性的救济, 并取代客户可能就任何软件不符而对 KLA 享有的一切其他权利或救济。**

7.3 保证期. 除非 KLA 明示规定或在一正式签署的书面文件中规定了一个不同的保证期限, 否则, 软件的保证期将为九十 (90) 天。保证期始于交付日。除非在保证期内 KLA 从客户收到 (i) 以合理细节描述保证违反的书面通知 ("保证要求"); (ii) 提供对受影响软件的远程、物理接入便利以及充分详尽的信息, 使 KLA 能再现和分析故障, 否则, 客户不能行使第 7.1 条 (有限保证) 项下的保证要求权。

and analyze the failure.

7.4 **Costs and Procedure.** If KLA receives a Warranty Claim in accordance with Section 7.1 (Limited Warranty), Section 7.3 (Warranty Period), and any procedure guide-lines that KLA may publish or make available to Customer (“Warranty Guidelines”), KLA will not charge for any repair, replacement, error identification, or correction of the non-conforming Software. If Customer's Warranty Claim fails to meet any of the requirements of Sections 7.1 (Limited Warranty), Section 7.3 (Warranty Period), or the Warranty Guidelines, KLA's then-current Time & Materials Services Terms (available on request) shall apply to any error identification or correction efforts, repair, replacement, and shipment costs by KLA and Customer shall compensate KLA accordingly on a time & materials basis at KLA's then-current rates (available on request).

7.5 **Disclaimer.** EXCEPT AS SPECIFIED IN SECTION 7.1 (LIMITED WARRANTY), KLA MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY SOFTWARE. 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 AND, WITHOUT LIMITING THE FOREGOING, MAKES NO WARRANTY THAT THE SOFTWARE WILL BE ERROR-FREE, THAT ITS PERFORMANCE OR OPERATION WILL BE UNINTERRUPTED, OR THAT THE SOFTWARE WILL PERFORM ON ANY HARDWARE OR WITH ANY SOFTWARE, EXCEPT AS EXPRESSLY CERTIFIED AS INTEROPERABLE BY KLA IN THE APPLICABLE DOCUMENTATION.

## 8. TERMINATION

8.1 **Termination for Cause.** Without limiting Section 3.1 (License Grant) with respect to the automatic termination of license rights for specific Software, KLA may terminate — at KLA's sole discretion either all or specific — licenses to Software granted hereunder, by giving written notice, effective immediately, if within ten (10) days of Customer's receipt of a reasonably detailed written request to cure, Customer has not cured all breaches of payment obligations, license limitations and restrictions, including, but not limited to, the License Parameters, or any other substantial obligations under these Standalone Software License Terms. Upon such termination, Customer shall immediately pay all outstanding fees, cease use of all Software and related Documentation, return or delete, at KLA's request and sole discretion, all copies of the Software and Documentation in Customer's possession, and certify compliance with all foregoing obligations to KLA in writing. These termination rights are in addition to any other rights and remedies that KLA may have at law or in equity.

8.2 **Survival.** KLA's General Terms and these Standalone Software License Terms, except Sections 2.1 (Delivery) and 3.1 (License Grant), shall survive termination of any or all licenses granted hereunder.

9. **AUDIT.** Customer agrees to keep complete, correct and detailed records relating to (i) the reproduction and use of the Software and Documentation, including, at a minimum, the location of all Software, Licensed Computers, and back-up copies of Software and Documentation; and (ii) the transfer of hardware or media on which any Software is embedded or otherwise contained and Customer's compliance with its obligations under Section 5 (Transfers and other Actions under Mandatory Law). At KLA's request and upon ten (10) days prior written notice, KLA and/or its authorized representatives (e.g. an accountant and/or computer expert) — collectively, the “Auditors” — shall have the right to inspect and audit Customer's compliance with these Standalone Software License Terms at Customer's facilities and other applicable locations, at any time, during normal business hours, but no more than twice per year. Customer shall fully cooperate with such audit, and grant all required assistance and access to all records, materials and equipment. If an audit reveals that Customer possesses or at any time possessed unlicensed copies of the Software or Documentation, or that Customer did not remove or delete all copies of Software and Documentation that Customer was obligated to remove or delete in accordance with Section 5 (Transfers and other Actions under Mandatory Law), Customer shall immediately pay for such copies the greater of the fees applicable per KLA's standard rates and prices at the time of (a) contract formation; (b) Customer's unauthorized copying; or (c) the completion of the audit. If such fees amount to more than ten percent (10 %) of the amount previously paid or payable to KLA under these Standalone Software License Terms for the audited time period then (y) Customer shall reimburse KLA for all expenses related to the audit; and (z) KLA shall have the right to immediately terminate — at its sole discretion either all or only the affected — licenses by giving written notice, effective immediately. The Auditors shall not disclose any of Customer's information except as related to any non-compliance with these Standalone Software License Terms or infringements of KLA's rights. KLA's rights and remedies under this Section 9 shall be in addition to and not in lieu of any other

7.4 **费用和程序。** 如果 KLA 收到符合第 7.1 条（有限保证）、第 7.3 条（保证期）、以及 KLA 公布的或提供给客户的任何程序指南（“保证指南”）的保证要求，则 KLA 将免费进行不符软件的修理、更换、错误识别或纠正。如果客户保证要求不符合第 7.1 条（有限保证）、第 7.3 条（保证期）或保证指南，则 KLA 届时有效的时间和材料服务条款（应索即供）应适用于 KLA 进行的任何错误识别或纠正工作、修理、更换和发生的装运费用，客户应按 KLA 届时有效的费率（应索即供），根据时间和材料对 KLA 进行相应补偿。

7.5 **免责声明。** 除非第 7.1 条（有限保证）另有规定，KLA 不对任何软件作任何明示陈述或保证。在适用法律最大允许范围内，KLA 不作任何默示陈述与保证，包括但不限于适销性保证、适于特定用途保证，以及无侵权保证。在不限制前述的同时，KLA 不提供软件无错误的保证，运行或操作无中断保证，或软件能在任何硬件上运行或与任何软件一起运行的保证，但 KLA 在有关文档中明示证明其具备互操作性的除外。

## 8. 终止

8.1 **因故终止。** 在不限制第 3.1 条（许可的授予）有关特定软件的许可权自动终止规定的前提下，如果客户未在收到合理详尽的书面补救请求后十（10）日内 补救其对支付义务、许可限制和约束（包括但不限于许可参数）或在本独立软件许可条款项下的任何其他实质条款的一切违反，则 KLA 可依其自行决定，经书面通知而立即终止本独立软件许可条款下授予的全部或特定许可。发生该等终止后，客户应立即支付一切未付费用，停用一切软件和有关文档，退还或删除（按 KLA 的要求和自行决定）客户占有的一切软件和文档的拷贝，并向 KLA 出具其已遵守一切上述义务的书面证明。该等终止权是在 KLA 依普通法或衡平法 而享有的一切其他权利和救济之外的权利。

8.2 **继续有效。** KLA 一般条款和本独立软件许可条款（第 2.1 条（交付）、第 3.1 条（许可的授予）除外），在本条款项下授予的任何或全部许可的任何终止后 继续有效。

9. **审计。** 客户同意对下述各项作出完整、准确、详尽的记录：(I) 软件和文档的复制和使用，至少应包括一切软件、许可计算机、软件和文档备份拷贝的地点；(II) 内嵌或另行包含任何软件的硬件或介质的转让，以及客户对其在第 5 条（强制性法律下的转让和其他行动）项下义务的遵守。经 KLA 要求及提前十（10）日的书面通知，KLA 和/或其授权代表（如会计师和/或计算机专家）（合称“审计师”），有权随时在正常营业时间内，在客户的设施及其他有关地点 检查、审计（但一年不得超过两次）客户遵守本独立软件许可条款的情况。客户对该等审计应予充分合作，提供所需的一切协助，以及对一切记录、材料、设备的一切必要查视。如果审计显示，客户拥有（或曾在任何时候拥有）未受许可的软件或文档拷贝，或者客户未按第 5 条（强制性法律下的转让和其他行动）消除或删除其有义务消除或删除的一切软件和文档拷贝，则客户应立即为 该等拷贝付款，付款额为 (a) 合同成立之时；(b) 客户擅自复制日；或 (c) 审计结束日适用的 KLA 的标准费率、价格（以三者中最大者为准）。如果该费用超过 被审计期间客户在本独立软件许可条款项下已付或应付 KLA 的金额的百分之十（10%），则 (y) 客户应向 KLA 偿付该等审计的全部费用；(z) KLA 有权依其自行决定，经书面通知，立即终止全部许可或仅终止受影响的许可。审计师不得披露 任何客户信息，但与对本独立软件许可条款的任何违反，或对 KLA 权利的侵犯 相关的客户信息除外。KLA 在本第 9 条项下的权利和救济，是在 KLA 在普通法上 或衡平法上享有的一切其他权利或救济之外的，而不是对它们的取代。

rights or remedies that are available to KLA at law or in equity.

10. PREVALING LANGUAGE. The English language version of these Standalone Software License Terms shall be controlling and legally binding in all respects and shall prevail in case of any inconsistencies.

10. 作准文本。本独立软件许可条款的英文文本，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。