

FIXED FEE SERVICES TERMS

Version Taiwan 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

固定費用服務條款

2019.7.15 台灣版本

本固定費用服務條款適用由 KLA Corporation, 地址為 One Technology Drive, Milpitas, California 95035 (下稱「KLA」) 向任何買方 (下稱「客戶」) 提出之任何報價、訂單與訂單確認文件, 以及任何銷售固定費用服務。KLA 不以明示或暗示方式接收且以本文件拒絕客戶提出之其他或不同條款, 包括但不限於任何訂單、接收文件、確認文件中所含或引述, 或以商業習慣或於先前交易過程中確立之任何條款, 除非 KLA 以正式簽署之書面文件明確無疑義地表示同意此等條款。客戶於接獲固定費用服務條款後, 或以其他方式接獲通知獲悉此等交易係依據固定費用服務條款而執行後而訂購、接收、同意或使用產品或以其他方式進行任何交易, 即表示同意此固定費用服務條款及 KLA 一般條款, 一般條款係以參照方式納為本條款之一部分, 可附加為本條款附件或可自網站 www.kla.com/terms 查詢或可索取

1. 定義 除下述定義外, KLA 一般條款之定義應予適用。

「固定費用服務」係指由 KLA 確認之服務, 或是 KLA 明示同意以固定價格或以里程碑為計價方式所提供之服務 (與其相對者, 係以時、日、週或月費率為計價方式提供之服務)。固定費用服務得包括例如: 遷移或移動之硬體之重新安裝、及分析與報告, 譬如產量科技評估。

「里程碑」係指在工作說明中所預定之一計劃階段或子任務。

「工作說明」係指工作說明或當事人明示書面同意之其他文件, 該文件載明工作產品之明細。如當事人同意依里程碑計價者, 工作說明應提出每一里程碑之明細及分期支付款項。

2. 固定費用服務

2.1 固定費用服務範圍 KLA 基於工作說明提供客戶固定費用服務。如客戶要求未於工作說明中所涵蓋之服務, KLA 得依自己獨立判斷(i)同意以正式簽署方式修改工作說明; 或(ii)依據 KLA 當時之時間及材料服務條款以時間及材料為基礎提供該等服務 (該條款得於 www.kla.com/terms 查詢或可索取)。

2.2 聯絡人與指派人員 為與他方當事人就關於固定費用服務事項從事所有技術上聯繫, 各當事人應指定至少一名主要及一名替補聯絡人; 惟, 各當事人隨時更換該聯絡人時, 應以書面通知他方。KLA 之人員應僅專依循 KLA 之指示與監督。除前述事項外, KLA 得(i)以自己獨立判斷, 隨時選任、調動及更換其人員; 及(ii)在當事人間應專門負責該等人事之管理及人力資源事項。

3. 驗收

3.1 驗收規定 工作產品不須驗收測試或正式驗收。但當事人在工作說明或其他正式簽署書面明確同意驗收規定者不在此限。於此情形, 應適用第 3.2 條 (完成及驗收測試) 至第 3.4 條 (視為驗收)。

3.2 完成與驗收測試 如工作產品依據前述須為驗收測試者, 當該工作產品得驗收測試時, KLA 應通知客戶。在客戶之要求下, 一名客戶之代表得出席 KLA 之驗收測試。藉由驗收測試, KLA 應決定產品是否符合工作說明中雙方同意之規格 (「驗收標準」)。如果驗收測試符合驗收標準, KLA 應於完成驗收測試程序後提供客戶驗收測試結果 (「測試結果」) 之書面摘要。

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 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.

3.3 表示驗收或拒絕 如工作產品實質上符合測試標準，客戶應(i)於驗收測試程序終了時；或(ii)若無客戶代表出席驗收測試程序，於客戶收受測試結果十天內，簽署書面驗收聲明。如任何工作產品實質上未符合所適用之驗收標準，客戶應立即提供 KLA 一合理詳細書面描述所檢查出之不相符（「拒絕通知」）。若 KLA 於客戶收到測試結果後十日內，收受有正當理由之拒絕通知，KLA 應以商業上合理之努力以修復該不相符，並依據第 3.2 條（完成及驗收測試）及第 3.3 條，重複驗收測試程序。

3.4 視為驗收 缺乏明示驗收時，在下述三種情形之一最早發生時，視為客戶驗收工作產品(i)核准工作產品；(ii)未保留與工作產品有關之任何款項之付款；(iii)客戶收受測試結果後十日內，但如 KLA 於該期間內收到拒絕通知者不在此限；或(iv)為任何其他目的，而非為決定是否符合驗收標準之必要測試而使用工作產品。

4. 付款 客戶應依據工作說明及一般條款付款。

5. 有限保證與免責聲明

5.1 有限保證 KLA 保證於下述日期工作產品實質上符合工作說明及驗收標準（如有），(i)如工作產品驗收測試，於客戶明示驗收或依據第 3.4 條（視為驗收）視為驗收之日，視何者發生較早；或(ii)在其他工作產品之情形，為 KLA 請款日。

5.2. 唯一之救濟 如工作產品實質上未符合第 5.1 條（有限保證）所定之有限保證，KLA 應，以自己之判斷，(i)修補或更換不相符之工作產品以補正客戶依第 5.3 條（保證期間）所確認之不相符；或(ii)返還客戶就該工作產品所支付金額，並取回不相符軟體，於此情形客戶依據固定費用服務條款就工作產品所取得之授權應自動廢止。第 5.2 條明定之補救係客戶唯一之救濟，且排除客戶得對抗 KLA 其他關於不相符固定費用服務或工作產品之任何權利或救濟。

5.3. 保證期間 除 KLA 以正式簽署書面明示或同意不同之保證期間者外，保證期間為 90 天。保證期間自 KLA 請款日起算；或，於同意驗收規定之情形，在客戶表示驗收或依據第 3.4 條（視為驗收）視為驗收日起算，視何者發生較早。客戶並無保證請求，除非(a)KLA 於保證期間自客戶處收合理詳細書面描述保證之違反（「保證請求」）；及(b)於工作產品驗收測試之情形，在測試過程及/或審閱測試結果時，以合理之注意仍未能發現不相符。

5.4 費用及程序 如 KLA 收到依據第 5.1 條（有限保證）、第 5.3 條（保證期間）及任何 KLA 發行或提供客戶之程序指南（「保證指南」）之保證請求，KLA 不收取任何修理或重新履行費用，但該費用係由客戶自 KLA 原送達之目的地遷移工作產品所造成者不在此限。如客戶保證請求未符合第 5.1 條（有限保證）、第 5.3 條（保證期間）及保證指南之規定，KLA 所為之任何誤差確認或更正、修理、更換及裝運費用應依 KLA 當時之時間及材料服務條款（可索取）計算。

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 NONINFRINGEMENT.

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 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 (Preexisting 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,

5.5 免責聲明 除於第 5.1 條（有限保證）具體指明者外，KLA 不顯示聲明或保證有關任何固定費用服務或工作產物。於法律許可範圍內，KLA 否認所有暗示保證或聲明，包括但不限於任何銷售之保證、符合特定目的及不侵權。

6 專有權的歸屬 工作產品所含或由一方當事人依據固定費用服務所創作之智慧財產，依下述方式決定其歸屬：

6.1 既存之智慧財產

6.1.1 既存之客戶智慧財產 客戶保留所有客戶持有或在固定費用服務條款範圍外取得之專有權，包括但不限於，關於固定費用服務之履行而由客戶提供 KLA 任何既存之智慧財產之專有權（「既存之客戶智慧財產」）。

6.1.2 既存之 KLA 智慧財產 KLA 保留所有 KLA 持有或在固定費用服務條款範圍外取得之專有權，包括但不限於，KLA 置入工作產物之既存之智慧財產之專有權（「既存之 KLA 智慧財產」）。

6.2 新開發之智慧財產 依據第 6.1 條（既存之智慧財產），依固定費用服務所生之智慧財產依如下規定其專有權之歸屬：

6.2.1 任一方智慧財產之改善 無論智慧財產係由 KLA、客戶或雙方共同創作(a)客戶取得所有對既存之客戶智慧財產但不構成對既存之 KLA 智慧財產之改善及修改之專有權；(b)KLA 取得所有對既存之 KLA 智慧財產但不構成對既存之客戶智慧財產之改善及修改之專有。

6.2.2 對雙方或無任何一方之智慧財產之改善 如新創作之智慧財產構成對雙方或無任何一方既存之智慧財產之改善或修改，該智慧財產之專有權應由單獨創作該智慧財產之一方所有。如該新創作之智慧財產係由雙方當事人共同開發，於此情形專有權（不包括結帳、分享收益及商品化或實施專用權之權利）應由雙方當事人共同取得。

6.3 轉讓 如依強制法，一當事人不能於創作時取得固定費用服務條款規定之專有權，他方當事人茲此轉讓其智慧財產、有形物或軟體之權利予依第 6.1 條（既存之智慧財產）及第 6.2 條（新開發之智慧財產）有資格取得所有專有權之當事人（「具資格之當事人」）。若依強制法權利僅得於創作後轉讓時，當事人茲不可撤銷地同意在創作後立即轉讓其權利予具資格之當事人。如依強制法專有權係不得轉讓，當事人茲不可撤銷地同意授予一專屬、不可撤銷且無條件之授權予具資格之當事人。如依強制法該授權為無效或非完全可實施者，當事人不可撤銷地同意，於具資格之當事人合理請求以取得一儘可能接近第 6.1 條（既存之智慧財產）及第 6.2 條（新開發之智慧財產）所述之法律地位時，授予且茲授予該權利予具資格之當事人。

6.4 專有權之實現 為確信各當事人能如第 6.1 條（既存之智慧財產）及第 6.2 條（新開發之智慧財產）保留、取得並使用其各自智慧財產及專用權，各當事人應(i)移轉佔有、所有權、含有智慧財產之媒介、模型及其他有形物之權利予他方當事人，如他方當事人依固定費用服務條款享有該等智慧財產

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, non-transferable, 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 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.

之專有權; (ii)如將該智慧財產物理上分開係不可行或商業上不合理者, 共享由雙方當事人所有智慧財產之媒介、模型或其他有形物; 及(iii)提供他方當事人合理支援、簽名及資訊, 用以紀錄、完成前述轉讓、註冊或保全、防禦並實施該他方之專有權以對抗第三人。

6.5 受僱人及締約人 為了確保雙方當事人如第 6.1 條 (既存之智慧財產) 及第 6.2 條 (新開發之智慧財產) 取得所有專有權, 雙方當事人應使受僱人、顧問及代理人轉讓或移轉 (如第 6.3 條一轉讓所規定) 受僱人、顧問及代理人履行有關固定費用服務條款之工作所生之專有權予為僱傭人或本人之當事人。

6.6 工作產品之授權 KLA 授予客戶一非專屬、不可轉讓及不得再授權之授權, 僅供客戶之內部商業目的, 使用該等工作產物, 如(i)在工作說明內載明工作產物且 KLA 欲提供該工作產物為固定費用服務之一部 (例如在工作說明中載明為待送物品); (ii)當事人間其它書面條款或合約未涵蓋工作產品 (否則其他條款與合約, 例如: 時間與材料服務條款或軟體授權條款, 應予適用); 及(iii)客戶遵循所有固定費用服務條款之規定, 包括但不限於按時支付所有費用及其他金額, 以及 KLA 一般條款之保密義務。

6.7 保留所有其他權利 KLA 保留所有權、權利, 及所有權利及利益, 包括但不限於未於固定費用服務條款明示授予客戶之所有專有權, 該專有權係針對於或存於 (I)所有工作產品; 及(II)所有既存之 KLA 智慧財產及 KLA 先前或獨立於固定費用服務所開發或取得之所有其他資訊、材料及技術, 包括但不限於, 其中之智慧財產或其中或對其之專有權。

7. 期間與終止

7.1 期間 任何固定費用服務計畫期間持續至(i)依據工作說明完成固定費用服務; (ii)依據第 7 條終止工作說明時。

7.2 有因終止 在收到一方主張實質違反之詳盡書面通知後 10 日內, 如他方未改善任何重大違反關於工作說明之固定費用服務條款之情形時, 一方得以書面通知他方終止工作說明, 該終止並立即生效。

7.3 終止後之處理 除客戶因 KLA 重大違反固定費用服務條款外而終止工作說明者外, 客戶應(i)支付 KLA 工作說明中明確說明之所有費用扣除 KLA 因提前終止所節省之費用, 或是 KLA 於終止前履行固定費用服務負擔之所有費用之 120%, 視何者較高而定; 及(ii)歸還 KLA 所有工作產物、KLA 之機密資訊及其他取得關於固定費用服務之有形物及無形物, 並不得保留上開資料之複本, 及依據固定費用服務條款工作產品之授權應自動廢止。

7.4 效力存續 縱固定費用服務條款終止, 固定費用服務條款第 3.3 條 (表示拒絕或驗收)、第 3.4 條 (視為驗收)、第 4 條 (付款)、第 5 條 (有限保證與免責聲明)、第 6 條 (專有權之歸屬) 及第 7 條 (期間與終止), 及 KLA 一般條款之效力仍應存續; 惟如客戶未遵循固定費用服務條款及 KLA 一般條款時, 包括但不限於, 第 4 條付款義務及 KLA 一般條款之保密義務, KLA 於第 6.6 條 (工作產品之授權) 授予客戶工作產品之授權, 終止後其效力並不存續。

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.

8.適用語言

固定費用服務條款英文版規範並合法拘束所有事項，且如有不一致發生時，以英文版為準。