

GENERAL TERMS

Version Taiwan 2019.7.15

These General Terms apply to any quote, order, and order acknowledgement, and any sale, license or delivery of hardware, software, services, or other products 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 products or otherwise proceeding with any transaction after receipt of these General Terms or after otherwise being notified that such transactions are subject to these General Terms, Customer agrees to these General Terms.

1. DEFINITIONS

"**Agreement**" means a contract between KLA and the Customer that is formed by reference to these General Terms and / or one or more sets of KLA's product-specific terms (e.g., hardware sales terms or fixed fee services terms) that are attached hereto or available from KLA on request.

"**Confidential Information**" means KLA Information, Customer Contributions and any other information that is marked or otherwise expressly identified as confidential in writing or that should have been reasonably understood as such due to its nature, regardless of whether in tangible, electronic, verbal, graphic, visual or other form, that one party ("**Owner**") discloses to the other party ("**Recipient**"). Confidential Information does not include material or information that (i) is generally known by third parties as a result of no act or omission of the Recipient; (ii) subsequent to disclosure hereunder was lawfully received without restriction on disclosure from a third party having the right to disseminate the information; (iii) was already known by the Recipient prior to receiving it from the Owner and was not received from a third party in breach of that third party's obligations of confidentiality; or (iv) was independently developed by the Recipient without use of Confidential Information of the Owner.

"**Customer Contributions**" means any Intellectual Property or information that (i) is created by or with Customer and contains KLA Information, is based on KLA Information, is developed because of or with the help of KLA Information, or constitutes a modification or improvement of KLA Information; or (ii) is specifically related to KLA Information and not specifically related to Intellectual Property or information owned or created by Customer unrelated to KLA Information.

"**Delivery Date**" means the date on which KLA puts a Product into the possession of a carrier for shipment, or on which Customer downloads Software, as applicable.

"**Documentation**" means KLA's information manuals that (i) contain operating instructions and performance specifications for the Products; (ii) KLA delivers to Customer with the Products; and (iii) KLA generally makes available to all users of its Products.

"**Hardware**" means any standard tangible products or parts thereof that KLA agrees to deliver to Customer, excluding any Software that may be contained therein, but including hardware revisions that KLA may deliver under KLA's Hardware Maintenance Terms.

"**Intellectual Property**" means any computer program or routines (in object code, source code, or embedded format, regardless of the medium on which it resides), algorithms, know-how, hardware and/or software configurations, inventions, documentation, translations, text and other works of authorship, data, databases, information, designs, utility models, symbols, logos, marks, names, procedures, processes, technical improvements and any other intangibles as well as the prototypes, samples, copies, and other materialized forms of the foregoing intangibles.

"**KLA Information**" means (i) any technical or other information related to Products or services (including, but not limited to, any documentation, services offerings, class materials, and written, visual, and oral instructions) and (ii) any Intellectual Property owned, or provided to Customer, by KLA.

一般條款

2019.7.15 台灣版本

本一般條款適用由 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，以及任何硬體、軟體、服務或其他產品之銷售、授權或交付。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。客戶於接獲本一般條款後，或以其他方式接獲通知獲悉此等交易係依據本一般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，即表示同意此一般條款。

1. 定義。

「**合約**」係指本一般條款中所引述由 KLA 與客戶簽署之合約，以及 / 或者本文件所附或可自 KLA 處索取之一套或多套 KLA 各項產品條款 (例如，硬體銷售條款或固定費用服務條款)。

「**機密資訊**」係指 KLA 資訊、客戶提供資訊，以及任何由一方 (下稱「所有人」) 向對方 (下稱「接收人」) 揭露，標示為機密或以其他方式於書面載明為機密之其他資訊，或根據資訊之性質即可合理了解具機密性之資訊，無論為有形、電子、口頭、圖形、視像或其他形式。機密資訊不含下列材料或資訊：(i) 因接收人之不行為或無疏忽而使第三人普遍知悉者；(ii) 於按本條款規定揭露後，自有權傳播資訊之第三人處合法接收，且不受揭露之限制；(iii) 接收人自所有人處接收資料前即已獲知，且並非自違反本身保密義務之第三人處接收該等資料；或 (iv) 由接收人獨立研發而得，且未使用所有人之機密資訊。

「**客戶提供資訊**」係指符合下列條件之智慧財產或資訊：(i) 由客戶獨立或與客戶共同創造且包括 KLA 資訊，以 KLA 資訊為基礎，係因 KLA 資訊或由 KLA 資訊輔助所研發，或構成 KLA 資訊之修訂或改良；或 (ii) 特別與 KLA 資訊相關且並未特別與客戶所有或創造但與 KLA 資訊無關之智慧財產或資訊有特別關聯。

「**交付日**」係指 KLA 將產品交由運送人占有當日，或客戶下載軟體當日；視情況而定。

「**文件**」係指符合下列條件之 KLA 資訊手冊：(i) 包含產品操作說明與性能規格；(ii) KLA 伴隨產品向客戶交付；以及 (iii) KLA 向全部產品所有人提供之文件。

「**硬體**」係指 KLA 同意向客戶交付之任何標準有形產品或產品零件，不包括其中可能包含的軟體，但包括 KLA 依據 KLA 硬體維修條款而得交付之修正硬體。

「**智慧財產**」係指任何電腦程式或程序 (形式為目的碼、來源碼，或內建格式，無論媒介為何)、演算規則、技術資訊、硬體與 / 或軟體組態、發明、文件、翻譯、文字與其他創作品、數據、資料庫、資訊、設計、公用程式、符號、圖樣、標記、名稱、流程、程序、技術改良，以及任何其他無形物，以及前述各項無形物之原型、樣品、複本與其他以實體化存在之無形物。

「**KLA 資訊**」係指：(i) 任何與產品或服務相關之技術或其他資訊 (包括但不限於任何文件、服務供應、類型材料 (class materials)，以及書面、視覺與口頭說明)；以及 (ii) 任何由 KLA 由擁有或向客戶提供的智慧財產。

“Product” means Hardware, Software and/or Work Product.

“Proprietary Rights” means any and all rights, title, ownership and interest in and to copyrights, mask works, industrial designs, trademarks, service marks, trade names, trade secrets, patents, and any other rights to Intellectual Property, recognized in any jurisdiction or country of the world, whether or not perfected.

“Software” means any standard computer program in object code, source code, embedded, or other format and any Documentation in electronic form that KLA agrees to deliver to Customer, including software revisions and updates that KLA may deliver under maintenance terms.

“Third Party Products” means any products that are manufactured by third parties and do not bear KLA’s name, logo, or mark and may include, without limitation, (i) Products recommended or delivered by KLA; and (ii) components of Products delivered by KLA, unless such components are not recognizable as separate items and are not identified as separate items in KLA’s price list, product specifications on KLA’s website at <http://www.kla.com/products/browse.html>, Documentation, or another KLA document.

“Work Product” means any tangible or intangible results or deliverables that KLA agrees to create or deliver, or intentionally delivers to Customer, as a result of performing services, including, but not limited to, configurations, computer programs or other information, or customized hardware, and any Intellectual Property developed in connection therewith.

2. COOPERATION. Customer shall timely and free of charge provide KLA with all information, materials and cooperation necessary for KLA to provide services or as otherwise reasonably requested by KLA. Without limiting the foregoing, Customer shall comply with KLA’s site preparedness guidelines. If Customer fails to meet any of its obligations, KLA may, without limiting any other remedy (i) delay or suspend its performance and charge Customer for any resulting costs; and (ii) charge Customer its then-current time & materials rates (available on request) for every day on which KLA personnel is unable to perform services. If Customer delays any performance, delivery, or acceptance for more than 60 days, (a) KLA may invoice and Customer shall pay the full amount owing immediately; (b) Customer shall be deemed to waive its right to any refund; and (c) any applicable warranty period shall start running.

3. PAYMENT TERMS. Unless KLA expressly states otherwise, all fees and prices quoted or invoiced exclude sales taxes, service taxes, withholding taxes, customs duties, and other taxes and charges, insurance, and costs related to transportation and special packaging requested by Customer, if any. Any such charges and costs shall be paid or reimbursed by Customer. If any withholding taxes apply, Customer shall gross up the invoiced amount to ensure that, after such withholding, KLA receives the full amount invoiced. If KLA does not receive all amounts when due (i) any due and unpaid portion of the fees shall bear interest in the amount of one and one half percent (1.5%) per month or the maximum rate allowed by law, whichever is less, and (ii) KLA may immediately suspend deliveries, licenses and performance of any services. At KLA’s request, Customer shall provide an irrevocable letter of credit from a financial institute and with terms reasonably acceptable to KLA.

4. INFRINGEMENT INDEMNITY

4.1 Indemnity. KLA will defend and indemnify Customer from and against all infringement claims brought against Customer with respect to Products if and to the extent that, on the Delivery Date, Products infringe any third party’s copyright, trade secret or United States patent, on the condition that Customer (i) notifies KLA in writing within fifteen (15) days of the date on which Customer becomes first aware of such claim; (ii) gives KLA, at KLA’s expense, sole authority and control of the defense or settlement of such claim; and (iii) provides all reasonable information and assistance requested by KLA to handle the defense or settlement of any such claim.

4.2 Remedial Measures. If a Product infringes, or KLA reasonably believes it may infringe, third party rights, KLA may, at its own expense and sole discretion (i) procure for Customer the right to continue use of such Product; (ii) replace or modify such Product so that it becomes non-infringing; or (iii) refund amounts paid by Customer for such Product in exchange for return of the affected Product.

4.3 Exclusions. KLA shall have no indemnity obligation for any infringement claim based on any (i) Products that have been modified by someone other than KLA, unless such modifications were directed by KLA in writing and made in conformance with all of KLA’s specifications or instructions; (ii) Products created or modified by KLA in accordance with Customer’s requests, specifications, or instructions; (iii) Products that Customer uses

「產品」係指硬體、軟體與 / 或工作產品。

「專有權」係指下列項目之全部權利、所有權與利益：著作權、光罩著作、工業設計、商標、服務標章、營業名稱、營業機密、專利，以及獲得全球任一司法管轄區或國家認可之智慧財產權，無論是否完備。

「軟體」係指任何以目的碼、來源碼、內建或其他形式存在之電腦程式，以及任何 KLA 同意向客戶交付之電子型式文件，包括 KLA 得依據維修條款而得交付之軟體修訂版與更新版。

「第三人產品」係指任何由第三人生產但並無 KLA 名稱、標記或商標之產品，得包括但不限於：(i) 由 KLA 推薦或交付之產品；以及 (ii) 由 KLA 交付之產品零件，然不含無法辨識為獨立項目之零件，以及並未於 KLA 價格清單、於 KLA 網站 <http://www.kla.com/products/browse.html> 中所列的產品規格、文件或其他 KLA 文件中標示為獨立項目之零件。

「工作產品」係指 KLA 同意因執行服務而創造或交付，或刻意向客戶交付之任何有形與無形成果或交付物，包括但不限於組態、電腦程式或其他資訊，或依客戶需求訂做之硬體，以及任何與前述相關而研發之智慧財產。

2. 合作。客戶應及時並免費提供 KLA 所有 KLA 為提供服務所需或由 KLA 於其他情況下合理要求之全部資訊、材料與合作。在不限制前述規定之條件下，客戶應遵守 KLA 之現場準備準則。若客戶未達成任何義務，KLA 得於不限制任何其他補救辦法之前提下，為下列行為：(i) 延遲或暫緩執行並要求客戶支付任何產生之費用；以及 (ii) 以當時之時間與材料費率（可索取），按日要求客戶支付 KLA 人員無法執行服務期間之費用。若客戶延遲履約、交付或接受之期間超過 60 日，則 (i) KLA 得提出請款要求，且客戶應立即支付所有應付款；(b) 客戶應視為放棄取得還款之權利；以及 (iii) 相關保證期間即開始生效。

3. 付款規定。除 KLA 另有明示表示外，所有報價或請款之費用與價格均不含銷售稅、服務稅、扣繳稅款、關稅或其他稅款與費用、保險，以及與運送相關和客戶要求執行特殊包裝而產生之費用（如有）。客戶應支付或補償前述各項費用與款項。若扣繳稅款適用時，客戶應自行吸收該等費用，確保 KLA 得收受發票金額所載之全額。若於款項應付時 KLA 仍未獲得該款項，則 (i) 任何應付且未付部分應支付利息，月息為 1.5% 或法律規定之利息上限，採用兩者中較低者；以及 (ii) KLA 得立即暫緩交付、授權與執行任何服務。經 KLA 要求時，客戶應提供由金融機構開立之不可撤銷信用狀，其條件應為 KLA 可合理接受。

4. 侵權賠償

4.1 賠償。若於交付日當日，產品侵害任何第三人之著作權、營業秘密或美國專利，因而使客戶成為侵權訴訟之被告，則 KLA 應為客戶答辯並使其不受損害，然客戶應滿足下列條件：(i) 於客戶獲悉此等訴訟當日起十五日內以書面通知 KLA；(ii) 由 KLA 付費，授權 KLA 得全權處理與控制該等訴訟之答辯或和解；以及 (iii) 提供 KLA 要求之全部合理資訊與協助，以便處理此等訴訟之答辯與和解事宜。

4.2 補救措施。若某項產品侵犯第三人權利，或 KLA 合理相信產品可能會侵犯第三人權利，則 KLA 得自行付費並決定：(i) 為客戶取得繼續使用該產品之權利；(ii) 替換或修改該產品使其不致侵權；或 (iii) 退還客戶就該項產品已支付之款項，並取得受影響產品。

4.3 排除條款。KLA 就因下列各項原因造成之侵權訴訟無任何賠償義務：(i) 產品經 KLA 以外之其他人修改，除非此等修改係經 KLA 以書面方式指示並遵守 KLA 全部規格或指示；(ii) KLA 按客戶要求、規格或指示而製作或修改產品；(iii) 客戶搭配硬體、軟體或材料而使用產品，或使用方法並非 KLA 以書面方式明確建議者；(iv) 產品並非最新版本，且只要使用產品最新版即可

with hardware, software or materials or in a manner or method not expressly recommended in writing by KLA; (iv) versions of Products that are not the latest version if such infringement could have been avoided by use of the latest version of the Products that has been made available by KLA to Customer; (v) infringements caused by third parties or Third Party Products, or (vi) infringements of any patent or other right that Customer was aware of or should have been aware of on the Delivery Date (unless KLA should have been aware of such infringement also and failed to notify Customer accordingly).

4.4 Customer Indemnification. Customer shall defend and indemnify KLA from and against all infringement claims brought against KLA in any of the situations described in Section 4.3 (Exclusions) on the condition that KLA (i) notifies Customer in writing within 15 days of the date on which KLA becomes first aware of such claim; (ii) gives Customer, at Customer's expense, sole authority and control of the defense or settlement of such claim; and (iii) provides all reasonable information and assistance requested by Customer to handle the defense or settlement of any such claim.

4.5 Limitation. KLA SHALL HAVE NO LIABILITY FOR ANY DAMAGES ALLEGED OR AWARDED BASED DIRECTLY OR INDIRECTLY UPON THE QUANTITY OR VALUE OF GOODS MANUFACTURED BY MEANS OF THE PRODUCT, OR UPON THE AMOUNT OF USE OF THE PRODUCT. KLA'S ENTIRE LIABILITY RELATED TO ITS INDEMNIFICATION OBLIGATIONS SHALL IN NO EVENT EXCEED THE GREATER OF (i) TWO TIMES THE AMOUNT PAID OR PAYABLE BY CUSTOMER FOR AN INFRINGING PRODUCT, OR (ii) TWO MILLION U.S. DOLLARS (U.S.\$2,000,000). THIS SECTION 4 STATES KLA'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OF A THIRD PARTY'S PROPRIETARY RIGHT.

5. LIMITATION OF LIABILITY

5.1 Limitations. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, REVENUE, OR DATA, OR COST OF COVER. THE LIABILITY OF KLA FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCT OR SERVICE SHALL NOT EXCEED A TOTAL AMOUNT EQUAL TO THE FEES PAID OR PAYABLE BY CUSTOMER FOR THE PRODUCTS OR SERVICES PRINCIPALLY RESPONSIBLE FOR SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF EITHER PARTY EXCEED A TOTAL AMOUNT EQUAL TO ONE MILLION US DOLLARS (US\$1,000,000.00).

5.2 Scope. THE LIMITATIONS OF LIABILITY IN SECTION 5.1 (LIMITATIONS) SHALL APPLY TO ANY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE TO THE PARTIES UNDER THESE GENERAL TERMS OR ANY PRODUCT-SPECIFIC TERMS FAIL OF THEIR ESSENTIAL PURPOSE. THE LIMITATIONS OF LIABILITY IN SECTION 5.1 (LIMITATIONS) SHALL NOT APPLY WITH RESPECT TO CONTRACTUAL INDEMNIFICATION, CONFIDENTIALITY OR COMPLIANCE OBLIGATIONS UNDER THIS AGREEMENT.

6. INFORMATION

6.1 Confidentiality. Recipient will protect the secrecy of Owner's Confidential Information with the same degree of care as it uses to protect its own confidential information, but in no event with less than due care. Recipient will not (i) disclose Owner's Confidential Information to anyone, except to persons in its own organization who have a need to know in order to fulfill Recipient's obligations under the Agreement and who are bound by nondisclosure obligations requesting them to treat the Confidential Information as confidential; and (ii) use Owner's Confidential Information except as necessary for the performance of Recipient's obligations or the exercise of Recipient's express rights under the Agreement.

6.2 Proprietary Rights. Customer shall treat all KLA Information and Customer Contributions as Confidential Information of which KLA is the Owner for purposes of this Section 6. Customer is not obligated to share Customer Contributions with KLA and Customer may, at its sole discretion, (i) keep Customer Contributions to itself, or (ii) disclose Customer Contributions to KLA; provided, however that if Customer wishes to retain certain rights to a specific Customer Contribution, Customer shall not disclose such Customer Contribution to KLA until Customer has notified

避免侵權情事，同時 KLA 已將最近版向客戶提供；(v) 侵權係因第三人或第三人產品所致；或 (vi) 任何客戶於交付日即已知悉或早應知悉之任何專利或其他權利侵害 (除非 KLA 亦應知悉此等侵權情事，且並未將其告知客戶)。

4.4 客戶之賠償。若發生第 4.3 條「排除條款」之任一情事，客戶應為 KLA 答辯並使其不受任何侵權訴訟損害，然 KLA 應滿足下列條件：(i) 於 KLA 獲悉此等訴訟當日起十五日內以書面通知客戶；(ii) 由客戶付費，授權客戶得全權處理與控制該等訴訟之答辯或和解；以及 (iii) 提供客戶要求之全部合理資訊與協助，以便處理此等訴訟之答辯與和解事宜。

4.5 限制。KLA 對於直接或間接以利用產品所製造產品之數量或價值為理由，或以產品用量為理由而請求或判決之損害賠償不負任何義務。KLA 與賠償義務相關之全部責任絕對不超過以下範圍：(i) 客戶就違約產品已付或應付款項之兩倍；或 (ii) 兩百萬美元 (US\$2,000,000)。本條第 4 條即有關於侵犯第三人專有權時 KLA 之全部義務與客戶之唯一補救措施。

5. 責任之限制

5.1 限制。任一當事人對任何附帶而起、特殊、間接或衍生性損害賠償、獲利、收益或資料損失，或彌補費用均無任何義務。因任何產品或服務而起或與其相關之任何權利請求，KLA 之義務均不超過客戶就造成損害賠償主因之產品或服務已支付或應付之款項總額。任一當事人之義務絕對不超過一百萬美元 (US\$1,000,000)。

5.2 範圍。第 5.1 條「限制」規定之義務限制應適用任何損害賠償，無論引起原因為何，亦不問各種責任理論，無論係衍生自合約、侵權 (包括但不限於過失)，或任何其他法律理論，甚至若雙方當事人已被告知該等損害賠償之可能性，且無論雙方當事人是否可依據一般條款而得採取有限補救措施，亦無論任何特定產品條款未達成其主要目的。第 5.1 條「限制」規定之義務限制不適用一般條款規定之合約賠償、保密或遵守義務。

6. 資訊

6.1 保密條款。接收人將以保護本身機密資訊之同等注意程度，但絕不可少於正當注意程度，保護所有人之機密資訊。接收人不會為下列行為：(i) 不可向任何人揭露所有人之機密資訊，除向本身組織內有必要知悉該等資訊以履行接收人之合約義務之人員外，且此等人員應有保密義務，必須將機密資訊視為機密；以及 (ii) 不可使用所有人之機密資訊，除非係為履行接收人之義務所必須，或為行使本合約明示之接收人權利。

6.2 專有權。為符合本條第 6 條目的，客戶應將全部 KLA 資訊與客戶提供資訊視為以 KLA 為資訊所有人之機密資訊。客戶無義務與 KLA 分享客戶提供資訊，且客戶得全權決定下列行為：(i) 不揭露客戶提供資訊；或 (ii) 向 KLA 揭露客戶提供資訊；然若客戶欲保留特定客戶提供資訊之某些權利，客戶即不應向 KLA 揭露該等客戶資訊，直到客戶已告知 KLA 相關事項，且 KLA 已以書面方式向客戶確認 KLA 希望客戶能在這樣的情況下將該等資訊向 KLA 揭露。若客戶向 KLA 揭露客戶提供資訊時並未通知且並未自 KLA 處獲得

KLA accordingly and KLA has confirmed to Customer in writing that KLA wishes Customer to disclose under such circumstances. To the extent, that Customer discloses Customer Contributions to KLA without such notice and written confirmation from KLA (for example, without limitation, in connection with feedback suggestions or maintenance or improvement requests) or to any third parties (for example, without limitation, with KLA's written permission or in violation of these General Terms), Customer irrevocably agrees to assign, and hereby assigns to KLA, title, ownership, and all rights and interests, including, but not limited to, all Proprietary Rights to such disclosed Customer Contributions, to the broadest extent permitted by applicable law. Such assignment notwithstanding, Customer may use all Customer Contributions internally in the same manner as Confidential Information received from KLA subject to all limitations and restrictions of the Agreement. KLA reserves all rights to KLA Information and Customer Contributions, except as expressly provided otherwise in these General Terms or in a duly signed writing.

6.3 Return. If and when Confidential Information is no longer needed for the performance of obligations or exercise of rights under the Agreement, Recipient must promptly destroy or return all Confidential Information and any copies thereof upon Owner's written request. Recipient agrees to provide written certification of compliance with this Section 6.3 within 30 days after the receipt of the request.

7. CHOICE OF LAW AND ARBITRATION

The Agreement and any related dispute between the parties ("Disputes") shall be governed by the laws of Taiwan, excluding its conflict of laws principles and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). All Disputes shall be finally resolved by binding arbitration before three (3) arbitrators of the Arbitration Association of the Republic of China, selected and proceeding in the English language in Taipei, Taiwan pursuant to the Arbitration Law of the Republic of China. The arbitrators so appointed shall have the authority to determine issues of arbitrability. The arbitrators shall have the authority to award compensatory damages only and shall not award punitive or exemplary damages. The parties, their representatives, other participants and arbitrators shall hold the existence, subject matter and result of arbitration in confidence. Notwithstanding the foregoing, either party may, at its sole discretion, seek injunctive relief in any court of competent jurisdiction (including, but not limited to, preliminary injunctive relief). The prevailing party in any legal proceeding brought by one party against the other party in a Dispute shall be entitled to recover its legal expenses, including, but not limited to, the costs of any court or arbitration proceeding and reasonable attorneys' fees.

8. MISCELLANEOUS

8.1 Compliance. Each party shall comply with all applicable laws including, but not limited to, the export control laws of the United States. Customer shall not export or re-export any Products or KLA Information without the appropriate United States and foreign government licenses, and Customer shall defend, indemnify, and hold KLA and all KLA suppliers harmless from any claims arising out of Customer's violation of applicable export control laws.

8.2 Written Form. Any notices and any modifications of, or amendments to, the Agreement shall be invalid, unless (i) notices are in writing and sent by fax or by registered or certified mail, postage prepaid; and (ii) modifications and amendments are in writing and signed by duly authorized officers of both parties. Representations made by sales or technical personnel of KLA shall have no legal effect, unless confirmed by a duly authorized officer of KLA in writing. Furthermore, notices to KLA are invalid, unless and until received at the address specified in the preamble of these General Terms or at such other address as may be specified by KLA to Customer in writing as the appropriate address for notices.

8.3 Dates and Timelines. All references to days shall be to calendar days, except as expressly noted otherwise. All scheduled shipment dates, delivery dates, and other dates are non-binding estimates, unless a duly authorized representative of KLA expressly agrees in a duly signed writing that a certain date shall be legally binding.

8.4 No Waiver. The failure or delay of either party to exercise or enforce any right or claim does not constitute a waiver of such right or claim and shall in no way affect that party's right to later enforce or exercise it, unless such party issues an express written waiver, signed by a duly authorized representative.

書面確認 (例如但不限於以下舉例: 與回饋建議或維修或改良要求相關), 或向第三人揭露 (例如但不限於以下舉例: 有 KLA 之書面許可或違反本一般條款), 客戶即不可回復地同意向 KLA 轉讓, 且在此向其轉讓所有權與全部權益, 包括但不限於此等客戶提供資訊之全部專有權, 但不超過相關法律准許之最大範圍。雖有此等轉讓, 然客戶僅得於內部使用客戶提供資訊, 即如同依據本合約全部限制與約定使用自 KLA 處取得之機密資訊。KLA 保留 KLA 資訊與客戶提供資料之全部權利, 但不包括於一般條款中或於正式簽字書面文件中明示作其他規定者。

6.3 歸還。 若機密資訊已非履行本合約義務或行使本合約權利所必須, 則接收人經所有人以書面請求時, 即須立即將全部機密資訊與其全部複本銷毀或歸還。接收人同意於接獲請求後 30 之內提出遵守本條第 6.3 條規定書面證明。

7. 準據法與仲裁之決定

本合約與雙方當事人間之任何爭端 (下稱「爭端」) 應以台灣法律為準據法, 但排除聯合國國際貨物買賣合約公約 (Convention on Contracts for the International Sale of Goods) 之適用。所有爭端均應依據中華民國仲裁法, 於台灣台北選任三位仲裁人進行仲裁程序並做出具約束力之仲裁判斷, 並成為此等爭端之最終解決方式。選任之仲裁人應有權就仲裁事宜做成決定。仲裁人應有權且僅得有權做出損害賠償判斷, 不得做成懲罰性或懲戒性賠償判斷。雙方當事人、其代表人、其他參加人與仲裁人應對仲裁之存在、內容與結果保密。儘管有上述規定, 然任一當事人均得自行決定於任何具司法管轄權之法院提起禁制令申請 (包括但不限於預備禁制令)。由任一當事人以對方為對造而提起之爭端法律程序中獲勝之當事人應有權獲得其法律費用之補償, 包括但不限於任何法院或仲裁程序費與合理費用。

8. 其他條款

8.1 遵守規定。 任一當事人均應遵守所有相關法令, 包括但不限於美國出口管制法令。客戶未取得適當之美國與外國政府許可證之前不得輸出或再輸出任何產品或 KLA 資訊, 且若因客戶違反相關出口管制法令而造成任何訴訟, 客戶應為 KLA 與 KLA 供應商辯護, 對其賠償並使其不受任何損害。

8.2 書面型式。 任何通知與任何對本合約之修訂或增補均應符合下列條件方為有效: (i) 通知應為書面型式, 以傳真或掛號郵件預付郵資方式寄送; 以及 (ii) 修訂或增補均應為書面型式, 由雙方當事人正式授權之人員簽字。由 KLA 銷售或技術人員所為之聲明除非經 KLA 正式授權之人員確認, 否則均屬無效。此外, 向 KLA 發出之通知須寄送至本一般條款前言中所載之地址, 或寄送至由 KLA 以書面方式向客戶通知載明之適當通知地址, 且應確實收件, 否則視為無效。

8.3 日期與期程。 除另行明示者外, 所有關於日期之記載均指日曆日。所有預訂裝運日期、交付日期與其他日期均為無約束力之預估項目, 除非經 KLA 正式授權代表以正式簽字之書面文件確認特定日期應具法律約束力。

8.4 未放棄。 任一當事人未行使或執行任何權利或提出權利請求, 均未構成放棄該權利或請求, 且絕不影響該當事人未來執行或行使之權利, 除非該當事人提出明確之書面棄權, 並由其正式授權之代表人簽字。

8.5 Assignment and Delegation. Customer may not assign any of its rights against KLA, and any (purported) assignment, either voluntarily or by operation of law, is invalid, unless KLA has given its prior written consent. Any warranties extended by KLA (i) are nontransferable and for Customer's benefit only; and (ii) shall expire effective immediately if Customer resells or otherwise transfers the warranted Product to any third party. KLA may assign its rights and delegate its obligations.

8.6 Insolvency. If either party (i) becomes insolvent; (ii) suspends its business; or (iii) files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, which petition is not dismissed within 30 days, then the other party may immediately cancel any outstanding part of any order without penalty.

8.7 Force Majeure. Except for payment obligations, non-performance or late performance of either party shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing or late-performing party whether or not similar to the foregoing. If by reason of any such force majeure event, KLA's supplies of Products are limited, KLA shall have the right to prorate the available supply in such a manner as it, in its sole discretion, determines appropriate. Deliveries suspended or not made by reason of this Section 8.7 shall be canceled without liability; provided however, that payment obligations for Products already delivered shall otherwise remain unaffected.

8.8 Severability. If and to the extent any provision of the Agreement in writing is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof shall be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability and shall be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction shall not in any way affect the legality, validity, or enforceability of such provision in any other jurisdiction or of any other provision in any jurisdiction.

8.9 Prevailing language. The English language version of these General Terms shall be controlling and legally binding in all respects and shall prevail in case of any inconsistencies.

8.5 轉讓與分派。客戶不得將其對於 KLA 之權利為轉讓，且任何 (意圖之) 轉讓，無論係出於自願或因法律之施行均屬無效，除非 KLA 已提出事前之書面同意。任何由 KLA 提出之保證：(i) 均不得移轉，且僅對客戶有效；以及 (ii) 若客戶將受保證產品向任何第三人轉售或以其他方式移轉時效力立即停止。KLA 得轉讓其權利並分派其義務。

8.6 無力償債。若任一當事人有下列情事：(i) 無力償債；(ii) 停業；或 (iii) 提出自願破產聲請或成為非自願破產聲請之當事人，且未於 30 日之內撤銷此等聲請，則對方得立即取消任何訂單之未處理部分而無受罰之虞。

8.7 不可抗力。除付款義務外，任一當事人未履約或延遲履約時均得以下列原因為無法履約或延遲履約之理由：罷工、火災、水災、政府行為或命令或限制令、供應商未供貨，或任何其他非屬未履約或延遲履約之當事人所能合理控制之原因而無法履約或延遲履約，無論此等原因是否近似前述原因。若因前述不可抗力之故，使 KLA 之產品供應受限，KLA 應有權全權決定將現有供貨做適當之比例分配。由於本條第 8.7 條之故而中斷之交付或未交付均應取消且無任何義務；然已交付產品之付款義務仍不受影響。

8.8 可分割性。若根據適用法令規定，本合約任一書面條款全部或部分為違法、無效或無法執行，在此範圍內，該等條款全部或該部分於視其為違法、無效或無法執行之司法管轄區內即視為無效，且應於為遵守相關法律規定所必要之範圍內進行修訂，使雙方當事人之意向能發揮最大效果。該等條款於該司法管轄區中之違法、無效或無法執行，均不得影響該等條款或其他條款在任何其他司法管轄區中之合法性、有效性或可執行性。

8.9 適用語言。本一般條款應以英文版為準，且具完全之法律約束力，若有任何歧義處，均以英文版為準。