

PRE-INSTALLED SOFTWARE LICENSE TERMS

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1. DEFINITIONS AND SCOPE

The definitions in KLA's General Terms and Hardware Sales Terms apply. These Preinstalled Software License Terms apply to (i) Software pre-installed, or to be installed, on any KLA Hardware governed by KLA's Hardware Sales Terms; and (ii) Work Product governed by KLA's Hardware Sales Terms. Computer programs that are to be installed on Third Party Products are governed by KLA's Standalone Software License Terms, which are available at www.kla.com/terms or on request. Work Product provided by KLA under separate services arrangement (including, but not limited to, maintenance services, time & materials services, or fixed fee services) is governed by the applicable KLA services terms.

2. RIGHTS TO SOFTWARE, DOCUMENTATION, AND WORK PRODUCT

2.1 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, Documentation, and Work Product, subject only to the limited rights that KLA expressly grants in Section 2.2 (Limited License) and 2.4 (Copies). Without limiting the foregoing, Customer acknowledges that nothing herein shall constitute a sale of any Software, Documentation, or Work Product (or any Intellectual Property in and to Software, Documentation, Work Product and Hardware) including any copies and portions thereof.

2.2 Limited License. KLA grants Customer a personal, non-sublicensable, non-exclusive, non-transferable, limited license, solely for Customer's internal activities related to Customer's manufacture, inspection, analysis, or testing of semiconductor wafers, to (i) upload and use copies of the Software solely in the working memory of the Hardware on which KLA has installed the Software and solely in accordance with the applicable Documentation; and (ii) use Documentation and Work Product solely in connection with Hardware. Customer may create and use a reasonable number of copies of Work Product as necessary for Customer's internal use of the Hardware in accordance with this Section 2. Customer may retain for backup and archival purposes any separately delivered (i.e., not preinstalled) copy of Software and Documentation, and create one additional backup copy of each such copy, on the condition that Customer (a) stores such copies separately from any actively used computer programs and manuals; (b) keeps records of such backup copies indicating the location of its storage; and (c) provides such records to KLA upon request. KLA's license grant is conditioned on Customer's continuous compliance with all license limitations and restrictions described in these Pre-installed Software License Terms and if Customer violates any of these limitations or restrictions, the license grant will automatically and immediately expire. Customer acknowledges that this Section 2.2 defines the scope of rights that KLA grants to Customer and that any usage of the Software, Documentation, and Work Product 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 of these Pre-installed Software License Terms.

預先安裝軟體授權條款

2019.7.15 台灣版本

本預先安裝軟體授權條款適用由 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, 以及任何預先安裝於硬體之軟體授權或交付。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。客戶於接獲預先安裝軟體授權條款後, 或以其他方式接獲通知獲悉此等交易係依據預先安裝軟體授權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, 即表示同意此預先安裝軟體授權條款、KLA 一般條款及硬體銷售條款, 該等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. 定義及範圍

KLA 一般條款之定義應予適用。本預先安裝軟體授權條款適用於(i)預先安裝, 或被安裝於任何硬體之軟體, 該硬體由 KLA 硬體銷售條款所規範; 及(ii) KLA 硬體銷售條款規範之工作產物。安裝於第三人產品之電腦程式係由 KLA 獨立電腦軟體授權條款 (在 www.kla.com/terms 網站查詢或可索取) 所規範。KLA 在另外服務安排下 (包括但不限於維護服務、時間及材料服務或固定費率服務) 所提供之工作產品係由所適用之 KLA 服務條款所規範。

2. 軟體、文件及工作產物之權利

2.1 保留所有權利 除於第 2.2 條 (有限授權) 及第 2.4 條 (複本) 明確授權之有限權利者外, KLA Corporation 擁有並保留軟體、文件及工作產物之所有權、權利、所有權利及利益, 包括但不限於所有專有權利。此外, 客戶承認預先安裝軟體授權條款並不構成任何軟體、文件或工作產品 (或任何軟體、文件或工作產品之智慧財產權) 或其一部之銷售。

2.2 有限授權 KLA 授予客戶個人、不得再授權、非專屬、不可移轉之有限授權, 該授權僅供客戶內部有關客戶之製造、檢驗、分析或測試半導體晶片活動, 以(i)僅依據文件並僅於 KLA 安裝軟體之硬體工作記憶上載並使用軟體; 及(ii)僅於有關硬體時使用文件或工作產品。為客戶內部依據第 2 條使用硬體之所需, 客戶得複製合理數量之軟體並使用之。在下述條件下, 客戶得為備份與檔案之目的保留任何獨立交付 (即非預先安裝) 之軟體與文件, 並製作一份額外之備份(i)該等備份與任何使用中電腦程式及手冊分開保存; (ii)保存該等備份存放位置之記錄; 及(iii)應 KLA 請求提供該記錄。KLA 之授權視客戶是否持續遵守預先安裝軟體授權條款所有授權限制及所載之限制規定而定。如客戶違反任何授權限制及限制規定, 授權則自動並立即終止。客戶承認第 2.2 條規範 KLA 授予客戶之權利範圍, 以及授權範圍以外及法定權利範圍外之軟體、文件及工作產物之使用, 係構成對 KLA 專有權利之侵害及本預先安裝軟體授權條款之實質違反。

2.3 License Restrictions. To the extent permitted by applicable law, Customer agrees not to (i) create any derivative works based on the Software, Documentation, or Work Product or modify or alter the Software, Documentation, or Work Product in any manner whatsoever; (ii) sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software, Documentation, or Work Product to any third parties; (iii) copy or use the Software, Documentation, or Work Product for any purpose or in any manner not expressly permitted by these Pre-installed Software Terms; (iv) use the Software, Documentation, or Work Product outside the permitted scope of the license; (v) use the Software, Documentation, or Work Product, in any format, through any timesharing service, service bureau, network or by any other means, for or in the interest of any third party; 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, and Work Product by anyone in violation of these Pre-installed Software License Terms.

2.4 Notices. Customer shall not remove alter or obscure any copyright, patent, trademark notice or other legal legend that appears on the Products and shall completely and accurately reproduce the same on any copies of the Products made hereunder.

2.5 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 or Work Product is embedded or otherwise contained, Customer shall remove or delete all such Software and Work Product prior to the transfer, unless KLA confirms in writing that the transferee has entered into a license agreement with KLA for such Software and Work Product and has paid the applicable license fees. To the extent that Customer is expressly permitted by applicable mandatory law to transfer the Software or Work Product to a third party, or copy, or use the Software or Work Product in any manner not expressly authorized under these Pre-installed 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.

2.6 Termination for Cause. Without limiting Section 2.2 (Limited License) with respect to the automatic termination of license rights for specific Software, Documentation, and Work Product, KLA may terminate — at its sole discretion either all or specific — licenses 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 its payment obligations, license limitations and restrictions, or any other substantial obligations under these Pre-installed Software License Terms. Upon such termination, Customer shall immediately pay all outstanding fees, cease use of all Software, related Documentation, and Work Product, return or delete, at KLA's request and sole discretion, all copies of the Software, Documentation, and Work Product 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.

2.7 Survival. KLA's Hardware Sales Terms, General Terms and these Pre-installed Software License Terms, except Section 2.2 (Limited License), shall survive any termination of any or all licenses granted hereunder.

2.8 Audit. Customer agrees to keep complete, correct and detailed records relating to (i) the reproduction and use of the Software, Documentation, and Work Product, including, at a minimum, the location of all Software, Documentation, Work Product, and back-up copies of Software and Documentation, and Work Product; and (ii) the transfer of Hardware or media on which any Software or Work Product is embedded or otherwise contained and Customer's compliance with its obligations under Section 2.5 (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 Pre-installed 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, Documentation, or Work Product, or that Customer did not remove or delete all copies of Software and Work Product that Customer was obligated to remove or delete in accordance with Section 2.5 (Transfers and other Actions under Mandatory Law), Customer shall immediately pay for such copies the greater of the fees applicable per KLA' standard rates and prices at the time of (a) the Delivery Date; (b) Customer's unauthorized copying; or (c) the

2.3 授權限制 在法令許可範圍內，客戶同意不為下述行為(i)由軟體、文件或工作產品製作衍生作品，或以任何方式改變軟體、文件或工作產品；(ii)販賣、再授權、出租、借出、讓渡、轉讓或以其他方式移轉軟體、文件或工作產品予第三人；(iii)以未於預先安裝軟體授權條款明確允許之任何目的或方法，複製或使用軟體、文件或工作產品；(iv)在授權範圍外使用或允許使用軟體、文件或工作產品；(v)為第三人之利益，以任何分時服務、服務處、網路或任何其他方式，以任何形式使用或允許使用軟體、文件或工作產品；或(vi)允許或鼓勵第三人從事上述事項。客戶應與 KLA 合作，並應 KLA 之請求提供所有合理之協助以協助 KLA 預防及確認任何人違反預先安裝軟體授權條款之使用或存取軟體、文件及工作產品。

2.4 標示 客戶不得移除、改變或污損產品上任何著作權、專利、商標標示或其他法定標示，並應於依預先安裝軟體授權條款所為之複本上為相同之標示。

2.5 依強制法之移轉及其他行為 如客戶販賣或移轉任何含有軟體或工作產品之硬體或媒介於第三人，為移轉前，客戶應移除或刪除所有該等軟體或工作產品，但 KLA 以書面確認受讓人已就該等軟體或工作產品與 KLA 簽訂授權合約並支付授權費用者不在此限。如強制法明確允許客戶移轉軟體或工作產品予第三人，或以未於本預先安裝軟體授權條款所定方式複製或使用軟體或工作產品時，客戶同意不行使該等權利，但如客戶已於 3 週前向 KLA 提出書面通知，載明客戶意圖行使該等權利，且該三週期間內，KLA 未提供客戶合理之替代行使強制法之方式者不在此限。

2.6 有因終止 除第 2.2 條（有限授權）所定有關自動終止特定軟體，文件及工作產品之授權者外，如客戶收到合理詳盡改善請求之書面起 10 日內，未履行其付款義務或改善違反授權限制或其他預先安裝軟體授權合約重要義務違反之情形，KLA 得以自己之判斷，以書面通知終止全部或特定之授權，該終止並立即生效。客戶應於終止時立即支付未付款項，停止使用所有軟體、相關文件及工作產物，應 KLA 之請求並依 KLA 獨立判斷，返還或刪除所有客戶佔有之軟體、文件及工作產物之備份，並以書面保證承諾前述之義務。本條款終止權利係 KLA 依法令所享有之其他權利或救濟以外之權利。

2.7 效力存續 除第 2.2 條（有限授權）外，縱本條款全部或一部之授權終止，KLA 硬體銷售條款、一般條款及本預先安裝軟體授權條款之效力仍存續。

2.8 查核 客戶同意就有關下述資料保存完整、正確及詳盡記錄(i)軟體、文件及工作產品之複製與使用，至少須包括軟體、文件及工作產品之位置，軟體、文件及工作產品之備份；及(ii)含有軟體或工作產品之硬體或媒介之移轉、客戶遵守第 2.5 條所定義務。應 KLA 之請求且以 10 日前之書面通知，KLA 及/或其授權代表（例如會計師及/或電腦專家）（合稱「查核人」），有權於正常營業時間隨時，惟一年不超過十二次，至客戶之設施或實施場所監督及查核客戶遵守預先安裝軟體授權條款之情形。客戶應完全配合該查核人，並提供所有需要之協助及取得所有記錄、資料及配備。如查核中顯示客戶擁有或曾擁有未經授權之軟體、文件或工作產物，或客戶未移除或刪除依第 2.5 條（依強制法之移轉及其他行為）應移除或刪除之軟體、文件或工作產物，客戶應立即就該等複製品依(a)交付日(b)客戶未經授權複製時(c)查核完成時三者中較高之 KLA 標準費率及價格支付費用。如該等費用總額高於依查核期間之預先安裝軟體授權條款先前應支付總額 10%時，(y)客戶應償還 KLA 查核相關費用；及(z)KLA 有權依自己獨立之判斷立即以書面終止授權並立即生效。除有關任何不遵守預先安裝軟體授權條款或侵害 KLA 權利

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 Pre-installed 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 noncompliance with these Pre-installed Software License Terms or infringements of KLA's rights. KLA's rights and remedies under this Section 2.8 shall be in addition to and not in lieu of any other rights or remedies that are available to KLA at law or in equity.

3. PREVAILING LANGUAGE

The English language version of these Pre-installed Software License Terms shall be controlling and legally binding in all respects and shall prevail in case of any inconsistencies.

之事項者外，查核人不得揭露客戶任何資訊。KLA 於第 2.8 條之權利及救濟係額外之權利，且不取代原 KLA 依法令所享有之其他權利或救濟。

3. 適用語言

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