

# STANDALONE SOFTWARE LICENSE TERMS

Version Taiwan 2019.7.15

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## 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, nonexclusive, 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

# 獨立電腦軟體授權條款

2019.7.15 台灣版本

本獨立電腦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，以及任何獨立電腦軟體授權、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。客戶於接獲獨立電腦軟體授權條款後，或以其他方式接獲通知獲悉此等交易係依據獨立電腦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，即表示同意此獨立電腦軟體授權條款及 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](http://www.kla.com/terms) 查詢或可索取。

## 1. 範圍與定義

1.1 **範圍** 獨立電腦軟體授權條款僅適用於安裝於第三人產品之軟體。預先安裝或被安裝在 KLA 硬體之電腦程式由 KLA 預先安裝軟體授權條款 (在 [www.kla.com/terms](http://www.kla.com/terms) 網站查詢或可索取) 所規範。

1.2 **定義** 除下述定義外，KLA 一般條款之定義應予適用：「授權使用人」係指高級職員、受僱人及客戶之獨立締約人，該等人受下述具執行力之義務所拘束 (i)須將 KLA 軟體、文件及機密資訊視為機密處理；及(ii)僅於代表客戶時並只依據獨立電腦授權條款使用該等軟體、文件及機密資訊。

## 2. 交付及驗收測試

2.1 **交付** KLA 交付 KLA 所在地工廠交貨價軟體目的碼。客戶確認並同意 KLA 並未移轉任何軟體、文件或智慧財產之權利或所有權，且僅授予於獨立電腦軟體授權條款所具體指明之軟體及文件之有限、非專屬授權。若 KLA 同意安裝軟體，該等服務係由獨立之服務合約所規範，或者如未作成決定時，依據 KLA 當時時間與材料服務條款 (經請求取得)。部分及分期裝運為許可的。

2.2 **驗收測試** 如 KLA 以正式簽署之文件明示同意安裝與驗收測試，則當 KLA 證明安裝軟體係符合文件所規定之驗收標準時，客戶應明示驗收。未明示驗收時，客戶於下述情形，視何者發生較早時，視為驗收軟體 (i)核准軟體；(ii) 未保留產品有關之任何款項之付款；(iii)客戶收受 KLA 安裝完成通知後 10 日內，但如 KLA 於該期間內收到客戶合理詳盡說明安裝軟體未符合文件所載明驗收標準之書面通知者不在此限；或(iv)非為測試之目的而使用軟體 (不問該軟體係使用於生產亦不論是否收益已產生)。

## 3. 授權

3.1 **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，該授權供授權使用人依據文件使用軟體，並在授權界限內僅從事客戶內部有關客戶之製造、檢驗、分析或測試半導體晶片之活動。客戶持續遵守獨立電腦軟體授權條款所載之所有授權限制及限制規定決定 KLA 是否授權。如客戶違反任何

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 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.

授權限制及限制規定，授權則自動並立即終止。客戶承認第 3.1 條之授權說明及第 3.2 條（授權界限）規範 KLA 授予客戶之權利範圍，並承認授權範圍以外及法定權利範圍外之軟體使用，係構成對 KLA 專有權之侵害及獨立電腦軟體授權條款之重大違反。

**3.2 授權界限** 依獨立電腦軟體授權條款所為之授權受第 3.2 條規範限制。除 KLA 以正式簽署書面具體指明或同意者外，所有軟體至少受基本授權（參第 3.2.1 條 - 基本授權）所規範。

**3.2.1 基本授權** 除 KLA 以書面明確載明以下第 3.2.2 條（授權電腦）至第 3.2.5 條（複本）之額外或不同授權界限外，客戶得在一台獨立電腦安裝並保存一份軟體，該獨立電腦不得以允許超過一名使用人之方式連接網路而得以上載、審閱或以他法產生或使用軟體。客戶不得在一台以上之電腦使用軟體。

**3.2.2 授權電腦** 如 KLA 以書面確認得在一特定電腦（「授權電腦」）使用軟體，則客戶得在該授權電腦上安裝、上載、複製、保存、觀看及使用軟體。客戶僅得於下述情形將軟體移至另一或不同型之電腦(i)客戶以 30 天前之書面通知 KLA; (ii) 安裝於目標電腦後，客戶不在原授權電腦上載或使用軟體; (iii) 安裝於目標電腦後兩週內，客戶移除授權電腦所有複本（目標電腦安裝後即成為獨立電腦軟體授權條款之授權電腦）。

**3.2.3 伺服器—客戶端結構** 如 KLA 以正式書面確認軟體係伺服器軟體產品（「伺服器軟體」），則客戶得在單一伺服器上安裝、上載、複製、保存、觀看及使用軟體伺服器部分，該伺服器不得從 KLA 運送軟體、安裝軟體或是 KLA 以正式簽署書面所指定之位置（「授權位置」）遷移；客戶得依據下述選項之一在伺服器周圍五英里數台電腦上安裝並使用該軟體之客戶端部分（除非 KLA 以正式簽署授權指定該授權為廣域網域授權，於此情形客戶得在世界各地安裝並使用軟體客戶端部分）：

(i) 浮動式授權 如 KLA 以書面具體載明一伺服器軟體係「浮動式授權」或「共同使用授權」，客戶得於不超過 KLA 具體載明同一時間得使用客戶端或伺服器部分之最大同時授權使用人人數，在合理數量之個別工作站上安裝、上載、複製、保存、觀看及使用該軟體客戶端。如 KLA 並未以書面指明不同之浮動式授權之最大授權使用人人數，則最大同時授權使用人人數為一人。

(ii) 鎖定節點授權 除 KLA 以書面具體載明一伺服器軟體係「浮動式授權」或「共同使用授權」，客戶僅得每一授權節點上一工作站上安裝、上載、複製、保存、觀看及使用該軟體客戶端。所有關於軟體操作之活動必須在相同工作站實施。除 KLA 以書面載明其它數量，最大授權節點數為一點。

**3.2.4 時間上限** KLA 以正式簽署之書面具體指明授權僅限於一段期間，於此情形，授權於該書面所載日期屆至時屆滿；或者，如未指明日期，交貨日起一週年為屆滿。除此之外，本條款之授權為無限期（如未依獨立電腦軟體授權條款終止時）。

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 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, nontransferable, 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, click-through 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.

3.2.5 複本 除於獨立電腦軟體授權條款載明或以另以書面同意者外，客戶僅得由下述方式複製 KLA 交付軟體之每一項目(i)永久安裝一複本在一電腦上（如客戶於使用中之軟體外，以備份方式保存 KLA 交付之原始軟體；保存該原始軟體存放位置之紀錄；經 KLA 請求提供該紀錄），及(ii)依據文件及授權界限，以安裝使用該軟體所必要之程度，暫時上載該軟體至電腦工作記憶中。除 KLA 書面明示允許額外複本（例如，不限於，KLA 以一磁片交付一項軟體，而就 10 次鎖定節點授權（參第 3.2.3 條(ii) 鎖定節點授權）請款）外，客戶不得製作軟體其它複本。客戶不得移除、改變或污損軟體上任何著作權、專利、商標標示或其他法定標示，並應於獨立電腦軟體授權條款所為軟體複本上為相同之標示。

3.3 授權密碼管理 KLA 得以自己獨立之判斷，使用授權管理程式或與任何軟體結合，用以自動監控並實施授權限制，惟該預防措施並不免除客戶之首要確保遵循獨立電腦軟體授權條款之責任。客戶明示同意就所有授權使用人遵守獨立電腦軟體授權條款負起完全責任，採取 KLA 合理要求之所有行動以保護 KLA 在軟體及文件之權利；因授權使用人，或客戶導致、賦予資格或允許使用軟體之任何人或實體，以任何非獨立電腦授權軟體授權之使用軟體方式，違反獨立電腦授權條款，使 KLA 受有損害者，客戶應負賠償責任並使 KLA 不受損害。

3.4 文件 KLA 授予客戶一不可再授權、非專屬、不可移轉、限制授權以使用文件印刷版本，該文件係 KLA 提供客戶僅為內部商業目的，支援客戶依據獨立電腦軟體授權條款使用軟體。

3.5 專有權標示 客戶不得自軟體及文件移除任何產品識別、商標、著作權、或其它標示，並應於客戶製作之每一軟體及文件之複本上標示 KLA 及其授權人之名稱及商標及軟體名稱。

3.6 授權限制 在法令許可範圍內，客戶同意不為下述行為(i)由軟體或文件製作衍生作品，或以任何方式改變軟體或文件；(ii)販賣、再授權、出租、借出、讓渡、轉讓或以其他方式移轉軟體或文件予第三人；(iii)以未於獨立電腦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或文件；(iv)在授權界限之允許範圍外使用或允許使用軟體或文件；(v)為非授權使用人之第三人利益，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或文件；或(vi)允許或鼓勵第三人從事上述事項。客戶應與 KLA 合作，並依 KLA 之請求提供所有合理之協助，以協助 KLA 預防及確認授權使用人及其他人違反獨立電腦軟體授權條款而使用或存取軟體或文件。

3.7 第三人產品 如客戶從 KLA 取得第三人產品，該產品附隨有直接用戶條款及/或其他條款（以收縮膠膜、點入或其他形式）（「第三人條款」）(i)客戶同意該等條款與授權人於第三人條款所具明相同；(ii)如在該第三人條款與第 3.1 條（授權）至第 4.6 條（授權限制）衝突，關於該第三人產品，第三人條款應優先適用；及(iii)客戶使用第三人產品之權利由附隨之第三人條款所規範與限制。

4. 保留所有權利 除 KLA 於獨立電腦軟體授權條款明確授權之有限權利者外，KLA Corporation 擁有並保留軟體及文件之所有權、權利，及所有權利及利益，包括但不限於所有專有權。除上述權利保留者外，客戶承認本條款並不構成任何軟體或文件（或任何軟體或文件之智慧財產）或其一部之銷售。

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 2.2 (Acceptance Testing), whichever occurs earlier. Payment shall be made in accordance with the General Terms.

#### 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; (vii) abuse, use at an unsafe or not suitable site, unusual physical or electrical stress; (viii) 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

5. **依強制法之移轉及其他行為** 如客戶販賣或以他法移轉任何載有或以其他方式含有軟體之硬體或媒介予第三人，為移轉前，客戶應移除或刪除所有該等軟體，但 KLA 以書面確認受讓人已就該等軟體與 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予第三人，或以未於本獨立電腦軟體授權條款所定方式複製或使用軟體，客戶同意不行使該等權利，惟客戶已於 3 週前向 KLA 提出書面通知，載明客戶意圖行使該等權利，且在該三週期間內，KLA 未提供客戶合理之替代行使強制法之方式者不在此限。

6. **付款** 客戶應於(i)收受 KLA 請款單後 30 日支付 90%之授權費用，並(ii)於依據 2.2 條（驗收測試）於明示驗收或視為驗收後 30 日，視何者發生較早，支付 10%授權費用。款項之支付依據一般條款。

#### 7. 有限保證與免責聲明

7.1 有限保證 KLA 保證在交付日，在第 7.1.1（排除條款）至第 7.1.5 條（無第三人權利）限制及除外情形的前提下，軟體大致上符合文件之規格：

7.1.1 除外條款 以下情形造成之瑕疵或不相符，客戶無保證權利。(i)使用軟體時，與未經 KLA 以書面明確載明適合與軟體共同使用之硬體與軟體一起使用；(ii)客戶未遵循 KLA 之操作指示；(iii)未使用所有提供予客戶之更新、升級及其他新版軟體；(iv)客戶環境之改變，而軟體係供應於該環境中；(v)KLA 或其授權代表以外之人之行為或疏失；(vi)非 KLA 或其所認可之人所為之安裝或維護；(vii) 錯誤使用、在不安全或不適當之地點使用、異常之物理壓力或電壓；(viii)任何未經或未依據 KLA 事前書面授權之軟體遷移；或(ix)依 KLA 一般條款所定義之不可抗力。

7.1.2 修改 有下述情形之一者，客戶就任何軟體無保證權利(i)產品由非 KLA 之人所修改，但如該修改係由 KLA 以書面指示或核准且符合該書面所定之規格與指示者不在此限；或(ii)KLA 依據客戶之要求、規格或指示修改產品，但 KLA 已正式簽署書面同意第 7.1 條（有限保證）所定之有限保證包括該項修改軟體者不在此限。

7.1.3 更新版無保證KLA 不提供獨立電腦軟體授權條款下之任何保證至依據 KLA 軟體維護條款所提供更新版。任何更新版之保證專由且最終由 KLA 軟體維護條款所規範。

7.1.4 第三人產品無保證KLA 不提供保證亦不承擔第三人產品之責任。如 KLA 可取得第三人產品製造商或供應商規範直接用戶保證事項的文件，KLA 應將該等文件轉交予客戶。

7.1.5 第三人無權利KLA 提供之保證(i)係不可移轉且僅為客戶之利益存在，且(ii)若客戶轉讓第三人時立即失效。

7.2. 唯一之救濟 如軟體大致上未符合第 7.1 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產品以補正客戶依第 7.3 條（保證期間）所確認之不相符；或(ii)返還客戶就軟體所支付金額，並取回不相符軟體，於此情形客戶依據獨立電腦軟體授權條款所取得之授權應自動廢止。本軟體保證並不使 KLA 負有上門維修或上門更換軟體之義務。本第 7.2 條明定

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 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 guidelines 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 nonconforming 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

之補救係客戶唯一之救濟，且排除客戶得對抗 KLA 其他關於不相符軟體之任何權利或救濟。

**7.3. 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，軟體保證期間為 90 天。保證期間自交付日起算。客戶並無依第 7.1 條（有限保證）之保證請求，除非 KLA 於保證期間自客戶處收到(i)合理詳細書面描述違反保證（「保證請求」）；及(ii)得遠端及直接存取影響軟體及足夠詳盡之資訊俾 KLA 能再現並分析該故障。

**7.4 費用及程序** 如 KLA 收到依據第 7.1 條（有限保證）、第 7.3 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、更換、誤差鑑定或更正不相符軟體費用。如客戶保證請求未符合第 7.1 條（有限保證）、第 7.3 條（保證期間）及保證指南之規定，KLA 所為之任何錯誤鑑定或更正、修理、更換及裝運費用應依 KLA 當時之時間及材料服務條款（基於請求取得）計算費用，且客戶應依時間及材料之基礎，以 KLA 當時之費率（基於請求取得）補償 KLA。

**7.5 免責聲明** 除於第 7.1 條（有限保證）具體指明者外，KLA 不明示聲明或保證有關任何軟體。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，且除上述以外，不提供任何軟體係沒有誤差或其性能或操作是不被中斷的，或軟體得在任何硬體操作或與任何軟體一起使用，惟 KLA 於文件中保證為互通者不在此限。

## 8 終止

**8.1 有因終止** 除第 3.1 條（授權）所定有關自動終止特定軟體之授權者外，如客戶收到合理詳盡改善請求之書面起 10 日內，未改善其違反付款義務或授權限制（包括但不限於授權界限）或其他獨立電腦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軟體授權，該終止並立即生效。客戶應於終止時立即支付未付款項，停止使用所有軟體及相關文件，應 KLA 之請求並依其獨立判斷，返還或刪除所有客戶佔有之軟體及文件之備份，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。

**8.2 效力存續** 除第 2.1 條（交付）第 3.1 條（有限授權）外，縱獨立電腦軟體授權條款全部或一部之授權終止，KLA 一般條款及獨立電腦軟體授權條款之效力仍為存續。

**9 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)軟體及文件之複製與使用，至少須包括所有軟體文件及授權電腦之位置，軟體與文件之備份；及(ii)含有軟體之硬體或媒介之移轉及客戶遵守第 5 條（依強制法之移轉及其他行為）所定義務。應 KLA 之請求且預以 10 日之前之書面通知，KLA 及/或其授權代表（例如會計師及/或電腦專家）（合稱「查核人」），有權在正常營業時間隨時至客戶之設施或實施場所監督及查核客戶遵守獨立電腦軟體授權條款之情形，惟一年不超過十二次。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或文件，或客戶未移除或刪除客戶依第 5 條（依強制法之移轉及其他行為）應移除或刪除之軟體及文件，客戶應立即就該等複製品依(A)契約成立時

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

#### 10. PREVAILING 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.

(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獨立電腦軟體授權條款先前支付或應支付予 KLA 金額 10%時, (Y)客戶應償還 KLA 所有查核相關費用; 及(Z)KLA 有權依自己獨立之判斷立即以書面終止所有或受影響部分之授權, 並立即生效。除有關任何不遵守獨立電腦軟體授權條款或侵害 KLA 權利之事項者外, 查核人不得揭露客戶任何資訊。KLA 於第 9 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。

#### 10. 適用語言

獨立電腦軟體授權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。