Foreword

These General Sales Terms and Conditions apply to the Contractual relations between ABB and its Customers regarding Products, Systems or Services. Conditions, together with the Order and the Order Confirmation, constitute the entire agreement between the Parties and supersede any prior oral or written understandings or representations between ABB and the Customer relating to the Supply. Capitalized terms of these Conditions shall have the meaning attributed thereto in Article 1 “Definitions”.

1. DEFINITIONS

ABB: ABB d.o.o.

Customer(s): A Customer who requests and/or receives an Offer from or submits an Order to ABB, and, where provided under the Order Confirmation and/or applicable laws, does so from its respective successors.

Company Group: A set of companies directly and/or indirectly controlled by a Party and/or the companies subject with that Party to common control.

Conditions: These General Sales Terms and Conditions.


Offer: A document which ABB submits to a Customer in Order to receive an Order.

Order: A document (and its attachments) signed by the Customer and submitted to ABB for acceptance whereby the Customer Orders from ABB Products, Systems and/or Services. The definition of Order also covers the changes to an Order accepted by ABB after the signature of the Contract.

Order Confirmation: Written communication whereby ABB confirms the acceptance of an Order to the Customer, thus stipulating the Contract.

Party: The Customer and/or ABB.

Price(s): The Price(s) indicated in the Order Confirmation.

Product(s): The good(s) specified in the Order Confirmation.

Service(s): The Service(s) specified in the Order Confirmation.

System(s): The System(s) specified in the Order Confirmation.

Supply: The overall scope of the Order Confirmation.

2. STRUCTURE OF CONTRACT

Unless otherwise agreed to by the Parties, the Customer agrees that each Order referring to the Conditions, and the relevant Order Confirmation from ABB, is a separate Contract, legally independent from any other.

Each time the Customer submits an Order which is subject to the Order Confirmation by ABB, the relevant Supply shall be subject to the further Contractual conditions for Products, Systems and/or Services indicated in the Order and in the Order Confirmation which are part of the Contract.

In case of differences between the terms of the Contractual documents, those contained in the Order Confirmation and in the Conditions prevail over those contained in the Order and/or those contained in the Order Confirmation prevail over those in the Conditions. Any general conditions applied by the Customer but not expressly accepted in the Order, and those contained in the Order Confirmation and in the Conditions prevail over those contained in the Order Confirmation.

In case of differences between the terms of the Contractual documents, those contained in the Order Confirmation and in the Conditions prevail over those contained in the Order and/or those contained in the Order Confirmation prevail over those in the Conditions. Any general conditions applied by the Customer but not expressly accepted in the Order, and those contained in the Order Confirmation and in the Conditions prevail over those contained in the Order Confirmation.

ABB’s Offer is valid only when transmitted in writing and for the period indicated in that Offer. No ABB agent or intermediary has the power to accept Orders on behalf of ABB.

The Contract is stipulated between the Parties when ABB, after receipt of the Order, notifies the Customer in writing about the acceptance of the same by sending the Order Confirmation. Upon receipt of the ABB Order Confirmation, the Customer shall verify all the information provided therein; it is considered accepted by the Customer if not challenged immediately in writing by the latter. The materials and Services not expressly described in the Order Confirmation will be invoiced separately.

3. GENERAL TERMS

3.1. All the information exchanged by the Parties shall be considered non-confidential. If the Parties intend to communicate, receive, or exchange confidential information, they shall stipulate and sign a specific confidentiality agreement.

3.2. The materials transmitted by electronic means and these communications shall be considered equivalent to a written document, having full Contractual validity between the Parties, except as provided under mandatory provisions of applicable law.

The identification code contained in an electronic document, albeit differing from a digital signature, shall be sufficient for the identification of the sender and the authenticity of the document.

In particular, the Parties expressly agree that any Order transmitted by electronic means will be considered equivalent to a signed paper document by the Parties, with the same compulsory and binding effect, except as provided under mandatory provisions of applicable law.

3.3. The Parties shall not undertake any legal, judicial and/or extrajudicial action to protect their rights under the Contract, after the expiry of two years from the date of the event which entitles such action.

3.4. The Customer agrees that, at the care and expense of ABB, ABB can install on the Products/Systems any technical modifications considered mandatory by ABB (for example, those necessary for safety/security reasons). The parts removed become the property of ABB; the Customer declares that it has suitable authorization from the proprietor or holder of other rights, to transfer to ABB the ownership and possession of the parts removed.

3.5. The Customer is only responsible for the results obtained from the use of the Products, Systems or Services.

3.6. If any clause of the Contract is declared invalid or unenforceable, the remaining clauses of the Contract shall remain fully applicable and valid.

4. PRICES

Except as otherwise agreed in writing, the Price refers to a Supply delivered according to the Offer as per INCOTERMS 2010 Incoterms of delivery, ex VAT.

The Prices agreed do not bind ABB in the case of changes to the quantities and/or qualities of the Products to be provided and shall be updated in the case of extension of the delivery schedule for the reasons foreseen under Article 8 “Delivery Schedule” of the Conditions.

5. PAYMENT & INVOICING

The Price shall always be paid via bank credit transfer to the account designated by ABB within the Contractually established dates or, unless otherwise agreed, within 30 (thirty) days from the date the invoice is issued. The transfer of sums to ABB is always at the risk of the Customer, whatever means of payment is chosen. Any agreement on or acceptance by ABB of an Offer or documents of credit are understood as mere facilitation for the transaction, and grants ABB the right to reimbursement of the applicable interest, costs and commissions, is subject to clearance thereof, and does not change the place of payment, which remains as indicated above. In the case of late payment, the Customer shall pay ABB interest for late payment at the rate determined by the Law of the Customer’s country without prejudice to any further damages. When possible according to the Supply, ABB may split the invoicing of deliveries. In this case, each delivery will be billed separately, as per the Contractually established payment terms. Any complaint by the Customer, including for delayed deliveries or incomplete Supply of non-essential parts, does not give the Customer the right to suspend or delay payment.

Except as explicitly agreed otherwise by the Parties, invoicing for the delivery of Products or Systems shall be done in full at shipment. Upon specific request of the Customer, the material furnished for the execution of works may be invoiced simultaneously with the execution and invoicing of the same.

In the case that works have been performed in complete and Customer does not succeed to do a provisional/final acceptance protocol, ABB has the right to issue the final invoice 12 days after the works have been performed.

In the case of labor Services or on-site activities paid as consumed, ABB shall issue the relevant invoice simultaneous to the receipt of the ABB personnel time cards duly countersigned by the Customer.

6. SUSPENSION OF DELIVERIES

If the Customer fails to make one or more payments at the due date, or if it fails to fulfill any of its Contractual obligations, then ABB has the right to suspend deliveries. ABB may also suspend deliveries in the case where the Customer’s economic conditions change substantially, as in the case of the impossibility of collection from Customer’s bank, insolvency of Customer or Customer’s submission of a proposal or the initiatives of a pre-bankruptcy and/or bankruptcy and/or liquidation proceedings against Customer, one or more protests of bills, enforcement proceedings, establishment of pledges and/or mortgages on the Customer’s assets, composition with creditors, or termination of business. In the case of a reasonable doubt of ABB in the Customer’s ability or execution of the payment by the Customer, ABB shall inform the Customer of the above and shall be entitled to condition the delivery and execution of the ABB’s Contractual Obligations to the Customer in a way that any delay within the Customer’s 30 (thirty) days of the indicated deadline: (i) makes full advance payment to ABB and/or (ii) provides ABB with an unconditional and irrevocable bank guarantee for the entire unpaid delivery amount, with full content to the satisfaction of ABB. In the event that the Customer does not fulfill these requirements within the specified period, ABB is entitled to terminate the Contract with immediate effect, without the right of the Customer to any compensation of damages, whereby the Customer is obliged to pay all the Services and/or products due, as well as to cover all costs that ABB incurred during the execution of Contractual obligations up to the termination of the Contract.

7. LIMITATION OF LIABILITY

Without prejudice to the mandatory provisions of law, the liability of ABB towards the Customer for direct damage under the Contract, any other kind of damage, and for any other ensuing form of damages and/or compensation envisaged by law and/or these Conditions and/or the Contract cannot in aggregate exceed 100% of the Price. Without prejudice to the mandatory provisions of law, ABB shall not be required to compensate the Customer for loss of profit and/or any indirect and/or intermediate, and/or consequential damage. For example but not limited to the following, ABB shall not be required to pay for delays, losses, loss of profit, loss of Contract.

In any event, ABB shall not pay the Customer any damages that the Customer might be obligated to pay third parties for any reason.

In the case of a dispute over interpretation, the provisions of this article shall prevail over any possible contrary other provision contained in the Conditions and/or the Contract.

8. DELIVERY SCHEDULE

The delivery dates run from the date of the latest among the following events:

- from the date of the agreement between the Parties on all delivery conditions;
- from the receipt by ABB of the advance payment for the Order, or payment security, where foreseen.

ABB Ltd.

Zagrebačka banka d.d.

Share capital 2.730.000 HRK

President of the Board of Directors: Marcel van der Hoek

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- from the receipt by ABB of the technical data from the Customer or third parties designated thereby or from the approval of the ABB’s executive drawings and plans by the Customer or by a third party designated thereby; and
- from the receipt by ABB of the materials which need to be provided by the Customer or by a third party designated thereby; further any delay in performance caused by: earthquake, fire, floods, pandemic, invasion, insurrection, revolt, orders from the civil or military authorities, mobilization, blockade, war (even in nations indirectly involved in the Supply), strikes, trade union agitation, occupation, embargo or any other government or governmental action, or any case beyond the control of ABB, also where not specifically listed here. The delivery terms are suspended throughout the period of time during which one of the causes indicated hereinabove delays execution of the Contract.

13. TECHNICAL DOCUMENTATION

The Customer acknowledges to have been informed about the safety rules relevant to the use of the Products. Except for particular different instructions to be agreed in writing, the machines, devices and materials are compliant with IEC and/or with the specific sector technical rules and any case beyond the control of ABB, also where not specifically listed here. The delivery terms are suspended throughout the period of time during which one of the causes indicated hereinabove delays execution of the Contract.

14. TESTS

The Customer has the right and the duty to notify, in due time, the intention of attending, at its own expense, routine tests of the materials at the ABB’s factories. In such event, ABB will inform the Customer with sufficient warning, the date on which the tests will be executed: if the Customer is not present on such date, the tests will be executed in any case and the results notified thereto. When the Customer requires and ABB accepts further uncompleted tests, these shall be at the Customer’s expense.

No later than 30 (thirty) days from completion of the works by ABB, the Customer, if so agreed, may request the inspection of materials at its premises or at the installation site, to verify their regular operation. In this case, all the relevant costs, including travel, labor, transport of the inspectors, shall be borne by the Customer; these tests are executed at the Customer’s risk and liability, which must also include responsibility for the complete safety of the workplace, also as required by Article 26 below.

Once these tests are favorably completed, or the aforementioned period has expired without the Customer requesting the said tests, the Supply is considered accepted by the Customer.

Where, at these tests, the Supply is found not to comply with the Contract, ABB shall be put in the position to eliminate the deficiencies as soon as possible. The repair of such defects, which constitute the only remedy which ABB shall be required to implement, with express exclusion of any further damages or the termination of the Contract.

15. ASSEMBLY

Except as otherwise agreed, the installation of devices and assembly of components and/or current EU Directives. The weights, dimensions and illustrations of the Products, and materials are compliant with IEC and/or with the specific sector technical rules and environmental protection; in the case of a Supply whose Price is not based on the basis of the same, the same shall be the sole remedy available for the Customer, thus expressly excluding reimbursement of any further damages. Liquidated damages are not due when the delay in the performance is attributable to an unforeseen circumstances or to an event not related with the direct responsibility of ABB. Liquidated damages shall be due only when the Customer has notified ABB by registered letter about its intention to apply the same and shall be due and applicable only from the date of receipt of ABB’s notification. In any case, the liquidated damages shall be calculable where not demanded within 10 (ten) days from the delivery of the delayed Supply.

The liquidated damages shall be payable at a rate of 0.50% of the Price of the Supply which has not been placed in service, of the day of delivery of the delayed Supply. The total amount of liquidated damages is limited by the maximum amount of 5% of the total Contract Price excl. VAT. Should the Customer, as a result of the ABB’s delay, be entitled to the maximum amount of the Contractual penalties, the Customer can withdraw from the Contract.

11. TRANSFER OF RISKS AND TITLE

Risks and costs related to the Supply shall pass to the Customer according to the agreed INCOTERMS 2020 terms of delivery. If shipment is delayed or becomes impossible due to reasons not attributable to ABB, the Supply remains in storage at the expense, risk and liability of the Customer.

The Customer shall acquire title of the Supply only upon payment of full agreed price.

12. FORCE MAJEURE

ABB shall not be considered liable for non-performance of any Contractual obligation or for any delay in performance caused by: earthquake, fire, floods, pandemic, invasion, insurrection, revolt, orders from the civil or military authorities, mobilization, blockade, war (even in nations indirectly involved in the Supply), strikes, trade union agitation, occupation, embargo or any other government or governmental action, or any case beyond the control of ABB, also where not specifically listed here. The delivery terms are suspended throughout the period of time during which one of the causes indicated hereinabove delays execution of the Contract.

16. WARRANTY AND CLAIMS

ABB guarantees the Supply according to the law. Upon expiration, the warranty expires. If the delay in the performance is attributable to an unforeseen circumstances or to an event not related with the direct responsibility of ABB. Liquidated damages shall be due only when the Customer has notified ABB by registered letter about its intention to apply the same and shall be due and applicable only from the date of receipt of ABB’s notification. In any case, the liquidated damages shall be calculable where not demanded within 10 (ten) days from the delivery of the delayed Supply.

The liquidated damages shall be payable at a rate of 0.50% of the Price of the Supply which has not been placed in service, of the day of delivery of the delayed Supply. The total amount of liquidated damages is limited by the maximum amount of 5% of the total Contract Price excl. VAT. Should the Customer, as a result of the ABB’s delay, be entitled to the maximum amount of the Contractual penalties, the Customer can withdraw from the Contract.

17. EXPRESS CANCELLATION CLAUSE

ABB may terminate the Contract upon the occurrence of any of the following events:
- non-payment by the Customer by the terms agreed in the Price and/or the relative variations of the same agreed hereafter (in time, quantity and price) of the products specified in the Contract and any case beyond the control of ABB, also where not specifically listed here. The delivery terms are suspended throughout the period of time during which one of the causes indicated hereinabove delays execution of the Contract.

- non-compliance with Article 26 “Activities at the Customer’s premises - safety at work” and the provisions in matters of occupational health, safety and hygiene, and environmental protection; in the case of a Supply whose Price is not based on the basis of the same, the same shall be considered appropriate, informing the Customer however if these can have an impact on the installation of the same.

If this event occurs, the Customer shall give ABB a written confirmation of the non-compliance of the conditions to the ABB scope of supply, as indicated in its Offer or in the designs submitted, in such a way that the same have mandatory application, there must be full written agreement between the Parties both at the time of contract signature and in any alterative variations or any modifications that may cause in the Prices, and on the delivery date established previously. The presentation of proposed modifications does not suspend the validity of the Contract.

- non-compliance with the provisions of Article 19 "Intellectual Property Rights".
ABB shall notify the Customer of its intention to terminate the Contract with formal notification by registered mail. The termination of the Contract will be effective from the date of receipt by the Customer of such a letter.

18. TERMINATION
Each Party, before the termination of the Contract, shall give a formal notification to the other Party to remedy the non-performance within a minimum period of 30 days. In any case, the Customer may not terminate the Contract if ABB has started to remedy before the expiry of the term indicated above and, thus continued in good faith to execute the Contract with due diligence.

19. INTELLECTUAL PROPERTY RIGHTS
The Parties do not grant each other the right to exploit their brands, commercial names or other denominations (or those of their respective Company Groups) in any type of publication, including advertising, without the prior written consent of the other proprietor Party. Each Party grants the other only the licenses and rights expressly specified in the Order Confirmation.

All data, information, documents, as well as the intellectual property rights whether registered or not (hereinafter collectively indicated as the "Documentation"), in whatever form transmitted, remain the sole and exclusive property of ABB and are supplied to the Customer only for the performance of the Contract.

The Customer shall not use the Documentation received for reasons other than those foreseen under the Contract; the Customer shall not communicate to third parties, reproduce or license the Documentation received without the explicit prior written authorization of ABB.

The Customer shall return the Documentation received to ABB along with all copies (if any) upon simple request from ABB whenever the said Documentation is no longer necessary for the performance of the Contract and/or for the use of the Supply, except as otherwise agreed by the Parties.

If the Contract is executed by ABB on the basis of the Customer's specific technologies.

20. EXPORT CONTROL
The Customer shall comply with all legislation applicable to the export of Products and technologies.

In no case shall the Customer sell or consign to ABB goods in those nations where ABB prohibits sales and/or the supply is prohibited or restricted in any manner, as defined in the Order Confirmation. ABB reserves the right to withdraw from Offers and/or from existing Orders and/or terminate the relevant Contracts:
- if ABB does not receive the end use declaration with the Order or before the same; or
- if ABB does not receive a declaration of non-nuclear or military end use; or
- if the end use is uncertain.

The supply of goods for export is possible only after obtaining the necessary End user's statement.

21. GOVERNING LAW AND JURISDICTION
The Contract is governed by Croatian law. Any dispute regarding the validity, interpretation, execution and/or termination of the Contract, the Conditions, the Order and/or the Order Confirmation shall be referred to the exclusive jurisdiction of the Court of Zagreb, Croatia.

22. WITHDRAWAL
ABB has the right to withdraw from the Contract upon the occurrence of any of the following events:
- changes in the ownership or the company structure thereof;
- withdrawal (30 days after an event of force majeure in accordance to Article 12 "Force majeure").

In the case of termination, the Customer shall return to ABB the designs, drawings and technical documentation owned by the latter, with no right to indemnity or compensation of any kind.

ABB shall notify the Customer of its intention to withdraw from the Contract by sending a registered letter.

Termination shall be effective from the date of receipt of such notice.

23. DATA PRIVACY
ABB hereby acknowledges that, the data provided by the Customer shall be processed solely for Contractual purposes and for the fulfilment of the related legal requirements, including tax or accounting requirements. The information shall be processed using both electronic and manual recording Systems, and in any case shall be stored in secure environments. Processed data and information may be disclosed to third parties operating in Croatia or abroad, solely for the purposes specified above.

Processsed data and information shall not be distributed.

The Customer is entitled to receive information about the existence or not of any personal data concerning it, whether or not already recorded, and to have such data provided to it in intelligible form. The Customer is also entitled to be informed of the source of its personal data; the data processing purposes and methods; the logic used in the treatment of electronic processing; and information identifying the data controller and the entities or categories of entities to which its personal data may be disclosed.

The Customer is also entitled to have its recorded data updated, corrected or, if interested therein, supplemented; to require the deletion, transformation into anonymous form, or blocking of data illegally processed, including those that are not required to be maintained for the purposes for which they were collected or subsequently processed; and to receive a statement certifying that the aforesaid operations have been notified, as to their form as well as contents, to the parties to whom the data have been disclosed or distributed.

24. BUSINESS ETHICS
ABB has adopted a code of conduct, (the "ABB Code of Conduct"), which is available from the web site www.abb.com/integrity. Therefore, in conducting business with ABB, the Contracting Party is required to familiarize itself with it and engage in conduct based on the highest ethical standards.

The Customer hereby warrants that it will, not directly or indirectly, and it has no knowledge that any other persons will, directly or indirectly, make any payment, gift or other commitment to its Customers, to government officials or to agents, directors and employees of ABB or any other party in a manner contrary to applicable laws (including but not limited to the U.S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials) and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption.

Nothing in the Contract shall render ABB liable to reimburse the Customer for any such consideration given or promised.

The Customer’s material violation of any of the obligations contained in this Article may result in the immediate termination of this Agreement and shall entitle ABB to terminate this Agreement with immediate effect and without prejudice to any further right or remedies on the part of ABB under this Agreement or applicable law. The Customer shall indemnify ABB for all liabilities, damages, costs or expenses incurred as a result of any such violation of the above mentioned obligations and termination of this Agreement.

The Customer herewith acknowledges and confirms that he has received a copy of ABB’s Code of Conduct or has been provided information on how to access the Code of Conduct online. The Customer agrees to perform its Contractual obligations under this Agreement with substantially similar standards of ethical behavior. ABB has established the following reporting channels where the Customer and its employees may report suspected violations of applicable laws, policies or standards of conduct at abbgroup.ethicspoint.com.

25. EXECUTION OF ORDINARY AND SPECIAL MAINTENANCE
The activities of installation, commissioning rollout, maintenance and repair may be executed by ABB or by another entity that has been expressly authorized by ABB in compliance with all safety rules. Where ABB is not engaged for the installation, commissioning rollout, maintenance and repair work, ABB cannot in any way guarantee that the Products/Systems supplied by ABB are fit for use.

26. ACTIVITIES AT CUSTOMER’S PREMISES - SAFETY AT WORK
In the case of activities at Customer’s premises, the Customer is required to provide ABB with:
- the full safety of the plant at Customer’s premises and/or of the Customer site at which ABB activities are to be undertaken;
- free access, sufficient space as well as, in general, whatever may be necessary and possible, so that ABB may perform its duties and, in particular, the supply of electrical power and the availability of lifting equipment for the use of the equipment necessary for the execution of the activities at Customer’s premises.

The Customer shall also give ABB prior notice of all the risks present in the working area and implement and guarantee all related and necessary prevention and protection measures and the emergency plans, so that ABB personnel is not exposed to the said risks. ABB personnel shall always be worked in pairs with at least one other person, who will be capable and adequate to provide assistance in case of emergency. The Customer shall notify ABB in writing, in the name of its Safety Manager responsible for the activities to be undertaken and responsible to meet the ABB personnel before the beginning of the operations, of all the safety rules and regulations pertaining to the working environment.

The Customer shall notify ABB personnel to the extent that other persons will, directly or indirectly, make any payment, gift or other commitment to its Customers, to government officials or to agents, directors and employees of ABB or any other party in a manner contrary to applicable laws (including but not limited to the U.S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials) and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption.

In the case of accident or injury to ABB personnel, the Customer shall grant ABB free access to the accident site to ascertain the relevant causes.

The Customer (date, seal, and signature)