



*Project co-financed by the European Regional Development Fund under the Innovative Economy Operational Program*

**SALES AGREEMENT No PLCRC/2830700/06/47/2015**

Concluded on ..... 2015, by and between:

**ABB Sp. z o.o.**, with its registered office in Warsaw; address: Warszawa (04-713), Żegańska Str. 1, entered in the Register of Entrepreneurs maintained by the District Court for the Capital City of Warsaw, 13th Commercial Division of the National Court Register, under KRS number 0000004745, share capital of PLN 350,655,734.00; (Tax Identification Number (NIP) 526-030-44-84; Statistical Identification Number (REGON): 010017168; GIOŚ No (Chief Inspectorate of Environmental Protection Number) E0008536WBW), represented by:  
hereinafter referred to as the "Purchaser"

and ..... in ..... at .....Str. conducting business activity in ....., acting on the basis of an entry in the business register under No ....., hereinafter referred to as the "Seller".

**or**

and ..... **Sp. z o.o.** with its registered office in ..... ; address: ..... Str., entered in the Register of Entrepreneurs maintained by the District Court ..... – ..... Commercial Division of the National Court Register, under KRS number ....., share capital of PLN .....; (Tax Identification Number (NIP); Statistical Identification Number (REGON): .....; GIOŚ No (Chief Inspectorate of Environmental Protection Number) .....), represented by:

.....  
.....

hereinafter referred to as the "Seller".

**§ 1**

**Subject matter and scope of the Agreement**

1. The subject matter of the Agreement shall be the sale of **real-time diagnostic and testing system**, incl. training, hereinafter referred to as the "Device".
2. The agreement includes:
  - 1) Delivery,
  - 2) Installation and software configuration,
  - 3) Stat-up and training
3. The characterisation and description of the Device:
  - 1) Processing unit:
    - a) Version I
      - X86 technology (Quad-Core AMD Opteron 2.8 GHz)
      - 4 core processor
      - Compatibility with Matlab Simulink software
      - Cache data memory 4 x 64 KB L1
      - Instruction cache memory 4 x 64 KB L1, 4 x 512 KB L2
      - Local memory for applications and data DDR2-800 SDRAM 1GB
      - 4 x 128MB DDR2-267 SDRAM memory data host Exchange
      - 2 MB for the boot firmware
      - Ability to build a multiprocessor system
      - Dedicated software for the card:
        - to set up real-time applications to provide full support for control board
        - supporting Ethernet interface

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Environmental Protection No: GIOŚ E0008536WBW  
Share capital: 350.655.734,00PLN  
Internet address: www.abb.pl

District Court for the Capital City  
of Warsaw, XIII Economic Department,  
Polish Court Register under the  
KRS No. 0000004745



- b) Version 2
- Technology dual-core PowerPC architecture (Freescale QorIQ P5020 dual-core 2 GHz)
  - Compliance with the program Matlab Simulink
  - Ability to build a multiprocessor system
  - Dedicated software for the card:
    - To configure real-time applications to provide full support for control board
    - supporting Ethernet interface
- 2) Universal card inputs / outputs (2 pcs.):
- 20-channel analog-to-digital converters ADC 5 odseparowanymi
  - 8 parallel DACs
  - Serial interface
  - 12 bit resolution for A / D conversion
  - The time A / D conversion for all services 32.5 20 inputs
  - For 12 bit D / A conversion
  - Conversion time D / A 6 us
  - Input / output voltage +/- 10 V
  - 16 I / O lines of digital
  - 8 of the counting
  - 1 input interrupt support
  - I / O lines operating in the TTL
  - Serial UART serial interface, RS232
  - The ability to measure the frequency of the signal (quadrature for 1, 2 or 4 channels)
  - PWM signal generation operating at a frequency of at least 6.25 MHz and a resolution of 160 ns (40 ns for the PWM period of less than 2.6 ms)
- 3) Encoders card and connection panel with the following parameters:
- 5 inputs incremental encoders
  - 24 - bit counter
  - The maximum input frequency of 1.25 MHz
  - Standard TTL operation
  - Ability to work under quadrature (counting each edge)
- 4) Analog to digital conversion with a connection panel with the following parameters:
- 32 ADC input channels
  - Resolution 4, 8, 12, 16 bit (programmable)
  - The range of - / + 5 V or - / + 10 V (programmable)
  - Conversion time of at least 66.9 us (16 bit with all working channels)
- 5) The DAC card and connection panel with the following parameters:
- At least six analog output channels
  - Resolution - 16 bit
  - Programmable ranges: - / + 5V, - / + 10V or 0 - 10 V (programmable)
  - Minimum sampling time 1.6us
  - Reset to 0 V in case of failure
- 6) The input-output card with digital panel meters and the connection with the following parameters:
- At least 8 channels of counting panel working with a minimum resolution of 200 ns
  - Each channel independently programmable
  - Fast dual-ported RAM for data storage
  - 32 digital, programmable inputs and outputs (standard TTL)
  - 2 external lines of the type of trigger (trigger).
- 7) Software:
- Software for automatic code generation with the ability to control object modeling software and drivers and cards I / O.
  - The environment should provide communication and hardware support.
4. Additional requirements:
- Permanent license, free updates in the warranty period,
  - Installation and start-up included,
  - Training in Polish or English for 3 persons.
5. The Device shall be delivered together with the appropriate software necessary for the Set operation.



6. As part of the remuneration specified in § 4 clause 1, the Seller grants the Buyer a non-exclusive licence for use of the Software, for an indefinite period, to the extent necessary to use the Set.
7. The Seller represents that under a concluded licence agreement he has the right to use the Software being subject matter of the Contract and the right to authorize other entities to use that Software delivered by the manufacturer of the Set.
8. The Licence granted under provisions of clause 5 covers the right to use the software constituting a work under copyright law, to the extent and under conditions specified by this Contract.
9. Granting of the Licence referred to in above clause 5 covers the following fields of exploitation:
  - recording as well as permanent or temporary reproduction of a computer programme in full or in part, by any means and in any form, in particular for the purposes of reproducing the computer programme, its loading, displaying, running, transmitting and storing, and also producing copies thereof using any technique, including printing, reprographic, magnetic recording and digital technique,
  - reproduction by printing, using reprographic equipment and digital techniques,
  - the use of the works developed in accordance with their intended purpose, that is to achieve full functionality of the Set,
  - modernisation of or changes in the works developed, including the exercising of the derivative copyright to the Software.
10. Granting of the Licence for the Software takes place by signing of protocol of Final Acceptance of the subject matter of the Contract by the representatives of both Parties.
11. The Seller represents that the subject matter of the Contract, being sold, is new and complete and is not encumbered with any rights of third parties.
12. The transfer of the ownership of the subject matter of the Contract shall not require any additional representations of the Parties and the ownership shall pass on to the Purchaser as of the date of signing of the Final Acceptance Protocol of the Contract performance.
13. The Seller shall be liable for any damage caused by the performance of the Contract.
14. The subject matter of the Contract, delivered by the Seller, shall be accompanied by CE statement of conformity.
15. The subject matter of the Contract shall be executed in accordance with the agreed lump-sum settlement of the remuneration.

## § 2

### Terms and conditions of the Agreement performance

1. Place of the Agreement performance (delivery): Branch Office of ABB Sp. z o.o. in Kraków, Starowiślna Str. 13 A.
2. The delivery, installation, configuration, start-up and training shall take place on the Purchaser's business day from 08:30 a.m. until 4:00 p.m.
3. The transport of the Device shall be conducted at the expense and risk of the Seller.
4. The Seller represents that it has all qualifications and licences to execute the subject matter hereof, has the financial capacity to carry out the work and to pay the remuneration, and that employees or other persons acting on behalf of the Seller hold valid medical examinations, valid OHS training certificates, have appropriate qualifications and are equipped with approved personal and collective protective equipment.
5. The Seller shall agree to execute the subject matter hereof in accordance with the art and technical expertise in this area and maintenance requirements.
6. The Seller shall not be permitted to subcontract the performance of the Agreement to any third parties without the Contracting Entity's consent. In each case, the Seller shall be liable to the Purchaser for any damage caused by the subcontractors, as for the Seller's own actions.
7. The Seller shall be liable to the Purchaser for non-performance or negligent performance of the Agreement in a situation where the execution of the subject matter hereof has been subcontracted to other entities, as for the Seller's own actions.
8. The Seller shall be obliged to remedy a damage caused by non-performance or negligent performance of the Agreement, unless the non-performance or negligent performance is the effect of any circumstances for which the Seller is not responsible.



9. The representative and the person responsible, on the part of ABB Sp. z o.o., for matters connected with the performance of the Agreement, and authorised to accept the work completed on the part of the Contracting Entity, is Mr Piotr Lipnicki, e-mail address: piotr.lipnicki@pl.abb.com.
10. The person authorised, on the part of the Contracting Entity, to conduct detailed inspections/audits of occupational health and safety during the execution of the work by the Seller, is the OHS Specialist – Sebastian Osiński, e-mail address: sebastian.osinski@pl.abb.com.
11. The coordinator of the work covered by the Agreement and the person authorised to hand over the completed work on the part of the Seller is: ....., e-mail address: .....

### § 3

#### Occupational health and safety and environmental protection

The Seller shall be obliged to:

1. Respect the standards of ABB Sp. z o.o. presented in **Annex No 2**,
2. Conduct the work/provide services in accordance with the occupational health and safety requirements presented in **Annex No 3**.
3. Conduct the work/provide services in accordance with the requirements of applicable environmental protection laws, and in accordance with the waste management law, in particular in the case of hazardous waste.
4. During the performance of the Agreement, the waste produced shall be the Contractor's waste, and until the disposal thereof, the waste shall be segregated by the Contractor and stored in designated places and in appropriate packaging in order to prevent the penetration of any parts thereof into the environment.
5. The Parties to the Agreement shall appoint on the Contractor's part, as the Coordinator, ..... tel. ...., e-mail: ....., who supervises occupational health and safety with regard to all employees working in the same place,
6. The appointment of the Coordinator, referred to in section 5, shall not release the Party to the Agreement from the obligation to ensure occupational health and safety for employees hired by them.
7. The Purchaser shall reserve the right to conduct audit/inspection on the work site in terms of compliance with OHS and fire protection, environmental protection and waste management regulations. The Contractor shall be obliged to comply with the orders issued at that time.

### § 4

#### Implementation dates

1. The Seller shall be obliged to execute the subject matter of the Agreement no later than **6<sup>th</sup> of March** 2015. The execution of the subject matter of the Agreement within the deadline set out in the preceding sentence shall be understood as the completion of all work, i.e., the delivery to the specified place of delivery, training and conducting Acceptance Tests.
2. The performance of the Agreement shall be confirmed by the Final Acceptance Protocol signed without any objections by the Parties or their representatives.
3. The Purchaser shall have the right not to accept the subject matter of the Agreement if any faults or defects have been found. The acceptance of the subject matter of the Agreement shall be suspended until those faults or defects have been remedied. In this situation, contractual penalty shall be charged in accordance with § 6 section 1.
4. The Seller shall be obliged to notify the Purchaser 2 days in advance of the readiness for handing over the subject matter of the Agreement.

### § 5

#### Terms of payment

1. The Parties agree on a lump-sum remuneration for the execution of the subject matter of the Agreement in the amount of **EUR** ..... plus VAT (say: EUR ..... ), including the amount of ..... for the transfer of author's economic rights to the Software.
2. The remuneration, referred to in section 1, shall include all costs necessary to perform the Agreement, in particular: the cost of the Device purchase, transport of devices, installation, materials, labour, the



work of equipment and people. The remuneration shall also include the costs of use of the licence for the Software delivered by the Seller.

3. The invoice should be issued on the base of Acceptance Protocol.
4. The remuneration for performance of the Agreement shall be paid by bank transfer to the Seller's account on the basis of an invoice, delivered to the address specified in section 5, within the following deadline:
  - on the first Wednesday after the lapse of 45 days of the date of receipt by the Contracting Entity of the VAT invoice, together with the Acceptance Protocol, referred to in section 3.If the Wednesday will be a public holiday, the payment will be made in the first Buyer's business day after the Wednesday.
5. Payments will be made by the Purchaser by bank transfer to the account indicated in invoices.
6. Address data for the invoice issue:
  - a) An invoice sent by MAIL shall be addressed to:  
Re: ABB Sp. z o.o.  
Postfach (P.O. Box) 22 11 53  
04131 Leipzig  
Deutschland

or

- b) An invoice sent by COURIER shall be addressed to:  
Re: ABB Sp. z o.o.  
Landsberger Str. 140  
04157 Leipzig  
Deutschland

Other correspondence relating to purchases and services provided to ABB Sp. z o.o. shall be sent independently of the invoices to correspondence addresses of ABB Sp. z o.o. or submitted directly to the units placing orders in a given location.

7. Additionally, data included in the invoice shall contain:
  - a) Number of the Agreement with the net value
  - b) Quantity – (if applicable)
  - c) Measure unit compatible with the ISO standard – (if applicable)
  - d) Name and surname of a person on the part of ABB, responsible for matters related to the performance of the Agreement
  - e) The date of the invoice issuance and the date of sale shall be compatible with the ISO standard (yyyy.mm.dd, i.e., year, month, day),
8. The invoice shall be:
  - a) in the form of a single-sided print on uniform, preferably white paper
  - b) typewritten, without any handwritten annotations, unnecessary stamps and marks
9. The invoice shall be sent in an envelope marked "INVOICE". Except the invoice, the envelope shall contain only the necessary attachments confirming the delivery/acceptance of the invoice subject matter (e.g., the Acceptance Protocol).
10. In the case of any delay in payments, the Seller shall have the right to charge statutory interest.

## § 6

### Contractual penalties and liability

1. For a failure to keep the deadline for execution of the subject matter of the Agreement, set out in § 4 section 1, the Seller shall be obliged to pay the Purchaser a contractual penalty of 0,5%/say: one point five percent/ for each day of delay.





2. If the damage caused by a failure to keep the deadline for performance of the Agreement exceeds the contractual penalty, set out in section 1, the Purchaser shall have the right to claim supplementary damages on general terms and conditions.
3. If the delay in performance of the Agreement is longer than 20 business days, counting from the deadline set out in § 4 section 1, the Purchaser, without any additional demand, shall have the right, within 20 days of the expiry of the deadline set out above, to withdraw from the Agreement, either in whole or in the part corresponding to the subject matter hereof which has not been executed. In the case of withdrawal from the Agreement, the Purchaser shall have the right to claim from the Seller a lump-sum compensation for damages at 20% of the net remuneration under the Agreement, set out in § 5 section 1, for the damage caused by non-performance of the Agreement, either in whole or in part. The Seller shall accept the level of compensation for damages set out on a lump-sum basis and shall waive the right to lodge any claims against the Purchaser, including benefits lost in connection with the withdrawal from the Agreement.

### **§ 7** **Guarantee**

1. The Seller shall grant to the Purchaser guarantee for efficient and reliable operation of the Device provided under the Agreement for the period of 24 months. The guarantee shall start from the date of hand-over, on the basis of the Final Acceptance Protocol, of the completed subject matter hereof.
2. The Purchaser shall agree to immediately notify the Seller of the occurrence of any defects or faults. Notifications of defects or faults shall be sent to the e-mail address of the service centre: ....., or in writing to the address: .....
3. The Seller shall be obliged to immediately remove, at its own expense, any defects or faults (or to provide a replacement for the device), no later than within 21 days from the notification date or the date of receipt of the Device sent to the place indicated by the Seller.
4. The Seller shall remove defects or faults at the Device installation place or at another place indicated by the Seller, but the Seller shall be obliged to pay the costs of transport (outward and return) of the Device to the indicated place and insurance during the transport. If the Seller fails to indicate the place of repair of the defect or fault within 7 days of the time of notification of the defect or fault, the Device installation place shall be deemed the place of repair.
5. If the defects or faults have not been remedied within the time set out in section 3, the Purchaser shall have the right to contract the remedy of defects or faults to a third party at the Seller's expense (substitute performance).
6. Contracting the remedy of defects or faults to a third party shall authorise the Purchaser to charge contractual penalties, in accordance with section 6, for the period until the execution of the aforesaid work by a third party.
7. A failure to keep the deadline for remedy of the defects or faults, set out in section 3, shall result in the Purchaser's charging and the Seller's obligation to pay a contractual penalty of equivalent of PLN 200.00 for each day of delay.

### **§ 8** **Performance Bond**

1. Within 14 days of the date of signing hereof, the Seller shall deliver to the Purchaser, as security for appropriate and timely performance of the Agreement, an irrevocable, unconditional, divisible and payable on first demand insurance or bank guarantee, issued by a renowned Bank accepted by the Purchaser or by a renowned insurance company accepted by the Purchaser, and in accordance with the template presented in **Annex No 3**, for 20% of the net performance value ("Performance Bond"). The Purchaser shall be able to use the Performance Bond to cover any amounts due hereunder, including contractual penalties, compensation for negligent performance of the Agreement, lump-sum compensations for withdrawal from the Agreement and costs of substitute performance.
2. If the Performance Bond has not been presented within the deadline set out in section 1 or has been presented in a form not compatible with the attached template, the Purchaser shall have the right, without any additional demand, within 20 days of the expiry of the deadline set out above, to withdraw from the Agreement, either in whole or in the part corresponding to the subject matter hereof which has



not been executed. In the case of withdrawal from the Agreement, referred to in the preceding sentence, the Contracting Entity shall have the right to claim from the Contractor a lump-sum compensation for damages at 20% of the contractual net remuneration, set out in § 4 section 1. The Contractor shall accept the level of compensation for damages set out on a lump-sum basis and shall waive the right to lodge any claims against the Contracting Entity, including benefits lost in connection with the withdrawal from the Agreement.

3. Notwithstanding the Purchaser's right to withdraw from the Agreement, referred to in section 2, the Purchaser shall have the right to charge the Seller with contractual penalty of equivalent of PLN 500 for each day of delay in delivering or supplementing the Performance Bond, in accordance with the provisions of this Article.
4. All costs connected with the procurement of the Performance Bond and keeping it valid shall be borne by the Seller, subject to section 5 below.
5. The Performance Bond shall be valid during the period of performance hereof until the date of signing of the Final Acceptance Protocol of the subject matter of the Agreement plus 30 days. The Seller shall agree to extend the period of validity of the Performance Bond if it expires before the aforesaid date, e.g., as a result of delays in performance of the Agreement. To the extent the delay in performance of the Agreement is caused by circumstances that the Purchaser is responsible for, the Purchaser shall be obliged to pay the costs of extension of the Performance Bond. If the period of validity of the Performance Bond has not been extended at least 14 days before the expiry thereof, the Purchaser shall have the right to retain from the payment of the last invoice the value of the deposit securing the contract performance and to treat that amount as cash deposit securing the Purchaser's claims. If another Performance Bond is presented after the expiry of the validity period, the Purchaser shall be obliged to return the amounts retained to secure the Purchaser's claims to the Seller, or the amounts received in connection with drawing on the previous Performance Bond to the underwriter, within 14 days of the date of presentation of another Performance Bond.
6. The Purchaser shall agree to notify the Seller in writing of an intention to draw on the Performance Bond in advance, specifying in particular the nature of the violation of the provisions hereof in view of which the Purchaser intends to lodge the claim under the Performance Bond.

## § 9

### Industrial and intellectual property

1. The Seller represents that the subject matter of the Agreement shall not violate any rights of third parties, in particular any copyrights, industrial property rights and/or know-how.
2. In exchange for the contractual remuneration, set out in § 4 section 1, the Seller shall transfer to the Purchaser the author's economic rights and derivative rights to the documentation prepared hereunder and to the Software in all fields of exploitation of the work, without any limitations with regard to time and territory, in particular to the extent required to use, operate and repair the Device.
3. The Seller shall accept the liability for all claims of third parties against the Purchaser, connected with any violation by the Seller or its subcontractors of those rights of third parties, and in particular any copyrights and intellectual property rights and/or know-how.
4. The Seller shall hereby transfer to the Purchaser the full ownership rights to any Intellectual Property arising in connection with the performance hereof for the full duration of such rights, wherever in the world enforceable. The Seller further agrees to execute all documents and to make all assignments, at the Purchaser's request and expense, and to carry out other activities as may be necessary to perfect the Purchaser's ownership title to the Intellectual Property or to register the Purchaser as the owner of the Intellectual Property with any registers, including but not limited to any registers kept by governmental registration authorities or private registration organisations. In the event the Parties have expressly agreed in a separate written agreement that the Intellectual Property Rights shall not be assigned to the Purchaser (as stated above), the Seller automatically grants herewith the Purchaser and its Affiliates a royalty free, worldwide, irrevocable, non-exclusive, perpetual licence to use the Intellectual Property, including but not limited to the right to further improve, develop, market, distribute, sub-license, exploit or otherwise use the Intellectual Property in any way.
5. To the full extent permitted by applicable laws, the Seller shall procure documents confirming the waiver to exercise any author's moral rights arising as a result of the creation of the Intellectual Property from any Parties engaged in the creation thereof.



6. For the avoidance of doubt, the Purchaser shall have the right to assign and sub-license, and otherwise transfer its rights under the above sections.
7. The Seller shall refrain from any actions prejudicial to the subsistence of the Intellectual Property Rights arising as a result of the performance hereof or connected with them, and from any actions prejudicial to the assignment of the aforesaid Rights.

## **§ 10** **Final provisions**

1. The Parties to the Agreement shall be obliged to treat all information concerning the matters of the other Party as confidential. The Parties to the Agreement shall not use any such information for the purposes other than those connected with the performance of the Agreement and shall not disclose it to any third parties without written consent of the other Party. The aforesaid information may be disclosed only to employees of the Purchaser and of the Seller or other persons acting on request of a given Party to the extent necessary to properly execute the subject matter hereof. The principle of confidentiality shall also apply to the employees.
2. Any amendments hereto shall be made in writing, otherwise being null and void.
3. Any disputes arising in connection with this Agreement shall be settled by the competent Court in accordance with generally applicable Polish law.
4. Any disputes relating to the performance hereof shall be submitted by the Parties for resolution under the Polish law.
5. In matters not regulated herein, there shall apply in the first place the provisions of the General Terms And Conditions for Purchase of Goods by ABB GTC ABB/GOODS (2014-1 Standard) of 1 April 2014, which constitute **Annex No 4** hereto.
6. In matters not regulated herein and/or in General Terms And Conditions for Purchase of Goods by ABB GTC ABB/GOODS (2014-1 Standard) of 1 April 2014, there shall apply the relevant provisions of the Civil Code and other applicable laws.
7. The Agreement was made in three counterparts, one counterpart for the Seller and two counterparts for the Purchaser.

### **THE SELLER**

### **THE PURCHASER**

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