

JUNE 2022

# ABB's General Terms and Conditions of Sale

## (Sales and supplies of equipment and performance of services)

### 1. General

- 1.1 The sales and supplies of equipment (components, materials, products and/or systems) as well as the performance of services (works, repairs, assemblies, installations and works), (hereinafter collectively referred to as the "**Supply(ies)**") to be performed by the ABB Group companies that choose to avail themselves of the same (hereinafter the "**Seller**" or "**ABB**") shall be governed by these general terms and conditions of sale (hereinafter "**ABB's General Terms and Conditions of Sale**"), except in all respects inconsistent with any agreements that ABB may enter into with the purchaser of the Supplies (hereinafter referred to as the "**Purchaser**"), which shall constitute the particular conditions of the Supply. Therefore, any other terms and conditions not expressly accepted by ABB, including in particular the Purchaser's general conditions of purchase, shall lack any effectiveness whatsoever and shall be deemed not to have been accepted by ABB for any purposes.
- 1.2 For these purposes, companies falling within any of the situations provided for in article 42 of the Commercial Code shall be deemed to be part of the ABB Group.
- 1.3 The Seller shall be deemed to have chosen to abide by these ABB's General Terms and Conditions of Sale and that these conditions have been communicated to the Purchaser as soon as the address of the website containing these ABB's General Terms and Conditions of Sale is provided to the Purchaser or as soon as the Purchaser receives an offer from the Seller accompanied by these ABB's General Terms and Conditions of Sale, in all these cases being deemed accepted by the Purchaser, to all legal extent, when placing his order.

### 2. Intellectual Property Rights

- 2.1 The intellectual property embodied in the Seller's offer, in all its terms, and the information attached thereto, as well as the intellectual property of the object of the Supply and that of the elements, plans, drawings, software, etc. incorporated therein or relating thereto, belongs to the Seller or to its suppliers, reason why its use by the Purchaser for purposes other than the fulfilment of the order is expressly prohibited. By virtue thereof, the copying, in whole or in part, or the transfer of use of said intellectual property to third parties without the prior written consent of the Seller is strictly prohibited. All this without prejudice to the Seller's right to grant to the Purchaser a non-exclusive and non-transferable right or license to use such IP rights. For clarification purposes, the granting in favour of the Purchaser

of the right or license of use shall in no case be understood as a transfer of ownership in favour of the Purchaser, insofar as the Seller -or its suppliers- shall hold at all times the exclusive title of ownership of these IP rights.

- 2.2 In the event that the Supply includes software from a supplier of the Seller, the Purchaser agrees to accept the terms and conditions of use set forth by the licensing supplier and thereby acknowledges and agrees that (i) any contractual relationship relating to the Purchaser's use of such software is solely that established between the Purchaser and the supplier of such software; (ii) it is the Purchaser's responsibility to evaluate the fairness of the Purchaser's use of such software; and (iii) the Seller shall have no liability relating to the Purchaser's use of such software, to the extent permitted by applicable law. In accordance whereof, the Seller provides no warranties relating to its suppliers' software, which includes any software (which may include mobile applications), proprietary, freeware and open source software, that is licensed (i) to the Seller by a third party, for use under terms and conditions independent of the Supply, or (ii) directly by the Purchaser from third parties other than the Seller.

### 3. Formalization of Orders and Scope of Supply

- 3.1 The scope of the Supply shall be clearly specified in the Purchaser's order, which must be expressly accepted by the Seller in order for the Seller to be bound by its contents. ABB's express acceptance shall not be required in respect of orders arising from a prior supply agreement requiring the supply of goods, equipment and/or services on a periodic basis.
- 3.2 Unless otherwise expressly agreed, the Supply shall include only the components, materials, products, equipment, systems and/or performance of services expressly described in the contract between the parties or, in the absence thereof, in the order placed by the Purchaser and accepted by ABB or, failing this, in the offer submitted by ABB. Any other components, materials, products, equipment, systems and/or performance of services not explicitly included in any of the aforementioned contractual documents shall be at the sole cost and expense of the Purchaser, even if they are necessary, directly or indirectly, for the performance of the Supply.
- 3.3 Weights, dimensions, capacities, technical specifications and configurations relating to the Seller's equipment contained in catalogues, brochures, leaflets and technical literature are for guidance purposes only and are not binding, except in cases where the Seller expressly accepts a

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- definitive specification provided by the Purchaser, which shall form part of the contractual documents of the order.
- 3.4 The modifications and/or variations to the scope, duration and/or other terms or conditions of a Supply that may be proposed by either party must be notified to the other party, always in writing, and, in order to be valid, must be expressly accepted by said party. Those modifications and/or variations caused by changes in the applicable legislation, regulations and/or standards that occur after the date of submission of the corresponding offer, which shall be binding after the entry into force of the legislation, regulations and/or standards in question, shall be excluded and will therefore not require any express acceptance. Should such modifications and/or variations impose additional or more onerous obligations on the Seller, the Seller shall be entitled to an equitable adjustment of the contractual terms and conditions in order to balance the considerations of the parties that have been affected as a consequence of the enactment of the new legislation, rules and/or regulations.
- 3.5 The Purchaser must carry out in an appropriate manner, on time, at its own cost and expense and under its sole responsibility, the preparatory works necessary for the Seller to be able to execute the Supplies under the agreed conditions and deadlines, such as access, water supply, lighting, electricity, earthworks, foundations, drainage, general works, pre-assemblies, scaffolding, etc. Furthermore, the Purchaser has to deliver to the Seller (i) the necessary documentation (drawings, plans, specifications, etc.) and (ii) the execution schedule of the works under its responsibility, so that the Seller can carry out the contracted Supplies correctly.
- 3.6 If the Purchaser undertakes to provide auxiliary personnel (bricklayers, labourers, electricians, etc.) for certain works related to the performance of the Supplies, such personnel must be duly qualified and the Purchaser shall be responsible for being up to date with all legal and labour obligations in relation to such personnel, in accordance with the legislation in force, as well as for fully complying with all occupational health and safety measures, providing the Seller, at the latter's request, with any document which, by virtue of the applicable regulations, is required from the Purchaser. In any case, the Seller shall not assume any responsibility for these works nor for the relationship existing between such auxiliary personnel and the Purchaser, the latter being obliged to hold the Seller harmless from any kind of liability regarding labour and/or Social Security matters.
- 3.7 The Purchaser shall obtain at its own expense and under its sole responsibility all permits and authorizations necessary for the Supplies to be performed by the Seller in accordance with applicable laws and/or regulations.

**4. Prices**

- 4.1 The prices of the Supply are net, exclusive of VAT and any other tax, duty or fee, which shall be subsequently passed on in the invoice at the corresponding rates. In case of performance of services, their prices, both with regard to personnel and the use of auxiliary equipment, transport material, consumables, etc., are based on unit rates and, in the event that a number of hours has been estimated for the different activities that make up such services, this number of hours is provided merely for guidance purposes, and the hours actually invested shall be finally invoiced. Unless otherwise stipulated in any of the contractual documents prevailing over these ABB's General Conditions of Sale, the prices of the Supply do not include packaging, transport, charges and insurance and the object of the Supply shall be made available to the Purchaser at the Seller's factory. These prices are valid only for the entire Supply specified in the contract entered into between the two parties or, in the absence of such contract, in the order placed by the Purchaser and accepted by ABB or, failing that, in the offer submitted by ABB.
- 4.2 In case of offers submitted by the Seller, the prices quoted shall be valid for one month and during this period shall be deemed to be fixed under the payment terms specified in the offer, unless the Supply offered consists of imported materials, components or equipment subject to currency exchange contingencies or the payment of duties and taxes, in which case the price quoted shall be adjusted in accordance with the variations that may have taken place.

- 4.3 The prices stated in the Seller's quotation are established on the basis of the terms of payment and delivery specified therein. Should these conditions be modified, the prices in the offer shall be revised.
- 4.4 Once the parties have come to a final agreement, the prices of the Supply shall be considered fixed and not subject to revision. However, a price revision shall be applicable when:
- (a) it has been agreed between the Purchaser and the Seller,
  - b) the delivery, performance or acceptance period has been delayed due to a cause directly or indirectly attributable to the Purchaser,
  - c) the scope of the Supply has been modified at the Purchaser's request, and, in general, there is any variation and/or modification pursuant to the provisions of these ABB's General Terms and Conditions of Sale,
  - d) the prices have been quoted in a currency other than the EURO and the same has undergone a variation in the parity with respect to the EURO from the date of acceptance of the order to the contractual invoicing dates of each milestone,
  - e) the Purchaser has unilaterally suspended, in whole or in part, the execution of the Supply that is the subject of the order, and/or
  - f) events of Force Majeure and/or Fortuitous Event occur, or arise from COVID-19 and its mutations, as well as circumstances that may arise from shortages of raw materials and electronic and other critical components, and shortages and/or market fluctuations in the availability and cost of logistics/transport capacities that make it necessary to re-establish the equity balance between the parties' considerations.

**5. Terms of Payment**

- 5.1 The Seller's offer or, if there is no such offer, the contract entered into between the parties or, failing this, the Purchaser's order accepted by the Seller, shall include the terms of payment for the Supply. In case of services, and unless otherwise agreed, the amount shall be invoiced at the end of the month, pro rata to the work carried out. Payment terms previously specified within the framework of a continuous business relationship agreement between the Purchaser and the Seller may also apply. Such payment terms shall comply with the terms provided for in the applicable legislation, without in any case exceeding the maximum payment terms set forth therein.
- 5.2 Unless otherwise agreed upon, the payment term shall be thirty (30) days from the date of delivery by the Seller of the corresponding Supplies or invoicing of the corresponding milestone.
- 5.3 Payment shall be made pursuant to the agreed terms, to the Seller's bank account or by other agreed means. Payment shall be made without any deduction such as withholdings, discounts, expenses, taxes or fees, or any other deduction. Irrespective of the means of payment used, payment shall not be deemed to have been made until the amount has been fully and irrevocably credited to the Seller's account.
- 5.4 If, for reasons beyond the Seller's control, the delivery, assembly, performance, commissioning or acceptance of the Supply is delayed, the contractual payment terms and conditions shall be maintained.
- 5.5 In case of late payment by the Purchaser, the latter shall pay to the Seller, without prior demand and as from the due date of payment, default interest on the delayed payment, which shall be calculated in accordance with the provisions of applicable law, and collection costs. The payment of such interest and costs shall not release Purchaser from the obligation to make the remaining payments on the agreed terms.
- 5.6 Should the Purchaser incur delays in relation to the agreed payments, the Seller may, at its option, either temporarily suspend the performance of the Supply or terminate the contract, without prejudice to requiring the Purchaser to make the overdue payments and to claim from it, if applicable, compensation for the damages caused.
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- 5.7 A claim by the Purchaser does not entitle the Purchaser to any suspension or deduction of the payments due.
- 5.8 The title of ownership of the components, materials, products, equipment and/or systems that are the object of the Supply shall be kept by the Seller until full compliance by the Purchaser with the payment obligations, the latter being obliged to cooperate and adopt any measures that may be necessary or convenient, especially those proposed by the Seller, to safeguard the property of the latter on said components, materials, products, equipment and/or systems.

**6. Time and Conditions of Performance and Delivery**

- 6.1 Where rendering services, the Seller shall adjust as far as possible the working hours of its employees or its contractors to the working hours of the Purchaser in case the latter develops an industrial activity at the place of performance of the Supply. However, where required to avoid interference, to take advantage of shutdowns or in the case of Supplies in plants under construction, the working day shall adapted to the specific case. In any case, the working hours of the Seller's employees or its contractors in terms of duration, overtime, breaks and rest periods shall be adapted to current labour legislation and the agreements of their sector. If, for reasons beyond the Seller's control, the working day results to be shorter than the legally established working day without this having been considered in the offer, the legally established working day shall be invoiced. Whatever the working day adopted, the Purchaser shall provide the most suitable working environment possible for the performance of the Supply by the Seller, its employees and its contractors, including lighting, heating, safety, hygiene, surveillance, etc. The Purchaser shall place at the disposal of the Seller's employees or its contractors the operational facilities, such as access to toilets; place for meals; changing rooms; storage for materials, tools and equipment; surveillance, etc. The Seller may subcontract part of the works included in the Supply while maintaining responsibility for the quality and term of performance of the Supply.
- 6.2 The delivery period refers to the Supply that shall be delivered at the place and under the conditions indicated in the contractual documents. If the place of delivery is not specified in the contractual documents, delivery shall be deemed to be made under FCA conditions (Incoterms in force on the date of acceptance of the order). The contractual documents shall clearly specify the performance milestones. The delivery time shall be binding on the Seller if and to the extent that the latter has expressly accepted the delivery period in the contractual documents and the Purchaser has strictly complied with the payment and warranty delivery schedule, if any.
- 6.3 when: The delivery and/or performance period shall be modified
- (a) the Purchaser fails to deliver on time the documentation that is necessary for the performance of the Supply,
  - b) the Purchaser requires modifications to the Supply, which are expressly accepted by the Seller and which, in the Seller's opinion, require an extension of the delivery and/or performance period,
  - c) modifications and/or variations are necessary as consequence of the entry into force of new legislation, regulations and/or standards,
  - d) the performance of works by the Purchaser or its subcontractors is indispensable for the performance of the Supply and such works have not been performed on time, or obligations, services and supplies which are not the Seller's responsibility have not been performed or the necessary permits and authorizations have not been obtained; all of the foregoing as set forth in conditions 3.5 to 3.7 above.
  - e) the Purchaser has failed to comply with any of the contractual obligations of the Supply, especially those relating to payments,
  - f) delays occur in the production, provision and/or execution of all or part of the Supply for reasons not directly attributable to the Seller,

g) due to the occurrence of causes of Force Majeure or Acts of God contemplated in the legislation in force, as set forth in Condition 15, or arising from COVID-19 and its mutations, as well as circumstances that may arise from shortages of raw materials and electronic and other critical components, and shortages and/or market fluctuations in the availability and cost of logistic/transport capacities, and/or

h) the Purchaser has unilaterally suspended the performance of the ordered Supply.

In the foregoing cases, interruptions in the delivery and/or performance period shall not modify the payment schedule of the Supply, unless otherwise expressly agreed between the parties. Where payments are linked to the fulfilment of milestones, the original schedule of milestones shall be used as a reference for making the payments.

- 6.4 In the event of a delay in the delivery of the equipment subject of the order due to a cause directly attributable to the Seller, the Purchaser may apply the liquidated damages previously agreed with the Seller, such liquidated damages being the sole and exclusive remedy due to the delay, the Purchaser waiving any other action to which it may be entitled; without prejudice to the possibility of terminating the contract once the maximum liquidated damages have been reached, such termination shall entail, along with the collection of the liquidated damages, the Purchaser's sole compensation for all the damages caused.

**7. Packaging, Storage and Transport**

- 7.1 According to Royal Decree 782/98, of April 30, which approves the Regulation for the development and execution of Act 11/1997, of April 24, on Packaging and Packaging Waste, the Purchaser, as the final recipient of the Seller's packaging, is responsible for giving the most appropriate environmental treatment to the same (valuation, reuse or recycling).
- 7.2 If the Supplies are ready for delivery or, alternatively, awaiting the agreed tests, and the Purchaser does not take them, does not order their shipment, does not reach an agreement with the Seller to store them at the latter's premises or does not attend the tests as agreed, all expenses incurred for storage shall be for the account and at the expense of the Purchaser, who shall also bear all risks that the stored material may suffer.
- 7.3 Unless previously agreed with the Purchaser, transportation, including loading and unloading, shall be at the Purchaser's sole cost, expense and risk, and the Seller shall not be liable for any claim for damage or impairment of the Supply, and the Purchaser shall bear all such costs and risks.

**8. Inspection and Acceptance**

- 8.1 Unless otherwise expressly stipulated in the contractual documents, inspections and tests, in accordance with applicable regulations, during production and the final inspection of the Supply prior to shipment, shall be carried out by the Seller at the place of manufacture. In case of rendering of services, the supervision of their progress shall be carried out by the Seller. The Seller shall only bear the costs arising from inspections and tests carried out at the place of manufacture. The Purchaser shall bear all travel and living expenses of its employees and/or representatives in connection with such tests. Any additional tests required by the Purchaser shall be specified in the order issued by the Purchaser or any other contractual documents, which shall indicate the applicable standards and the place, if any, where such tests are to be carried out. These additional tests must be expressly approved by the Seller and shall be carried out at Purchaser's cost and expense.
- 8.2 Once the Supply has been received or, in the case of services, once their rendering have been completed, the Purchaser shall check out the Supply or services within a period not exceeding thirty (30) days from its delivery or completion, in order to verify any defects and/or faults that may be attributable to the Seller, immediately communicating in writing to the Seller, where appropriate, the existence of these defects and/or faults.

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- 8.3 If the Supply presents defects and/or faults attributable to the Seller, the latter shall take the necessary measures for their elimination.
- 8.4 Except where acceptance tests have been established under conditions and dates agreed upon between the Seller and the Purchaser, once the thirty (30) days period has elapsed since the Supply was made available (in accordance with the agreed Incoterm) to the Purchaser, without the Seller having received a written communication on eventual defects or faults, the Supply shall be deemed to have been accepted, and the warranty period shall start to run from that moment onwards.
- 8.5 If the Purchaser has agreed with the Seller to carry out tests for the acceptance of the Supply, these shall be carried out on the agreed dates, the Purchaser arranging for this purpose, free of charge for the Seller, the equipment, auxiliary personnel and consumables necessary to carry out these tests.
- 8.6 It shall be considered, for all purposes, that the Supply has been accepted by the Purchaser if, having agreed on inspection and/or acceptance tests, i) these are not carried out within the stipulated period for reasons not attributable to the Seller and, in such case, the Supply shall be understood to be accepted fifteen (15) days after the date on which the Seller informs the Purchaser that the Supply is ready for the tests and/or inspection, ii) these are carried out in accordance with the agreed term, but the pertinent acceptance report is not issued for reasons not attributable to the Seller and, in such case, the Supply shall be understood to be accepted from the date on which the tests are carried out, or iii) the Purchaser starts using the Supply and, in such case, the Supply shall be understood to be accepted from its delivery.

**9. Return of Materials. Claims**

- 9.1 In no case shall the Seller accept returns of equipment or materials without prior agreement to this effect with the Purchaser. Within period of thirty (30) days from the date on which the Supply has been placed at the Purchaser's disposal the latter must notify the Seller of its intention to make a return and the justification for the same, and to agree with the Seller, as the case may be, on the procedure for the return. In any event, the Purchaser's claims against the Seller must be made in writing and in a reliable manner.
- 9.2 Returns or shipments of material to the Seller's facilities, whether for credit, replacement or repair shall always be made under carriage paid conditions.
- 9.3 In the event of a return due to the Purchaser's error or other causes beyond the Seller's control, the Seller shall charge the Purchaser with a 15% of the net value of the returned material for overhaul and reconditioning costs.
- 9.4 The Seller will not accept returns of material which has been unsealed from its original packaging, used, mounted on other equipment or installations, or subjected to disassembly beyond the Seller's control.
- 9.5 The Seller shall neither accept returns of equipment designed or manufactured specifically for the Supply, unless the existence of a defect is alleged, in which case the provisions of clause 8, paragraphs 2 and 3 shall apply.

**10. Warranties**

- 10.1 Unless otherwise expressly stipulated in the contractual documents agreed between the parties, the Seller guarantees the supplied equipment with regard to defects in materials, manufacture or assembly for a period of one (1) year from the date of acceptance, either express (passing of acceptance tests, agreed between the Seller and the Purchaser and subscription by the parties of the pertinent writing/act of acceptance of the Supply), or tacit (30 days after the equipment has been made available to the Purchaser without written communication to the Seller indicating any non-conformity attributable to the Seller), or tacit (30 days after the equipment has been made available to the Purchaser without written communication to the Seller indicating any non-conformity attributable to the Seller, or under any of the circumstances indicated under condition 8.6) or 18 months from the date on which the Purchaser is notified that the Supply is available for shipment, whichever

is earlier. In addition, the Seller warrants the services it has provided in respect of defects and start-up errors (if the latter is its responsibility) for a period of three (3) months from the date of completion or start-up.

- 10.2 The warranty referred to in paragraph 10.1 consists of the repair or replacement (at the Seller's choice) of the errors and/or elements that have been acknowledged as defective in respect of the services rendered or the equipment supplied, either due to defects in the material or due to manufacturing or assembly errors. Repairs are understood to be carried out in the Seller's workshops; however, it may be agreed with the Purchaser to carry out the repairs of the defective item at the Purchaser's premises. In any case, the Purchaser shall be responsible for the disassembly, assembly, packaging, loading, transport, customs, taxes, etc., caused by the delivery of the defective material to the Seller's workshops and its subsequent delivery to the Purchaser. Repairs during the warranty period may be carried out directly by the Seller or by a subcontractor of the Seller, the Seller in any case remaining responsible for the correct performance of the work.

- 10.3 The repair or replacement of a defective element of the Supply shall not change the starting date of the warranty period of the whole Supply, which shall be as indicated in section 10.1. However, the repaired or replaced element shall have a one (1) year warranty as from its repair or replacement, and in the case of services, the repair shall have a three (3) month warranty as from the date of completion of the repair.

- 10.4 When the warranty expressed in section 10.2 consists of a replacement, the Purchaser undertakes to return the defective part or element within a period not exceeding seven (7) days from the date of delivery of the new part or element. Should the Purchaser fail to return the defective part or element, the replacing part or element will be invoiced.

- 10.5 Damages or defects due to normal wear and tear of the equipment are excluded from the warranty. Damages and defects caused by inadequate conservation or maintenance, erroneous or negligent storage or handling, abusive use, use of inadequate liquids and gases as well as inadequate flow or pressure, defective assemblies, variations in the quality of the electrical supply (voltage, frequency, disturbances,...), attempted rectification, repairs or modifications carried out on the Supply by personnel outside the Seller's organization without the Seller's approval, installations carried out or subsequently modified without following the technical instructions of the product, manuals, and/or specifications of the Seller on the Supply, and, in general, any cause not attributable to the Seller shall also be excluded from the warranty, which shall be deemed expired.

- 10.6 Likewise, the warranty shall be deemed to have expired if, in the event that it has been stipulated that the Supply is to be started up with the assistance of the Seller's personnel, the Supply is started up without this assistance or if, in the event of a breakdown, no measures are taken by the Purchaser to mitigate the damage.

- 10.7 Notwithstanding the provisions of the preceding sections of this condition, the Seller shall not be liable, in any case, for defects in the equipment and materials subject of the Supply, nor in their repaired or replaced elements, for a period exceeding two (2) years in the case of equipment and six (6) months with respect to services, counted from the beginning of the periods indicated in section 10.1.

- 10.8 The warranties defined in this condition are exclusive and substitute all other warranties expressed or implied, written or oral, including any warranty of merchantability or fitness for a particular purpose.

**11. Limitation of Liability**

- 11.1 The liability of Seller, its officers, directors, managers, agents, employees, subcontractors and suppliers for claims arising out of the failure to perform the Supply shall in no event exceed the price of the Supply, exclusive of taxes, and shall in no event include damages arising out of lost profits (*lucro cesante*) including, but not limited to, loss of revenue, production and/or use, capital costs, downtime costs, delays and claims of Purchaser's customers, substitute energy costs, loss of anticipated savings, loss of

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- reputation, moral damages, increased operating costs or any other special, indirect and/or consequential damages.
- 11.2 The limitation of liability contained in this condition shall prevail over any other limitation contained in any other contractual document which is contradictory or inconsistent herewith, unless such provision further restricts the Seller's liability.
- 11.3 The limitation of liability set forth herein shall not apply in the event of wilful misconduct or gross negligence of the Seller.
- 12. Export Limitation**
- 12.1 Purchaser acknowledges that the equipment to be provided by Seller under the Supply may be subject to local or international provisions and regulations relating to export control and that, without the approvals of the competent authorities to export or re-export, the equipment subject to the Supply may not be sold, leased, transferred or used for any purpose other than as agreed. The Purchaser is responsible for complying with such provisions and regulations. The equipment supplied may not be used either directly or indirectly in connection with the design, production, use or storage of chemical, biological or nuclear weapons or for the transportation systems thereof. The Supplies cannot be used for military applications without the prior written consent of the Seller.
- 12.2 Equipment and services for nuclear appliances may not be loaned, sold, leased, transferred or used for any purpose other than as set forth in the contractual documents. In the event of a sale of equipment or rendering of a service related to a nuclear power plant, the purchase order issued by the Purchaser must specify the intended use of the equipment and its location within the nuclear power plant. In addition, the purchase order must make it clear that the equipment may only be used for the purpose and at the location intended therein, excluding any other use at locations other than the nuclear power plant indicated in the purchase order and also excluding any re-export to any country other than that in which the nuclear power plant is located.
- 13. Applicable Law, Dispute Resolution, Submission to Jurisdiction and Jurisdiction**
- 13.1 These ABB's General Terms and Conditions of Sale shall be governed by and construed in accordance with the laws of Spain.
- 13.2 Any discrepancy between the parties in relation to the Supply shall be resolved amicably between the parties within thirty (30) days from the communication of the existence of the dispute; in the event of failure to come to an amicable agreement, the parties expressly waive any other jurisdiction that may correspond to them and agree to submit the dispute to the jurisdiction and competence of the Courts and Tribunals of the city of Madrid.
- 14. Occupational Safety and Coordination**
- 14.1 The Purchaser shall be responsible for the adoption of all measures necessary for the protection of safety and health at work, being therefore responsible for (i) information on the risks specific to the country, the locality and the work place where the contracted work will be carried out; (ii) documentation regarding the presence of asbestos as indicated under paragraph 14.6, PCB's, flammable liquids, other soil contaminants, live conductors, hazardous sub-way elements, etc. (iii) not to work with any substances that are considered as prohibited by ABB: ABB List of Prohibited and Restricted Substances; (iv) measures to be implemented when an emergency situation occurs; (v) coordination between the various contractors, if any, involved in a given project; (vi) reporting on the Purchaser's Health and Safety contact person; (vii) the functions of consultation, participation and training of the workers and, in general, (viii) any other obligations in matters of occupational health and safety deriving from the application of Act 31/1995, on Occupational Risk Prevention, both with respect to its own workers and those of its contractors. In addition to the foregoing, the applicable prevention rules must be applied in accordance with the Seller's internal regulations. However, in the event that the Purchaser's regulations were more serious, these regulations will apply.
- 14.2 The Seller shall apply the measures that make up the general duty of prevention in accordance with the general principles set forth in Article 15 of Act 31/1995, on Occupational Risk Prevention.
- 14.3 The Seller is entitled to suspend the performance of the Supply in accordance with article 21 of Act 31/1995 if it considers that the safety of the personnel is not guaranteed, it being granted a reasonable extension of time when any delay occurs and being compensated by the Purchaser for any loss or damage it suffers, such as lost hours, personnel travel, out-of-pocket expenses, immobilization of equipment and tools, etc., with respect to the obligations and responsibilities foreseen in the present condition and those contemplated in the aforementioned Act 31/1995, on Occupational Risk Prevention.
- 14.4 The Seller's personnel and its subcontractors shall never start any work under any risk, as indicated in Royal Decree 614/2001, of June 8, 2001, on minimum provisions for the protection of the health and safety of workers.
- 14.5 Prior to the commencement of any services, the Seller and the Purchaser shall carry out the necessary coordination of business activities in accordance with Royal Decree 171/2004. The Purchaser shall comply with all ABB's safety procedures and shall be aware of the latter's safety procedures applicable to it before the commencement of the service and shall implement them during the performance of the service.
- 14.6 Where applicable, the Purchaser must expressly ensure, through the presentation of a certificate issued by an authorized company in accordance with the provisions of Royal Decree 396/2016, of 31 March, that the equipment, installations and/or sites where the Supply is to be implemented by the Seller are free of asbestos. The contracting and management of the authorized company for the handling of asbestos will be the direct responsibility of the Purchaser. The presentation of said certificate shall be an essential precondition for the Seller to start the implementation of the Supply. Therefore, any delay on the part of the Purchaser in the presentation of the said certificate shall be considered an excusable delay for the Seller.
- 14.7 The Purchaser shall be responsible for the adoption of all measures necessary for the protection of the environment and shall be responsible for compliance with all applicable environmental regulations of the country, town and site where the work is to be performed.
- The Purchaser shall comply with all environmental procedures of the Seller and shall be aware of ABB's environmental procedures applicable to the Purchaser prior to the commencement of the service and shall implement them during the performance of the service.
- 15. Force Majeure and Fortuitous Events**
- 15.1 Either party shall be entitled to suspend, in whole or in part, the performance of its contractual obligations to the extent that such performance is rendered impossible or unreasonably onerous due to Force Majeure or Fortuitous Event as defined in condition 15.2.
- 15.2 "Force Majeure" and "Fortuitous Event" shall mean those events which could not have been foreseen or which, although foreseeable, were unavoidable, including, but not limited to, general or sectoral strikes, failure of third party supplies, failure of transportation systems, natural catastrophes, floods, storms, riots, labour disputes, sabotage, acts, omissions or interventions of any type of government or agency thereof, fire, war, acts of terrorism, general military mobilization, insurrection, requisition, confiscation, embargo, restriction in the supply of energy, epidemics, pandemics and other causes of force majeure or fortuitous event contemplated in the legislation in force, which directly or indirectly affect the activities of the Seller.
- 15.3 The party that declares to be affected by Force Majeure or Fortuitous Event, shall inform the other party in writing as soon as possible of the beginning of such circumstance and its foreseeable duration. Likewise, it shall communicate the cessation of the cause, specifying the time in which it will comply with the obligations suspended due to the same. The occurrence of Force Majeure or Fortuitous

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Event shall entitle the Seller to suspend the performance of the affected obligations, without any liability whatsoever on the part of the Seller, for such time as may be reasonably necessary under the circumstances. In addition, the Seller shall be entitled to a reasonable extension of the time for delivery and/or performance at least equal to the duration of the Force Majeure or Fortuitous Event. In no event shall Force Majeure or Fortuitous Event permit Purchaser to delay payment of due and payable invoices.

- 15.4 If the cause of Force Majeure or Fortuitous Event has a duration of more than sixty (60) days, the parties shall consult to try to find a fair and adequate solution to the circumstances, taking into account the specific particularities of the case. If the parties do not come to an amicable agreement within the following thirty (30) days, either of them may terminate the Supply by means of written notification to the other party, without the exercise of said termination action entailing, for the party that exercises it, any obligation to pay the other party any indemnity, liquidated damages and/or compensation of any kind whatsoever.

**16. Confidentiality**

- 16.1 The parties shall keep confidential all documents, data, materials and/or information provided by one of them to the other and shall not disclose them to any third party, unless the prior written consent of the other party is first obtained.

The foregoing shall not prevent the Seller from providing, in compliance with the applicable data protection regulations, the Purchaser's basic professional contact data and the basic data of the Supply, as part of its business references.

- 16.2 The obligation of confidentiality under this condition shall become effective on the date of Seller's offer or, if no such offer exists, Seller's acceptance of Purchaser's order, and shall remain in effect for a period of three (3) years thereafter, in the absence of any other agreement. However, such obligation shall not apply to either party if such information:

a) is available through public means or otherwise becomes publicly available in the public domain other than as a result of disclosure by the receiving party,

b) was available on a non-confidential basis prior to disclosure to the receiving party,

c) is available on a non-confidential basis from a source other than the issuing party where such source, to the best knowledge and belief of the receiving party, is not subject to an obligation of confidentiality to the issuing party,

d) was developed independently of the confidential information owned by the issuing party and the receiving party can confirm the development of such information through written documentation, and/or

e) is required by law, courts or agencies or entities with sufficient authority to do so.

In the foregoing cases, the burden of proof shall fall on the receiving party.

Upon termination of the Supply, regardless of its cause, and at the request of either of the parties, the parties undertake to reintegrate each other immediately, or, where the reintegration is not possible, to destroy all the confidential information of the other party, including any copies, to which they may have had access during performance of the Supply. However, and exceptionally, they may keep copies of such confidential information as may be required by applicable regulations or internal security or archiving procedures, and the provisions herein shall apply to such information as long as the receiving party keeps the same.

**17. Temporary suspensions in the performance of the Supply**

- 17.1 If, for reasons beyond the Seller's control, the Purchaser unilaterally suspends temporarily the performance of the Supply, it shall so notify the Seller in writing, indicating the cause of suspension and its estimated duration.

The suspension shall entitle the Seller to:

- an extension of the delivery and/or performance period, which compensates for the impact of the suspension on the performance schedule and, at least, equivalent to the duration of the suspension, plus a reasonable period of notice for the resumption of the work, which, in no case, may be less than fifteen (15) working days,

- compensation for all costs arising from the suspension, including, but not limited to, accommodation and travel expenses of personnel, out-of-pocket expenses, immobilization of equipment, protection and storage measures, extension of warranties, extension of guarantees, resumption costs, etc., and

- to receive payment for work already completed or in an advanced stage of completion at the time of notification of suspension.

- 17.2 If, for reasons beyond the Seller's control, the Purchaser decides to terminate the performance of the Supply, it shall jointly agree with the Seller on a schedule for the orderly termination of the Supply.

The Purchaser shall also be liable to compensate the Seller for all damages resulting from such termination in accordance with the terms of termination set forth in these ABB's General Terms and Conditions of Sale.

- 17.3 In the event of (i) non-payment of any amount by the Purchaser to the Seller, (ii) unjustified lack of approval and/or acceptance by the Purchaser of an invoice issued by the Seller, (iii) substantial breach of the obligations assumed by the Purchaser vis-à-vis the Seller and/or (iv) impossibility of performance of the obligations assumed by the Seller for reasons attributable to the Purchaser or its customer, the Seller may suspend the performance of the Supply and shall notify the Purchaser in writing, specifying the cause of suspension. In this case, the Seller's performance of the obligations arising from the Supply shall be suspended until the Purchaser remedies the non-payment, lack of approval, non-compliance or the cause of impossibility of performance, as the case may be. In any case, all expenses generated by the suspension shall be borne by the Purchaser. In addition, the Seller shall be entitled to an extension of the agreed performance schedule in proportion to the period of suspension.

In the event foreseen in subsection (i) above, the Seller's right to temporarily suspend the performance of the Supply does not exclude its right to the default interest referred to in condition 5 of these ABB's General Terms and Conditions of Sale.

- 17.4 In any case, the Seller shall have the right to request the termination of the Supply if the temporary suspension agreed by the Seller for causes attributable to the Purchaser is prolonged for a period of more than sixty (60) days from the notification indicated in the present condition and with the same effects as those established in condition 18 below.

**18. Termination**

- 18.1 Either party may immediately terminate the Supply by written notice to the other party if the other party is in material breach of the Supply.

No breach of the Supply shall be deemed material unless the breaching party has been notified in advance in writing and has failed to take steps to remedy the breach within thirty (30) days of notice.

In addition, the following shall be grounds for termination:

a) the dissolution and/or liquidation of any of the parties, except in the context of merger operations carried out within the Group to which each party belongs,

b) the cessation of activity of any of the parties,

c) the persistence of a Force Majeure event or Fortuitous Event for more than sixty (60) days from the communication of the commencement of such event sent by the affected party as provided under condition 15,

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- d) the temporary suspension of the order for a period of more than sixty (60) days from its notification by the Seller, as provided under condition 17, and/or
- e) any other cause for termination expressly stated in other terms of these ABB's General Terms and Conditions of Sale or in the applicable law.
- 18.2 In the event of termination for cause attributable to the Seller, the Purchaser:
- shall pay the Seller the amount corresponding to the value of the equipment and materials already delivered in accordance with the prices set forth in the order,
  - shall have the right, but not the obligation:
    - i.- to purchase the equipment and materials pending delivery, paying the amount thereof upon delivery,
    - ii.- to be subrogated to the orders issued by the Seller to its suppliers and/or subcontractors, and
  - shall be indemnified for damages suffered as a result of Seller's breach, subject to the limitations laid down in condition 11.
- 18.3 In the event of termination for cause attributable to the Purchaser, the Seller shall be entitled to receive:
- the amount corresponding to the value of the equipment and materials already delivered, according to the prices established in the order,
  - the amount of equipment and materials pending delivery which the Seller is obliged to receive from its subcontractors and/or suppliers, once they are delivered to the Buyer,
  - the amount of cancellation of orders issued by Seller to its suppliers and/or subcontractors, where such cancellation is possible, and
  - compensation for any other damages it suffers as result of the Buyer's default.
- 18.4 In the event of termination due to Force Majeure or Fortuitous Event, the Seller shall be entitled to receive:
- the amount corresponding to the value of the equipment and materials already delivered and services already rendered, even if they had not been invoiced, in accordance with the prices established in the Supply.

**19. Personal Data Protection**

- 19.1 The parties shall comply with all applicable data protection laws and regulations, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, in relation to the personal data processed by them in the course of the performance of the order associated with the Supply.
- 19.2 The parties agree that they will not withhold or delay their consent to any changes to this condition that are required to be made to comply with applicable data protection laws and regulations and/or the guidelines and instructions of any competent supervisory or control authority, and their application to the Supply, and agree to implement such changes at no additional cost.
- 19.3 The parties acknowledge that if the processing of personal data pursuant to the Supply may require the conclusion of additional data processing agreements or additional data protection agreements, to the extent that such additional data processing agreements or additional data protection agreements were not initially concluded as part of the order, the parties shall immediately enter into such agreements as required by applicable data protection law or a

competent data protection authority or any other competent authority.

- 19.4 In compliance with the above-mentioned regulations, the Seller informs the Purchaser that detailed information on ABB's processing of personal data of its customers can be found at the following web address: <https://new.abb.com/privacy-notice/customer>.

**20. Assignment**

- 20.1 The parties agree that the total or partial assignment of the Supply, or of all or part of the obligations and rights deriving therefrom, is expressly prohibited without the prior written consent of the other party.

**21. Cybersecurity**

- 21.1 In the event that the subject matter of the Supply includes equipment and/or system designed to be connected to and to communicate information and data over a network, it shall be the sole responsibility of the Purchaser to provide and ensure on an ongoing basis a secure connection between the equipment and/or system and the Purchaser's network or any other network. The Purchaser shall establish and maintain appropriate measures (including, but not limited to, installation of firewalls, implementation of authentication measures, data encryption, installation of antivirus software, etc.) to protect the equipment and/or system, including its network and external interfaces against any type of security breaches, unauthorized access, interference, intrusion, leakage and/or theft of data or information. The Seller, its officers, directors, managers, agents, subcontractors, affiliates and/or employees are not liable for any damages and/or losses related to such security breaches, unauthorized access, interference, intrusion, leakage and/or theft of data or information.

**22. General Conditions amendment**

- 22.1 The Parties are aware of the challenges related to outbreaks, epidemics, war (declared or undeclared), government regulations and acts of governmental authorities (including sanctions), civil unrest, and general shortages of electronic components and elements, market volatility, availability and cost of raw materials, commodities, as well as the shortage and market fluctuation of logistic/transportation availability, costs and capacities that may impact the normal business activity and cost of performance, the delivery period and/or the execution of the scope or performance of work, the impacts of which are currently unknown. Notwithstanding anything in the contractual documents to the contrary, if as a result of any of the above aforementioned events, the costs of ABB's performance increase or ABB's performance obligations are materially adversely affected or delayed, the Parties in the spirit of cooperation, will work together in good faith and within a reasonable time after the invocation of this Condition, to negotiate alternative contractual terms in terms of equitable adjustments to delivery periods, pricing and/or possible reductions of the contractually owed quantity of the products and/or services to be delivered to the Purchaser. The aforementioned shall be performed with a view to employing reasonable efforts to ensure that the Supply can be at least fulfilled in part.
- 22.2 In the event the Parties are unable to reach a mutually acceptable equitable adjustment within a reasonable time for any of the foregoing, then the delivery and execution of the Supply and/or performance of work impacted by the foregoing shall be excused from the purchase order. All other rights, covenants and obligations not impacted by such events shall remain in force and applicable mutatis mutandis.
- 22.3 Each party waives any claim against the other party for any kind of damages, whether direct, indirect and/or consequential, including, but not limited to, lost profits, opportunity costs, moral damages, indemnities, penalties and/or sanctions arising out of or in any way connected with any of the circumstances listed above.