

# **ABB GENERAL TERMS AND CONDITIONS FOR ABB IT RESELLER AGREEMENT SOFTWARE LICENSE SCHEDULE (2017-10)**

## **1. Additional Definitions**

1.2 In addition to the definitions set out in Clause 1 of the Contract, the following definitions shall apply in this Schedule:

"Licence" means the licence granted under Clause 4.2;

"Licence Term" means the term of the Licence, as specified in the Order;

"Maintenance Release" means a subsequent corrections or revisions to the Software. A Maintenance Release is indicated in the product name by a change in the numbering to the right of the decimal as follows: e.g. 8.0 to 8.1.

"Use" means, with respect to the Software, the right to load, execute, store, transmit, display, copy (for the purposes of loading, execution, storage, transmission or display) and otherwise use the Software; and

"Warranty Period" twelve (12) months from the acceptance of the Software or Modification, or live use in a production environment (whichever is specified or is later) or such other period as may be specified in the Order.

## **2. Application of this Service Specific Schedule**

2.1 This Service Specific Schedule shall apply to any Software to be supplied by the Supplier, as set out in the Order.

## **3. Delivery and Installation**

3.1 By no later than the relevant date specified in the Order:

3.1.1 the Supplier must deliver the Software and the Documentation to the Reseller premises at each address specified in the Order, or otherwise make the Software and Documentation available to Reseller, in the manner specified in the Order;

3.1.2 if required by Reseller, the Supplier must install the Software on the Reseller hardware at each of the addresses specified in the Order in accordance with Reseller's reasonable directions as set forth in a Statement of Work; and

3.1.3 Reseller may require acceptance testing of the Software and the installation if specified in the Order.

3.1.4 Where the Reseller has specified in the Order that the Software is subject to acceptance testing then the Software shall not be deemed delivered until it has passed the acceptance tests specified by the Reseller. Where the Reseller notifies the Supplier that the Software has failed any acceptance tests then, subject to the Reseller specifying the nature of the failure, the Supplier shall at its own risk and cost remedy the faults in the Software which resulted in the failed tests and resubmit the Software to the Reseller for testing.

3.1.5 If the Reseller does not deliver the Software within the time specified in the Order or such other time as may be agreed in writing the Reseller may cancel the Order and should any monies have been paid in advance by the Reseller, they shall be returned to the Reseller forthwith.

## **4. IRP Ownership and Licence**

4.1 Subject to Clause 13 of the Reseller Agreement, Reseller acknowledges and agrees that any Intellectual Property Right in the Software and any Modifications thereto, shall be the property of the Supplier.

4.2 Except as otherwise provided in the Order with a specific reference to this Clause 4.2 and Clause 4.3 below, the Supplier grants to Reseller and to each member of the Reseller Group, during the Licence Term, a worldwide, royalty-free, non-exclusive licence to:

4.2.1 Use the Software and Documentation in relation to any business activity of the Reseller Group;

4.2.2 configure the Software in accordance with the configuration tools forming part of the Software; and

4.2.3 make as many copies of the Software and the Documentation as specified in an Order

4.2.4 make as many copies as Reseller considers necessary for backup or security purposes.

4.3 Reseller may resell or sub-licence the Software to its End Users.

4.4 Reseller may grant a sub-licence of its rights under paragraph 4.2 to any Third Party Provider for the purpose of such Third Party Provider providing any goods, software and/or services to the Reseller Group or an End User.

4.5 Reseller acknowledges that it has no right, title or interest in the Software or the Documentation except as set out in this Contract.

4.6 Except as permitted under this Contract, Reseller must not:

4.6.1 distribute, sub-licence or otherwise transfer all or any part of the Software to any other person;

4.6.2 reverse engineer, decompile or disassemble the Software except as permitted by applicable laws; or

4.6.3 remove, obliterate or alter any copyright, proprietary or similar notices on the Software.

## **5. Remote Access**

5.1 If Reseller provides the Supplier with remote access to the Software, the Supplier must:

5.1.1 sign Reseller's standard Network Access Agreement

5.1.2 adhere to Reseller's remote access Policy

5.1.3 only remotely access the Software for the purposes of providing the services under the Contract; and

5.1.4 ensure that any usernames and/or passwords provided by Reseller are kept secure and confidential at all times and are not disclosed to any person (other than the members of the Supplier's Team involved in the provision of the services under the Contract) without the prior written consent of Customer.

## **6. Software Warranties**

6.1 In addition to any warranties given by the Supplier in the Reseller Agreement, the Supplier, warrants and undertakes that the Software as a whole and any individual Modification will:

6.1.1 be free from any material defects during the Warranty Period;

6.1.2 be fit for any purpose for which Reseller has specified it; and

6.1.3 be fit for any purpose for which any End User will use the Software for and/or for which the Supplier has represented to Reseller the Software is fit; and

6.1.4 comply with and perform in accordance with the Documentation; and

6.1.5 be compatible and interoperate with any computer systems described in the Order.

6.2 Without limiting Clause 6.1, the Supplier represents, warrants and undertakes that each Modification will not degrade the functionality or performance of the Software.

6.3 Supplier warrants and undertakes that any Modification shall provide backward compatibility to ABB installed systems.

6.4 The Supplier represents, warrants and undertakes that, when delivered to Reseller or an End User or otherwise implemented by the Supplier under this Contract:

6.4.1 it will not insert or include, or permit or cause anyone to insert or include, any Malicious Software, or viruses into the Software as a whole or any individual Modification;

6.4.2 it will use up-to-date, industry accepted anti-virus software to check for and prevent any Malicious Software being introduced into the Software as a whole or any individual Modification; and

6.4.3 it will co-operate with Reseller and/or an End User (as applicable) to mitigate the effect of any Malicious Software found in the Software as a whole or any individual Modification.

6.5 The Supplier represents and warrants that it has obtained, and undertakes that it will maintain during the term of the License, all consents, licenses and permissions required by it to perform its obligations under this Contract.

