

ABB ABILITY™ TERMS OF USE FOR CLOUD SERVICES LICENSED BY ABB E-MOBILITY INC.

These ABB Ability™ Terms of Use ("ToU") together with any Special Terms and Conditions ("STC") or other terms and conditions referred in the ToU or STC govern the use of the Services by end customers ("Customer"). These ToU and any STC and are deemed incorporated by reference into an agreement between the Customer and Distributor ("Customer Contract") pursuant to which the Distributor is reselling the Services to the Customer and apply separately of any end user license agreement between ABB and Customer ("EULA").

1. Definitions

- A. **"ABB"** means, for sales in the US: ABB E-mobility Inc., 305 Gregson Avenue, Cary, North Carolina 27511, for sales in Canada, ABB E-mobility Inc. (Canada) 800 Boul. Hymus, St. Laurent, Quebec H4S0B5;
- B. **"ABB Content"** means the Services, deliverables provided as part of the Services, ABB Software, the Platform, the Portal as well as ABB Device Data (including all tools, software, hardware, materials, data, content, application program interfaces provided by ABB or ABB Affiliates as part of or in relation to the Services) as well as all derivatives and modifications of and improvements to all the foregoing, or other ABB intellectual property;
- C. **"ABB Device"** means a physical or virtual device provided or otherwise made available or branded by ABB which generates or gathers data, including an EV charger, through embedded sensors or otherwise, where such data is accessed, stored or processed by the Services;
- D. **"ABB Device Data"** means any information or data generated or gathered (whether automatically or not) by an ABB Device or ABB Software and which relates to the operation and working of such ABB Device or ABB Software, for example device diagnostics and device health data;
- E. **"ABB Software"** means all computer programs (which may include mobile applications) provided (or given access to) by ABB under the Customer Contract as part of or in connection with the Services, including firmware, any modifications, updates, upgrades, new versions or releases and derivative works as well as any related documentation, but excluding Third Party Software;
- F. **"Acceptable Use Policy"** means the ABB Ability acceptable use policy, available at <https://new.abb.com/abb-ability/terms> or as provided separately and as may be updated by ABB from time to time;
- G. **"Affiliate"** means any entity, whether incorporated or not, which presently or in the future, directly or indirectly controls, is controlled by, or is under common control with a party, by virtue of a controlling interest of 50% or more of the voting rights or the capital, or by means of controlling the constitution of the board and the voting at board meetings;
- H. **"Customer Data"** means any information, data and material that ABB measures or that is provided by or on behalf of Customer through or in connection with ABB's provision or Customer's use of the Services or Software, including, for the avoidance of doubt, third party information, data and material that is provided by or on behalf of Customer; Customer Data excludes ABB Device Data.
- I. **"Data Privacy Policy"** means the data privacy policy, available at <https://new.abb.com/abb-ability/terms>, as may be updated by ABB from time to time;
- J. **"EULA"** means the end user license agreement between ABB und Customer;
- K. **"External Content"** has the meaning set out in Section 1.D;
- L. **"Intellectual Property Rights"** means (a) inventions, patents, utility models, copyrights, moral rights, mask work rights, database rights and rights in trademarks, trade names, designs, know-how, and invention disclosures (whether registered or unregistered); (b) applications for registration, and the right to apply for registration, for any of these rights; and (c) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;
- M. **"Laws"** means any (a) statute, decree, constitution, regulation, order or any directive of any Government Entity, (b) treaty, pact, compact or other agreement to which any Government Entity is a signatory or party, (c) judicial or administrative interpretation or application of any of the foregoing or (d) any binding judicial precedent having the force of law;
- N. **"Order"** means a document in electronic or physical form, an online form or other online instrument provided by Distributor for ordering or procuring Services and/or Software;
- O. **"Personal Data"** means any data or information of an identified or identifiable natural person and, where required by mandatory applicable Laws, any data or information of an identified or identifiable legal entity;

- P. **"Pilot Services"** means Services that are at a pilot, trial, evaluation or beta stage or that are free of charge;
- Q. **"Platform"** means ABB's and ABB Affiliates' industrial internet platform which includes both edge and cloud infrastructure upon or via which ABB Ability solutions (including all or part of the Services hereunder) operate;
- R. **"Portal"** means an online portal, accessible for Customer, at the web address notified to Customer by ABB and/or Distributor at the beginning of the Services (or such other web address as may be notified to Customer by ABB and/or Distributor from time to time);
- S. **"Distributor"** is the entity entered into the Customer Contract with Customer;
- T. **"Services"** means the cloud services to be provided or to be made available by Distributor and/or ABB to Customer as described or referred to in an Order and the STC;
- U. **"Software"** means ABB Software and Third-Party Software;
- V. **"Special Terms and Conditions"** or "STC" means the documents describing and/or further governing the Services and/or Software which are referenced in the Order;
- W. **"Third Party Software"** means any computer program (which may include mobile applications), including proprietary, freeware and open source software, that is either licensed (i) to ABB from a third party, identified in an Order as Third-Party Software for use as part of the Services under separate terms and conditions, or (ii) by Customer from third parties;
- X. **"User"** means an individual who is legitimately authorized to access or receive the Services, use the Software and/or access the Portal through Customer's account.

2. Customer's use of Services

- A. **Services and access to the Portal.** Subject to the terms of the Customer Contract, Customer is granted a non-exclusive, non-transferable, limited and revocable right to use the Services and the deliverables provided as part of the Services, if any, and access the Portal for Customer's internal business purposes. Where expressly set out in an Order or STC, Customer may permit third parties under contract with Customer to use the Services and access the Portal for (i) supporting Customer's internal business purposes; or (ii) purposes of such third parties receiving a service from Customer. Customer is responsible for any activities of such third parties.
- B. **Customers account on the Portal.** Customer's use of the Services or Software may require Customer to establish an account on the Portal. For purposes of administrating the account, Customer may be further required to provide contact information (for example name, business telephone number, address, email and user IDs) and other information as described in the Customer Contract and/or the registration form provided on the Portal. Customer is responsible for the accuracy and completeness of this information and for any and all activities that occur under an account that is attributable to Customer (including, for the avoidance of doubt, activities by third party Users). Customer will ensure that (i) the Users securely store and keep credentials (e.g. username, passwords, certificates, keys) confidential; (ii) the credentials that are allocated to a specified User are only used by such User; and (iii) the account is only used in relation to the Services and in such a way so as not to impair or compromise the stability or security of the Platform, the Portal or the Services. Customer will notify ABB immediately on discovering any attempted or actual unauthorized use of an account that is attributable to Customer and immediately follows ABB's instructions when ABB is asking Customer to change a User's access credentials. ABB has the right to change a User's access credentials if ABB is of the opinion that such change is necessary for security reasons.
- C. **Pilot Services.** Where Customer uses Pilot Services, such Pilot Services are subject to additional limitations as set out in this Section 2.C which will prevail over other provisions of these ToU. Customer understands and acknowledges that Pilot Services may not have been fully tested or verified, may become unavailable, that their performance may be negatively affected, and/or that the Pilot Services may not meet industry practice security standards and might therefore negatively affect Customer's internal procedures and business operations or impair the functionalities of Customer's systems or devices. Customer may use the Pilot Services only for its internal use for the purpose of reviewing, evaluating and testing the Pilot Services. Use of the Pilot Services is at the Customer's sole risk. Customer acknowledges that Distributor and/or ABB may, at its sole discretion, (i) modify the Pilot Services or features of the Pilot Services; (ii) provide upgrades, patches or maintenance; or (iii) terminate, limit, suspend or discontinue the Pilot Services or access to the Pilot Services. Pilot Services are provided "as is" without any warranties and excluding all liability to the fullest extent permitted under applicable Laws.

- D. **External Content.** Customer may be able to access or is required to access third party websites, app stores and/or material and/or download third party software from such websites or app stores in order to use the Services. Neither ABB nor Distributor operate or control any third-party websites, app stores or any other material, information, software, services, opinions or other content provided by third parties, including on the internet (collectively, "**External Content**"). Use of External Content is subject to Customer's acceptance of the applicable third-party terms of use and Customer acknowledges and agrees that any contractual relationship related to External Content is solely between Customer and the provider of such External Content. ABB makes no warranties or representations and has no obligation, responsibility or liability for External Content and Customer's use of External Content to the extent permitted by Laws. Customer waives any right or claim of right against ABB relating to External Content.
- E. **ABB Software.** Where Customer uses ABB Software as part of the Services, ABB may remotely install updates or upgrades to the ABB Software with or without notice. Updates or upgrades will be governed by the terms and conditions of the Customer Contract unless such updates or upgrades are accompanied by a separate license provided by ABB in which case the terms and conditions of such separate license will take precedence over other documents forming the Customer Contract with regards to any conflicting terms. Notwithstanding the foregoing, except to the extent specifically set out otherwise in the Order or STC, ABB is not obliged to provide any updates or upgrades to the ABB Software.
- F. **Third Party Software.** Except as otherwise stated in the STC or the Order, for all Third Party Software, the terms and conditions of use of the third party licensor apply exclusively and Customer acknowledges and agrees that (i) any contractual relationship related to Customer's use of such Third Party Software is solely between the Customer and the provider of such Third Party Software; (ii) it is Customer's own responsibility to assess the accuracy of using such Third Party Software; and (iii) Distributor and ABB will have no responsibility or liability related to Customer's use of such Third Party Software, to the extent permitted by applicable Laws.

3. Data protection and security

- A. **Data protection.** Customer will comply with all applicable Laws related to the protection of Personal Data. ABB will store and otherwise process the Customer's and Customer's representatives', employees' and Users' business Personal Data (for example name, business telephone, address, email and user IDs) for the purpose of providing the Services as described in ABB's Data Privacy Policy.
- B. **License verification.** Devices on which ABB Software is installed may automatically provide information to ABB to enable verification that it is properly licensed. Such information includes information about the ABB Software, the user account, product ID information, a machine ID, and the internet protocol address of the device. By using the ABB Software, Customer consents to the transmission of such information and ABB's use of such information.
- C. **Security.** ABB has established and maintains a formal information and cybersecurity program which includes commercially reasonable technical and organizational measures, in order to protect Customer Data against security breaches, accidental or unlawful destruction, loss, alteration, and unauthorized disclosure of, or access to Customer Data. Except to the extent explicitly specified otherwise in the STC, it is Customer's responsibility to (i) provide and continuously ensure a secure remote connection; and (ii) establish and maintain the security of its systems, hardware and software, in particular those that directly or indirectly connect to the Services, the Software, the Portal or the Platform. In addition, and except as explicitly specified otherwise in an Order and/or STC, Customer will without undue delay, completely and accurately implement any software updates or upgrades provided by the respective vendors and/or by ABB, as applicable.

4. Customer responsibilities

- A. **General obligations.** Customer will: (i) obtain and maintain all necessary licenses, permissions, filings and consents (which will include consent of individuals where Customer provides Personal Data to Distributor or ABB, to the extent legally required) which may be required regarding Customer Data, software and other content, if any, provided by Customer; (ii) when using External Content, comply with the respective terms and conditions of use and the license terms and conditions in connection with External Content; (iii) without undue delay, completely and accurately install the necessary Software and any updates or upgrades provided by ABB (in accordance with the respective specification and instructions) on Customer's computer systems and/or mobile devices (as applicable); (iv) comply with any restrictions on permitted User types; (v) comply with ABB's reasonable instructions regarding the proper use of the Services and/or

Software as may be given in individual cases from time to time; (vi) ensure that all Users comply with the terms and conditions of the Acceptable Use Policy; and (vii) comply with the Laws, in particular when providing Customer Data. Customer will not use the Services or Software (i) for any part of any nuclear facility or any other plant, machine, system or product that is subject to a sanction list applicable to the Customer; or (ii) in any application or situation where failure of the Services or Software could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.

- B. **Cooperation and information obligations.** Customer will cooperate with ABB and/or Distributor in all matters relating to the Services and/or the Software and provide ABB and/or Distributor with such information and materials as ABB and/or Distributor may reasonably require in order to provide the Services and/or the Software, to perform maintenance or bug fixing, as well as in order to verify Customer's compliance with the Customer Contract and the ToU. In addition to Customer's information obligations related to Customer's use of the Portal as set out in Section 2.B, Customer will inform ABB and/or Distributor without undue delay upon becoming aware of any circumstances that may or do affect the security of the Services and/or the Platform.
- C. **Monitoring of usage and remote connection.** The provision of Services and/or the Software may require ABB and/or Distributor to monitor Customer's usage of the Services, Portal and Software as well as the establishment of a remote connection between the Portal and certain systems. Except to the extent explicitly specified otherwise in the STC or the Order, Customer will (i) establish and maintain such remote connection with appropriate connectivity; (ii) permit ABB, ABB's employees, Affiliates, Distributor, agents, consultants and/or subcontractors, to remotely access and monitor Customer's usage of certain systems owned, controlled or operated by or on behalf of Customer, as necessary for ABB and/or Distributor to provide the Services; and (iii) install and maintain any hardware, software, or other equipment necessary to establish and maintain the monitoring and/or remote connection.

5. **Proprietary Rights**

- A. **Customer Data.** ABB and Distributor will not acquire any right, title and interest in Customer Data other than the rights Customer grants to ABB and Distributor under the Customer Contract. During the term of the Marketplace Reseller Contract, Customer will have the ability and the right to access and extract some or all of Customer Data if and to the extent specified in the STC or the Order.
- B. **ABB Content.** As between the parties, all right, title and interest, including all Intellectual Property Rights, in and to the ABB Content are and remain exclusively with ABB, ABB's Affiliates or licensors. Customer has no rights in and to the ABB Content, if not expressly granted by ABB.
- C. **ABB's use of Customer Data.** ABB and ABB's Affiliates and subcontractors have the right to collect, store, aggregate, analyze or otherwise use Customer Data for (i) providing and maintaining the Services and any services under an Order and/or the ABB Software to Customer and Customer's Affiliates; (ii) preventing, detecting and repairing problems related to the security and/or the operation of the Portal, the Platform, the Services and/or the ABB Software; (iii) improving and developing existing services, technologies, products and/or software and developing new services, technologies, products and/or software, and all improvements and developments (including all resulting Intellectual Property Rights) which are and remain exclusively owned by ABB. In addition, ABB has the right to use Customer Data for benchmarking purposes if and to the extent it is anonymized or non-confidential.
- D. **Feedback.** During the term of a Contract, Customer may provide feedback or suggestions related to the Services, the Software, the Portal or the Platform to us. ABB and ABB's Affiliates are entitled to use such feedback and suggestions, even if they should be marked confidential, without any restrictions and any compensation to Customer.
- E. **Restrictions.** Customer will not in whole or in part (i) (except as explicitly permitted in this ToU and STC) use the ABB Content in any manner, including, without limitation, for any third-party, or use license, sublicense, sell, resell, lease, transfer, assign, distribute, display, broadcast, disclose, or otherwise commercially exploit or make it, or any portion thereof, available to any third party in any manner; (ii) modify, tamper with, repair or make derivative works based upon the ABB Content including translation or localization; (iii) copy, reproduce, publish, reverse engineer, attempt to derive the source code of, modify, disassemble, decompile or create derivative works of the ABB Content (except to the extent that applicable Laws prohibits reverse engineering restrictions, and then only as permitted by such laws); (iv) copy any ideas, features, functions or graphics of the ABB Content; (v) access or use the ABB Content in a way to avoid incurring fees or exceeding usage limits or quotas or to circumvent or render inoperative any usage restriction features contained in ABB Content; and/or (vi) remove, obscure, alter, or move ABB's and ABB

licensors' proprietary notices. Use of the ABB Content other than specifically permitted in the Customer Contract, is expressly prohibited.

6. Suspension

ABB and/or Distributor may suspend the Services in whole or in part if Customer's use of the Services (i) poses a security risk to the Services, the Platform and/or the Portal and/or any third party; (ii) may adversely impact the performance of the Services, the Software, Platform and/or the Portal; (iii) is in violation of the Law or poses a risk that ABB and/or Distributor are or will be in violation of Law; (iv) may subject ABB and/or Distributor or any third party to liability; or (v) any violation of a material right or obligations under these ToU. In addition, ABB and/or Distributor may suspend the Services under the circumstances specified in the Acceptable Use Policy and if Customer fails to pay any amount due under the Customer Contract on the due date for payment. ABB and/or Distributor will suspend the Services only to the extent reasonably necessary. Unless ABB and/or Distributor believe an immediate suspension is required and appropriate, ABB and/or Distributor will use commercially reasonable efforts to provide reasonable notice before suspending a Service.

7. Warranty

As between ABB and Customer, ABB makes no warranty of any kind, whether express, implied, statutory or otherwise, and specifically disclaims all implied warranties, including an implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable Law. The Services are provided to Customer "as is where is".

8. Liability and Waiver

A. No Liability. In no event will ABB have any liability to Customer or any User for any damages relates to Customer's purchase or use of the Service or Software pursuant to these ToU, whether in contract or tort (including negligence) breach of statutory duty of otherwise and even if ABB has been advised of the possibility of such damages for (i) loss of profits, sales or business, agreements or contracts, anticipated savings, revenue, or damage to goodwill; (ii) business interruption, loss of production, loss of use or loss or corruption of data; (iii) costs of substitute goods, materials or services; or (iv) any indirect, consequential, incidental, special, punitive damages or exemplary loss.

B. Scope of limitations and exclusions. ABB disclaims all liability and indemnification obligations for any harm or damages caused by any third party to the extent permitted by applicable Laws. The limitations and exclusions of liability also apply to the benefit of ABB's Affiliates, suppliers, licensors, subcontractors as well as ABB's and its directors, officers, employees and representatives.

9. General Provisions

A. Notices. Any notice that ABB is required to provide to Customers under or in connection with the ToU will be provided by ABB or the Distributor based on the circumstances and designated contact information for notices available to ABB in the Services.

B. Waiver. No failure or delay by ABB in exercising any right under these ToU will constitute a waiver of that right.

C. Severance. If any provision or part-provision of the ToU is or becomes invalid, illegal or un-enforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted but not affect the validity and enforceability of the rest of the ToU.

D. Integrity Provisions. ABB maintains a set of codes of conduct and guidelines related to ABB's, ABB employees' and ABB's contractors' business conduct, including anti-bribery, anti-corruption and conflict of interest, and ABB requires that Customer comply with its Integrity Provisions:

i. Definitions:

• **Applicable Integrity Laws** means:

(i) *Anti-bribery and anti-corruption laws:* including U.S. Foreign Corrupt Practices Act 1977 (as amended), UK Bribery Act 2010 (as amended), any legislation enacting the principles of the OECD Convention on Combating Bribery of Foreign Officials and any other applicable laws, rules, regulations, decrees and/or official governmental orders relating to anti-corruption, anti-money laundering and anti-tax evasion in relevant jurisdictions (collectively "**Anti-Bribery & Corruption Laws**"); and

- (ii) *Sanctions and trade control laws and regulations*: any applicable laws, regulations, or administrative or regulatory decisions or guidelines that sanction, prohibit or restrict certain activities including, but not limited to, (i) import, export, re-export, transfer, or trans-shipment of goods, services, technology, or software; (ii) financing of, investment in, or direct or indirect transactions or dealings with certain countries, territories, regions, governments, projects, or specifically designated persons or entities, including any future amendments to these provisions; or (iii) any other laws, regulations, administrative or regulatory decisions, or guidelines adopted, maintained, or enforced by any Sanctions Agency on or after the date of this Agreement (collectively, “**Trade Control Laws**”); and
- (iii) *Human rights and anti-modern slavery laws*: including The Universal Declaration of Human Rights, the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the ILO Core Conventions on Labor Standards, the UK Modern Slavery Act and other similar human rights, anti-human trafficking and anti-modern slavery laws and regulations (collectively, “**Human Rights Laws**”).
- **Sanctions Agency** means any governmental or regulatory body, instrumentality, authority, institution, agency or court that promulgates or administers Trade Control Laws including, but not limited to, the aforementioned governmental and regulatory bodies of (i) the United Nations, (ii) the United States of America (including the U.S. Department of Treasury Office of Foreign Assets Control, U.S. Department of State and U.S. Department of Commerce), (iii) Canada (iv) the European Union or (v) Switzerland.
- **Restricted Person** means any entity or person included on a list (including U.S. and EU lists) of targeted parties, blocked parties, or persons subject to asset-freezing or other restrictions introduced under any applicable Trade Control Laws (and includes any entity that is directly or indirectly owned fifty (50) percent or more, in the aggregate or individually, or otherwise controlled by any Restricted Person)
- ii. Customer and Distributor will comply with all Applicable Integrity Laws in connection with the Customer Contract. Both parties shall also ensure that their respective employees, officers, directors, and any affiliates or third parties engaged in any manner in relation to the Customer Contract shall undertake to comply with all Applicable Integrity Laws and the requirements set out in this Section 9Dii in connection with the Customer Contract. Both parties confirm that they have not violated, shall not violate, and shall not cause the other party to violate, any Applicable Integrity Laws in connection with the Customer Contract.
- iii. Each party represents and warrants that, to the best of its knowledge, at the date of the Customer Contract neither it, nor any of their respective directors or officers are a Restricted Party. Each Party agrees that it shall promptly notify the other Party if it becomes a Restricted Party.
- iv. If, as a result of (i) Trade Control Laws issued or amended after the date of the Customer Contract, (ii) Customer or end user becoming a Restricted Party, or (iii) any necessary export license or authorization from a Sanctions Agency is not granted, the performance by ABB or by any affiliates or third parties engaged in any manner in relation to the Agreement becomes illegal or impracticable, Distributor shall, as soon as reasonably practicable, give written notice to Customer of ABB’s inability to perform or fulfil such obligations. Once such notice has been received by Customer, Distributor shall be entitled to either immediately suspend the performance of the affected obligation under the Customer Contract until such time as Distributor may lawfully discharge such obligation or unilaterally terminate the Customer Contract in whole or in part from the date specified in the said written notice or from any subsequent date thereafter. ABB will not be liable to the Company for any costs, expenses or damages associated with such suspension or termination of the Agreement.
- v. In the event of suspension or termination as set out above, Distributor shall be entitled to payment and any reasonable associated costs necessarily incurred by Distributor or ABB in regard to such suspension or termination including, but not limited to, all reasonable costs associated with suspending or terminating any subcontract placed or committed for goods or services in connection with this Customer Contract.
- vi. Customer represents that it and its end user are the ultimate end recipient of any items provided under the Customer Contract, that the items are for civil use only and that it will not directly or indirectly sell, export, re-export, release, transmit or otherwise transfer any items received from Distributor or ABB to any third party or country in violation of Trade Control Laws.

- vii. Customer further represents and warrants that the Services provided under this Agreement shall not be installed, used, or applied in or in connection with (i) the design, production, use or storage of chemical, biological or nuclear weapons or their delivery systems, (ii) any military applications or (iii) the operation of any nuclear facilities including, but not limited to, nuclear power plants, nuclear fuel manufacturing plants, uranium enrichment plants, spent nuclear fuel stores and research reactors, without the prior written consent of ABB.
- viii. For the avoidance of doubt, no provision in this ToU shall be interpreted or applied in a way that would require any party to do, or refrain from doing, any act which would constitute a violation of, or result in a loss of economic benefit under, applicable Trade Control Laws.
- E. **Third Party Beneficiary.** These ToU are between Customer and Distributor; ABB is not a party to these ToU. However, ABB is a third-party beneficiary to the Customer Contract solely as it relates to these ToU.
- F. **Order of Precedence.** With respect to the subject matter discussed herein, in the event of any conflict or inconsistency between these ToU and any other terms or conditions in Customer's agreement or order form with Distributor, these ToU will prevail. In the event of any conflict or inconsistency between these ToU and any EULA applicable to the Services in question that has been accepted by the Customer, the EULA will prevail.