

是德銷售條款

台灣是德科技股份有限公司（“是德”）銷售產品、支援服務，專業服務，以及軟體授權使用依照本銷售條款辦理（“本銷售條款”）。 “產品”係指根據本銷售條款銷售之硬體或授權使用之軟體，但不包括客製化之軟、硬體產品。“軟體”係指一個或多個電腦程式以及相關之文件。“支援服務”係指對產品或軟體更新及維護所提供之標準支援服務。“專業服務”是指諮詢服務或培訓。“規格”是指在是德裝運訂單產品之日，由是德印行有效之產品技術資料。

是德的任何支援服務或專業服務的報價書或類似定單（“報價書”）、本銷售條款、任何工作說明書（“SOW”）或可交付成果的說明、產品或軟件隨附的任何和所有是德最終用戶許可協議（“EULA”）以及是德的保證條款在本銷售條款中統稱為“本銷售條款”。

1. 銷售與交付

a) 所有訂單須經是德接受後始生效。是德接受客戶的定單即代表明確接受本銷售條款的限制並以本銷售條款為前提條件。如果來自客戶的任何通信或採購定單中的任何條款或條件是本銷售條款的補充或者與本銷售條款中包含的條款或條件不同，則是德反對並拒絕接受這些條款或條件。履行客戶定單以及向客戶開具發票不構成接受任何客戶的條款和條件或用於修改本銷售條款。訂單適用之商業條款根據報價單上之規定，或者依據是德所同意之 2010 年《國際貿易術語解釋通則》（Incoterms 2010）貿易條款。

b) 價格不包含應由客戶支付之任何銷售、加值或類似稅捐。

c) 價格包括運費和處理費，但報價單中另有規定者除外。硬體之所有權於是德將產品交付給客戶時，移轉給客戶。

d) 除非報價單另有約定外，產品發運前，客戶可隨時取消訂單，無需支付任何費用。客戶要求退貨須經是德同意，並由客戶負擔相應的費用。所有交貨日期均為近似日期，而非保證日期，而且是德不承擔任何延遲交貨責任。是德保留分批發運的權利。

e) 購買價格不含安裝費的產品，一旦交貨即視為驗收完畢。對於購買價格含安裝費的產品，在產品通過是德之安裝、測試程序後，即為驗收合格。如果客戶安排或遲至交貨三十（30）日後安裝，在交貨後第三十一（31）日視為產品驗收合格。

f) 付款條件見報價單或確認書；是德得依據客戶的財務狀況或以往付款記錄，變更付款條件。若客戶未能按時付款，或者違反本合約或是德之其他合約，經是德以十（10）天之書面通知仍未改善，是德得停止履約或暫停客戶的許可。

g) 客戶應承擔與收回逾期金額和/或是德執行本銷售條款有關的所有費用，包括律師費。如果拖欠是德的任何付款到期未支付，將按每月百分之一（1%）（或適用法律允許的最大利率，如果拖欠較少的話）的利率從到期日起計算利息，直至付清為止。

h) 客戶同意，除非在 SOW 中另有明文規定，否則客戶將向是德報銷是德發生的與任何專業服務有關的所有合理的自付差旅、住宿和其他相關費用。

2. 授權使用

a) 除測試腳本和相關技術文件（統稱為“測試腳本”）外，所有軟件均根據該軟件附帶的適用 EULA 授權給客戶。每份 EULA 的副本可在 www.keysight.com/view/eula 上獲得，作為軟件所附帶的技術文件或根據要求提供。如果軟件技術文件不包含授權條款，則是德向客戶授予全球範圍內的、非排他性的、不可轉讓的、可撤銷（如果未支付任何適用許可費）的有限許可，為其內部目的在一台機器或儀器上使用軟件的一個備份，或如果適用，是德向客戶授予在報價書中另行規定的授權。軟件可能包含具有單獨許可條款的第三方軟件，這些授權條款可能適用並優先於超出此處授予授權的客戶使用範圍。

b) 通過電子方式交付軟件時，如果發生以下情況，則應視為已發生軟件交付：（i）是德通知客戶並向客戶提供可從下載軟件的網站訪問權；以及（ii）是德向客戶提供下載、安裝和/或激活軟件所需的任何和所有授權密鑰。當由是德安裝軟件時，交付和驗收將按照第 1（e）款進行。

c) 除經是德書面授權或法律另有規定外，客戶不得將軟體進行解碼、解譯或修改，也不得將軟體複製於任何公共網路或分布式網路上。

d) 儘管本銷售條款中有任何相反規定，但所有軟件、服務和專業服務可交付成果均為許可而非出售，並且與這些產品相關的術語如“銷售”和“購買”的使用應理解為對這些產品進行授權。

e) 對於測試腳本以及不構成軟件的所有服務和專業服務可交付成果，是德向客戶授予一項有限的、非排他性的、不可轉讓的、永久性的全球授權，僅為客戶的內部業務目的複製和使用此類產品。

f) 至於是德與客戶之間，是德是並且將繼續是任何產品、服務和專業服務或與任何產品、服務和專業服務相關的所有知識產權的獨家所有者。

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3. 保固條款

- a) 產品保固條款附於產品，或者載於報價單，或可向是德索取或自是德網站 www.keysight.com.tw/go/warranty_terms 下載。每件產品均提供全球保固，包括在產品購買國規定之標準保固條款。
- b) 是德保證：是德的產品並無材料、工藝上之瑕疵，同時產品符合規格要求。是德還保證：是德自有之標準軟體實質上符合規格要求。
- c) 如是德在保固期間收到關於產品瑕疵或不合格的通知，是德將選擇修理或更換相關產品。客戶承擔相關產品退回是德之運費。是德承擔修理或更換產品之運費。除非另有雙方書面協議，根據本銷售條款及法律允許之最大限內進行產品返回前，客戶應全權負責準備妥當海關相關文件，並根據適用之法律法規完成海關手續。
- d) 本銷售條款中所做出的保證為是德全部之保證內容，除此之外沒有任何其他明示的或暗示的、口頭或書面之保證。是德特此聲明不對產品之適銷性、特定目的適用性或非侵權性作任何保證。

4. 智慧財產權索賠

- a) 若客戶因是德產品侵害他人智慧財產權而遭到控訴，是德將進行辯護或尋求解決，但客戶應以書面立即通知是德，並安排或協助是德進行辯護或和解。
- b) 若有第 4(a)項所述侵權行為進行辯護或和解，是德將支付辯護費用、和解金額以及法院判決之損害賠償金額。如可能發生上述侵權訴訟，是德得選擇修改或更換產品，或者取得任何必要之授權。如果是德斷定無法合理採取上述任何替代方案，是德將在收到客戶退貨時返還已收貨款。
- b) 對於因下列情形引起之侵權指控，是德不承擔任何責任：是德遵照或使用了客戶的設計、規格、指示或技術資料；客戶或第三人對產品作了修改；產品使用超出了規格或相關規定之範圍；或者使用的產品中包括非是德提供之產品。

5. 責任和救濟之限制條款

- a) 無論在何種情況下，是德、其分包商或供應商均不對特種的、偶然的、間接的或附帶的損害（包括停工成本、資料滅失、復工成本、利潤損失等）承擔責任，不管此類索賠係依據合約關係、侵權行為、保證，或其他法律原則，也不管是否就此類損害發生的可能性作過提醒。在不限制前述規定的前提下，在適用法律允許的最大範圍內，與客戶購買 Ixia 品牌產品、服務或專業服務有關的是德最大累計責任不超過 (i) 客戶為定單支付的金

額和 (ii) 100,000 美元。本條責任限制適用於本銷售條款所定之任何補償，即使其責任限制未能符合雙方交易之主要目的。

- b) 5(a)項下規定之限制條款不適用於第 4 條之智慧財產權索賠，也不適用於人身傷害、死亡賠償。

- c) 本銷售條款中所列之救濟，為客戶唯一與全部之救濟。

6. 通則

- a) 是德將依據是德保護隱私聲明（見網站 www.keysight.com/go/privacy）存取或使用客戶之個人資料。是德不會販售、出租或借用客戶之個人資料予他人。
- b) 產品支援服務條款可以自是德網站 www.keysight.com.tw/go/service_term 上；索取，或見於報價單上。
- c) 雙方同意遵守適用之法律法規。若客戶違反適用之法律法規，是德得暫停履行本銷售條款。
- d) 客戶明示同意負責從所有適當之政府部門取得在產品、技術或技術資料出口，再出口或轉移之前的任何及所有必要的出口授權，並且遵守任何有關此轉讓或交易所有適用之法律法規。客戶不得出售或轉讓產品、技術或技術資料予任何由美國政府指定或限制之主體，或是包含在任何美國政府持有之人員名單限制，包括但不限於 (i) 特別指定國家 (Specially Designated Nationals) 及禁止銷售對象名單 (Blocked Persons List) 中所列之公司或個人，(ii) 外國制裁逃稅者名單 (Foreign Sanctions Evaders List)，(iii) 部門制裁指定名單 (Sectoral Sanctions Identification List)，(iv) 實體名單 (Entity List)，(v) 拒絕銷售之當事人名單 (Denied Persons List)，(vi) 未經核實之名單 (Unverified List)（統稱為“美國限制列表”）。有關這些和其他適用名單之更多信息可以從以下網址獲得：www.treasury.gov 或 www.bis.doc.gov。如果客戶不遵從本銷售條款之規定，是德可全權決定，暫停履行或取消全部或部分之訂單，並且，如果這些活動涉及以任何方式，任何美國限制列表之實體，是德可全權決定拒絕執行任何之產品售後服務（包括但不限於在保固期內之任何維修或更換）。是德可自行決定要求客戶在是德向客戶交付任何產品或物品之前提供最終用戶證書和/或出口許可證。
- e) 在任何超出一方合理控制且非一方過失或疏忽之情況下，包括但不限於天災（如火災，水災，風災，地震，颶風或其他自然災害）、公敵行為（如內戰，叛亂，革命或恐怖主義活動）、政府因主權或締約能力制定之法規、法案或限制、流行病、檢疫限制、罷工、停工、中斷或公共設施失序、共同運送人之作為或不作為，任何一方將免於履行其在本銷售條款項下之義務並不承擔責任。

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- f) 美國政府使用、散布或揭露產品，應遵守 DFARS 27.72 02-3 (《商用電腦軟體之權利》)、DFARS 252.227-7015 (《技術資訊--商用條款》)，以及 FAR 52.227-19 (《商用電腦軟體之保留權利》) 之規定。
- g) 本銷售條款相關之爭議應依中華民國法律之規定。如果雙方無法和平解決爭議，雙方同意以台北地方法院為第一審管轄法院。
- h) 若本銷售條款某一項或其中之某一部分被判定為非法或無法執行，其他部分仍將保持有效。
- i) 聯合國有關《國際貨物銷售合約》條款不適用於本銷售條款。
- j) 產品僅用於專業和工業用途，不適合消費使用或家庭使用，並且客戶聲明並保證不會為此類用途購買產品。消費使用或家庭使用或在產品規範之外使用，將使銷售條款第 2 (a)、(b) 和 (e)、4 (a) 和 (b) 和 5 (b) 款無效並使第 3 款中列出或納入的保證條款作廢。本產品並非專為設計、製造或者出售作為規畫、建造、維修或直接操作核子設施之備件、配件或組件。是德對於上述使用而造成的損害，不負任何責任。
- k) 本銷售條款及所有適用訂單之補充條款，構成是德與客戶雙方的全部合意，並取代雙方先前任何口頭或書面之所有溝通、陳述或協議。
- l) 是德或其所同意的繼受人或受讓人經通知客戶發生合併、組織重整、轉讓、出售或分割資產或生產線、控制權或所有權交易或變動，是德可以轉讓或移轉其在本銷售條款下享有或承擔之權利/義務。未經是德事先書面同意，客戶不得轉讓或讓與這些條款。
- m) 是德提供的與任何路線圖演示文稿有關的所有信息僅供參考，對是德不具有約束力，不構成本銷售條款的一部分；此類信息反映了是德目前的計劃，並且是德可隨時更改，恕不另行通知。

KEYSIGHT TERMS OF SALE

These Terms of Sale ("Terms") govern the sale of Products, Service, Professional Services and the license of Software by Keysight Technologies Taiwan Ltd ("Keysight"). "Product" means any standard hardware sold or standard Software licensed under these Terms. "Software" means one or more computer programs and related documentation. "Service" means any standard support service to support Products, or Software updates and maintenance. "Professional Services" means consulting services or training. "Specifications" means technical information about Products published by Keysight and in effect on the date Keysight ships the order.

The quote or similar order form ("Quote"), these Terms, any Statement of Work or description of deliverables ("SOW") from Keysight for any Service or Professional Services, any and all Keysight end user license agreements ("EULA") accompanying Products or Software, and Keysight's warranty are collectively referred to herein as the "Terms."

1. SALE AND DELIVERY

- a) All orders are subject to acceptance by Keysight. Keysight's acceptance of Customer's order is expressly limited to, and conditioned on, these Terms. Keysight objects to and rejects any terms or conditions in any communication or purchase order from Customer that are in addition to or different from those contained in these Terms. The fulfillment of Customer's order and the invoicing of Customer will not constitute acceptance of any of Customer's terms and conditions or serve to modify these Terms. Orders are governed by the applicable trade term specified on the Quote or agreed to by Keysight as defined in Incoterms 2010.
- b) Prices exclude any applicable sales, value added or similar tax payable by Customer.
- c) Unless otherwise indicated on the Quote, prices include shipping and handling charges. Title to hardware Products will pass to Customer upon delivery.
- d) Unless otherwise indicated on the Quote, Customer may cancel orders prior to shipment at no charge. Product returns are subject to Keysight approval and applicable charges. All delivery dates are approximate and not guaranteed, and Keysight will have no liability for late delivery. Keysight reserves the right to make partial shipments.
- e) For Products without installation included in the purchase price, acceptance occurs upon delivery. For Products with installation included in the purchase price, acceptance occurs when the Product passes Keysight's installation and test procedures. If Customer schedules or delays installation by Keysight more than thirty (30) days after delivery, acceptance of the Product will occur on the thirty-first (31st) day after delivery.
- f) Payment terms are stated in the Quote or acknowledgment documentation, and are subject to change if Customer's financial condition or payment record merits such change. Keysight may discontinue performance or suspend Customer's license if Customer fails to pay any sum due, or fails to perform under this or any other Keysight agreement if, after ten (10) days written notice, the failure has not been cured.
- g) Customer will be liable for all expenses, including attorneys' fees, relating to the collection of past due amounts and/or Keysight's enforcement of these Terms. If any payment owed to Keysight is not paid when due, it will bear interest from the due date until paid at a rate of one percent (1%) per month (or the maximum rate permitted by applicable law, if less).
- h) Customer agrees that, except as otherwise expressly stated in an SOW, Customer will reimburse Keysight for all reasonable out-of-pocket travel, lodging, and other related expenses incurred by Keysight in connection with any Professional Services.

2. LICENSES

- a) With the exception of test scripts and related documentation (collectively, "Test Scripts"), all Software is licensed to Customer pursuant to the applicable EULA included with that Software. Copies of each EULA are available at <https://www.keysight.com/view/eula>, as documentation provided with the Software, or upon request. If the Software documentation does not include license terms, Keysight grants Customer a worldwide, non-exclusive, non-transferable, revocable (if any applicable royalties are not paid), limited license to use one copy of the Software on one machine or instrument for internal purposes or, if applicable, Keysight grants Customer the license as otherwise stated on the Quote. Software may contain third party software with separate license terms that may apply and take precedence to the extent Customer's use exceeds the license granted herein.
- b) When Software is delivered electronically, such delivery will be deemed to have occurred when (i) Keysight has notified Customer of, and has given Customer access to, a website from where the Software can be downloaded, and (ii) Keysight has given Customer any and all license key(s) needed to download, install, and/or activate the Software. When Software is installed by Keysight, delivery and acceptance will be in accordance with Section 1(e).
- c) Except as authorized by Keysight in writing or as permitted by law, Customer will not reverse engineer, reverse compile, or reverse assemble Software, modify or translate Software, or copy Software onto any public or distributed network.

KEYSIGHT TERMS OF SALE

- d) Notwithstanding anything to the contrary in these Terms, all Software, Service and Professional Services deliverables are licensed and not sold, and the use of terms such as "sale" and "purchase" in connection with those items will be understood as a reference to licensing of those items.
- e) For Test Scripts and for all Service and Professional Services deliverables that do not constitute Software, Keysight grants to Customer a limited, non-exclusive, non-transferable, perpetual, worldwide license to copy and use such items only for Customer's internal business purposes.
- f) As between Keysight and Customer, Keysight is and shall remain the exclusive owner of all intellectual property rights in or related to any of the Products, Service and Professional Services.

3. WARRANTY

- a) Product warranty terms are provided with the Product, on Quotes, upon request or at http://www.keysight.com.tw/go/warranty_termsenglish. Each Product receives a global warranty which includes the standard warranty for the country of purchase.
- b) Keysight warrants the Keysight hardware Product against defects in materials and workmanship and that the Product will conform to Specifications. Keysight warrants that Keysight owned standard Software substantially conforms to Specifications.
- c) If Keysight receives notice of a defect or non-conformance during the warranty period, Keysight will, at its option, repair or replace the affected Product. Customer will pay shipping expenses for return of such Product to Keysight. Keysight will pay expenses for shipment of the repaired or replacement Product. Unless otherwise agreed by the parties in writing, Customer shall be solely responsible for customs documentation to be properly prepared and customs procedures to be completely fulfilled in accordance with the applicable legislation before proceeding with Product returns to the extent they are allowed and specified in these Terms.
- d) THE WARRANTIES IN THESE TERMS ARE EXCLUSIVE, AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. KEYSIGHT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

4. INTELLECTUAL PROPERTY CLAIMS

- a) Keysight will defend or settle any claim against Customer that a Product infringes an intellectual property right, provided Customer promptly notifies Keysight in writing and provides control of the defense or settlement, and assistance, to Keysight.
- b) In defending or settling an infringement claim under Section 4(a), Keysight will pay infringement claim defense costs, settlement amounts and court-awarded damages. If such a claim appears likely, Keysight may, at its option, modify or replace the Product or procure any necessary license. If Keysight determines that none of

these alternatives is reasonably available, Keysight will refund Customer's purchase price upon return of the Product.

- c) Keysight has no obligation for any claim of infringement arising from: Keysight's compliance with, or use of, Customer's designs, specifications, instructions or technical information; Product modifications by Customer or a third party; Product use prohibited by or outside the scope of Specifications or related application notes; or use of the Product with products not supplied by Keysight.

5. LIMITATION OF LIABILITY AND REMEDIES

- a) In no event will Keysight, its subcontractors or suppliers be liable for special, incidental, indirect or consequential damages (including downtime costs, loss of data, restoration costs, or lost profits) regardless of whether such claims are based on contract, tort, warranty or any other legal theory, even if advised of the possibility of such damages. Without limiting the foregoing, to the maximum extent permitted by applicable law, Keysight's maximum aggregate liability in connection with Customer's purchase of Ixia branded Products, Service or Professional Services will not exceed the greater of (i) the amount paid by Customer for the order and (ii) \$100,000. This exclusion shall apply even if any remedy set forth in these Terms fails its essential purpose.
- b) The limitations set forth in Section 5(a) above will not apply to infringement claims under Section 4, or to damages for bodily injury or death.
- c) The remedies in these Terms are Customer's sole and exclusive remedies.

6. GENERAL

- a) Keysight will store and use Customer's personal data in accordance with Keysight's Privacy Statement, available at www.keysight.com/go/privacy. Keysight will not sell, rent or lease Customer's personal data to others.
- b) Terms for Service are available at http://www.keysight.com.tw/go/service_termsenglish, upon request, or as otherwise indicated on the Quote.
- c) The parties agree to comply with applicable laws and regulations. Keysight may suspend performance if Customer is in violation of applicable laws or regulations.
- d) Customer expressly agrees that it assumes full responsibility for obtaining any and all required export authorizations from all applicable government authorities prior to exporting, re-exporting or transferring Products, technology or technical data and for complying with all applicable laws and regulations relating to any such transfer or transaction. Customer shall not sell or transfer Products, technology or technical data to any entity designated or identified by the U.S. Government as a restricted person or included on any U.S. Government-maintained restricted person list, including, but not limited to, (i) the Specially Designated Nationals and Blocked Persons List, (ii) the Foreign Sanctions Evaders List, (iii) the Sectoral Sanctions Identification List, (iv) the Entity List, (v) the Denied Persons List, and (vi) the Unverified List (collectively,

KEYSIGHT TERMS OF SALE

- "US Restricted Lists"). Further information on these and other applicable lists can be found at www.treasury.gov or www.bis.doc.gov. Keysight may, in its sole discretion, suspend performance or cancel all or part of the order if Customer is designated on US Restricted Lists or does not comply with the provisions of this section and may, in its sole discretion, refuse to perform any post-sale services with respect to the Product (including, but not limited to, any repair or replacement under warranty) if such activities would involve in any way, an entity on any US Restricted Lists. Keysight may, in its sole discretion, require Customer to provide an end user certificate and/or an export license prior to Keysight's delivery of any Product or item to Customer.
- e) A party is excused from and not liable for performance of its obligations under these Terms for any occurrence beyond its reasonable control and without its fault or negligence including, but not limited to, acts of God (such as fires, floods, storms, earthquakes, hurricanes or other natural disasters), acts of the public enemy (such as civil war, rebellion, revolution or terrorist activities), regulations, acts or restraints of a government in either its sovereign or contractual capacity, epidemics, quarantine restrictions, strikes, lockouts, interruption or failure of utilities, or acts or omissions of common carriers.
 - f) Use, distribution or disclosure of Products by the U.S Government is subject to DFARS 227.7202-3 (Rights in Commercial Computer Software), DFARS 252.227-7015 (Technical Data – Commercial Items), and FAR 52.227-19 (Commercial Computer Software-Restricted Rights).
 - g) Disputes arising in connection with these Terms will be governed by the laws of the Republic of China. In the event that any dispute arises which cannot be resolved amicably between the parties, the parties agree that the Taipei District Court will have jurisdiction.
 - h) To the extent that any provision or a portion of any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms will remain in full force and effect.
 - i) The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.
 - j) Products are intended for professional and industrial use only, and are not suitable for consumer or household use. Consumer or household use, or use outside of the Specification for the Product, will nullify Sections 2(a), (b) and (e), 4(a) and (b) and 5(b) of these Terms and void the warranty terms set out, or incorporated in, Section 3. Products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance or direct operation of a nuclear facility. Keysight shall not be liable for any damages resulting from such use.
 - k) These Terms and any supplemental terms applicable to the order constitute the entire agreement between Keysight and Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder.
 - l) Keysight may assign or transfer any of its rights or obligations under these Terms upon notice in connection with a merger, reorganization, transfer, sale of assets or product lines, demerger or spin-off transaction or change of control or ownership of Keysight, or its permitted successive assignees or transferees. Customer may not transfer or assign these Terms without Keysight's prior written consent.
 - m) All information provided by Keysight in connection with any roadmap presentation is for informational purposes only, is not binding upon Keysight, and does not constitute part of these Terms; such information reflects Keysight's present plans and is subject to change by Keysight at any time and without notice.