



General Terms & Conditions of Delivery
一般条款与交付条件和数据隐私声明
(Version版本: 10-09-2021)

1. Relevant Terms相关条款

The legal relations between Seller and Purchaser shall exclusively be governed by these General Terms and Conditions and any other agreements. Modifications and amendments shall be made in writing. Other general terms and conditions shall not apply even if no express objection is made thereto on a case-by-case basis. The following provisions regarding deliveries shall apply *mutatis mutandis* to services.

卖方和买方之间的法律关系完全受本一般条款和条件以及任何其他协议的管辖。修改应当以书面形式提出。即使没有逐案提出明确反对意见，其他一般条款和条件也不得适用。下列有关发货的规定适用于服务。

2. Conclusion of Contract合同订立

2.1 The offers of the Seller shall be subject to change. The details contained in brochures, illustrations, pricelists, etc. shall only be relevant if they are expressly confirmed by the Seller in the acknowledgement of order or otherwise become part of the agreement concluded by and between the Seller and the Purchaser. The contract shall be deemed concluded if the Seller has dispatched the written acknowledgement of order or actually effects delivery.

2.1卖方的报价可能会发生变化。手册、插图、价目表等中包含的细节只有在卖方在订单确认书中明确确认或以其他方式成为卖方和买方之间签订的协议的一部分时才具有相关性。如果卖方已发出书面订单确认书或实际交货，则合同应视为已签订。

2.2 All permits from authorities or third parties necessary for performance of the contract shall be obtained by the Purchaser, who shall inform the Seller thereof and indemnify and hold the Seller harmless, if necessary. If such permits are not granted in time, the delivery period shall be extended accordingly. The Seller shall not be obliged to commence performance of the contract before the said permits have been granted with legal effect.

2.2买方应获得履行合同所需的当局或第三方的所有许可，买方应通知卖方，并在必要时赔偿卖方，使其免受损害。如果未及时发放此类许可证，则交货期应相应延长。在上述许可被授予法律效力之前，卖方没有义务开始履行合同。

2.3 Any and all offer documents and project documents, in particular plans, sketches, cost estimates and other technical documents which may also be part of the offer, shall always remain the property of the Seller, just like specimen, brochures, illustrations, pricelists, etc. Any exploitation, copying, reproduction, dissemination and distribution to third parties, publication and presentation may only be effected upon the express consent of the Seller.

2.3任何和所有报价文件和项目文件，特别是计划、草图、成本估算和其他技术文件（可能也是报价的一部分），应始终属于卖方的财产，就像样本、小册子、插图、价格表等。任何利用、复制、复制，只有在卖方明确同意的情况下，才能向第三方传播和分发、出版和展示。



2.4 Any mistakes in brochures, pricelists, offer documents or project documents or other documentation of the Seller which are due to error may be corrected by the Seller and he may not be held liable for damage resulting from such mistakes.

2.4由于错误导致的手册、价格表、报价文件、项目文件或卖方其他文件中的任何错误，卖方可予以纠正，且不对此类错误造成的损害负责。

3. Price价格

3.1 The prices shall apply ex Seller's works exclusive of packaging, loading, insurance, import and export duties and VAT. If delivery to the final destination has been agreed, the prices shall be deemed exclusive of unloading and further transport. Packaging material shall be taken back only upon express agreement.

3.1价格应适用于除包装、装载、保险、进出口税和增值税外的卖方工程。如果已商定将货物交付至最终目的地，则价格应视为不包括卸货和进一步运输。只有在明确同意的情况下，才能收回包装材料。

3.2 Offered prices shall become binding if the Seller has confirmed the same with a written statement of the delivery volume. Deliveries going beyond such delivery volume may be invoiced separately by the Seller.

3.2如果卖方已通过书面的交货量声明对报价进行确认，则报价应具有约束力。超出该交付量的交付可由卖方单独开具发票。

3.3 In case of repair orders those services shall be rendered which are deemed expedient by the Seller and shall be invoiced according to the costs or time actually incurred. This shall also apply to services and additional services the expediency of which turns out only in the course of performance of the order, and no separate notice to the Purchaser shall be necessary in this respect.

3.3如果是维修订单，则应提供卖方认为合适的服务，并根据实际发生的成本或时间开具发票。这也应适用于仅在履行订单过程中有利的服务和附加服务，且无需就此向买方发出单独通知。

4. Payment and Retention of Title支付和保留所有权

4.1 The invoice amount shall be payable within 14 days of the date of the invoice without deduction free paying agent of the Seller in the agreed currency. A payment shall be deemed made on the day on which the Seller is able to dispose of it. Any rebates or bonuses granted shall be subject to timely and full payment.

4.1发票金额应在发票日期后14天内以约定货币支付，不扣除卖方的付款代理人。付款应在卖方能够处置之日视为已支付。授予的任何回扣或奖金应及时全额支付。

4.2 One third of the price shall be due for payment upon receipt of the acknowledgement of the order, one third after half of the delivery period has passed and the residual amount before dispatch of the shipment. In case of partial invoices the relevant partial payments shall be due for payment upon receipt of the relevant invoice. This shall also apply to invoiced amounts which result from subsequent deliveries or other agreements in excess of the original total amount, irrespective of the payment conditions agreed for the principal delivery.

4.2三分之一的价格应在收到订单确认后支付，三分之一的价格应在半个交货期后支付，剩余金额应在发货前支付。如果是部分发票，相关部分款项应在收到相关发票后支付。这也适用于后



续交付或其他协议产生的超过原始总金额的发票金额，无论主交付的付款条件如何。

4.3 The contracting parties may agree that the Purchaser shall open a documentary letter of credit with his bank (or with a different bank which is acceptable to the Seller). In this case it is agreed that the opening of the letter of credit shall be effected in compliance with the Uniform Customs and Practice for Documentary Credits, ICC Publication No. 500 as amended at the date of the agreement.

4.3 缔约双方可同意买方应在其银行（或卖方可接受的其他银行）开立跟单信用证。在这种情况下，双方同意，信用证的开立应符合国际商会第500号出版物《跟单信用证统一惯例》的规定，该出版物于本协议签订之日修订。

4.4 The Purchaser shall not be entitled to retain payments on grounds of claims under warranty or other claims of whatsoever kind or to offset such payments against counterclaims.

4.4 买方无权以保修索赔或任何其他类型的其他索赔为由保留付款，也无权以反索赔抵消此类付款。

4.5 If the Purchaser is in default with an agreed payment or other service, the Seller may, notwithstanding his other rights, insist either on performance of the contract and if the Purchaser fails to provide the agreed payment or other service, despite the Seller's other rights, the Seller may insist on performance of the contract, or (a) postpone fulfillment of his own obligation until payment of the arrears or other performance;

推迟履行自己的义务，直至支付欠款或以其他方式履行；

(b) make use of an adequate extension of the delivery period, 充分延长交货期

(c) call for payment of the total outstanding purchase price under this transaction and other transactions and charge default interest in the amount of 8% p.a. above the relevant base interest rate of Bank of China as from the relevant due date, or rescind the contract without granting a grace period. In that case the Purchaser shall at the Seller's request return to the Seller goods already delivered and shall compensate him for the occurred depreciation in the value of the goods and shall reimburse him all reasonable expenses which the Seller had to incur for performance of the order. With regard to goods not yet delivered the Seller shall be entitled to make available to the Purchaser the finished or partially-finished parts and to claim the relevant portion of the selling price.

要求支付本次交易和其他交易项下的未偿付买价总额，并从相关到期日起收取高于中国银行相关基准利率8%的违约利息，或在不给予宽限期的情况下解除合同。在这种情况下，买方应根据卖方的要求，将已交付的货物退还给卖方，并赔偿货物价值发生的折旧，并赔偿卖方因履行订单而产生的所有合理费用。对于尚未交付的货物，卖方有权向买方提供成品或部分成品零件，并有权要求支付相关部分的售价。

4.6 The Purchaser shall reimburse the Seller for all reasonable dunning charges, costs of legal counsel and other collection costs.

4.6 买方应向卖方偿还所有合理的催款费用、法律顾问费用和其他催收费用。

4.7 The Seller reserves title to all goods delivered by the Seller until full payment of the



purchase price plus interest and ancillary charges, irrespective of the legal ground on which they are based, also if based on earlier transactions. Through processing, combination or commingling of the Seller's goods with other materials the Seller shall acquire co-ownership of the resulting products in accordance with and subject to the shares of value added.

4.7 卖方保留对卖方交付的所有货物的所有权，直至全额支付购买价格加上利息和辅助费用，无论其所依据的法律依据如何，如果是基于早期交易。通过卖方货物与其他材料的加工、组合或混合，卖方应根据增值份额获得最终产品的共同所有权。

5. Delivery 交货

5.1 The term of delivery shall commence with the latest of the dates listed below:

交货期应从以下日期开始：

(a) date of acknowledgement of order,

订单确认日期

(b) date of fulfillment of all technological, commercial and financial prerequisites to which the Purchaser is subject,

买方遵守的所有技术、商业和财务先决条件的履行日期，

(c) date on which the Seller receives a down-payment or collateral security to be rendered prior to delivery of the goods.

卖方在交付货物前收到预付款或抵押担保的日期。

5.2 The Seller shall be entitled to effect and invoice partial or advance deliveries.

5.2 卖方有权实施部分或提前交付并开具发票。

5.3 If delivery is delayed due to a fact that has occurred with the Seller and constitutes a reason for discharge as defined in Clause 10, a reasonable extension of the delivery period shall be granted.

5.3 如果由于卖方已发生的事实而延迟交付，并构成第10条规定的解除责任的理由，则应给予合理的交付期限延长。

5.4 If the Seller has provably caused a delay in delivery, the Purchaser may either demand performance or may rescind the contract, granting a reasonable grace period.

5.4 如果卖方确实造成延迟交货，买方可以要求履约，也可以解除合同，给予合理的宽限期。

5.5 If the grace period provided for in Clause 5.4 has provably not been made use of and if this is the fault of the Seller, the Purchaser may rescind the contract by written notice with regard to all goods not yet delivered. The same shall apply to goods already delivered which cannot be adequately used without the goods yet outstanding. In this case the Purchaser shall be entitled to refund of the payments made for the goods not delivered or not useable.

5.5 如果第5.4条规定的宽限期被证明未被使用，并且如果这是卖方的过错，买方可就所有尚未交付的货物发出书面通知，解除合同。同样适用于已交付的货物，如果没有未交付的货物，则无法充分使用。在这种情况下，买方有权就未交付或无法使用的货物获得退款。

5.6 If the Seller fails to take delivery of the goods at the contractually agreed place or at the contractually agreed date although they were provided in accordance with the contract and if



such delay has not provably been caused by an action or omission of the Seller, the Seller may either claim performance or rescind the contract, even without granting a grace period. If the goods were segregated, the Seller may store the goods at the cost and risk of the Purchaser. Moreover, the Seller shall be entitled to reimbursement of all reasonable expenses incurred for performance of the contract and which are not included in the payments received.

5.6如果卖方未能在合同约定的地点或合同约定的日期接收货物，尽管货物是按照合同规定提供的，并且如果此类延迟不能证明是由于卖方的作为或不作为造成的，则卖方可以要求履约或解除合同，即使没有给予宽限期。如果货物被隔离，卖方可储存货物，费用和 risk 由买方承担。此外，卖方有权获得为履行合同而产生的所有合理费用的补偿，这些费用不包括在收到的付款中。

5.7 Claims of the Purchaser vis-a-vis the Seller other than those listed in Clause 5 on grounds of default of the Seller shall be excluded.

5.7除第5条所列之外，买方因卖方违约而向卖方提出的索赔除外。

6. Passing of Risk and Place of Performance 风险转移和履行地点

6.1 Subject to deviating written agreements the time the risk passes shall be determined in accordance with the Incoterms 2020 both in cross-border traffic and, accordingly, in non-cross-border traffic. If no agreement has been made, the clause "EXW" Seller plant of the Incoterms 2020 shall apply.

6.1根据不同的书面协议，风险转移的时间应根据《国际贸易术语解释通则2020》确定，无论是跨境交通还是非跨境交通。如果未达成协议，则应适用《国际贸易术语解释通则2020》中的“EXW”卖方工厂条款。

6.2 The place of performance regarding all services of the contracting parties under this contract shall be the registered office of the Seller.

6.2合同双方在本合同项下的所有服务的履行地点应为卖方的注册办事处。

7. Acceptance Test 验收测试

If the Purchaser requests an acceptance test, this shall be expressly agreed in writing with the Seller upon conclusion of the contract. The acceptance test shall be carried out at the place of manufacture and/or at a place to be determined by the Seller during normal business hours of the Seller. The general practice of the industry of the Seller shall be decisive for the acceptance test. The Seller shall inform the Purchaser timely before the acceptance test so that he can be present during the test and/or may be represented by an authorized representative. If in the course of the acceptance test the delivered item proves to be in violation of the contract, the Seller shall repair any defect without delay and shall put the delivered item into the condition which has been agreed in the contract. The Purchaser may demand a repeat test in case of defects. After an acceptance test an acceptance report shall be prepared. If the acceptance test has shown that the design is in conformity with the contract and that the delivered item is in perfect operating condition, this shall in any case be confirmed by both contracting parties. If the Purchaser or his authorized representative is not present during the acceptance test despite timely notice by the Seller, the acceptance report shall be signed only by the Seller. In any case the Seller shall send a copy of the acceptance report to the Purchaser, the correctness of which the Purchaser may no longer challenge



even if he or his authorized representative was not able to sign the report due to absence. The Seller shall bear the costs of the acceptance report carried out. In any case the Purchaser shall bear the costs he or his authorized representative incurred in connection with the acceptance test, such as travel costs, cost of living and expense allowance.

如果买方要求进行验收测试，则应在签订合同时与卖方明确书面约定。验收试验应在制造地和/或卖方正常营业时间内确定的地点进行。验收测试应以卖方行业的一般惯例为准。卖方应在验收测试前及时通知买方，以便其在测试期间在场和/或由授权代表代表。如果在验收测试过程中证明交付的项目违反合同，卖方应立即修复任何缺陷，并将交付的项目置于合同约定的状态。如果出现缺陷，买方可要求进行重复试验。验收试验后，应编制验收报告。如果验收试验表明设计符合合同要求，且交付物处于完美的运行状态，则无论如何，这应得到合同双方的确认。如果买方或其授权代表在卖方及时通知的情况下未出席验收试验，则验收报告应由卖方签字。在任何情况下，卖方应向买方发送一份验收报告的副本，买方不得再质疑验收报告的正确性，即使其或其授权代表因缺席未能在报告上签字。卖方应承担进行验收报告的费用。在任何情况下，买方应承担其或其授权代表因验收测试而产生的费用，如差旅费、生活费和费用津贴。

8. Warranty保修

8.1 While complying with the agreed terms of payment the Seller shall be obliged, subject to the following provisions, to repair any defect which impairs usability and exists at the time the risk passes and which is due to a defect of the construction, material or workmanship. No warranty claims may be deduced from statements in catalogues, brochures, advertising materials and written or oral statements which have not expressly been included in the contract. The warranty period shall be 12 months and shall commence at the time the risk passes as defined in Clause 6. Work and deliveries subject to warranty shall not extend the warranty period.

8.1 在遵守约定的付款条款的同时，卖方有义务根据以下规定，修复因施工、材料或工艺缺陷而造成的任何损害可用性和风险转移时存在的缺陷。不得从目录、小册子、广告材料和书面或口头声明中未明确包含在合同中的声明中推断保修索赔。保修期应为12个月，并应在第6条规定的风险转移时开始。受保修约束的工程和交付不得延长保修期。

8.2 A warranty claim shall be subject to the provision that the Purchaser has given immediate written notice of the defects that have occurred. The Purchaser shall always prove the existence of a defect without delay and shall, in particular, make available to the Seller the documents and/or data available to the Purchaser. In case a defect subject to warranty as defined in Clause 8.1 exists the Seller shall, at his option,

8.2 保修索赔应符合买方已立即书面通知已发生缺陷的但书。买方应始终毫不迟延地证明存在缺陷，尤其应向卖方提供买方可用的文件和/或数据。如果存在第8.1条规定的保修缺陷，卖方应自行选择，

(a) improve the defective goods or the defective parts at the place of performance,
在履行地点改进缺陷货物或缺陷零件，

(b) have the defective goods or the defective parts sent back to him for improvement,
将有缺陷的货物或有缺陷的零件退回给他进行改进

(c) replace the defective goods or the defective parts,
更换有缺陷的货物或有缺陷的部分

(d) effect a reasonable price reduction, or



实行合理的降价，或

(e) declare cancellation of the contract.

宣布取消合同

8.3 If the Seller has the defective goods or parts sent back to him for improvement or replacement, the Purchaser shall bear the costs and risk of transport. The improved or replaced goods or parts shall be sent back to the Purchaser at the cost and risk of the Seller. For warranty work on the premises of the Purchaser the necessary unskilled staff, lifting devices, scaffolds, sundry supplies, etc. shall be provided free of charge. Replaced parts shall become the property of the Seller.

8.3如果卖方将有缺陷的货物或部件送回卖方进行改进或更换，买方应承担运输费用和风险。改进或更换的货物或部件应送回买方，费用和 risk 由卖方承担。对于买方场所的保修工作，应免费提供必要的非熟练员工、起重设备、脚手架、杂项用品等。更换的部件应成为卖方的财产。

8.4 If goods are manufactured by the Seller on the basis of construction details, drawings, models or other specifications of the Purchaser, the liability of the Seller shall only extend to workmanship in accordance with the terms. The Seller shall be released from any duty to warn, any similar provisions in other general terms and conditions or other applicable statutory provisions.

8.4 如果货物由卖方根据买方的施工细节、图纸、模型或其他规格制造，卖方的责任只应按照国家条款延伸至工艺。卖方应按照其他一般条款和条件的任何类似规定或其他适用的法定规定，解除其警告义务。

8.5 The warranty obligation of the Seller shall only apply to defects which occur while complying with the operating conditions provided for the relevant delivered item and in the case of normal use.

8.5 卖方的保修义务只适用于在符合相关交付物品的操作条件和正常使用时出现的缺陷。

8.6 Warranty shall immediately cease if the Purchaser himself or any third party not authorized by the Seller modifies the delivered items without the written consent of the Seller.

8.6 如果买方本人或未经卖方授权的任何第三方未经卖方书面同意修改交付的物品，则保修应立即停止。

8.7 Assignment of warranty claims for whatsoever legal reason shall not be permissible. The right of recourse as defined in Civil Code shall be excluded.

8.7 不得出于任何法律原因转让保修索赔。应排除《民法典》所界定的追索权。

8.8 The Seller shall be liable for those parts of the goods which the Seller purchased from upstream suppliers only to the extent of the Seller's warranty claims vis-à-vis the upstream supplier.

8.8 卖方只对卖方对上游供应商的保修要求负责，才对卖方从上游供应商处购买的部分货物负责。

8.9 Clauses 8.1 to 8.8 shall apply *mutatis mutandis* to any liability based on other legal



grounds. Any liability of the Seller going beyond that which is determined in these provisions, shall be excluded.

8.9 条款 8.1 至 8.8 应基于其他法律理由对任何责任适用突变突变。卖方超出本规定规定的范围的任何责任均应排除在外。

9. Liability责任

9.1 The Seller shall only be liable within the scope of mandatory law; according to the present legal situation, for intent and gross negligence. Reversal of the burden of proof shall be excluded. Liability for ordinary negligence, compensation for consequential damage, pure pecuniary damage, business interruption, loss of use, savings not made, loss of interest, damage caused by claims of third parties, lost profit or losses regarding contracts shall be excluded.

9.1 卖方只应在强制性法律范围内承担责任：根据目前的法律情况，对于意图和重大过失。应排除举证责任。不包括普通过失赔偿、后果损害赔偿、纯金钱损害赔偿、业务中断、使用损失、未储蓄、利息损失、第三方索赔造成的损害、合同损益损失。

9.2 In the case of non-compliance with any terms of assembly, putting into operation and use (e.g., user manuals) or with any official license terms any damages shall be excluded.

9.2 如果不符合任何装配条款，则应排除投入运行和使用（例如用户手册）或任何官方许可条款的任何损害。

9.3 If contractual penalties are agreed, any claims going beyond the same irrespective of the legal ground shall be excluded.

9.3 如果同意合同处罚，则应排除任何超出相同范围的索赔，而不论其法律理由如何。

9.4 The Seller's liability shall – for any conceivable case and as far as permitted by law – be covered with 30 % (thirty percent) of the specific total Contract Price and shall exclude any claims over and above this on whatever legal grounds.

9.4对于任何可能的情况，并在法律允许的范围内，卖方的责任应包含在具体合同总价的30%（百分之三十）内，且不包括任何基于任何法律理由的超出此范围的索赔。

10. Reasons for Discharge放电原因

10.1 Force Majeure不可抗力

(1) "Force Majeure" means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that that party proves: [a] that such impediment is beyond its reasonable control; and [b] that it could not reasonably have been foreseen at the time of the conclusion of the contract; and [c] that the effects of the impediment could not reasonably have been avoided or overcome by the affected party.

(1) "不可抗力"是指如果该当事方证明：[a] 这种障碍超出其合理控制范围，则阻止或阻碍一方履行合同规定的一项或多项合同义务的事件或情况的发生：[b] 在合同订结时无法合理预见：并且 [c] 受影响方无法合理地避免或克服障碍的影响。

(2) The following events as well as comparable cases fulfil the conditions (a) and (b) under paragraph 1 of this Clause:

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(2) 下列事件以及可比案例符合本条款第 1 段规定的条件 (a) 和 (b) :

(i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilization;

战争 (无论是否宣布)、敌对行动、入侵、外国敌人的行为、广泛的军事动员:

(ii) riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;

暴乱、叛乱和革命、军事或篡夺权力、叛乱、恐怖主义行为、破坏或海盗行为: (iii) currency and trade restriction, embargos, sanctions; 货币和贸易限制、禁运、制裁:

(iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalization;

合法或非合法的权威行为, 遵守任何法律或政府命令, 征用、扣押工程、征用、国有化:

(v) plague, epidemics, pandemics, natural disasters or extreme natural events;

鼠疫、流行病、流行病、自然灾害或极端自然灾害:

(vi) explosions, fire, destruction of equipment, prolonged break-downs of transport, telecommunication, information system or energy;

爆炸、火灾、设备破坏、运输、电信、信息系统或能源长期中断:

(vii) general labor disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises;

一般劳工骚乱, 如抵制、罢工和封锁、慢行、占领工厂和房舍:

(viii) new enacted laws and regulations;

新颁布的法律和条例

(ix) IT failures;

IT 故障

(x) resource scarcity;

资源短缺

(xi) defective services of third parties

第三方服务有缺陷

(3) The Seller is relieved from its duty to perform its obligations under the contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform. If the duration of the event exceeds 180 days, the contracting parties will try together to negotiate a settlement.

(3) 卖方从妨碍履行义务时起, 免除其履行合同义务的义务、任何损害赔偿责任或任何其他违约合同补救。如果活动持续时间超过180天, 缔约各方将共同协商解决。

10.2 Other Reasons for Discharge 其他放电原因

(1) A party to a contract is bound to perform its contractual duties even if events have rendered performance more onerous than could reasonably have been anticipated at the time of the conclusion of the contract.

(1) 合同的当事方必须履行其合同义务, 即使事件使履行比合同订结时合理预期的更加繁重。

(2) Notwithstanding paragraph 1 of this Clause, paragraph 3 below applies if the Seller proves that:

(2) 尽管有本条款第1款, 但如果卖方证明:

(a) the continued performance of its contractual duties has become excessively onerous due



to an event beyond its reasonable control which it could not reasonably have been expected to have taken into account at the time of the conclusion of the contract; and that
由于超出其合理控制范围的事件，其继续履行合同义务变得过于繁重，而在签订合同时，其无法合理预期该事件已被考虑在内；那

(b) it could not reasonably have avoided or overcome the event or its consequences.

The parties are bound, within a reasonable time of the invocation of this Clause, to negotiate alternative contractual terms which reasonably allow to overcome the consequences of the event.

它不可能合理地避免或克服该事件或其后果。

在援引本条款的合理时间内，双方有义务协商替代合同条款，以合理地克服事件的后果。

(3) Judge adapt or terminate

(3) 法官调整或终止

Where paragraph 2 of this Clause applies, but where the parties have been unable to agree alternative contractual terms as provided for in that paragraph, the Seller is entitled

1. to request the judge or arbitrator to adapt the contract with a view to restoring its equilibrium, or

2. to terminate the contract, as appropriate.

如果本条款第2款适用，但当事各方未能商定该款规定的替代合同条款，卖方有权

1. 要求法官或仲裁员调整合同，以恢复其平衡，或

2. 酌情终止合同。

11. Rescission解除

11.1 Independent of his other rights the Seller shall be entitled to rescind the contract if
除其他权利外，卖方有权在下列情况下解除合同：

(a) concerns have arisen regarding the Purchaser's solvency and the Purchaser neither makes an agreed advance payment upon the Seller's request nor furnishes agreed suitable security prior to delivery, or

出现了买方偿付能力的担忧，且买方既没有根据卖方的要求支付约定的预付款，也没有在交付前提供约定的适当担保，或

(b) bankruptcy proceedings are opened over the assets of the Purchaser or a petition for the opening of such proceedings is dismissed for lack of sufficient assets to cover the costs or if the conditions for opening such proceedings or dismissal of such a petition are fulfilled or if the Purchaser has discontinued his payments.

对买方的资产提起破产程序，或因缺乏足够的资产来支付费用或满足启动此类诉讼或驳回此类申请的条件或买方已停止付款而驳回启动此类诉讼的请求。

11.2 Rescission of contract may also be declared with regard to an outstanding portion of the delivery or performance for the above reasons.

11.2 出于上述原因，还可宣布对交付或履行的未清部分合同的撤销。

11.3 Notwithstanding the Seller's claims for damages, in the event of a rescission of contract services or partial services already rendered shall be invoiced and shall be payable. This shall also apply if the delivery or service has not been taken over by the Purchaser and/or to preparatory action already rendered by the Seller. Instead, the Seller shall have the right to demand that items which have already been delivered be returned.



11.3 尽管卖方要求赔偿损失，但如果合同服务或已经提供的部分服务被撤销，应开具发票，并应支付。如果付款人没有接管交付或服务，以及/或卖方已经采取的准备行动，这也适用。相反，卖方有权要求退还已交付的物品。

11.4 Other consequences of rescission shall be excluded.

11.4 除外，还应排除其他撤销的后果。

12. Proprietary Rights and Confidentiality 专有权利和保密

12.1 If goods are manufactured by the Seller on the basis of construction details, drawings, models or other specifications of the Purchaser, the Purchaser shall indemnify and hold the Seller harmless with regard to an infringement, if any, of proprietary rights of third parties.

12.1 如果货物是由卖方根据买方的建造细节、图纸、模型或其他规格制造的，买方应赔偿并持有卖方对侵犯第三方专有权利的损害（如果有的话）。

12.2 The Seller reserves any and all rights to the drafts, offers, projects and pertaining drawings, illustrations, descriptions/specifications, etc. used by him. These documents may not be utilized by the Purchaser in a way going beyond the contents of the contract, even if they do not originate from the Seller. In particular, they may not be reproduced or made accessible to third parties. Upon request of the Seller they shall be returned to him by the Purchaser without delay. The contracting parties shall be obliged to immediately inform each other of any infringement risks and alleged cases of infringement which become known and to give each other the opportunity to defend relevant claims by mutual consent.

12.2 卖方保留他使用的草稿、要约、项目和有关图纸、插图、说明/规格等的任何和所有权利。购买者不得以超出合同内容的方式使用这些文件，即使它们并非来自卖方。特别是，它们不得被复制或提供给第三方。应卖方的要求，买方应立即将它们退还给他。缔约双方应有义务立即将已知的任何侵权风险和指称的侵权案件告知对方，并给予对方机会，在双方同意下为相关索赔进行辩护。

12.3 The Purchaser shall be obliged to treat as a business secret all commercial and technical details which are not obvious and of which he obtains knowledge from the business relation with the Seller.

12.3 买方有义务将所有不明显、从与卖方的业务关系中获取知识的商业和技术细节视为商业秘密。

13. General Provisions 一般规定

13.1 If any provision of these Terms and Conditions and of additional agreements concluded is or becomes ineffective, the effectiveness of the remaining contract shall not be affected thereby. The contracting parties shall be obliged to replace the ineffective provision by a provision which comes as close as possible to its economic success.

13.1 如果本条款和条件的任何规定以及所缔结的其他协议已经或变得无效，则剩余合同的效力不应因此受到影响。缔约方应有义务以尽可能接近其经济成功的条款取代无效条款。

13.2 All disputes arising out of or in connection with this contract shall be finally settled



according to the Rules of Arbitration of the International Chamber of Commerce (Paris) by one or more arbitrator(s) appointed in accordance with the said Rules. The place of arbitration shall be Shanghai, and all disputes shall be governed by the Civil Code of the people's Republic of China. The language of the arbitration proceedings shall be English.

13.2 合同争议或与本合同有关的所有争议，由《国际商会仲裁规则》（巴黎）规则指定的一名或多名仲裁员根据最终解决。仲裁地点为上海，争议适用中华人民共和国《民法典》。仲裁程序的语言为英语。

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