



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仅受本条款和条件以及其它协议的约束。修改和修订应以书面形式进行。即使在没有明确反对的情况下，其他一般条款和条件也不适用。下列有关交货的规定经比照也适用于服务。

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 卖方的报价不具约束力。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权威性。当卖方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 所有报价以及项目文件，特别是计划、草图、成本估算、其他技术资料、报价节选、样品、小册子、插图、价目表等始终为卖方所有。任何使用、复制、翻印、分发和移交给第三方、出版和散播只能由卖方负责。

只有在卖方明确同意的情况下，方可进行任何使用、复制、翻印、分发以及交给第三方、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 卖方的宣传册、价目表、报价单或项目文件或其他文件中的任何错误均可由卖方更正，卖方不承担因这些错误造成的任何损失。

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 价格适用于卖方工厂交货，不包括包装、装载、保险、进出口关税和增值税。如果已商定将货物运送至最终目的地，则价格不包括卸货和进一步运输的费用。包装材料只有在明确商定的情况下才能收回。

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 一旦卖方书面确认报价并说明交货范围，报价即具有约束力。超出此供货范围的供货卖方可另行开具发票。

3.3 In case of repair orders those services shall be rendered which are deemed expedient by the Seller and shall be invoiced according

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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 在维修订单的情况下，卖方应提供其认为适宜的服务，并应根据实际发生的费用或时间开具发票。这也适用于在履行订单过程中才发现有必要提供的服务和附加服务，在这方面无需另行通知买方。

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 发票金额应在发票开具后14天内以约定货币支付给卖方的指定的银行，且不得扣除任何费用。卖方可以支配所付款金额时，视为付款完成。给予折扣或奖金的条件是及时支付全额货款。

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 货款的三分之一应在收到订单确认书时支付，然后三分之一应在交货期过半时支付，余额应在发货前支付。在部分发票的情况下，付款应在收到相应发票时支付。这也适用于因后续交货或其他协议而产生的超出最初最终总额的结算金额，无论主要交货商定的付款条件如何。

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 合同双方可商定，买方通过其银行（或卖方可接受的其它银行）开具跟单信用证。在这种情况下，信用证的开具应符合国际商会第500号《跟单信用证统一惯例》的规定，以签订协议时适用的版本为准。

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 买方无权因保修索赔或其他任何形式的索赔而扣留货款，也无权将其与反索赔相抵消。

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

如果买方拖欠付款或其他不履约行为，卖方可以在不损害其权利的情况下，坚持履行合同以及

(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约定方式履行；

(b) make use of an adequate extension of the delivery period,

要求合理延长交货期

(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.

催收本交易及其他交易项目下的全部未付货款，并自相关到期日起按中国银行同期基准利率上浮8%的年利率计收违约金，或解除合同，不给予宽限期。在此情况下，买方应按照卖方的要求将已交付的货物退还给卖方，并赔偿货物贬值的损失，同时偿还卖方为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部件，并要求支付相关部分的款额。

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

4.6 买方应向卖方偿付所有合理的催款费用、法律顾问费用和其他追偿费用。

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,

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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 卖方保留对其交付的所有货物的所有权，直至买方全额支付货款及利息和附加费用。这受制于买方所在地的法律依据以及其之前的交易条款。通过将卖方的货物与其他材料进行加工、组合或混合，卖方应根据增值份额获得所产生产品的共同所有权。

5. Delivery 交货

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

交货期从以下日期开始计算：

(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,

买方满足所有技术、商业和财务要求的日期，

(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 如果由于卖方方面发生的情况导致交货延迟，并构成第10条规定的解除责任的理由，则应允许合理延长交货期。

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 如果卖方对延迟交货负有明显责任，买方可以要求履行合同或在设定合理的宽限期后撤销合同。

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 如果由于卖方的过错，第 5.4 点规定的宽限期明显未被利用，则买方可以通过书面通知撤销与所有尚未交付货物有关的合同。这同样适用于已经交付但在没有未交付货物的情况下无法以适当方式使用的货物。在没有未交付货物的情况下，买方有权要求退还未交付货物或无法使用货物的货款。

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 如果卖方没有在合同约定地点或时间按照合同提供货物，而且该延迟交货明显不是由卖方的行为或疏忽造成的，卖方可以要求履行合同或撤销合同，而无需设定宽限期。如果货物被隔离，卖方可以储存货物，费用和 risk 由买方承担。卖方还有权要求偿还为履行合同而支付的所有合理费用，这些费用不包括在已收到的付款中。

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 点提及的因卖方违约导致的索赔外，买方对卖方的其他索赔均被排除在外。

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，在跨境运输和非跨境运输中，风险转移的时间应根据 Incoterms 2020 条款确定。如果未有约定协议，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.

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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 Purchase 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。验收试验应在产地/或卖方正常营业时间指定地点进行。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或由授权人代表。如果在验收测试过程中证明交付的产品有缺陷，卖方应立即按照合同约定修复涉及缺陷。在该情况下，买方可要求进行再次试验。验收试验后，应编写验收报告。如果验收试验表明产品设计符合合同要求，且交付的产品处于完好的运行状态，这应被合同双方确认。如果买方或其授权代表在卖方已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、住宿费以及其它费用津贴。

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 在遵循双方商定的付款条件的同时，根据以下规定，卖方有义务修理任何在风险转移时存在的、由于设计、材料或工艺缺陷造成的并影响可用性的缺陷。目录、宣传册、广告材料以及未明确纳入合同的书面或口头陈述，均不得作为保修索赔的依据。保修期为 12 个月，自第 6 条规定的风险转移时开始计算。保修范围内的工作和交付不会延长保修期。

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 保修索赔的前提条件是买方已立即书面通知已发生的缺陷。买方应及时证明缺陷的存在，尤其应向卖方提供买方可获得的文件和/或数据。如果存在第 8.1 条中定义的保修缺陷，卖方应自行决定。

(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.

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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 risk。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，应免费提供必要的工作人员、起重设备、脚手架、杂项用品等。更换的部件归卖方所有。

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结构细节、图纸、模型或其他指定规格制造，卖方的责任仅限于按照约定执行。卖方不受任何警告义务或类似规定或其他适用法律规定的约束。

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 卖方的保修义务仅适用于在符合相应交付货物的操作条件和正常使用过程中出现的缺陷。

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。《民法典》中所界定的追偿权被排除在外。

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 对于卖方从上游供应商处购买的货物部分，仅在卖方对上游供应商的保修要求范围内承担责任。

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 应比照适用于其他法律依据的其它任何责任。除本条款规定的责任外，卖方不承担任何其他责任。

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 根据现行法律规定，卖方仅在强制性法律范围内对故意和重大过失承担责任。举证责任倒置应排除在外。一般过失、间接损失赔偿、纯金钱损失、业务中断、使用损失、未实现的储蓄、利息损失、第三方索赔造成的损失、利润损失或合同损失的责任应予排除。

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 在不符合安装、调试和使用条件（如操作说明书）或官方授权条件的情况下，则不在赔偿之列。

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

9.3 如果约定了合同罚金，则无论法律依据如何，任何超出合同罚金的索赔均应排除在外。

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 义务免除

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

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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"系指发生阻止或妨碍当事人履行合同规定的一项或多项合同义务的事件或情况, 条件是该当事人能够证明。(a) 该事件超出了其合理的控制和影响范围; (b) 该事件在订立合同时是无法预见的, 条件是该当事人能够证明(c) 受影响方无法避免或克服该事件的影响。

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

(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 (无论宣战与否)、敌对行动、入侵、外敌行为、大规模军事动员;

(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;

主权措施 (无论合法与否)、遵守法律或官方命令、征用、没收、国有化;

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

瘟疫、流行病、大流行病、传染病、自然灾害或极端自然事件;

(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) 自障碍导致无法履约之时起, 卖方即被免除履行合同义务的责任, 以及任何损害赔偿责任或任何其他违约补救措施。如果事件持续时间超过 180 天, 合同双方将努力协商解决。

10.2 Other Reasons for Discharge 其他义务免除

(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) 合同方有义务履行其合同义务, 即使发生的事件使履行义务的繁重程度超出了订立合同时的合理预期。

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

(2) 尽管有本条第 1 款的规定, 但如果卖方证明以下情况, 则适用下文第 3 款:

(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

(a) 由于发生了超出其合理控制范围的事件, 致使继续履行合同义务变得过于繁重, 而在订立合同时又不能合理地预期其已将该事件考虑在内; 且

(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。在这种情况下, 双方有义务在事件发生后的合理期限内, 通过谈判达成替代性合同条款, 以便有可能在不造成过重负担的情况下, 适当克服事件的后果。

(3) Judge adapt or terminate

(3) 法官调停或终止合同

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

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2. to terminate the contract, as appropriate.

在适用于本条款第二条的情况下，双方当事人无法根据本款约定其他合同条款，卖方有权

1. 要求法官或仲裁员调整合同，以恢复双方合同履行的相称性，或
2. 或者，终止合同

11. Rescission 解约

11.1 Independent of his other rights the Seller shall be entitled to rescind the contract if

在下列情况下，卖方有权解除合同，且不受其他权利的限制：

(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

对买方的偿付能力产生担忧，且买方既未按卖方要求支付约定的预付款，也未在交货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.

针对买方资产启动破产程序，或因缺乏资产支付费用而拒绝启动此类程序的申请，或存在启动此类程序或拒绝此类申请的先决条件，或买方已停止付款。

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，也可宣布对已交付或履约中尚未完成的部分解除合同。

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 尽管卖方要求损害赔偿，但在解除合同的情况下，已提供的服务或部分服务应开具发票并应予以支付。这也适用于买方尚未接收的交货或服务或/或卖方已经提供的准备工作。相反，卖方有权要求退还已经交付的物品。

11.4 Other consequences of rescission shall be excluded.

11.4 撤销的其他后果应予排除。

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 如果货物是卖方根据买方的设计数据、图纸、模型或其他规格制造的，则在发生任何侵犯第三方财产权的情况时，买方应赔偿卖方并使其免受损害。

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 卖方保留对其使用的草案、报价、项目和相关图纸、图像、说明等的所有权利。

买方不得以任何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。尤其不得

复制或提供给第三方。在卖方提出要求后，买方应立即将其归还卖方。合同双方有义务立即通知对方任何已知的侵权风险和涉嫌侵权案件，并给予对方在双方同意的情况下为相关索赔进行辩护的机会。

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 买方有义务将通过与卖方的业务关系而获知的不属于公共领域的所有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

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有义务以尽可能符合其经济效益的条款而取代无效条款。

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。

14. DATA PRIVACY STATEMENT 数据隐私声明

14.1 For the purpose of concluding and executing the contract, LINSINGER Maschinenbau Gesellschaft m. b. H. processes the following personal data of those persons who have been disclosed by the contractual partner for the purpose of implementation of the contract: Company name, address, phone number, e-mail, fax, company register data, VAT number, bank details, salutation, name of the contact person, department / function of the contact person, telephone/ e-mail of the contact person, etc. as well as any information that can be assigned to these companies about the contractual service and the billing of this service.

14.1 目的在于签订和执行合同，LINSINGER 会处理以下信息，即合同方为执行合同而被披露的个人信息：公司名称、地址、电话、电子邮件、传真、公司注册数据、公司名称、地址、电话、电子邮件、传真、公司注册数据、增值税号、银行详情、职称、联系人姓名、联系人部门/职能、联系人电话号码/电子邮件地址等，以及（如适用）与这些公司的合同关系信息，有关合同服务和发票的信息。

14.2 The data provided by the contractual partner is required for the fulfilment of the contract. Without these data LINSINGER Maschinenbau Gesellschaft m. b. H. cannot conclude the contract with the contractual partner.

合同方提供的数据是履行合同所必需的。没有这些数据，LINSINGER Maschinenbau Gesellschaft m.b.H. 无法与合同方签订合同。

14.3 The legal basis for data processing is the fulfilment of the present contract in accordance with Art. 6 para. 1 lit. b GDPR.

14.3 数据处理的法律依据是根据本合同第 6 条第 6 款。

14.4 This personal data is stored for the duration of the ongoing contractual relationship and only as long as there are legal obligations or legitimate interests (e.g. to fulfil legal obligations to retain data or to assert legal claims).

14.4 这些个人数据的保存期限为合同关系存续期间，且仅在有法律义务或合法利益（如履行保留数据的法律义务或主张法律索赔）时才会被保存。

例如，履行保留数据的法律义务或提出法律索赔）。

14.5 This personal data is only transferred to third parties if this is necessary for contract execution, if is based on a legal foundation, if there is a legitimate interest in the business execution of involved third parties or if it is necessary for asserting or defending legal claims. The data of the contractual partner could be passed on to the following recipients if this is mandatory: Banks, legal representatives (in the enforcement of rights or defence of claims or in the context of administrative proceedings), accountants, courts, administrative authorities, debt collection companies, outside financing providers (e.g. leasing), cooperating contract and business partners (shipping service providers, transport companies), insurance companies, providers (IT service providers), etc.

14.5 只有在以下情况下，方可进行个人数据转让给第三方：合同执行所必需；有法律依据；涉及第三方业务执行的合法权益，或为维护或捍卫法律索赔所必需。合同方的数据可能会如果是强制性的，可以将合同方的数据传递给以下接收方：银行、法律代表（在行使权利或进行索赔辩护时，或在行政诉讼中会计师、法院、行政机关、债务追收公司、外部融资提供商（如租赁）、合同和业务合作伙伴（航运服务提供商合同和业务合作伙伴（航运服务供应商、运输公司）、保险公司、供应商（IT 服务供应商）等。

14.6 In accordance with the legal provisions, you have the right to disclosure for the data concerning you, to correction, deletion, restriction of processing, data transferability and objection to the processing of your personal data as well as the right to lodge a complaint with the supervisory authority. In Austria, this is the Data Protection Authority ("Datenschutzbehörde").

根据法律规定，您有权披露与您有关的数据，有权更正、删除、限制处理、数据可转移性、反对处理您的个人数据，并有权向监管机构投诉。奥地利的数据保护局（"Datenschutzbehörde"）

14.7 The contact details of the Controller can be found in the data protection statement at the LINSINGER website.

14.7 在林辛格网站的数据保护声明中可以找到控制方的详细联系方式。

15. COMPLIANCE WITH EXPORT CONTROL REGULATIONS 遵守出口管制条例

15.1 The Seller's obligation to fulfil the agreement is subject to the proviso that the fulfilment is not prevented by any impediments arising out of national and international foreign trade and customs requirements or any embargos or sanctions.

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15.1 卖方履行协议的义务受以下条件的限制：履行协议不因国家和国际外贸和海关要求或任何禁运或制裁而受到阻碍-09。

15.2 The Purchaser undertakes to comply with all applicable provisions of national and international (re-)export control regulations (including, but not limited of Austria, the European Union and the United States of America) when transferring the products delivered by the Seller (and the related documentation, irrespective of the manner in which they are made available) or the works and services provided by the Seller (including technical support) to third parties.

15.2 买方承诺在向第三方转让卖方交付的产品（及相关文件，无论以何种方式提供）或卖方提供的产品和服务（包括技术支持）时，遵守国家（再）出口管制法规（包括但不限于奥地利、欧盟和美国）的所有适用规定。

15.3 Prior to any such transfer to a third party the Purchaser shall in particular check and guarantee by appropriate measures that

15.3 在向第三方进行任何此类转让之前，买方应特别检查并采取适当措施保证

- there will be no infringement of an embargo imposed by the European Union, by the United States of America and/or by the United Nations by such transfer or by provision of other economic resources in connection with products provided by the Seller, also considering the limitations of domestic business and prohibitions of by-passing those embargos;
不违反欧盟、美利坚合众国和/或联合国实施的禁运。
卖方提供的产品不会因这种转让或提供其他经济资源而违反欧盟、美国和/或联合国实施的禁运，同时还考虑到国内业务的限制和禁止绕过这些禁运的规定。考虑到国内业务的限制和禁止绕过这些禁运；
- such products provided by the Seller are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
卖方提供的此类产品无意用于与军备、核技术或武器有关的用途，如果此类用途受到禁止或授权，除非获得必要的授权；
- the regulations of all applicable Sanctioned Party Lists of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered.
考虑欧盟和美国所有适用的《受制裁方名单》中有关与名单所列实体、个人和组织进行贸易的规定。

15.4 If required to enable authorities or the Seller to conduct export control checks, the Purchaser shall promptly provide the Seller with all information pertaining to the final end-user, the final destination and the intended use of the delivered products or word and services performed by the Seller as well as any existing export control restrictions.

15.4 如果当局或卖方需要进行出口控制检查，买方应及时向卖方提供有关最终用户、最终目的地、所交付产品的预期用途以及任何现有的出口管制限制条例。

15.5 The Purchaser shall indemnify and hold harmless the Seller from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by the Purchaser and the Purchaser shall compensate the Seller for all losses and expenses resulting thereof.

15.5 对于因买方不遵守出口管制法规而引起或与之相关的任何索赔、诉讼、罚款、损失、费用和损害，买方应向卖方赔偿由此造成的所有损失和费用。