

## 1. INTERPRETATION

### 1、名词解释

“Business Day” means any day except a Saturday, Sunday, or a PRC public or bank holiday; “Contract” means any contract with Purchaser for the sale of Goods by Seller, incorporating these Terms and Conditions; “Goods” means the goods agreed in the Contract to be sold; “PRC” means the People’s Republic of China, which for the purpose of these Terms and Conditions, excludes Hong Kong and Macau Special Administrative Regions and Taiwan; “Specifications” means the physical dimensions and other specifications for the Goods set forth in an exhibit to the Contract. Each provision of these Terms and Conditions is to be constructed as a separate provision applying and surviving even if one or other of them is held void or unenforceable.

“交易日”指的是除了星期六、星期天以及中国的国定假日和银行节假日以外的任何一天；“合同”指的是卖方为出售货物而与买方达成的并且并入本条款与条件之中的任何合约；“货物”指的是在合同中约定的进行出售的货物；“中国”指的是中华人民共和国，并且在在本条款与条件项下，不包括香港特别行政区、澳门特别行政区和台湾地区。“技术规格”指的是合同附件中规定的货物外型尺寸和其他技术规格。本条款与条件中的每一条规定均应当被视为独立于其他规定，其中的任何一条或几条无效或不可执行的，其余部分仍然有效。

## 2. ACCEPTANCE AND VARIATION

### 2、接受与修改

These Terms and Conditions apply to all Contracts for the sale of Goods by Seller and supersede any other terms or conditions stipulated or referred to by Purchaser. Neither the Contract nor the Purchase Order may be modified orally. Any modification must be in writing signed by Seller.

本条款与条件适用于卖方为出售货物而签订的所有合同，用以取代买方规定或引用的任何其他条款与条件。无论是合同还是采购订单，都不得以口头方式进行修改。如果需要做任何修订，均必须经过卖方书面签字同意。

## 3. ORDERS, CANCELLATION OR VARIATION

### 3、订单、取消或修改

3.1 Any catalogues, brochures, price-lists and communications cannot be considered as offers and are provided without any commitment from Seller, unless otherwise explicitly agreed in writing. Subject to clause 4 below, the acceptance of a purchase order (the “Purchase Order”) shall become effective upon Purchaser’s receipt from Seller of either the written confirmation of the Purchase Order, the invoice or the delivery note (whichever is the earlier).

3.1 任何产品目录、手册、价格表和通信均不得被视为卖方的报价，也不得被视为卖方做出的任何承诺，但另有明确书面协议的情况除外。根据下文第 4 条的规定，采购订单（“采购订单”）被正式接受的时间应当为买方收到卖方的书面确认书，表明卖方已收到采购订单、发票或交货单（以最先收到的时间为准）之时。

3.2 No Purchase Order may be cancelled or varied without written consent of Seller. If Purchaser purports to cancel or vary the Purchase Order without such consent or refuse to accept delivery and at the time the market price of any item purchased by Seller for the execution of the Purchase Order is lower than the price at which Seller acquired it, then, without prejudice to any other rights, Seller will be entitled to: (i) charge Purchaser the difference, and (ii) charge Purchaser the full cost of manufacture incurred by Seller up to that date of any Goods manufactured to the Purchase Order, including the costs of all items ordered, supplied or manufactured specifically for execution of the Purchase Order. Seller will be entitled to store the Goods at Purchaser’s cost and to dispose of the Goods as Seller sees fit to any third party. If work on a Purchase Order is suspended because of Purchaser’s instructions or lack of instructions, Seller reserves the right to treat this as a cancellation by Purchaser and this clause 3.2 will apply.

3.2 未经卖方书面同意，不得取消或修改任何采购订单。如果买方意在未获得此类同意的情况下取消或修改采购订单，或者拒绝接受到货，或者卖方为执行采购订单而购买任何产品时的市场价格低于卖方获得的价格，那么，在不影响任何其他权利的情况下，卖方将有权：(i) 向买方收取差价；并且 (ii) 向买方收取全部制造成本，此处的制造成本应发生在卖方根据采购订单而生产出任何货物的日期之前，包括为执行采购订单而特别订购、供应或制造的所有货物的成本。卖方将有权储存货物，储存成本由买方承担；卖方还有权按照其认为合

适的方式将货物处理给任何第三方。如果因买方的使用说明或者因买方未提供使用说明而导致采购订单工作被迫暂停，那么卖方有权据此认为买方已取消订单，这种情况下，本第 3.2 条规定将适用。

3.3 Seller will be entitled to cancel the Purchase Order by written notice and to suspend deliveries without prejudice to any other Terms and Conditions herein or any other rights if: (i) Purchaser goes into liquidation or are otherwise insolvent; (ii) there has been an administration order made against Purchaser; (iii) a distress or execution is levied or enforced upon any of Purchaser's assets and is not paid out or discharged within fourteen (14) days; (iv) an encumbrancer takes possession of or a receiver is appointed over Purchaser's undertaking, property or assets; (v) Purchaser stops payment or ceases or threatens to cease to carry on its business or to pay its debts as and when they fall due; or (vi) if any equivalent thing happens in any jurisdiction.

3.3 在下述情形下，卖方将有权书面通知取消采购订单，并且在不影响本文任何其他条款与条件的情况下，暂停交货：（i）买方进入清算程序或者无力偿还债务的；（ii）买方已收到对其财产的管理令的；（iii）买方的任何资产被实行或强制执行扣押或执行令状，并且在十四（14）天时间之内未对此类扣押或执行令状进行付款或清偿；（iv）买方的业务、财产或资产归一名不动产权益人占有，或者已就买方的业务、财产或资产指定了一名管理人；（v）买方停止付款，或者终止或威胁要终止开展业务，或者终止或威胁要终止支付到期债务；或者（vi）在任何管辖权限范围内发生了任何等效的情况。

#### 4. AVAILABILITY

##### 4、可用性

Acceptance of Purchase Orders and completion of Contracts are subject to such: (i) materials, components and services (including supplies from sub-contractors, including sub-contractor(s) nominated by Purchaser whereby Purchaser will also procure timely performance of such nominated sub-contractor(s)), Specifications, information and other material, being available or being made available to Seller as will enable Seller to proceed with and/or complete the Contract and to continue manufacture without interruption and (ii) delays caused by third party Contractors nominated by Purchaser.

接受采购订单以及完成合同将受到以下因素的影响：（i）卖方可以使用或者已经向卖方提供了材料、成分和服务（包括由分包商提供的物资，如果分包商由买方指定，则买方还需要确保此类指定的分包商将按时履行其职责），以及技术规格、信息和其他材料，以使卖方能够继续执行和/或完成合同，并且继续生产，不受任何干扰；以及（ii）买方指定的第三方承包商造成了任何延误。

#### 5. PRICES AND TAXES

##### 5、价格与税费

5.1 Seller will be entitled to take into account fluctuations in the costs and revise the prices before despatch of the Goods. Where the Contract provides for separate deliveries, Seller will be entitled to take cost fluctuations into account up to the date of despatch of each delivery. Goods containing Gold or Silver will be charged at prices based on the next available market fixing following the receipt of the Purchase Order, or on a subsequent date at Seller's discretion. Goods containing Platinum Group Metals and/or metals other than Gold or Silver will be charged by reference to the average London PM price for Platinum Group Metals by reference to the JM Base Price (which, at the date of these terms is stated on <http://www.platinum.matthey.com>) or as otherwise agreed in writing between the parties.

5.1 卖方将有权将成本的波动考虑在内，并且在发货之前对价格进行修改。如果合同中规定了分别发货，那么卖方将有权将截至每次发货日期的成本波动考虑在内。货物中含有金、银的，其价格将按照收到采购订单之后或者在卖方选择后续日期的下一个可用市场定价来收取。货物中含有铂族金属和/或除金、银之外的其他金属的，其价格将参照伦敦铂族金属下午价的平均值或者参照庄信万丰基准价格（关于本条款生效之日的庄信万丰基准价格，请参见 <http://www.platinum.matthey.com>）来收取，也可以根据双方当事人另行书面约定的费率来收取。

5.2 Freight and insurance will be charged at rates ruling on the day of despatch of the Goods.

5.2 运费和保险费将按照发货当天适用的费率来收取。

5.3 The price will be exclusive of any value-added, sales, excise, customs or other tax or duty payable, which shall be paid by Purchaser in addition to the price. Any customs duties or other charges, fines or assessments on importation shall be borne by Purchaser.

5.3 价格中不包含任何增值税、销售税、消费税、海关税或其他应付的税款或关税，这些税项将在价格的基础上由买方另外支付。与进口相关的任何海关税或其他收费、罚款或估价，均应当由买方承担。

5.4 If Purchaser is required by law to make a deduction, withholding or payment (together “**Deduction**”) on account of tax or otherwise, from any amount payable by Purchaser under the Contract, then the amount so payable is to be increased to the extent necessary to ensure that, after the making of such Deduction, Seller shall receive and retain (free from any liability in respect of that deduction) a net amount equal to the amount which Seller would have received and so retained had no such Deduction has been made.

5.4 如果法律要求买方从其在合同项下的应付款项中扣除、扣留或支付（统称为“**扣除**”）任何税费或其他费用，那么此类应付款金额应提高至所需的程度，以确保在进行此类扣除之后，卖方得到和保留（不因扣除而承担任何责任）的净额能够与没有进行此类扣除之前卖方应当收到的金额相等。

## 6. QUANTITIES

### 6、数量

Seller will use reasonable efforts to supply the exact quantity of Goods ordered, but Purchaser agrees to accept against any Purchase Order a variation of up to five per cent (5%) of the quantity ordered. Purchaser will be invoiced for the quantity actually delivered which will be stated on the invoice..

卖方应当尽其合理的努力，确保所提供的货物完全符合订单中要求的数量。但是，卖方所提供货物的数量在订购货物数量上下百分之五（5%）范围内的，买方同意按照采购订单接受货物。买方将按照实际交付的货物数量开具发票。

## 7. PACKING, DESPATCH AND DELIVERY

### 7、包装、发货与交货

7.1 Packing is non-returnable, unless otherwise agreed by Seller. Purchaser shall be responsible for the safe and proper disposal of non-returnable packing. Where Purchaser is allowed to return the packing, it shall be returned at Purchaser's cost and risk and shall be clean, empty, securely closed and in good condition.

7.1 除非卖方另外同意，否则包装不能退还。买方应当负责安全、妥善地处理不能退还的包装。允许买方退还包装的，退还的包装应当清洁、没有任何内容物、盖严并且状态良好。

7.2 Seller will use all reasonable efforts to meet the delivery forecasts but these are estimates only. Time for delivery shall not be of the essence and reasonable variations from originally agreed upon times will be accepted by Purchaser. A breach affecting any one delivery will not affect any other. A delay in delivery will not give Purchaser the right not to comply with its obligations under the Contract. Seller will not be liable for loss arising from delay in delivery due to strikes, differences with workers, accidents to the machinery, delays of carriers, fires, Acts of God or a public enemy, or other causes of delay beyond its reasonable control. The original delivery date will also be directly extended by any delays due to awaiting drawing approval, temporary work suspension requests, permitted changes by Purchaser, or delay or defect in supply of raw materials or components to be provided by Purchaser.

7.2 卖方将尽其一切合理的努力来达到交货预期，但这些预期仅为估计值。交货的时间并不是非常重要，对原先达成的交付时间做出合理调整的，买方也将接受。任何违约行为对某一次交付产生影响的，对任何其他交付没有任何影响。发生延迟交付的，买方没有权利拒绝履行其在合同项下的义务。因罢工、劳动者差异、机械事故、承运人延误、火灾、自然灾害或公敌，或者不受卖方合理控制的任何其他原因而造成交付延迟的，卖方对由此而产生的一切损失概不承担任何责任。因等待图纸被批准、请求临时暂停工作、买方允许做出变更或者由买方提供的原材料或成分存在任何延迟或缺陷等原因，造成交付发生任何延迟的，原先约定的交货日期还可以自动顺延。

7.3 Seller will be entitled without prejudice to any other remedy to withhold delivery of any Goods if: (i) any amount is overdue in respect of any invoice issued by Seller or any other Johnson Matthey group company, or (ii) on the invoicing of the Goods, Purchaser's credit limit (if any) either with Seller or with any other Johnson Matthey group company would be exceeded. In determining Purchaser's credit limit the aggregate invoice value of all invoices issued by Seller or any other Johnson Matthey group company which are outstanding, including unpaid accounts, will be taken into account.

7.3 如果发生以下情形，卖方有权在不损害任何其他补救措施的前提下拒绝交付任何货物：（i）由卖方或任何其他庄信万丰集团公司开具的任何发票项下的任何金额已逾期；或者（ii）在开具货物发票时，买方在卖方或者在任何其他庄信万丰集团公司所享有的信贷额度（若有）已超标。在确定买方的信贷额度时，对于由卖方或者任何其他庄信万丰集团公司开具的所有发票，凡是发票金额尚未偿还的，其相应的发票总金额，包括未付的账款，均将被考虑在内。

7.4 If for any reason Purchaser will not accept delivery of any of the Goods when they are ready for delivery, or Seller is not able to deliver the Goods on time because Purchaser has not provided the appropriate instructions, documents, licences or authorisations: (i) risk in the Goods will pass to Purchaser; (ii) the Goods will be deemed to have been delivered; and (iii) Seller may store the Goods until delivery whereupon Purchaser will be liable for all related losses, costs and expenses (including, without limitation, storage and insurance). Alternatively, and/or additionally at Seller's option, Seller may dispose of the Goods elsewhere and any losses accruing to Seller shall be borne by Purchaser.

7.4 如果因任何原因导致买方在货物准备好交付时不接受收取任何货物，或者因买方未能提供适当的说明书、文件、许可证或者授权书而导致卖方无法按时交付货物的，那么：（i）货物风险将转移给买方；（ii）货物将被视为已交付；并且（iii）在交付之前，卖方可以储存货物，由此产生的一切相关损失、成本和费用（包括但不限于仓储费和保险费），一律由买方承担。另外，和/或者根据卖方的决定，卖方可以在其他地方处置货物，卖方因此产生的任何损失，均应由买方承担。

## 8. RISK

### 8、风险

Without prejudice to any of the foregoing, risk in the Goods will pass to Purchaser on delivery. Trade terms (such as CIF and FOB) will be interpreted according to Incoterms 2010 published by the International Chamber of Commerce as amended from time to time.

尽管有上述规定，货物的风险在完成交付之时即转移给买方。相关贸易术语（例如 CIF、FOB 等），均应按照国际商会不时修订的《国际贸易术语解释通则（2010 版）》进行解释。

## 9. OWNERSHIP

### 9、所有权

9.1 Notwithstanding delivery of the Goods and the passing of risk, until Seller receives full payment for all Goods delivered to Purchaser the following will apply:

9.1 尽管完成了货物交付和风险转移，对于已经交付给买方的所有货物，在卖方收到所有货款之前，以下规定将适用：

9.1.1 Property in the Goods will remain in Seller as legal and equitable owner. Purchaser will be entitled to possession of them only, which will be held by Purchaser as a bailee for Seller and Purchaser will store them separately from all other goods so that they are identifiable as Seller's.

9.1.1 货物的财产权仍归卖方所有，即卖方仍然是货物在法律上和衡平法上的所有权人。买方仅有权以卖方受托人的身份占有收到的货物，买方将把这些货物与所有其他货物分开存放，以便确认这些货物的所有权仍归卖方。

9.1.2 Purchaser will keep the Goods insured against all risks in their full replacement value and upon Seller's request, produce satisfactory evidence of appropriate insurance and, if Seller further requests, will assign to Seller of all the rights to claim against the insurers and will notify the insurers of Seller's interest in any policy.

9.1.2 买方将对货物的全部重置成本投保一切险；应卖方的要求，买方还将提供适当的保险证明；如果卖方还有进一步的要求，买方还将向卖方转移向保险公司索赔的所有权利，并且在任何保险单中将卖方的权益告知保险公司。

9.1.3 At any time before the passing of ownership to Purchaser, Seller may repossess the Goods. For this purpose, Purchaser grants to Seller an irrevocable licence to enter Purchaser's premises and to use reasonable measures to gain access to the premises and recover possession of the Goods.

9.1.3 在将货物的所有权转移给买方之前，卖方可以重新占有货物。为此，买方向卖方授予不可撤销的许可权，允许卖方进入买方的场所并采用合理的措施取得进入场所并收回货物的权利。

9.1.4 Seller or Seller's nominee shall at any time have full access to Purchaser's books of account and documents relating to the dealings with Seller, the Goods or the proceeds of sale.

9.1.4 卖方或者卖方的代名人在任何时间均完全有权查看与卖方交易、货物或销售所得款项相关的买方帐簿和文件材料。

9.2 Nothing in this clause 9 shall (i) give Purchaser any right to return the Goods, refuse or delay payment for them, or (ii) create any form of security over Purchaser's or any third party property.

9.2 本第 9 条中的任何内容均不得 (i) 赋予买方任何退还货物、拒绝或延迟支付货款的权利；或者 (ii) 对买方或者任何第三方财产创建任何形式的担保。

## 10. INSURANCE

### 10、保险

Where requested, Seller may, at its discretion and on Purchaser's behalf, arrange insurance to destination on consignments of Goods at Purchaser's expense. The premium will cover the invoice value of the consignment. Details of the insurance coverage are available upon request. The arrangement of any additional insurance required by Purchaser shall be Purchaser's sole responsibility.

如果有要求，卖方将自行决定并且以买方的名义对货物托运到目的地的过程进行投保，由此产生的一切费用由买方承担。保险费将覆盖托运货物的发票价值。关于保险责任范围的具体详情，可以根据要求提供。买方要求投保任何附加险的，将由买方单独负责。

## 11. DAMAGE IN TRANSIT AND NON-DELIVERY

### 11、运输中受损与不能交货

Where risk in Goods has not passed to Purchaser, Seller will at its discretion repair, recover or replace the Goods: (i) for damage in transit provided that (a) Purchaser indicates such damage on the carrier's documents; (b) Seller is given written notice of such damage promptly following delivery and the opportunity to inspect the Goods; and (c) Purchaser will make no further use of the Goods and will not attempt to alter or repair the Goods notwithstanding Purchaser's general duty to mitigate damages, and (ii) for non-delivery provided that where Seller has notified Purchaser of despatch of the Goods, Seller is given written notice of non-delivery promptly on the Goods not being delivered at the estimated time of arrival.

在货物风险转移给买方之前，卖方可以自行决定修理、收回或更换货物：(i) 以解决货物在运输过程中遭到的损坏，条件是：(a) 买方在承运人的文件上注明了此类损坏；(b) 卖方在完成交付之后立即收到了关于此类损坏的书面通知，并有机会检查货物；并且 (c) 买方不会再继续使用货物，也不会试图修改或修理货物，尽管买方有减轻损失的一般责任；以及 (ii) 以解决未交付问题，条件是：如果卖方通知买方货物已发出之后，在货物的预定到达时间没有交付货物时，卖方在第一时间收到了书面通知。

## 12. PAYMENT

### 12、付款

12.1 The terms of payment are net thirty (30) days from date of invoice. Payment shall be made in the currency stated on the invoice by transfer to Seller's bank account identified thereon, unless otherwise agreed in writing. Payment must be made without deduction, set-off or counter-claim.

12.1 货款的支付时间为：自发票开具之日起的三十（30）天时间内。货款应当以发票中显示的货币为单位，通过转账的方式支付发票中给出的卖方银行账户，但双方另有书面约定的情况除外。货款在支付之时不得有任何的扣减、抵消或反索赔项目。

12.2 If Purchaser fails to pay in full when due, the unpaid amount may, at Seller's discretion, incur interest at 4% per annum above the People's Bank of China's base loan rate from time to time, or the maximum amount permitted by law, whichever is less, from the invoice date to the date of actual payment (both before and after judgement).

12.2 如果买方未能按时全额支付到期款项，卖方可决定对未付款项收取一定的利息，具体利率按照中国人民银行不时发布的基准贷款利率为基础，再上调 4% 作为年利率，或者按照法律规定的最高金额执行，以二者中较低者为准；计息时间为：自发票开出之日起直至实际付款之日（无论是在判决之前或之后）。

12.3 If Purchaser becomes delinquent in payments to Seller, then Seller shall have the right to (i) cancel the Purchase Order without incurring any liability; (ii) refuse to make further deliveries; (iii) declare due and payable immediately all unpaid amounts for Goods previously delivered to Purchaser and/or in process, and/or (iv) subject all claims for money or Goods due or to become due from Seller or any other Johnson Matthey group company to deduction or setoff against any counterclaim of Seller or any other Johnson Matthey group company. Purchaser acknowledges that its business dealings with Seller or any other Johnson Matthey group company constitute a single continuous transaction, notwithstanding the issuance of separate orders, acknowledgements or similar documents from time to time.

12.3 如果买方拖欠卖方货款，那么卖方有权：（i）取消采购订单，但不承担任何责任；（ii）拒绝继续交货；（iii）对于之前已经向买方交付的货物以及/或者正在生产的货物，声明所有未付款项立即到期应付；并且/或者（iv）从卖方或任何其他庄信万丰集团公司索取的已到期或将到期的款项或货物中，扣除或抵消卖方或任何其他庄信万丰集团公司的任何反索偿。买方确认，尽快可能会不时开出单独的订单、确认书或类似的票据，但是买方与卖方或者与任何其他庄信万丰集团公司之间的业务往来应构成单一连续交易。

### 13. GENERAL LIEN

#### 13、一般留置权

Without prejudice to any other remedies, Seller will have a general lien on all of Purchaser's property in Seller's possession (whether worked on or not) and Seller will be entitled, in accordance with applicable laws, to dispose of the property as Seller thinks fit and to apply any proceeds received towards the debts.

在不影响任何其他补救措施的前提下，卖方对其占有的所有买方财产（无论是否可使用）均将拥有一般留置权。根据适用法律的规定，卖方有权按照其认为合适的方式处置这些财产，并使用从债务中获得的任何收益。

### 14. LIMITED WARRANTY

#### 14、有限保证

14.1 In entering into the Contract Purchaser does not rely on any express or implied representation made by Seller and any representation does not form part of the Contract or a collateral Contract.

14.1 在签订合同时，买方不依赖卖方做出的任何明示或暗示的陈述，任何陈述均不得构成合同或者从合同的一部分。

14.2 Seller warrants all Goods sold to Purchaser hereunder shall, at the time of delivery, conform to the Specifications and within reasonable manufacturing tolerances. THIS IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY SELLER. SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14.2 卖方保证，在本条款与条件项下出售给买方的所有货物均在交货之时，符合技术规范要求并且在合理的制造公差范围之内。这是卖方提供的唯一且排他性保证。卖方不再做任何其他形式的保证，无论是明示还是暗示，包括但不限于，对货物是否适销、是否适用于某种特殊目的做任何保证。

14.3 Seller uses every effort to ensure that all Goods are manufactured to Specification but it is Purchaser's responsibility to ensure that the Goods are fit and suitable for Purchaser's purpose in the conditions in which they will be used. Seller bears no liability for misuse of the Goods or Purchaser's failure to carry out statutory and contractual obligations.

14.3 卖方应尽其所能确保所有的货物均按照技术规格制造，但是，确保货物处于能够被使用的状态且适合并适用于买方的目的，则属于买方的责任。货物被误用，或者买方未能履行其法定和合同义务的，卖方不承担任何责任。

14.4 To the extent the Contract involves the provision of samples by Seller, it is understood and agreed that such samples are experimental and are sold to Purchaser in connection with Purchaser's desire to evaluate the samples to determine their feasibility for use in connection with goods and equipment not provided by Seller. Therefore it is

understood and agreed that, notwithstanding anything to the contrary in these Terms and Conditions, the samples are provided "as is" and Seller makes no representation or warranty of any kind, express or implied, including without limitation, any warranty of merchantability or fitness for a particular purpose with respect to samples it provides hereunder. Samples shall be treated by Purchaser as confidential information of Seller.

14.4 如果合同涉及卖方提供样品，那么双方理解并同意：此类样品具有试验性质，之所以将此类样品出售给买方，是因为买方想通过对样品进行评估，来确定样品是否可用于由卖方以外的其他方提供的货物和设备。因此，双方理解并同意，尽管本条款与条件中可能有任何相反的规定，但是这些样品将“按原样”提供，卖方对此不做任何形式的明示或暗示陈述或保证，包括但不限于，对其在本条款与条件项下所提供的样品是否适销、是否适用于某种特殊目的而做出任何保证。样品将被买方视为卖方的保密信息。

## 15. LIMITATION OF LIABILITY

### 15、责任范围

Within ten (10) days after receipt of each delivery of Goods sold hereunder, Purchaser shall examine such Goods for any damage, defects or shortage. All claims, including for alleged damaged or defective Goods, shortage or non-deliverance of Goods, negligence or any other cause whatsoever, which could have been discovered by such inspection shall be deemed waived unless made in writing and received by Seller within thirty (30) days after Purchaser's receipt of the Goods. Failure of Purchaser to give notice of any claim within such time period shall be deemed an absolute and unconditional waiver of such claim, irrespective of whether the facts giving rise to such claim shall have been discovered or whether processing, use or resale of the product shall have taken place. Seller's determination of the validity of any claimed defect shall be conclusive and binding on Purchaser. PURCHASER'S EXCLUSIVE REMEDY SHALL BE FOR DIRECT DAMAGES AND SELLER'S TOTAL, COMPLETE AND EXCLUSIVE LIABILITY FOR ANY AND ALL LOSSES OR DAMAGES RESULTING FROM ANY CAUSE WHATSOEVER, SHALL IN NO EVENT EXCEED THE RETURN OF THE CONTRACT PRICE OF THE GOODS IN RESPECT TO WHICH THE CLAIM IS MADE, OR AT THE ELECTION OF SELLER, THE REPAIR OR REPLACEMENT OF SUCH PRODUCTS. The exclusive and limited remedy of repair, modification, replacement, or crediting Purchaser's account for the cost of the nonconforming Goods shall not fail of its essential purpose by reason of timeliness, causes beyond Seller's reasonable control or Purchaser's general business concerns or satisfaction. Seller shall not be liable for, and Purchaser assumes responsibility for all personal injury and property damage resulting from the handling, possession, use or resale of the Goods. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES FOR LOST PROFITS OR BUSINESS OPPORTUNITIES OR DAMAGE TO REPUTATION.

在收到本条款与条件项下出售的每一批货物之后，买方将在十（10）天时间之内检查此类货物是否存在任何损坏、缺陷或短缺。在此类检查中，如果发现任何货物受损、存在缺陷、发生短缺或没有交付，无论是因为疏忽大意还是任何其他原因，买方均应当在收到货物之后的三十（30）天时间内以书面形式向卖方提出索赔要求并确保卖方能够在此时间段内收到此类要求，否则视为买方放弃索赔。买方未能在上述时间段内发出任何索赔通知的，应视为买方绝对无条件放弃此类索赔，无论造成此类索赔的事实是否已查明，也无论产品是否已经开始加工、使用或转售。卖方对任何声称的缺陷是否有效做出认定的，此类认定应当为最终认定，对买方具有法律约束力。买方的排他性补救方式应当针对的是直接损害；因任何原因引起任何损失或损害的，卖方的全部、完全和排他性责任无论在任何情况下均不得超出被索赔货物的合同价格，或者根据卖方的选择，不得超出修理或更换此类产品的费用。无论是出于时效性的原因，还是由于卖方无法控制的原因或者卖方的一般业务问题或满意度等，卖方修理、修改、更换不合格产品或者将不合格产品的成本计入买方的账户等排他性和有限的补救方式均不得偏离其根本宗旨。因处理、占有、使用或转售货物而造成人员伤亡或财产受损的，卖方概不承担任何责任，一切责任由买方承担。无论在任何情形下，卖方均不对任何从属损害、附带损害、特殊损害或惩罚性损害承担任何责任，包括但不限于利润损失或商业机遇或名誉受损等方面的任何损害。

## 16. FREE ISSUE MATERIALS

### 16、免费提供的材料

Where Purchaser supplies Seller with metal, materials or parts, Seller's liability for loss and/or damage will not exceed the contract price for processing and claims for an amount of less than 2.5% of the value of the materials as received by

Seller will be excluded. Purchaser must notify Seller in writing of the value of the materials at the time they are despatched to Seller.

买方向卖方提供金属、材料或零部件的，卖方承担损失和/或损害的责任不得超过加工的合同价格，同时，如果与卖方收到的材料相比，申请索赔的金额低于材料价值的 2.5%，那么此类金额将忽略不计。向卖方发送材料之时，买方应当以书面形式将材料的价值告知卖方。

## **17. FORCE MAJEURE**

### **17、不可抗力**

If manufacture or delivery of the Goods is prevented, interrupted or delayed by any cause beyond Seller's control (including without limitation, Acts of God, any law or any change in law, any action taken by a government or public authority or failing to grant a necessary licence or consent, war or national emergency (declared or not), acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock out, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, we shall have the option without incurring liability to defer the date of despatch or, depending on the relevant event, to cancel any Purchase Order.

如果因卖方无法控制的原因（包括但不限于：自然灾害、任何法律或法律的任何修改、政府或公共机关采取的任何行动、未能授予必要的许可证或同意书、战争或国家紧急状态（无论是否已宣布）、恐怖主义行为、抗议、暴乱、民众骚动、火灾、爆炸、洪水、流行病、禁止进厂、罢工或其他劳资纠纷（无论是否与任何一方的劳动力相关）等），或者因对承运人产生影响的限制或延误，或者因无法或未能按时获得充足或合适的材料供应等，导致货物的制造和交付受到阻碍、中断或延误，那么我们可以选择推迟发货时间或者，根据相关情形，选择取消采购订单，而无需对此承担任何责任。

## **18. INTELLECTUAL PROPERTY**

### **18、知识产权**

18.1 Seller shall not be liable for any claims against Purchaser for infringement of third party intellectual property rights arising from the use, possession, resale or offering for resale of the Goods either as originally sold by Seller or otherwise.

18.1 因使用、占有、转售或公开转售原先由卖方或者其他人员出售的货物而造成买方被指控侵犯了任何第三方的知识产权的，卖方概不承担任何责任。

18.2 If Seller executes an Purchase Order in accordance with Purchaser's designs, plans or specifications, Purchaser will indemnify Seller against all actions, losses, damages, costs, fees or other liabilities arising from any claims against Seller for infringement of any third party's intellectual property rights.

18.2 如果卖方系按照买方的设计、图纸或技术规格书来执行采购订单，那么当卖方被指控侵犯了任何第三方的知识产权时，由此产生的所有诉讼、损失、损害、成本、费用或其他负债等，买方将确保卖方不承担任何责任。

18.3 Seller does not grant in these Terms and Conditions any licence of existing or future intellectual property rights (including patent rights, registered or unregistered designs, copyright, trade names, trademarks or other intellectual property rights).

18.3 卖方在本条款与条件项下不授予任何关于现有或将来知识产权的许可（包括专利权、注册或未注册设计、版权、商业名称、商标或其他知识产权等）。

18.4 Arrangements may be made for Purchaser to retain exclusive use of designs or patterns but all property rights in all machinery, plant, tools, dies, jigs and other equipment used for manufacture will remain Seller's whether or not Seller charges Purchaser for their cost.

18.4 可能通过签订协议许可买方独家使用样式或图案，但是所有机械、厂房、工具、模具、夹具和其他生产中使用的设备仍然归卖方所有，不管卖方是否向买方收取了相应的成本。

## **19. ANTI-CORRUPTION AND BRIBERY**

### **19、反贪污贿赂**



Purchaser will not in connection with the Contract or the Goods to be sold under it, offer, pay, promise to pay, or authorize the giving of any financial or other benefit to any person for the purpose of obtaining an improper advantage, or otherwise conduct itself in a manner contrary to the applicable PRC anti-bribery laws and regulations, the UK Bribery Act or the U.S. FCPA. Seller may terminate the Contract immediately upon written notice where Purchaser is found to have breached this clause, and Purchaser shall indemnify Seller from all damages, penalties, fines and/or costs of any kind arising from, or relating to, any such breach.

关于合同以及在合同项下出售给买方的货物，买方不会向任何人员提供、支付、承诺支付或授权给予任何财务利益或其他利益，以获得不正当好处；不会违反中国反贿赂法律法规、英国反腐败法或者美国反海外贿赂法等适用法律法规的规定。如若发现买方违反了本条规定，卖方可立即通过书面通知的方式终止合同，而对于因此类违约产生的或者与此类违约相关的所有损害赔偿、违约金、罚金和/或任何性质的成本，一律由买方承担，卖方对此概不承担任何责任。

## 20. CONFIDENTIALITY

### 20、保密条款

Subject to any non-disclosure agreement separately entered into between Purchaser and Seller regarding the sale of the Goods, Purchaser agrees that (i) all drawings, plans, specifications, technical or commercial know-how, inventions, processes, initiatives, or any information concerning Seller's business, its products or prices, or any other documents prepared by Seller and which Purchaser may have obtained from Seller, are deemed to be confidential information ("Confidential Information") and proprietary to Seller and such Confidential Information shall remain Seller's property and shall be deemed to have been imparted by Seller in trust to Purchaser for Purchaser's sole use; (ii) the copyright in such Confidential Information vests with Seller; (iii) Purchaser shall keep in strict confidence and not, by failure to exercise due care or otherwise by any act or omission, disclose to any person whatsoever, or use or exploit commercially for a purpose other than for the performance of its obligations under the Contract, any Confidential Information disclosed to Purchaser by Seller; and (iv) Purchaser shall restrict disclosure or use of such Confidential Information to such of Purchaser's employees, officers, advisers, agents and sub-contractors on a need to know basis for the purpose of discharging its obligations to Seller and Purchaser shall ensure that such employees, officers, advisers, agents and sub-contractors are subject to equal obligations of confidentiality as Purchaser is bound to under this clause.

根据买卖双方就货物销售而另外达成的任何保密协议，买方同意：（i）所有的图纸、设计方案、技术规格、技术或商业知识、发明、程序、倡议，或者与卖方业务、卖方产品或卖方产品的价格相关的任何信息，或者由卖方编制、买方从卖方获得的任何其他文件等，均应当被视为保密信息（简称为“保密信息”），归卖方专有。此类保密信息始终属于卖方的财产，且应当被视为由卖方交由买方托管，仅供买方使用；（ii）此类保密信息的版权归卖方所有；（iii）对于卖方披露给买方的任何保密信息，买方应严格保密，不得因疏忽大意或任何作为或不作为而披露给任何第三方，也不得在商业上使用或利用，以达到履行合同项下义务以外的其他目的；并且（iv）为了履行其对卖方的义务，买方应当以“按需知密”为基础，限制向其员工、高级职员、顾问人员、代理人、分包商等披露和使用保密信息。买方应当确保此类员工、高级职员、顾问人员、代理人、分包商等都能像买方一样履行本条规定项下保密义务，并受本条规定制约。

## 21. ENTIRE AGREEMENT

### 21、完整的协议

The Contract constitutes the entire agreement between the parties. The Contract may not be modified orally, and any modification must be in writing signed by Seller.

本合同构成双方当事人之间的完整协议。本合同不得以口头方式进行修改，而须经过卖方签署书面文件之后方可修改。

## 22. TERMINATION FOR CAUSE

### 22、因故终止

Purchaser may terminate the Contract or any part hereof for cause in the event of (i) any default by Seller or Seller's failure to comply with these Terms and Conditions; (ii) Seller being declared bankrupt, files a petition for bankruptcy

or requests the granting of suspension of payments; or (iii) Seller being subject to similar measures in the jurisdiction under which Seller is organized.

如果出现以下情况，买方可以终止合同或合同中的任何部分：（i）卖方出现任何违约行为，或者卖方未能遵守本条款与条件的规定；（ii）卖方被告破产、提出破产申请或者请求准予暂停付款；或者（iii）卖方在管辖范围内受到相关措施的限制，而这些措施与卖方组建时所依据的措施类似。

### **23. SEVERANCE**

#### **23、分离条款**

The invalidity or unenforceability for any reason of any part of these Terms and Conditions shall not prejudice or affect the validity or enforceability of the remainder.

本条款与条件的任何部分因任何原因无效或不可执行的，其余部分的效力或者可执行性不得受任何损害或影响。

### **24. WAIVER**

#### **24、弃权**

Seller's failure to insist on performance of any of these Terms and Conditions or to exercise any right or privilege or Seller's waiver of any breach hereunder shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

卖方未能坚持履行本条款和条件项下任何义务的，或者卖方未行使任何权利或特权的，又或者卖方放弃追究本条款与条件项下的任何违约行为的，不表示卖方今后也将放弃任何其他相同或相似类型的条款、条件或特权。

### **25. ASSIGNMENTS AND SUBCONTRACTING**

#### **25、转让与转包**

No part of the Contract may be assigned or subcontracted without prior written consent of Seller.

未经卖方事先书面同意，合同的任何部分均不得进行转让或分包。

### **26. COMPLIANCE WITH LAWS**

#### **26、遵守法律法规规定**

Purchaser's performance of the Contract shall comply with all applicable laws, and with all rulings, regulations, interpretations, and governmental orders issued thereunder.

买方在执行合同的过程中，应当严格遵守所有适用的法律，以及本条款与条件项下的所有裁决、规章、解释和政府命令等。

### **27. GOVERNING LAWS**

#### **27、管辖法律**

The Contract shall be governed by and construed according to the laws of the PRC, excluding expressly, the United Nations Convention on Contracts for the International Sale of Goods.

本合同应当受中华人民共和国法律的管辖并依其进行解释，除非《联合国国际货物销售合同公约》中另有明确规定。

### **28. DISPUTE RESOLUTION**

#### **28、争议的解决**

Any dispute arising out of or in connection with the Contract including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration conducted under the auspices of Shanghai International Economic and Trade Arbitration Commission in Shanghai in accordance with its rules prevailing at the time of application. The arbitral award shall be final and binding upon the Parties. The losing party shall bear the arbitration costs unless otherwise ruled by the arbitration tribunal.

因合同而产生的或者与合同有关的所有争议，包括与协议的存在、有效性或终止相关的所有问题，均按照应提交至【位于上海的国际经济贸易仲裁委员会】，由该等仲裁委员会按照争议提交当时现行的规则进行最终

仲裁。仲裁裁决应为终局裁决，对双方均具有法律约束力。除非仲裁庭另有裁决，否则仲裁费用应由败诉方负担。

## **29. HEADINGS**

### **29、标题**

Headings to paragraphs are for convenience of reference only and shall not affect the interpretation of these Terms and Conditions.

本文中各条款的标题仅为方便而设，对本条款与条件的解释不产生任何影响。

## **30. LANGUAGE**

### **30、语言**

Should these Terms and Conditions be in both versions of English and Chinese, the English version shall prevail.

本条款与条件有中、英两种语言版本的，一律以英文版本为准。