

## General Terms of Sale and Delivery

### 《销售与交付通用条款》

#### 1. GENERAL

##### 概述

1.1. The present Terms of Sale and Delivery shall apply to all business relations of Miba Precision Components China Co., Ltd. ("the Supplier") with other companies ("the Buyer/s"). The Supplier and the Buyer/s shall be jointly referred to as "the Parties". In particular, the Supplier shall provide all services and supplies ("the services") to the Buyer exclusively on the basis of these General Terms of Sale and Delivery, whether expressly referring to them in a specific case or not.

本《销售与交付通用条款》适用于米巴精密零部件（中国）有限公司（以下简称“卖方”）与其他公司（以下简称“买方”）之间的所有业务关系。卖方与买方统称为“双方”。无论在个案中是否明确，卖方仅根据这些《销售与交付通用条款》向买方提供任何产品与服务（以下简称“服务”）。

1.2. At the latest by issuing its declaration of agreement with the Supplier, the Buyer irrevocably accepts these General Terms of Sale and Delivery. No General Terms of Business of the Buyer shall become part of the contract, irrespective of whether the Buyer refers to them and irrespective of the time of receipt of such Buyer's Terms at the Supplier. This especially also applies if the Supplier does not oppose any General Terms of Business of the Buyer or provides services unconditionally while being aware of Buyer's deviating, opposing or supplementing General Terms of Business.

买方不可撤销地接受这些《销售与交付通用条款》，并出具同意声明。买方的通用条款不应成为合同的一部分，无论买方是否要求适用，无论卖方何时收到买方的这些条款。如果卖方未曾反对买方的任何通用条款，或者在明知买方存在不同、相反或补充的通用条款的情况下无条件地提供服务，那么，本《销售与交付通用条款》尤其适用。

#### 2. CONCLUSION OF CONTRACT

##### 合同订立

2.1. All quotations of the Supplier are without obligation and subject to modification. Buyer's orders not containing a deadline for acknowledgement shall bind the Buyer for at least four weeks.

卖方的所有报价不应产生义务，可以变更。无最后确认期限的买方订单至少在四周内对买方具有约束力。

2.2. Any contracts with the Supplier shall not become effective unless confirmed in writing and, respectively, until written acceptance and acknowledgement of the order by the Supplier ("order acknowledgement").

与卖方的任何合同在书面确认之前不生效，具体地说，在卖方书面确认和接受订单（以下简称“订单确认书”）之前不生效。

2.3. Any deviations in the order acknowledgement, or the documents referred to in it, in relation to any prior declarations by the parties shall be considered as accepted if the Buyer does not contradict the deviation in question expressly and in writing, within a reasonable period of time, latest within seven days from the receipt of the order acknowledgement. The Buyer shall have no right to contradict the applicability and validity of the present General Terms of Sale and Delivery.

如订单确认书或其中指定的文件中存在针对双方先前声明的变更，且买方未曾在合理的时间（最迟在收到订单确认书后七日）内书面明确反对的，视为买方接受变更。买方无权就现行的《销售与交付通用条款》的有效性和适用性提出异议。

### **3. SUBJECT OF THE DELIVERY**

#### **交付的内容**

3.1. The subject of the delivery ("contract works", "good/s" or "product") shall be exclusively determined by the indications in the order acknowledgement and the documents referred to in it. Reference to external reference numbers shall be deemed as references to the corresponding products of the Supplier.

交付的内容（以下称为“合同产品”、“货物”或“产品”）仅以订单确认书或其中指定的文件为准。对外编号应当视为卖方对相应产品的编号。

3.2. If, on account of the production process involved, it is impossible to delimit in advance a certain output quantity for the contract works, the Supplier shall be entitled to make excess or short deliveries. Similarly, in the event of individual or special fabrications or small-scale series, the Buyer shall buy the actual output as contract works.

如果因生产流程原因无法预先界定合同产品产量，卖方有权溢短量交付。同样地，如果生产个别或特殊产品，或者生产少量品种，买方应当购入实际产出的产品。

### **4. INDUSTRIAL PROPERTY RIGHTS, SECRECY**

#### **工业产权、商业秘密**

4.1. The Supplier shall retain the industrial property rights and copyrights with regard to all documents, especially illustrations, design drawings, drawings, calculations and templates / models ("the documents") and all pieces of information on these documents or made available to the Buyer in any other manner ("the information"). Even if a supply or service is based on the Buyer's specification or the Buyer contributes to it in any other manner, the rights of use shall be attributed fully and exclusively to the Supplier. The documents and information must not be passed on to any third party or put to any use beyond the concrete agreement without the prior express written consent of the Supplier.

卖方保留所有文件及其中所含所有信息或以其他方式披露给买方的信息之工业产权和版权，尤其包括说明、设计图纸、图纸、计算公式和样品/模型。即使一件产品或一项服务是基于买方的规格提供的，或者买方以其他方式提供了支持，其使用权完全且仅仅归属于卖方。未经卖方事先明确书面同意，这些文件和信息不得传递给任何第三方，不得超出协议使用。

4.2. Except where publicly known information or information that was rightfully obtained from third parties is concerned, the Buyer shall treat any of the Supplier's business information and know-how that has been disclosed to the Buyer or has otherwise come to his knowledge confidentially also after termination of the business relationship.

在业务关系解除后，买方应当对卖方披露的或通过其他方式获知的卖方的业务信息和秘密保密，公众已经知晓或者从第三方合法取得的信息除外。

## **5. REMUNERATION AND TERMS OF PAYMENT**

### **价款与付款条件**

5.1. All prices quoted by the Supplier are subject to the legal value-added tax. The price lists are intended for information only and are non-binding.

卖方所报价格需要附加增值税。价格清单仅供参考，并无约束力。

5.2. The Supplier's prices are founded on the cost structure (consisting of the raw material, development, and production costs, wages and salaries, taxes, customs duties and other duties) at the time of order acknowledgement by the Supplier. If this cost structure changes by the time of the respective (partial) delivery by at least 10%, the price in question shall be adapted in accordance with the change in the cost structure.

卖方的价格是基于卖方确认订单时的成本结构确定的（包括原材料成本、研发成本、生产成本、薪资成本、税收、关税及其它税务）。如果在具体（部分）交付时成本发生波动（至少达到百分之十），价格应当根据成本结构作相应调整。

5.3. Invoices issued by the Supplier shall be payable within two weeks from the date of invoice free of expense and without deduction.

买方应当在发票开具日期后两周内支付发票金额，不应产生额外费用，不得扣款。

5.4. The Buyer shall not be entitled to withhold any payments due to the Supplier.

买方无权滞付结欠卖方的任何款项。

5.5. The Buyer shall not be entitled to offset any claims against sums due to the Supplier except if such claims have been legally ascertained or have been expressly accepted by the Supplier in writing.

买方无权在结欠卖方的款项中抵充任何赔款，除非该赔款已经经过法定程序确认或者已经被卖方书面明确接受。

## **6. SUPPLY**

### **供货**

6.1. The Supplier shall deliver the supplies ex works (EXW in accordance with Incoterms 2000), excluding packing and loading.

卖方供货执行“工厂交货”（即《2000年国际贸易术语解释通则》所规定的“工厂交货”，即交货地点在卖方的工厂，不包括包装及装载。

6.2. Delivery periods and deadlines expressly guaranteed to the Buyer in writing shall be binding on the Supplier.

明确向买方书面保证的交付期限和截止时间对卖方具有约束力。

6.3. The Supplier shall have the right to make partial deliveries. Refusal to accept the contract works shall not relieve the Buyer of his payment obligation.

卖方有权部分交付。拒绝接受合同产品不应免除买方的付款义务。

6.4. Any delivery periods shall not start to run until the order acknowledgement is mailed by the Supplier, unless otherwise stipulated in the order acknowledgement. The delivery periods shall be suspended if the Supplier has not received all documents and pieces of information required for carrying out the contract or for such time as the Buyer fails to completely fulfil his obligation of participation.

订单确认书由卖方寄出后，交付期限开始起算，订单确认书另行规定的除外。如果没有收到履行合同所需的所有文件和信息，或者买方未能全部履行其参与义务，则交付期限中止。

6.5. If delivery is delayed for reasons beyond the Supplier's control - in particular, force majeure, measures of authorities, confiscation, natural disasters, unrest or war, transport disruptions, operational disruptions, work conflicts, missing or late delivery from sub-suppliers not performing their contractual obligations, the delivery period shall be extended (and/or the delivery deadlines shall be postponed) accordingly. If delivery is delayed by more than the duration of the original delivery period (respectively, the time between the order acknowledgement and the delivery deadline), each party shall be entitled to withdraw from the contract by giving express written notice within two weeks after expiry of the extension period, stating that it wishes to withdraw from the part of the delivery concerned.

如果非因卖方所能控制的原因导致交付迟延，尤其因不可抗力、政府行为、征用、自然灾害、动乱或战争、运输中断、武装暴乱、劳工冲突以及卖方的供应商未履行合同义务而导致的未交货或迟延交货，则交付期限相应延长（和/或交付截止期限推迟）。如果交付迟延超过初始交付期限（即订单确认至交付截止日期之间的期限），任何一方均可以在延长期届满后两周内以明确书面通知对方的方式解除合同，并在通知中声明其希望不再交付的部分。

6.6. If due to any legal provisions the Buyer has the right to withdraw from the contract on account of a delay on the part of the Supplier, this right shall be limited to the delayed part in the event of partial deliveries.

如果买方根据法律规定，对卖方迟延交货的行为有权解除合同，则在部分交付的情况下，该权利仅限于被迟延的部分。

## **7. WARRANTIES**

### **保证**

7.1. The warranty period shall be 12 months from the receipt of the goods.

保证期限为自收到货物后12个月。

7.2. Certain properties, features and possible uses of the contract works shall only be considered as having been warranted if represented expressly and in writing. In particular, the Supplier does not provide any warranty for any abilities and possible uses not expressly represented in writing. In addition, any warranty shall be excluded for any deficiencies attributable to material made available by the Buyer for manufacture of the contract works or instructions given by him. Warranties and representations of the Supplier, especially regarding properties, shall not be considered as guarantees, except if otherwise agreed expressly in writing.

未经书面明确，卖方对合同产品的某些性能、特征和可能存在的用途不作保证。特别是卖方对未书面明确的功能和可能的用途不提供任何保证。此外，保证责任中不应包括因买方所提供用于合同产品生产之原材料或因买方指示所导致的问题。卖方的保证和陈述，尤其针对产品性能，不应视为保证，明确书面同意的除外。

7.3. If the Supplier has to perform a warranty, he shall, at first, at his option, either repair or replace the good concerned within reasonable time. Replaced objects shall become the Supplier's property and shall be returned to him. If the Supplier fails to repair or replace the object in question or refuses to do so or if the object cannot be repaired and replaced, or if this entails considerable inconveniences for the Buyer or cannot be demanded of him due to cogent reasons related to the person of the Supplier, the Buyer may, at his option, request a reduction of the price, or, if the deficiency is not just a minor one, cancellation of the contract. In the event of contracts permitting partial deliveries, the right of cancellation is limited to the partial deliveries not yet performed properly. The Buyer shall relinquish the right of cancellation by selling, changing or processing the good while aware of its deficiency.

如果卖方必须履行保证责任，其应当首先自行选择在合理时间内对相关产品进行修理或更换。被更换的产品属于卖方财产，应当退还给卖方。如果卖方未能修理或更换或拒绝处理，或者产品不能修理和更换，或者修理或更换会给买方造成较大不便，或者确因卖方人员原因不能要求修理和更换，那么，买方可以选择要求降价，如果问题较大，可以解除合同。如合同允许部分交付，该解除权仅限于未适当履行的部分。买方发现问题后，如将货物进行售出、变更或加工，应当放弃该解除权。

## **8. NOTICE OF NON-CONFORMANCE**

### **交付产品不符通知规定**

8.1. Notice of any defects of the contract works and the non-conformance of the delivered quantity shall be given expressly and in writing by the Buyer to the Seller within a reasonable period, in the event of obvious defects or non-conformance of quantity within seven days maximum from the receipt of the goods, and in the event of hidden defects, latest within seven days from detection. In the event of partial and successive deliveries, any defects or non-conformance of quantity in individual deliveries have to be notified separately. The notice of defects or non-conformance of quantity shall be considered as being too late if the Supplier can no longer verify the rejected good due to Buyer's reason. From the time of detection of the defects or non-conformance of quantity, any sale, treatment or processing of the good is forbidden without the Supplier's prior express written consent, otherwise all claims shall be voided.

买方应当在合理期限内（明显问题或数量不符自收到货物后七日内，隐蔽问题自发现后七日内）将合同产品质量问题或数量不符书面明确通知卖方。在部分交付和持续交付的情况下，每次交付产品的质量问題或数量不符应当单独通知。如果卖方因买方原因不再能够核查拒收货物，质量问题的通知或数量不符通知视为迟延。自发现质量问题或数量不符之时起，未经卖方事先书面明确同意，不得对货物进行处理或加工，否则一切索赔应当无效。

8.2. The Buyer shall ensure that the notice of defects or non-conformance of quantity is actually served upon the Supplier and shall bear the onus of proof. Merely returning the goods shall not be considered as notice of defects or non-conformance of quantity.

买方应当确保质量问题通知或数量不符通知确实送达卖方，并承担举证义务。仅将货物退还不应视为是质量问题通知或数量不符通知。

8.3. The assertion of any claims for warranty, damages for the defect or non-conformance of quantity themselves and based on an error as to the goods being free from defects or non-conformance of quantity is excluded if such notices are not submitted in due time.

如质量问题通知或数量不符通知不及时提交，不得主张保证责任、质量或数量问题赔偿和对无问题货物的损害赔偿。

8.4. If the Buyer does not return the parts concerned by the notice of defects or non-conformance of quantity to the Supplier at his own cost and risk, the Supplier shall be given the opportunity to verify the alleged defects or non-conformance of quantity on site. Neither the verification of the good nor the unconditional acceptance of returned goods shall constitute a waiver by the Supplier to object to the notice of defects or non-conformance of quantity being made too late or not made at all. The Buyer shall cooperate in the verification and removal of defects or non-conformance of quantity to the extent such cooperation can be reasonably expected from him and shall especially provide information. If after verification the Supplier does not accept the defects or non-conformance of quantity notified, the Buyer shall indemnify the Supplier for all costs connected with the verification.

如果买方未自行承担费用和 risk 将质量问题通知或数量不符问题通知所述及的部分产品退还给卖方，应当给予卖方现场核实质量问题或数量不符的机会。卖方核实货物或无条件接受退货均不能视为卖方放弃拒绝买方迟延发出或根本就没有发出的质量问题通知或数量不符的通知。在核实和清理质量问题或数量不符问题时，买方应当尽力配合，并特别需要提供相关信息。如经核实卖方不能接受所通知的质量问题或数量不符，买方应当补偿卖方因核实所发生的所有费用。

## **9. LIABILITY**

### **责任**

The Supplier's liability shall be limited to cases of intentional or grossly negligent actions. The onus of proof of Supplier's gross negligence shall rest with the Buyer. The Supplier shall not be liable for any consequential damage, financial losses, especially loss of profit, and damage from third-party claims against the Buyer. The limitation of liability shall not be applicable to personal injuries.

卖方的责任限于故意或严重疏忽行为所导致的后果。卖方严重疏忽应当由买方承担举证责任。卖方无须赔偿派生损失、财务损失，尤其是利润损失和第三方向买方索赔的损失。对产品责任的限制不适用与人身伤害。

## 10. RESERVATION OF TITLE

### 所有权保留

The Supplier shall retain ownership of the contract works until the purchase price has been paid in full. In the event of a default in payment by the Buyer, the Supplier shall have the right to request that the contract works be returned and to terminate the contract. The request that the contract works be returned shall only be deemed termination of the contract if the Supplier expressly states this in writing.

在购买价款付清之前，卖方保留合同产品的所有权。如买方付款出现违约，卖方有权要求退回合同产品，并解除合同。卖方的退货要求仅应被视为解除合同，如果卖方已经对此明确作了书面声明。

## 11. SUPPLIER'S RIGHT OF TERMINATION

### 卖方的解除权

11.1. If the Buyer fails to fulfil certain essential obligations resulting from the Contract – especially, payment of the purchase price, or default in fulfilling the cooperative actions required from the Buyer to enable the Supplier to perform the contract - the Supplier shall be entitled to terminate the contract upon expiry of a reasonable grace period (in any case, not exceeding two weeks time) for the Buyer's performance.

In case of delayed payment, Buyer shall pay [one] per cent of the delayed amount for each delayed day as compensation. In case such delay is more than two weeks, Supplier may, at its discretion, (1) suspend any delivery; (2) terminate the contract; and/or (3) require Buyer to provide a warranty to Supplier's satisfaction.

如果买方未能充分履行合同中的某些实质性义务，尤其指购买价款的支付、配合卖方的义务，那么，卖方有权在一段合理的供买方履行的宽展期（在任何情况下不超过两周）期满后解除合同。

在逾期付款的情况下，每逾期一日，买方应当支付逾期部分百分之【一】作为补偿。如逾期时间超过二周，卖方可以选择：（1）中止交货；（2）解除合同；和/或（3）要求买方提供满意的担保。

11.2. If after concluding the contract it becomes evident that the payment claim of the Supplier is jeopardized because the Buyer lacks the appropriate means of performance, especially due to his poor financial situation, the Supplier may refuse to carry out the service and fix a reasonable time limit for the Buyer to perform against concurrent delivery or to provide securities. If the Buyer declines this or the time limit expires without avail, the Supplier shall have the right to terminate the contract and claim damages.

如果合同签订后买方显然因缺乏履行能力（尤其鉴于财务状况恶化）使得卖方的价款难以支付，卖方可以拒绝执行服务，并限买方在一段合理时间内付款，付款的同时交付产品，或者要求买方提供担保。如果买方拒绝，或者在限期内不履行，卖方有权解除合同，并索赔损失。

11.3. The Supplier shall have the right to terminate the contract for good cause. Such good cause shall especially be bankruptcy proceedings, composition or other insolvency proceedings being opened against the Buyer's assets or not being opened due to a lack of sufficient assets to cover the costs.

卖方有权因买方原因而解除合同，买方原因尤其指破产程序、重组、针对买方资产的无偿债能力所导致的司法程序、因资不抵债导致的司法程序。

## **12. PLACE OF PERFORMANCE, LEGAL VENUE, APPLICABLE LAW AND SEVERABILITY**

### **履行地、管辖、适用法律与可分割性**

12.1. The place of performance for both parties shall be Suzhou, China.

双方的履行地为中国苏州。

12.2. The exclusive legal venue for any disputes arising from or in connection with the contract, including its conclusion and validity, shall be settled by amicable negotiation. In case no settlement is reached, the disputes shall be submitted to the people's court of Supplier's domicile for judgement.

与合同相关或因合同引起的一切争议，包括因其签署和效力所引起的争议，均应友好协商解决。如协商不成，应将争议提交到卖方所在地人民法院审理。

12.3. The contract shall be subject to the laws and regulations of PRC

本合同适用中华人民共和国法律法规。

12.4. If any of the clauses of the present General Terms of Sale and Delivery is ineffective, invalid or unenforceable, this shall not affect the effectiveness, validity or enforceability of the other clauses. In such a case the clause concerned shall be replaced by a clause that corresponds to the original economic result as closely as possible and is not ineffective, invalid or unenforceable.

如果本《销售与交付通用条款》中任何条款无效或不可执行，不影响其它条款的效力与执行。在此情况下，该条款应当根据原先的目的予以调整，使之有效并可执行。

## **13. LANGUAGE**

### **语言**

This General Terms of Sale and Delivery is bilingual in both English and Chinese, and should there be any discrepancies between the two versions, the Chinese version shall be always prevailing.

本《销售与交付通用条款》以中、英文书就，如中英文版本不一致，以中文文本为准。

## **14. NOTICE**

### **通知**

All official notices concerning this General Terms of Sale and Delivery or order acknowledgement shall be delivered to the address listed in order acknowledgement or other documents. If the address is

changed, the concerning Party shall notice the other Party in written in advance, or else the notice delivered to the original address shall be deemed as effective notice.

关于本《销售与交付通用条款》或订单确认的通知均应被递送至订单确认中或其他文件中所列明的地址。如地址发生变更，变更一方应当提前书面通知另一方，否则发往原地址的通知视为有效通知。