



General Conditions of Purchasing – MPCC

米巴中国通用采购条款

1. General:

一般规定:

After amicable negotiation, both the Purchaser and the Supplier conclude these General Conditions of Purchasing. These General Conditions of Purchasing shall, irrespective of whether or not they are explicitly referred to, apply to all transactions conducted between the Purchaser and the Supplier, including but limited to the manufacture and supply of goods, the processing of semi-finished goods and the provision of services (hereinafter together referred to as "Goods and Services"). The contractual relationships between the Purchaser and the Supplier shall be exclusively governed by these General Conditions of Purchasing, unless agreed upon otherwise in writing in particular cases. This shall apply irrespective of any reference to the Supplier's own General Terms of Business, even where the Purchaser fails to explicitly object to the application thereof. Further, this shall apply if the Purchaser-being aware of the Supplier's different or conflicting terms of business-accepts the contractual Goods or Services without reservation. The Supplier shall only be entitled to engage subcontractors with the Purchaser's prior written consent, whereby the Purchaser shall not be obliged to substantiate a respective refusal. In any case, the Supplier may only use subcontractors that offer adequate guarantee for technically perfect and timely performance of contract. The Purchaser has right without obligation to audit the Supplier or its subcontractors by means as the Purchaser may think is reasonable. If the Supplier involves subcontractors, ancillary suppliers or any other third party in the performance of the contract, the Supplier shall be liable (also with respect to fault on the part of any subcontractor etc.) to the same extent as if it itself had undertaken to completely manufacture and/or provide the Goods or Services and all the necessary materials.

经友好协商, 买卖双方达成本通用采购协议。无论是否明确规定, 本通用采购协议适用于买卖双方所进行的任何交易, 包括产品的生产与供应、半成品的加工以及提供服务(以下合并称为“产品与服务”)。买卖双方的合同关系仅受本通用采购协议的约束, 个别情况另行书面商定的除外。即使规定适用卖方自有的通用交易条款, 即使买方未能明确拒绝适用卖方条款, 本协议依然适用。此外, 如果买方在知晓卖方存在不同或相反条款的情况下毫无保留地接受了产品与服务, 本协议依然适用。未经买方事先书面同意, 卖方不得进行分包, 如果买方不同意, 无须证明拒绝的理由。在任何情况下, 卖方仅能使用那些技术精湛、交货及时的分包商。买方有权但不必须对卖方或其分包商通过买方认为合理的方式进行审核。如果卖方使用分包商、辅助供应商或其它任何第三方履行合约, 卖方应当负全责(包括任何分包商的过错), 与其自行生产和/或提供产品或服务和其它所有必须材料的情形相同。

2. Quotations:

报价

In its quotations, the Supplier shall strictly abide to the quantity and properties of the Goods

and Services as may be specified in the Purchaser's request and shall expressly notify the Purchaser of respective discrepancies, if any. The Supplier's quotations and any cost estimates are made free of charge. If the Supplier's quotation does not stipulate a specific acceptance deadline, the Purchaser shall be entitled to accept the Supplier's quotation within two weeks of its receipt. All documentation enclosed with requests or orders (such as plans or diagrams) shall remain the Purchaser's property and shall automatically be returned to the Purchaser with the quotation or once the order has been completed. Copies of such documentation may only be made with the Purchaser's prior express consent.

卖方的报价应当严格对应买方具体要求的产品数量和功能，要求如有不当，应当明确通知买方。卖方免费提供报价和成本预测。如果卖方报价中未按规定接受时限，买方有权在收到报价后两周内接受卖方的报价。买方附在其要求或订单之后的任何文件（如方案或图标等）始终为买方的财产，应当随附报价单或在订单被履行完毕后返还给买方。未经买方事先明确同意，不得备份这些文件。In case any international trade term is quoted in any quotations, orders, acknowledgement of orders or any other contractual documents, Incoterms 2000 will be applied.

如果在报价单、订单、订单确认书或其它合约文件中引用了国际贸易术语，应当适用《2000年国际贸易术语解释通则》。

3. Orders, Forecast:

订单、采购预测:

Only orders placed by the Purchaser in writing or electronically shall be legally binding. Orders placed verbally or over the telephone shall only be valid if expressly confirmed by the Purchaser in writing. The Supplier must confirm Purchaser's orders in writing within 3 working days (i.e. Monday to Friday, with the exception of Chinese public holidays) of the respective order's receipt. After expiry of this deadline, the Purchaser shall be entitled to revoke the order (without giving rise to any manner of claim on the part of the Supplier). If an order cannot be confirmed within the 3-day deadline, the Supplier shall, within the said 3 day deadline, notify the Purchaser of a binding deadline for the receipt of the written order-confirmation by the Purchaser. The Purchaser shall then be entitled to accept this deadline or to cancel the order (without giving rise to any manner of claim on the part of the Supplier), at its complete discretion. If the Supplier's order confirmation differs even negligibly from the Purchaser's order, the Supplier shall make this clear to the Purchaser and shall obtain the Purchaser's express written consent to the discrepancy. Without such consent, the Purchaser shall, at any time, be entitled to reject Goods or Services that differ even negligibly from the order (without giving rise to any manner of claim on the part of the Supplier).

只有由买方通过书面或电子方式下达的订单具有法律约束力。口头或电话下达的订单只有经买方书面明确确认后方才有效。卖方应当在收到买方订单后三个工作日（即自周一至周五，中国公共节假日除外）内确认。该期限届满后，买方有权撤销订单（卖方不得进行任何索赔）。如果一份订单不能在该三天内确认，卖方应当在该三天内告知买方：买方将收到书面订单确认书截至时间。买方有权自行决定接受该截至时间或取消订单（卖方不得进行任何索赔）。如果卖方的订单确认书与买方订单有别，即使差别很小可以忽视，卖方也应当向买方表明，并应当获得买方的明确书面同意。否则，买方有权随时拒收与订单有别（即使差别很小可以忽视）的产品或服务（卖方不得进行任何索赔）。

The Purchaser may provide the Supplier with estimates, forecasts or projections of its future anticipated volume or quantity requirements for Goods and Services. The Supplier acknowledges that any such forecasts are provided for informational purposes only and, like

any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time. The Purchaser makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any such forecasts provided to the Supplier, including with respect to the accuracy or completeness of such forecasts.

买方可能针对后期对产品和服务的需求量向卖方提供预测。卖方认可，任何这样的预测象其它性质的预测一样，仅为一种信息，其根据为很多经济和业务因素、可变因素和假设，这些因素部分或全部会随着时间的推进而发生变化。针对这些提供给卖方的预测（包括其准确性或完整性），买方不作任何性质明示或暗示的承诺或担保。

4. Prices:

价格:

The agreed prices (including agreed compensations for services rendered) shall be understood as guaranteed fixed prices for contractual Goods or Services which include all costs incurred in relation to the provision of the Goods or Services. Price increases on any grounds whatsoever are hereby expressly excluded. Prices shall be understood to include packaging, carriage, delivery and unloading free to the place of acceptance (destination).

商定的价格（含服务价格）为合约产品或服务的固定价格，包括为提供产品或服务所发生的所有成本。双方特此明确同意不基于任何理由提高价格。价格包括包装、运输、交付至接受地点（目的地）、卸货的费用。

5. Disposal:

处置:

The Supplier hereby states that it is prepared and hereby offers, if so instructed by the Purchaser, to take back the supplied goods without defect or non-conforming for the purpose of disposing of them in a professional manner in accordance with the law. Against presentation of a respective invoice, the Purchaser shall remunerate the Supplier for the costs that it incurred for disposing of such goods in accordance with the law at standard market rates.

卖方特此表示，一旦买方要求，卖方将会收回所提供的无质量问题的产品，并根据法律规定以专业化方式进行处置。在收到发票后，买方将按照市场价格向卖方支付依法处置产品所发生的成本费用。

6. Delivery Dates, Late Delivery:

交付日期、迟延交付:

Agreed delivery date and deadlines shall be binding. Unless agreed otherwise, the delivery date shall be the date shown on the Purchaser's order. In case of early delivery, the Purchaser has the right to: (1) accept Goods or Services provided; (2) send back the Goods or Services back at the Supplier's cost; or (3) charge the Supplier for the stock cost. In the event of late delivery, the Purchaser shall be entitled either (i) to insist on the performance of the contract or (ii) to cancel the order if the Goods or Services are not provided within a 14-day period of grace and (iii) in addition to (i) or (ii), to request Supplier to pay Purchaser the penalty which is equivalent to 1% of the value of the delayed Goods or Services for each delayed day, and Supplier shall compensate all damages incurred to Purchaser. Supplier understands that its delivery not in conformity with the quantity and quality as agreed upon shall be deemed as late delivery.

This notwithstanding, the Supplier shall, as soon as it realizes that it will be unable to provide all or some of the Goods or Services on time, immediately notify the Purchaser in writing of the reasons for and expected duration of the delay. Upon receipt of such notification, the Purchaser shall be entitled to cancel the order/contract with immediate effect to claim damages on the grounds of non-performance. If the provision of a Good or Service has been explicitly agreed for a certain date (fixed date transaction), the Purchaser shall, in the event of delay on the part of the Supplier, be entitled to cancel the order/contract without any period of grace and to claim compensation for all damages. If the Purchaser cancels the order/contract, no claims of whatever nature against the Purchaser shall accrue to the Supplier.

商定的交付日期具有约束力。交付日期为买方订单上显示的日期，双方另行商定的除外。

如果提前交付，买方有权：

- (1) 接受产品或服务；或者
- (2) 将产品或服务退回，费用由卖方承担；或者
- (3) 向卖方收取仓储费。

如迟延交付，买方有权：

- (1) 要求继续履行合同，或者
- (2) 如果在 14 天的宽展期内仍未能交付，撤销订单；和
- (3) 除选择行使第 (1) 或第 (2) 项权利外，每迟延一天，买方有权要求卖方迟延支付产品或服务价值 1% 的违约金，如果买方因此而遭受损失的，卖方应当予以赔偿。

卖方明白，数量不符和质量不符都将被视为迟延交付。

尽管如此，一旦卖方意识到其不能够准时提供部分或全部产品或服务时，应当立即以书面形式告知买方迟延的原因和可能逾期的天数。买方在收到该通知后有权取消合同/订单，并可以以不履约为由提出索赔。如果明确约定在某个具体日期提供产品或服务（固定交易日期），一旦卖方迟延，买方即权取消合同/订单，无须给与宽展期，并有权索赔所有损失。如果买方因此取消合同/订单，卖方不得向买方索赔所遭受的损失。

In case of transaction on machines, the Supplier is responsible for unloading, installation and trial run of the machines at the destination designated by the Purchaser before the agreed delivery date. The machines will not be deemed as delivered and/or accepted until the Purchaser confirms the qualified trial run in writing. In case training of the Purchaser's personnel by the Supplier is necessary at the Purchaser's discretion, the Supplier shall complete the training as may be required by the Purchaser before the completion of the said trial run. The Purchaser shall not be responsible for the expenses and cost accrued for the above mentioned unloading, installation, trial run or training as well as the after-sale visits or service hereinafter mentioned.

如交易标的为机器，卖方应当在商定的交付日期前在买方指定的目的地负责卸货、安装和试运行。未经买方书面确认试运行合格，不能视为机器已交付和/或已被接受。如果买方认为必须由卖方对买方人员进行培训的，卖方应当在试运行结束前完成买方可能要求的培训。上述卸货、安装、试运行，以及下文提及的售后回访或服务所产生的费用，买方无须承担。

7. Supplied Materials:

提供的材料:

Materials supplied by the Purchaser to the Supplier (hereinafter referred to as "Supplied Materials") shall remain the Purchaser's property, shall be stored by the Supplier separately from its own goods and free of charge, shall not be reserved by the Supplier under the name of lien and shall be clearly marked as the Purchaser's property and administered as such the

Supplier shall use Supplied Materials exclusively for the purpose of providing the Goods or Services to the Purchaser. If Supplied Materials are damaged or lost, the Supplier shall compensate the Purchaser in accordance with the law. The Supplier shall inform the Purchaser immediately in writing about any third party claims asserted with respect to Supplied Materials and shall take all measures to defend the Purchaser's rights of ownership at its own expense.

买方向卖方提供的材料（以下简称“提供的材料”）始终为买方的财产，卖方应当将其与自有货物分开储藏，不得收费，不得留置，并将其明确标识为买方财产，仅能将其用于向买方提供产品或服务之目的。如提供的材料发生损失，卖方应当依法赔偿买方。一旦第三方就提供的材料主张权利，卖方应当立即书面通知买方，并自费采取所有措施保护买方的所有权。

8. Insurance:

保险:

The Supplier shall contract and pay for transport insurance if demanded in orders, no matter whether taking the form of Incoterms, or demanded in any other document by the Purchaser. Besides, the Supplier shall at its own cost contract insurances with reputable, solvent insurance companies covering any product liability claims for damage to property or personal injury. The insurance policies shall provide cover commensurate with the value and use of the contractual Goods or Services. Upon the Purchaser's request, the Supplier shall present to the Purchaser respective insurance cover notes issued by the insurer. The inspection of or failure to request insurance cover notes on the part of the Purchaser shall not under any circumstances be construed as waiver of the Supplier's said insurance obligations, nor shall the fact that an insurance contract exists limit the Supplier's duties or liability pursuant to the respective contract on Goods or Services. If an insured event relating to the Goods or Services occurs, Purchaser and Supplier shall inform each other about all facts, circumstances and incidents pertaining to such insured event.

如订单要求卖方投保（无论是否使用国际贸易术语通则），或以其它文件要求，卖方应当签订运输保险合同，并承担保险费用。此外，卖方应当自行承担费用向知名的有清偿能力的保险公司投保产品责任险，预防产品致人伤害或导致财产损失之风险。保险范围应当与产品或服务的价值和使用相对称。一旦买方要求，卖方应当将保单提供给买方，如买方不要求，并不意味着买方放弃卖方的投保义务，即使买方投保，卖方针对产品或服务的合约责任也不会减少。如果产品或服务发生保险事故，买卖双方应当彼此通告所有事实，以及与保险事故相关的来龙去脉和相关事件。

9. Warranties:

担保:

The Supplier hereby represents and warrants that the Goods and Services are suitable for their intended purpose, in accordance with the newest state-of-the-art, comply with the respective standards and regulations, with the relevant official and regulatory specifications, with all relevant requirements of industry standards, and with all the requirements in orders, drawings and other similar documents. The Supplier further represents and warrants that the Goods and Services are free from any third party rights and not manufactured, acquired or put in circulation in breach of any industrial or other property rights or fair trading regulations. The Supplier shall indemnify and hold the Purchaser harmless with respect to all claims asserted on such grounds (including all costs, especially legal costs relating to such claim). The statute of limitation (warranty period) for movable Goods and Services shall be two years upon

acceptance of the respective Goods or Services. For Goods or Services that are provided on the grounds of a warranty claim, such warranty period shall start again. The Purchaser shall not have any duty to inspect the Goods or Services or to notify defects. If a complaint is made within the warranty period, such warranty period shall be stayed and current payment deadlines suspended until full remedy of the respective complaint by the Supplier. If Goods or Services are defective or insufficient, the Supplier shall, at the Purchaser's choice, either rectify or exchange the respective Goods or Services within an appropriate period of grace set by the Purchaser. If it turns out (e.g. due to a voluntary random examination conducted by the Purchaser) that certain parts of the Goods or Services are defective, the purchaser shall be entitled to reject the Goods or Services as a whole and to send them back to the Supplier at the Supplier's expense. In any case, the Supplier alone shall be in charge and responsible for the separating of defective from defect-free parts of Goods or Services. If the rectification or exchange of defective Goods or Services (i) is not possible, (ii) involves considerable inconvenience or is unreasonable for the Purchaser or (iii) is not carried out at all or incomplete, the Purchaser shall, at its choice, be entitled to cancel the order/contract or to demand price reduction. If the Purchaser cancels the order/contract, Goods and Services already delivered shall be returned to the Supplier at Supplier's expense and risk. In urgent cases, the Purchaser himself shall be entitled to undertake the necessary rectifications or repairs at the Supplier's expense and risk. The Supplier's warranty obligation shall also cover the cost of rectifying defects on site. Unless explicitly stipulated otherwise in these General Conditions of purchasing, the statutory warranty regulations shall apply and may not be contractually excluded or modified to the Purchaser's detriment.

卖方特此保证，产品和服务符合其用途，工艺先进，符合相应的标准和规定，符合法律法规要求的规格，符合行业标准要求，符合订单、图纸和其它类似文件的要求。卖方进一步保证，产品和服务不涉及第三方的权利，其生产、采购、适用将不违反任何工业产权等权利，也不违反公平贸易规定。一旦出现上述投诉，卖方应当使买方免遭损失或者赔偿买方所遭受的损失，包括所有支出，尤其包括因投诉所引起的法律开支。动产产品和服务的保质期限为自接受产品或服务时起两年。因质量投诉而另行提供的产品或服务的保质期限重新开始计算。买方不必对产品或服务进行检验，不必对质量提出异议。如在保质期内提出异议，保质期中止，所有应付款项暂停支付，直至卖方对异议完成补救。如果产品或货物存在质量问题或短缺，卖方应当根据买方的选择，在买方规定的适当期限内，进行维修或更换。如果部分产品或服务（如买方自行通过随意检查发现）存在质量问题，买方有权拒收全部产品或服务，并将其退回给卖方，费用由卖方承担。在任何情况下，卖方应当自行负责拆卸瑕疵部件。如果维修或更换（1）不可能，（2）对于买方来说不可行或不合理，或者（3）未能进行或完成，买方有权选择取消合同/订单，或者要求折价接受。如果买方取消合同/订单，已经交付的产品和服务应当退回卖方，费用和 risk 由卖方承担。在紧急情况下，买方可以进行必要的修理或调整，费用和损失由卖方承担。卖方的担保义务包括现场维修的费用。法律规定的担保义务继续适用，不得通过合约作出对买方不利的排除或修改，本通用采购协议另行明确规定的除外。

10. Compensation for Damages, Product Liability:

损失赔偿、产品责任

The Supplier shall be liable for any damage caused willfully or negligently according to the statutory provisions. The Purchaser's claim for compensation shall cover all damages, including lost profits and all consequential damages incurred by the Purchaser, its contracting partners and/or end customers. The Supplier shall bear all costs for recall action (i.e. all

measures to check Goods or Services provided to end customers for defects and, where necessary, to exchange or repair defective Goods or Services in order to avoid damage to property or personal injury) taken by the Purchaser or its customers, unless the Supplier can prove that the Goods or Services provided by it were not the cause of the recall or at least that the damages in question occurred without the Supplier's fault. The Supplier hereby guarantees that the construction and production of and instructions for the Goods and Services are defect-free. In particular, the Supplier guarantees that at the time when the Product was put into circulation, no defect could be identified on the basis of the state of the art. The Supplier shall inform the Purchaser in writing about any intended changes to raw materials, production processes, parts supplied for the Goods or Services and all other modifications to the provision or composition of Goods or Services. The Supplier shall not proceed with such changes without the Purchaser's express written consent, whereby such consent shall not be unreasonably refused. The Supplier shall be obliged to name the manufacturer and/or upstream supplier of a defective Product at the Purchaser's request at any time.

卖方应当根据法律规定对故意或过失导致的损失承担责任。买方的索赔包括买方、买方的合作伙伴或终端客户的利润损失和所有间接损失。卖方应当承担买方或其客户进行质量追溯所发生的费用(即对提供给终端客户的产品或服务进行质量问题追溯,必要时,更换或修理瑕疵产品或服务,以避免造成人身伤害或财产损失),除非卖方可以证明其提供的产品或服务不是追溯的诱因,或者损失非卖方过错导致。卖方特此保证,产品和服务在生产和制造过程中不存在质量问题,其操作说明也不存在问题。卖方特别保证,当产品投入流通时,不会出现工艺问题。如需变更原材料、生产工序、半成品,或变更成份,卖方应当书面告知买方。未经买方明确书面同意,卖方不得进行变更,但买方不得不合理地拒绝予以同意。如买方要求,卖方应当提供瑕疵产品的生产商和/或上游供应商。

11. Patent Infringement:

专利侵权:

The Supplier shall be liable that no patents, trademarks, designs, copyrights or any other third party (industrial) property rights of whatever nature are violated by the provision of Products or Services. The Supplier shall be obliged to indemnify and hold the Purchaser harmless against and from any third party claims.

卖方负责提供的产品或服务未侵犯专利、商标、设计、版权或第三方的任何性质的(知识)产权。卖方应当使买方免遭第三方索赔所产生的损失,如产生,应由卖方赔偿。

12. Invoicing, Payment, Prohibition concerning Set-off and Assignment:

开具发票、付款、禁止帐款抵消和转让:

Invoices shall be sent by post to the Purchaser following delivery of the Goods or Services and must not be enclosed or attached to the respective consignment. Invoices must quote the full order number and order date. End-of-month invoices for recurrent supplies of Goods or Services shall be sent to the Purchaser by no later than the 3rd month following the provision of the respective Goods or Services. Invoices containing factual, calculative or accounting deficiencies or errors shall not become due and may be objected by the Purchaser within the payment deadline. In such case the payment deadline shall only commence upon receipt of the correct invoice. The Supplier's warranty shall be independent and not in any way affected by the time of actual payment. Payment by the Purchaser shall not be construed as

acknowledgement of the properness of the Goods or Services or as waiver of warranty claims or claims for damages. The Purchaser shall be entitled to withhold payments due to warranty or other claims against the Supplier or to offset accounts receivable of the Supplier against such claims. Unless the Purchaser agrees otherwise in writing, the Supplier shall not be entitled to assign its accounts receivables against the Purchaser to third parties or to have them collected by third parties, nor shall the Supplier be entitled to offset its own accounts receivables against the Purchaser's accounts receivables.

发票应在产品或服务交付后邮寄给买方，不得随货交付。发票应当载明订单编号和订单日期。多次供应产品或服务月底开票的，应在产品或服务供应后第四个月前开具发票给买方。发票出现事实错误、累计错误、财务错误的，发票款项视为未到期，在付款期限内，买方可以拒收。在此情况下，付款期限自收到正确发票时起算。卖方的担保义务不受实际付款时间的影响。买方付款并不意味着对产品或服务的适当性予以了认可，也不意味着放弃向卖方索赔。买方有权因向卖方就质量或其它问题索赔而终止付款，或者在应付帐款中抵扣索赔款项。除非买方书面同意，卖方不得将其应收买方款项转让给第三方，或者由第三方催款，也不得将其应收款项抵消买方的应收款项。

13. Force Majeure:

不可抗力:

In the event of force majeure, such as strike (including politically motivated strike), lockout, war, storm or other comparable fundamental events, the Purchaser shall be entitled to cancel the order/contract in whole or in part, or to demand the delivery of goods or services or the performance of an order at a later date, whereby this shall not give rise to any claim on the part of the Supplier.

发生不可抗力时，如罢工（包括政治罢工）、业主停工、战争、暴风雨或其它程度相当的重大事件等，买方有权部分或全部取消订单/合同，或者要求推迟交付或履约日期，卖方不得因此索赔。

14. Drawings, Models and Confidentiality:

图纸、模具与保密:

No information, drawings or other technical documentation provided by the Purchaser to the Supplier in connection with the performance of the contract and no drawings, information or other technical documentation prepared by the Supplier on the basis of the Purchaser's specifications and information shall be used for other purposes than the performance of the contract, be reproduced or made accessible or disclosed to third parties. Upon the Purchaser's request, all such documentation, together with any extracts or reproductions, shall be immediately handed out to the Purchaser. The Purchaser shall be entitled to make unrestricted use of documentation prepared by the Supplier based on the Purchaser's specifications. If the Goods or Services are not provided for whatever reason, the Supplier shall automatically and immediately hand out to the Purchaser all documentation mentioned in the first sentence of this paragraph and destroy any copies thereof and delete any backups or records on electronic data carriers. Orders and all related work shall be considered as business secrets and shall therefore be kept strictly confidential. The Supplier shall be liable for all damages which it suffers as a result of its failure to honour these obligations. The Supplier shall keep strictly confidential any technical or business information relating to the Purchaser that comes to the Supplier's attention in connection with the contract. The Supplier shall not disclose any confidential information without the Purchaser's prior written consent. This shall also apply to

scientific publications. The Supplier shall secure any documents or material which might contain industrial or business secrets of the Purchaser against unauthorized access of third parties and shall keep all confidential information relating to the Purchaser in safe custody. The Supplier shall use confidential technical or business information provided to it by the Purchaser only for the purpose of the performance of the contract and shall not use such confidential information for its own purposes. Ownership to any plans, detailed drawings etc. based on such confidential information, especially ownership to jointly prepared requirement specifications, shall transfer to the Purchaser immediately after their preparation and shall be marked as the Purchaser's property. All means of production (especial tools, designs, technical devices etc.) provided by the Purchaser to the Supplier shall also be marked as the Purchaser's property. The Supplier shall not be entitled to divulge confidential information, documentation and materials, such as drawings, plans, detailed drawings, means of production or other technical documentation or the product manufactured from them to third parties or to use them for third parties, against or without consideration. Upon termination of the contract, the Supplier shall return to the Purchaser all documentation and materials which might contain confidential information, in particular business or industrial secrets, relating to the Purchaser, destroy all copies thereof and delete any backups or records on electronic data carriers. The Supplier shall not mention or refer to its business relationship with the Purchaser in advertisements or publications of any kind without the Purchaser's express written consent. This clause 14 shall survive any termination or lapse of the contract and shall all apply for unlimited duration.

Should Supplier breach the stipulation above-said, Supplier shall pay RMB 500,000 to Purchaser and compensate the damages caused.

除履行合同外，卖方不得使用买方为履约而向卖方提供的信息、图纸或其它技术文件，以及由卖方基于买方的规格和信息制备的图纸、信息或技术文件，不得复制或向第三方泄露。一旦买方要求，所有这些文件及其摘要或备份均应当立即返还给买方。买方有权无限制使用卖方基于买方规格制备的文件。如果因任何原因未能提供产品或服务，卖方应当主动并立即向买方返还本条第一句所述所有文件，并销毁所有备份，删除电子文档。订单及所有相关文件视为商业秘密，应当严格保密。卖方因其未能履行义务所遭受的一切损失由卖方负责。卖方应当对其知悉的与买方有关的任何技术信息或业务信息予以严格保密。未经买方事先书面同意，卖方不得将秘密信息对外披露，包括在科研刊物上发表。卖方应当妥善保管含有买方秘密的文件或材料，以防第三方未经授权接触，并安全保管与买方有关的所有秘密信息。卖方只能将买方提供的技术或业务秘密用于履行合约，不得为自己的目的使用这些秘密信息。所有基于这些秘密信息产生的方案、详细图纸等，尤其为双方共同制备的规格一旦制备，其所有权即转移给买方，应当标示为买方财产。所有买方提供给卖方的生产资料（尤其工具、设计、技术装置等）也应当标示为买方财产。卖方不得向第三方泄露秘密信息、文件和材料，如图纸、方案、详细图纸、生产资料、其它技术文件或用其生产的产品，或将其用于为第三方服务，收取或不收报酬。合同解除后，卖方应当将所有可能含有买方秘密信息，尤其业务秘密或知识产权秘密的文件和材料返还给买方，销毁所有备份，删除所有电子文档。未经买方明确书面同意，卖方不得在任何性质的广告或期刊上提及与买方的业务关系。本 14 条在合同解除或终止后继续有效，并无限期适用。

如果卖方违反上述约定，则应当向买方支付人民币 50 万的违约金并赔偿买方因此而遭受的损失。

15. Dispatch:

运输:

Goods and services shall be properly packed for the means of transport used and sent for

dispatch in this manner. Unless otherwise agreed in writing for particular cases, the following dispatch rules shall apply:

产品和服务应当按照其运输方式进行妥善包装。除非双方另行书面特别同意,应当适用下列运输规定:

- a) dispatch to the destination stipulated by the Purchaser shall be solely at and on the Supplier's account and risk .The Supplier shall also bear the risk of accidental destruction;
卖方应当自行承担费用和 risk 运输至买方指定的目的地。卖方还应当承担事故导致毁损的 risk 险;
- b) dispatch shall comply with the relevant regulations and standards of transport;
运输应当符合相应的运输规则 and 标准;
- c) delivery notes, dispatch notes, invoices and suchlike must always quote the department to receive, order number and order date. In the overall correspondence ,each order shall be handled separately;
信函、交付单据、运输单据、发票 and 类似文件应当记载收件部门、订单编号 and 订单日期。整体上,每份订单应当分别处理;
- d) The Supplier 's delivery notes shall contain the following information:
卖方的交付单据应当包括以下内容:
 - Purchaser' order number and order item;
买方的订单编号 and 订购内容;
 - Miba-material number (if quoted on the order);
米巴的货号 (如在订单中注明);
 - manufacturer;
生产厂家;
 - complete type designation (classification);
完整的型号 (分类);
 - quantity and metric order unit;
数量 and 体积;
 - quality documents, if any, pertaining to the Goods or Service;
与产品 or 服务相关的质量文件, 如有;
 - supplier lot, batch or date code (where applicable);
供应商批号 or 生产日期编号 (如适用)
 - country of origin and customs tariff number.
原产国 and 海关编号。
- e) the order number and order date shall be stated on the back of the bill of lading. The freight address stated by the Purchaser must be carefully observed. The Supplier shall be liable for damages or costs incurred by the Purchaser as a result of incorrect declaration and /or addressing.
提单背面应当记载订单编号 and 订单日期。卖方应当认真注意买方注明的运输地址。如卖方错误报关 and /or 地址书写错误导致买方遭受损失的, 由卖方承担。
- f) if the Goods or Services are handed over to a carrier, the Supplier shall notify the Purchaser thereof and of the date of such hand-over; invoices shall not qualify as dispatch notes;
如产品 or 服务交给承运人, 卖方应当通知买方, 并告知交付的日期; 发票不能作为运输单据使用;

g) the Supplier shall be fully liable for any damages and costs (such as wagon demurrage charges, shunting costs, storage costs etc.) incurred by the Purchaser because the Supplier failed to comply with the above rules. Any consignments that cannot be accepted by the Purchaser due to such non-compliance shall be stored at the Supplier's costs and risk until the Purchaser receives the proper paperwork and can duly process the consignment.

卖方未能遵守上述规定导致买方遭受的任何损失（如车船滞期费、调车费、仓储费等）由卖方承担。卖方未能遵守导致买方无法接受的货物，由卖方承担仓储费用和 risk，直至买方收到适当文件妥善交货。

h) any separate dispatch instructions from the Purchaser shall be observed and complied with; the Supplier shall be liable for all damages incurred by the Purchaser as a result of Supplier's failure to comply with dispatch regulations and specifications.

卖方应当遵守买方另行要求的运输规定；如卖方未能遵守运输规定和要求，由此给买方造成损失的，由卖方负责。

16. Termination of Contract:

合同解除:

Without prejudice to any other grounds for termination stipulated herein, the Purchaser shall be entitled to terminate any contract upon good cause with immediate effect. In particular, it shall be regarded as good cause if:

除本协议规定的解除情形外，买方有权基于合理理由立即解除任何合同。尤其，下列情形应当被视为合理理由:

a) bankruptcy or liquidation proceedings are instituted against the Supplier or the Purchaser reasonably thinks that the Supplier has gone into insolvency;

卖方进入破产或清算程序，或者买方有合理理由认为卖方丧失偿债能力;

b) circumstances prevail that render the provision of Goods or Services impossible;

产品或服务供应客观不可能;

c) the Supplier itself or a person instructed by it to provide the Goods or Services violates essential terms of the contract or confidentiality obligations;

卖方或其指定提供产品或服务的人实质性违反合同或保密义务;

d) the direct or indirect legal or financial control with respect to the Supplier changes (change of control).

对卖方直接或间接的法律或财务控制权发生变化（控制权变化）。

17. Consent to Transfer of Contract:

同意转让合同:

The Supplier hereby agrees that the Purchaser may transfer the contract as a whole to another company affiliated with the Purchaser. Upon the Purchaser's written notification the affiliated company specified by the Purchaser shall take over all rights and obligations concerning the contract. The Purchaser shall, however, continue to be jointly and severally liable to the Supplier for the obligations that accrue from the contract, especially for the payment of the consideration.

卖方特此同意，买方可以将合同整体转让给买方的关联公司。一旦收到买方的书面通知，买方的关联公司将继续受与合同相关的所有权利和义务。但是，买方应当继续为合同义务向卖方单独并共同负责，尤其是付款义务。

18. Fees and Taxes

费用和税收

Unless agreed otherwise in particular cases or unless stipulated otherwise by statutory regulations with mandatory character, all fees, dues, charges, levies and taxes triggered by the order shall be borne by the Supplier. This shall also apply if the Purchaser is required to furnish an international import certificate with respect to import of certain Goods or Services.

卖方应当承担订单所引起的所有费用和税收, 双方特别另行商定或者法律法规另行强制性规定的除外。如果买方需要提供进口证书, 该规定依然适用。

19. Place of Venue:

管辖地:

Any dispute which arises in connection with contracts for Goods or Services or the proper conclusion, infringement, cancellation or invalidity of such contracts, shall be exclusively subject to the jurisdiction of the Chinese Court competent for the district of the Purchaser's headquarter.

If Goods or Services is purchased from outside Mainland of China, any disputes related to purchasing shall be submitted to the China International Economic and Trade Arbitration Commission, Shanghai Commission for binding and final settlement.

与产品或服务合约的签署、侵权、取消、无效相关的一切争议仅由买方所在地有管辖权的中国法院管辖。

如果产品或者服务是自中国大陆以外的地方采购, 则任何与采购有关的争议应当提交中国国际经济贸易仲裁委员会上海分会进行仲裁, 其仲裁裁决是终局的, 对双方均有约束力。

20. Applicable Law:

适用法律:

The Chinese laws and regulations will be applied for the construction and execution of this General Conditions of Purchasing.

本通用采购协议的解释和履行适用中国法律法规。

21. Severability Clause:

无效条款的处理:

If a provision in these General Conditions of Purchasing is invalid or inapplicable, this shall not affect the validity or applicability of the remaining provisions. If a provision is invalid or inapplicable, it shall be replaced by a provision that best matches the purpose of the invalid or inapplicable provision.

如本通用采购协议某条款无效或不能适用, 将不影响其它条款的效力, 应当对其进行修改, 使其能够最好地达到有效或能够适用的目的。

22. Written form:

书面要求:

Changes and modifications to these General Conditions of Purchasing and to all other contractual documents between the Purchaser and the Supplier (e.g. drawings, specifications etc.) shall only be valid if made in writing.

对本通用采购条款和其它双方之间的所有合约文件(如图纸、规格等)的变更仅在以书面作出时方可生效。

23. Clean Practice

清洁交易:

In the course of transactions, the Supplier shall not give money (including without limitation discount or commission) to any person of the Purchaser, shall not invite any person of the Purchaser to dinners except for snacks, shall not directly or indirectly provide any benefit to any person of the Purchaser or its family members, including benefit of economic value and of non-economic value, and shall not transact with any person of the Purchaser or its family members. Otherwise, no matter how small the amount of bribery is, the Purchaser has the right to terminate the transaction and deduct 30 percent of the value of the total supply of the latest 12 months (whether paid or unpaid) as penalty.

在双方的业务往来过程中，卖方不得向买方任何人员赠送钱款（包括但不限于提成、佣金）、礼物，不得宴请买方人员（工作便餐除外），不得直接或间接向买方人员或其家庭成员提供各种利益，包括具有经济价值的利益和不具有经济价值的利益，不得与买方人员或其家庭成员进行交易。否则，无论贿赂数额大小，买方有权解除交易，并抵扣前十二个月采购总价值（无论是否已付）的百分之三十作为违约金。

24. Compliance with Laws:

遵守法律:

In the course of transactions with the Purchaser, the Supplier shall comply with CORPORATE LAW, CONTRACT LAW, PRODUCT QUALITY LAW, tax laws and other relevant laws and regulations of PEOPLE'S REPUBLIC OF CHINA.

卖方在与买方交易过程中，应当遵守中华人民共和国《公司法》、《合同法》、《产品质量法》、税法及其它相关法律法规。

25. Obligation of Guarantee of Qualification and Notification:

资质保证与告知义务

The Supplier guarantees that its licensed business period exceeds the period for the transactions and the warranty period, and that the transactions are within the Supplier's approved business scope. In case the Supplier fails to pass the annual examination, is registered to terminate the existence of entity, is liquidated or goes into bankruptcy, the Supplier shall immediately inform The Purchaser in writing.

卖方保证，其经营期限超过双方交易合同的期限及质量保证期限，并保证双方的交易未超出卖方的经营范围。如果卖方出现年检未通过、注销、清算、整顿或破产情形，应当立即以书面形式通知买方。

26. No Employment of Child Labor:

禁止雇佣童工

The Supplier shall not employ child labor to perform the transactions between both parties hereunder.

卖方不得雇佣童工，为进行双方交易而提供劳务。

27. No Agency

无代理关系

In any case, either party has not authorized the opposite as representative to advocate, act as agent, market or undertake any business activities. Either party shall not use the opposite

party's name, business name, business marks, signs, etc. without approval from the opposite.
任何一方未在任何情况下授权另一方代表自己对外进行宣传、代理、销售，或从事其它任何商业活动。任何一方未经对方许可不得使用对方的名称、商号、商标、标识等。

28. Respect to Credits

相互尊重商业信誉

During the transactions and thereafter, both parties shall respect credits of each other, and shall not undertake any act that affects or is possibly to affect credits of each other.

在双方交易过程中及交易结束后，双方应当相互尊重对方的商业信誉，不得做出任何有损或可能有损于对方形象或信誉的行为。

29. Confidentiality of Information on Disputes

纠纷保密义务

In case of disputes, both parties shall assist to investigate into relevant facts. No matter what the disputes are based on, or whether the disputes result in arbitration or litigation, either party shall not disclose to any third party of any relevant information on the disputes.

一旦发生纠纷，双方应当协助查明与纠纷相关的事实。无论纠纷是基于何种原因，无论纠纷是否引起诉讼或仲裁，任何一方不得向第三方透露任何与纠纷相关的情况。

30. Joint Liability:

连带责任:

Either party shall take joint liability for all the behavior of its employees during the execution and/or performance of this General Conditions of Purchasing and the subsequent transactions.

任何一方为其员工在签署和/或履行本通用采购协议及后续交易过程中的一切行为承担连带责任。

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