

本通用条款适用双方合同，供应商报价中已经包含本通用条款的，亦适用于双方。

## 1. 总则

本通用条款适用于从供应商采购的所有产品和由供应商提供的所有服务。本通用条款构成与买方所订立协议不可分割的一部分。供应商做出的所有报价和订单承诺，均应视为包含本通用条款，无论是否明确提及。所有订单，均应视为买方遵照本通用条款采购产品或服务。供应商明确拒绝任何其他条款，其它条款仅在双方书面同意的情况下才适用。

## 2. 定义

在本通用条款中，以下每个术语定义如下：

**买方：**供应商向其提供产品或提供服务的个人、公司和其它组织。

**保密信息：**直接或间接以书面、口头或通过有形的形式向任何一方披露的任何信息，包括但不限于文件、既往财务报表、财务预测和相关财务信息、一般商业信息或融资和业务计划、源代码、文档、财务分析、营销计划、客户名称、客户列表、客户数据等。

**协议：**供应商与买方之间合同条款的总称，包括但不限于供应商向买方交付货物及提供服务（如下文所定义的）各自权利和义务。当双方书面确认订单，视为达成双方之间的协议，并且应仅受协议确认的内容的约束，包括本通用条款，以及任何明确引用的细则、附件和报价等文件。

These Terms & Conditions for Sale shall apply to the Contract unless otherwise provided in Sellers Quote.

### 1. GENERAL

These General Terms and Conditions ("GTC") apply to all sales and services performed by Supplier. They shall be an essential part of the Contract between Supplier and Buyer ("the Parties"). All quotations and order confirmations made by Supplier shall be deemed to incorporate these GTC, regardless of whether explicitly referenced to in the contract or not. Each order shall be deemed an offer by Buyer to purchase the Products and/or the Services pursuant to these GTC. Acceptance of the Products delivered and/or Services performed shall be deemed Buyer's acceptance of these GTC. Supplier explicitly rejects any other terms or conditions. Diverging provisions shall only be applicable if agreed upon between the Parties in writing.

### 2. DEFINITION

In these GTC, each of the following terms shall have the respective meaning as defined below:

**"Buyer":** the person, firm, company or corporation (other than the Supplier) by whom the order is given;

**"Confidential Information":** any information disclosed to either Party, either directly or indirectly in writing, orally or by inspection of tangible objects, including without limitation documents, historical financial statements, financial projections and related financial information, general business information or financing and business plans, source code, documentation, financial analysis, marketing plans, customer names, customer list, customer data etc.

**"Contract":** the sum of the provisions including without limitation the respective rights and obligations of Supplier and Buyer as jointly and concurrently concluded between them and having as their subject matter Supplier's delivery of Goods and/or Services (as defined below) to Buyer. A Contract shall not be deemed concluded until it has been confirmed by

**协议价格：**指买方必须支付给供应商的交付物的对价。除非另有书面约定，合同价格不包括：（i）包装费；（ii）送货和运输费用，除非这些费用按照适用的《2020年国际贸易术语解释规则》由供应商承担；以及（iii）增值税和任何其他税费和税收，这些税费将按照适用法律规定的税率和方式由买方支付。供应商可以调整所述的协议价格以考虑下列变化，包括但不限于：（i）根据买方的要求并由供应商同意进行的产品规格的任何更改；（ii）由买方引起的任何延迟；（iii）原材料或经济成本的任何增加；或（iv）数量的任何变化。

**日：**指日历日。

**交付物：**指在合同约定的由供应商提供的货物或提供的服务。

**产品：**供应商供应的标的物，包括但不限于供应商提供的数据、软件和其他信息。

**服务：**除供应货物外，供应商所提供的服务。

**HOERBIGER 公司：**指完全由 HOERBIGER Holding AG (HOERBIGER 集团的最终母公司) 全资拥有或控制的任何公司。

**供应商：**提供产品或服务的 HOERBIGER 公司。

### 3. 图纸与说明

在协议成立之前或之后，由供应商提交买方的与产品及其生产有关的所有图纸和技术文件，均属供应商所有。未经供应商同意，买方收到的图纸、技术文件或其他技术信息不得用于约定以外的任何其他用途。同时，未经供应商同意，也不得以其他方式进行使用、复制、再现、传递或与第三方进行交流。

Supplier in a written order confirmation and shall be governed exclusively by the contents of the order confirmation – including these GTC and, if expressly referred to, any specifications, attachments and the offer.

**“Contract Price”:** the consideration Buyer has to pay to Supplier for the Deliverables. Unless otherwise agreed in writing, the Contract Price is exclusive of: (i) packaging; (ii) delivery and carriage charges unless such charges are borne by Supplier in accordance with the applicable INCOTERMS 2020; and (iii) Value Added Tax and any other taxes and duties, which taxes and duties shall be paid by Buyer at the rate and in the manner prescribed by applicable law from time to time. Supplier may adjust the Contract Price stated to take account of any changes, including but not limited to: (i) any changes in the Product specification made at the request of Buyer and agreed by Supplier; (ii) any delay caused by Buyer; (iii) any increase in raw materials or economic costs; or (iv) any changes in volumes.

**“Days”:** calendar days;

**“Deliverables”:** Goods and/or Services to be performed by Supplier as specified in the Contract.

**“Goods”:** any physical object(s) including but without limitation data, software and other information to be supplied by Supplier;

**“Services”:** any other of Supplier's performance to be provided to Buyer other than the delivery of Goods;

**“HOERBIGER Group Company”:** any company which is fully owned and/or controlled by HOERBIGER Holding AG, the ultimate parent company of the HOERBIGER Group.

**“Supplier”:** the HOERBIGER Group Company providing the characteristic performance.

### 3. DRAWINGS AND DESCRIPTIONS

All drawings, documents and other technical information relating to the Deliverables or manufacture submitted by Supplier to Buyer prior or subsequent to the formation of the Contract shall remain the property of Supplier. Buyer shall not use for any other purpose than the agreed, copy, reproduce, transmit or communicate to a third party, these drawings, technical documents or other technical information received

#### 4. 验收测试

4.1 如果双方明确同意进行验收测试，则应根据合同条款和条件在正常工作时间内在供应场所进行验收测试，费用和支出由买方承担；供应商和买方必须就合同项下的验收标准和流程达成一致。

4.2 供应商应及时通知买方验收测试，以便买方到供应商现场进行验收测试。如果买方收到通知后未按约定参加验收测试，则应视为买方通过验收。

#### 5. 批准

买方应对交付物是否符合约定的买方的预期用途承担全部责任。

#### 6. 交付与风险的转移

6.1 除非有相反的书面约定，或者在供应商的报价等文件中另外载明，否则任何交付均应根据 INCOTERMS 2020 在供应商的场所进行货交承运人 (FCA)。

6.2 供应商有权部分装运。

#### 7. 付款，延误付款

7.1 如双方无另行约定，所有金额均以人民币开具发票，并应理解为净额，不包括任何税款、费用、包装和运输费用，除非双方另行书面约定这些费用应由买方承担。

7.2 买方应在收到发票后三十 (30) 天内全额支付，不得扣减、抵销或以任何形式暂扣 (除非法律明确规定不得排除的情况)。

7.3 如果买方不能，或在供应商合理判断下可能不能在合同约定的付款期限内支付款项的，供应商在不影响其其他权利的前提下可自行决定行使以下任一项或几项组合的权利：(a) 暂停履行 (包括但不限于暂停发货)；(b) 要求合理的付款担保；(c) 单方面更

from Supplier without the prior express written consent of the Supplier.

#### 4. ACCEPTANCE TEST

4.1 If the Parties have explicitly agreed on the performance of an acceptance test, it shall be carried out according to the terms and conditions of the Contract during normal working hours at Supplier's premises at Buyer's costs and expenditures; Supplier and Buyer have to agree on the acceptance criteria and process under the Contract.

4.2 Supplier shall notify Buyer of the acceptance test in due time to allow Buyer to be present. If Buyer upon notification does not attend an acceptance test, such absence shall be deemed Buyer's acceptance.

#### 5. APPROVAL

Buyer shall be fully responsible for the fitness of the Deliverables for Buyer's intended use.

#### 6. DELIVERY, PASSING OF RISK

6.1 Unless otherwise agreed in writing or outlined in Supplier's offer, any delivery shall be Free Carrier (FCA) Supplier's premises in accordance with INCOTERMS 2020.

6.2 Supplier shall be entitled to partial deliveries.

#### 7. PAYMENT, DELAY OF PAYMENT

7.1 Unless expressly otherwise agreed upon in the Contract, all amounts are invoiced in CNY and shall be understood to be net of any tax, duties, packaging and transport. Unless otherwise agreed in writing these shall be borne by Buyer.

7.2 Payment shall be made in full without set-off counterclaim or withholding of any kind (save where and to the extent that this by law cannot be excluded); and within thirty (30) Days of receipt of invoice.

7.3 In the event Buyer fails or, in Supplier's reasonable opinion, seems likely to fail to make payment when due under the Contract, Supplier without prejudice to its other rights reserves the right to either one or any combination of the following: (a) suspend performance (including withholding shipment); (b) require reasonable security for payment (c) unilaterally change

改支付条件为预付；(d) 立即终止合同或由供应商全权决定未履行部分的处理；(e) 根据适用的法律规定要求损害赔偿；(f) 抵销任何供应商关联公司对买方或买方关联公司的任何欠款；所有这些措施均应在买方的违约行为可纠正，但未在供应商设定的合理宽限期内予以纠正的情况下采取。任何由此造成的费用和损失应由买方承担。

7.4 买方只有在其相反的请求被法院认可或终审判决之下才可抵消，该抵消仅适用于同一合同关系下。

7.5 买方延迟付款的，应按每日万分之五承担违约金，违约金不足以赔偿买方违约给供应商造成损失的，包括但不限于仓储费、运费、律师费，还应赔偿相应的损失。

## 8. 交付期

8.1 交付日期仅为双方预估日期。

8.2 如果由于买方或买方的任何代表的行为或不作为，导致供应商延迟交货或无法履行合同项下的任何义务，交付或完工日期以及合同价格应做相应调整。

8.3 如果交付由于买方的任何行为或不作为而延迟，或者在被通知产品已准备好可发运后，买方未能安排运输或提供充分的运输指示，则供应商有权将产品置于适当的仓库，费用由买方承担。将产品放入仓库后，将被视为完成交付，货物风险将转移到买方，买方应据此向供应商进行付款。

## 9. 保证

9.1 在本通用条款中规定的例外情况、条件和限制下，供应商保证产品和服务将符合约定的质量，或者在没有约定特定质量的情况下，以供应商提供的货物

payment terms to pre-payment; (d) immediately terminate the Contract or, at Supplier's sole discretion, the part that Supplier has not yet performed (e) claim additional damages under applicable law; (f) set-off any amount owned by any Supplier Affiliate to Buyer or any of Buyer's Affiliates; all in case Buyer's default can be remedied but is not remedied within a reasonable grace period as set by the Supplier. Any costs and damages resulting from such termination shall be borne by Buyer.

7.4 Buyer may set off counterclaims only if recognized or non-appealable. A right of retention may be exercised by Buyer only if it concerns the same contractual relationship.

7.5 If payment is delayed, liquidated damages shall be borne by Buyer at the rate of 0.05% per day. If the liquidated damages are insufficient to compensate the damages and losses caused to the Supplier by Buyer's default, including but not limited to the costs and expenses of warehousing, delivery, and legal fees, the buyer shall assume the corresponding losses.

## 8. DELIVERY PERIOD

8.1 Delivery dates shall be understood to be estimates only.

8.2 If Supplier is delayed or prevented from performing any of its obligations under the Contract due to acts or omissions attributable to Buyer or any of Buyer's representatives, the delivery or completion date and the Contract Price shall both be adjusted accordingly.

8.3 If delivery is delayed due to any acts or omissions of Buyer, or if having been notified that the Products are ready for dispatch, Buyer fails to take delivery or provide adequate shipping instructions, Supplier shall be entitled to place the Products into a suitable store at Buyer's expense. Upon placing the Products into the store, delivery shall be deemed to be complete, risk in the Products shall pass to Buyer and Buyer shall pay Supplier accordingly.

## 9. WARRANTY

9.1 Subject to the exceptions, conditions and limitations set forth in these GTC, Supplier warrants that the Products and Services shall be in accordance

规格为准。在交付样件的情况下，供应商不承担任何保证或义务。除非买方和供应商明确约定，否则“样件”的含义仅指在合同达成时尚未达到市场成熟度的零件、产品、服务等。

9.2 任何基于瑕疵的索赔和权利（包括对隐藏瑕疵的主张）在产品投入使用后，或服务针对的对象投入使用后，12个月期满后失去时效；或货物交付之日起18个月到期，具体以较早到期者为准。如果供应商和买方约定了验收测试，则基于缺陷的任何索赔和权利（包括对隐藏瑕疵的主张）在买方验收后12个月或交付后13个月期满后失效，以较早到期者为准。

9.3 如果产品或服务在风险转移后不符合保证的质量标准，供应商可以修复任何瑕疵。供应商保证通过修理或更换相关零部件（后续修复），或者用不具有瑕疵的产品或服务替换产品或服务（后续交付）来保持后续性能。

9.4 供应商可以多次修复任何瑕疵，并可自行决定从修复转为后续交付。供应商应承担保持其后续性能所产生的所有费用，尤其是运输、装运、人工和材料成本，除非这些费用是由于将产品运送到非合同履行地点而产生的。

9.5 供应商不对使用过的产品、正常磨损、买方提供的材料、任何修理或更换、买方或任何第三方对产品的自行修改或更改，不正确的存储、安装或操作、缺乏充足安全措施、异常操作条件、或缺乏充分维护、使用不当的操作材料造成的损害，或未经供应商事先书面批准的任何修改或维修导致的损坏，以及类似的情

with the quality agreed upon or, in the absence of any specific quality being agreed upon, with Supplier's specifications for the Goods. Supplier shall not assume any warranty or obligations therefrom in case of delivery of prototypes. Unless otherwise explicitly agreed by Buyer and Supplier, the term "prototype" shall only mean such parts, products, services etc. which have not yet reached market maturity at the time of conclusion of the Contract.

9.2 Any claims and rights based on defects shall become time-barred (including for assertion of hidden defects) after the expiry of 12 (twelve) months since taking into operation of the Goods or, if services are delivered, the taking into operation of the object the service has been performed upon; or 18 (eighteen) months since delivery, whichever occurs first. In case, Supplier and Buyer agreed on an acceptance test, any claims and rights based on defects shall become time-barred (including for assertion of hidden defects) after the expiry of 12 (twelve) months since acceptance by the Buyer; or 13 (thirteen) months since delivery, whichever occurs first.

9.3 Supplier may rectify any defect if, upon passing the risk, the Products or Services do not have the warranted quality. Supplier warrants to provide subsequent performance by either, at its option, repairing or replacing the concerned parts (subsequent rectification) or by replacing the Products or Services by such Products or Services which are free from defects (subsequent delivery).

9.4 Supplier may rectify any defect several times and may decide at its discretion to change from rectification to subsequent delivery. Supplier shall be responsible for all costs incurred in connection with its subsequent performance, especially the transport, shipping, labor and material cost, unless such costs are incurred as a result of the Products being taken to a place other than the place of performance.

9.5 Supplier assumes no warranty for used Products, normal wear and tear, material provided by Buyer, any repair or replacement, modification or alteration of the Goods by Buyer itself or any third parties, damage due to improper storage, installation or operation, insufficient security, deviant operating conditions, or

形, 承担任何保证责任。如果使用未经授权的软件或备件, 供应商将不承担任何责任。在供应商要求时, 买方应承担供应商检查和排除此类瑕疵的所有费用。买方始终对其提供的任何信息的完整性和准确性负全责。

9.6 通过修理或更换 (或两者结合) 所修复的产品将在原始保修期剩余的时间内继续享有保修。

9.7 如发现瑕疵, 买方有义务立即书面通知供应商, 否则将被排除在任何保修要求之外。在供应商的要求下, 买方有义务将待修产品送至供应商处。替换掉的产品将由买方承担寄回供应商的费用。供应商将恢复对任何替换掉的产品的所有权。

9.8 欧盟指令 2019/770 中定义的供应商对带有数字元素的产品 (以下简称“数字产品”) 的任何附加保证以及与此相关的任何其他国家规定的保证要求, 均予以排除, 不适用于买方。

9.9 根据本通用条款所定义的保修将取代所有其他明示、暗示或法律规定、陈述、保证和条件 (包括但不限于对产品和服务中任何瑕疵的任何保修或条件, 或对产品和服务的适销性或特定用途适用性的任何保修或条件)。

9.10 上述对保修的排除和限制不仅在合同中对供应商保修责任进行排除和限制, 也针对侵权或成文法、普通法或衡平法的相关规定进行排除和限制。

9.11 针对产品和服务缺陷的全部补救措施如本条所列。买方不应享有任何进一步的补救措施、保修主张或任何附加权利, 并且特此明确排除任何此类补救措施、权利和主张, 包括但不限于因供应商未履行或不履行合同而提出的损害赔偿, 供应商存在重大过失或故意不当行为的情形除外。

due to inadequate maintenance, use of inadequate operational materials, or damage resulting from any modification or repair not approved beforehand by Supplier in writing or other similar circumstances. Supplier shall not be liable where any non-authorized software or non-authorized spare or replacement parts are used. Any costs incurred by Supplier for examining and removing such defects shall be borne by Buyer upon Supplier's demand. Buyer shall always be solely responsible for the completeness and correctness of any information provided by it.

9.6 Any remedied Goods (either by repair or by replacement) shall be subject to further warranty for the remainder of the original warranty period.

9.7 In case of a defect, Buyer shall be obliged to immediately inform Supplier in writing, otherwise Buyer shall be precluded from any warranty claims. Upon Supplier's request, Buyer shall be obliged to send the Goods to Supplier. Replaced Goods shall be sent back to Supplier at Buyers cost. Supplier shall recover ownership on any such replaced Goods.

9.8 Any additional warranty of Supplier for Goods with digital elements as defined in EU Directive 2019/770 (hereinafter “Digital Goods”) and any other national warranty requirements in this regard is excluded vis-à-vis entrepreneurs.

9.9 The warranty as defined in this Clause shall replace all other express, implied or statutory terms, representations, warranties and conditions (including without limitation, any warranty or condition of merchantability or fitness for a particular purpose), in connection with any defect in the Products and Services.

9.10 The above exclusions and limitations of warranty shall exclude or limit Supplier's warranty not only in Contract but also in tort or statutory law, common law or equity.

9.11 The only remedy for defects in Products and Services is as set out herein. Buyer shall not have any further remedy, warranty claims or any additional rights and any such remedy, rights and claims are hereby expressly excluded, including without limitation damage claims for non-fulfilment or non-contractual performance by the Supplier, except in case of

Supplier's gross negligence or willful misconduct.

## 10 所有权的保留

10.1 根据本通用条款第 10 条和第 12 条，尽管交付物已交付且风险已转移，但在供应商收到合同的全额付款之前，交付物的所有权不得转移给买方。在全额付款之前，(i) 买方应如同供应商的受托代理人一般持有交付物，并应妥善存储、保护交付物并为其投保，并且 (ii) 应立即通知供应商针对交付物采取的任何（官方）行动。

10.2 在交付物中提及的任何软件，仅应视为根据第 12.2 条授予的许可，本通用条款及供应商的报价或履行中的任何内容均不应解释为授予买方任何知识产权的所有权、权利、转让或利益。

10.3 若交付物中含有任何工装设备，其中包含供应商的特定技术知识和/或公司机密，这些工装设备及其描述和文档应在完全销毁之前由供应商保留所有权，买方没有权利去审查，以及在合同终止或到期后要求返还这些工装设备。

## 11. 责任的限制

无论法律依据为何，供应商应对由供应商或其为履行合同而使用的分包商过错造成的损害和缺陷负责，最高限额为：(i) 在发生损害或缺陷的年度之前的日历年度内，从供应商向买方销售的货物的年度营业额总额或 (ii) 如果适用，与该缺陷或损害相关的根据合同交付的该批次货物的价值，以二者中较低者及通常可预见的损失为准。供应商对间接和衍生的损害的责任，包括但不限于利润损失、生产损失和其他纯粹财务或不可预见的损失，应予以排除。在存在故意和重大过失的情况下，如果限制责任与强制性法律相抵触，则该责任限制不适用。此外，上述责任限制不适用于以欺诈手段隐瞒的缺陷，或因过错对生命、肢体或健康造

## *10. RETENTION OF TITLE, RETURN OF TOOLING*

10.1 Subject to this Clause 10 and Clause 12 and notwithstanding the delivery and the passing of risk in the Deliverables, the title of the Deliverables shall not pass to the Buyer until the Supplier has received payment in full of the Contract Price. Until full payment has been issued (i) the Buyer shall hold the Deliverables as the Supplier's fiduciary agent, and shall keep the Deliverables properly stored, protected and insured and (ii) shall immediately notify the Supplier of any (official) action undertaken against the Deliverables.

10.2 Any and all references to Software as part of the Deliverables shall only be deemed to mean a license as granted in Clause 12.2, and nothing set forth in these GTC and the Supplier's quotation or performance shall be construed to grant to Buyer any title, right, assignment or interest to any intellectual property rights whatsoever.

10.3 In case the Deliverables contain any tooling, which incorporates Supplier's specific know-know and/or company secrets, the tooling and any description and documentation thereof shall remain with Supplier until complete destruction and Buyer has no right to inspect and to return the tooling after termination or expiration of the Contract.

## *11. LIMITATION OF LIABILITY*

Supplier shall be liable for damages and defects culpably caused by Supplier or his subcontractors used for the performance of the Contract, irrespective of the legal ground, up to a maximum amount of (i) the annual turn-over with Goods sold from Supplier to Buyer under the respective Contract during in the calendar year preceding the year in which the damages and/or defects occurred in the aggregate or (ii), if applicable, the value of the lot or batch of Goods delivered under the Contract to which a defect or damage is related to, whichever ((i) or (ii)) is lower or the damage that is typically foreseeable. The liability of the Supplier for indirect and consequential damages,

成损害的缺陷。根据产品责任相关法律下的索赔不受影响。

including but not limited to loss of profit, loss of production and other mere financial or unforeseeable losses shall be excluded. The limitation of liability shall not apply, insofar as this contradicts mandatory law, in case of intent and gross negligence. Furthermore, it shall not apply to defects that were fraudulently concealed or in the event of culpable injury to life, limb or health. Claims under the Product Liability Act shall remain unaffected.

## 12. 软件和文件

12.1 植入或和交付物一起使用的软件和/或固件 (“软件”) 中的版权所有权以及交付物附带的文件 (“文档”) 的所有权将仍归相关供应商公司所有 (或可能向供应商提供软件和/或文档的其他方), 并未转移给买方。

## *12. SOFTWARE AND DOCUMENTATION*

12.1 Title to and ownership of the copyrights in software and/or firmware incorporated into or provided for use with the Deliverables (“Software”) and documentation supplied with the Deliverables (“Documentation”) shall remain with the relevant Supplier Affiliate (or such other party as may have supplied the Software and/or Documentation to Supplier) and is not transferred hereby to Buyer.

12.2 除非本标准条款另有约定, 买方特此被授予与产品一起使用软件和文档的非排他性、免费的许可, 前提是 (并且只要) 买方未复制或反编译上述软件和文档 (除非适用的法律明确授权), 并且买方严格保密地持有软件和文档, 不向他人披露或允许他人访问 (供应商的标准操作和维护手册除外)。买方可以将前述许可转让给购买、借出或租赁产品的其他方, 前提是其他方书面接受并同意受本条款条件约束。

12.2 Except as otherwise provided herein, Buyer is hereby granted a non-exclusive, royalty-free license to use the Software and Documentation in conjunction with the Goods, provided that and for so long as the Software and Documentation are not copied or decompiled (unless expressly authorized by applicable law) and Buyer holds the Software and Documentation in strict confidence and does not disclose them to others, or permit others to have access to them (other than Supplier’s standard operating and maintenance manuals). Buyer may transfer the foregoing license to another party which purchases, lends or leases the Goods, provided the other party accepts and agrees in writing to be bound by the conditions of this Clause.

12.3 供应商及其关联公司将保留其所产出的或在此基础上发展出的所有发明、设计和工艺的所有权, 并且除本条款规定外, 不授予任何知识产权的权利。

12.3 Supplier and Supplier Affiliates shall retain ownership of all inventions, designs and processes made or evolved by them and save as set out in this Clause no rights in intellectual property are hereby granted.

## 13. 不可抗力

13.1 任何一方不应对因其合理控制范围之外的原因或事件而导致的未能履行其在任何合同下的任何义务承担责任, 包括但不限于流行病、全球疾病大流行、隔离、罢工、封锁、官方命令、战争、恐怖主义行

## *13. FORCE MAJEURE*

13.1 Neither Party shall be liable for a failure to perform any of its obligations under any Contract that arise from cause or events that are beyond its reasonable control, including, without limitation, epidemics,



为（包括网络犯罪以及任何打击网络犯罪的措施）、蓄意破坏行为、军事动员、征用、暴动和叛乱、进出口中止的可能性，尤其是制裁或禁运，自然灾害、火灾、洪水、公用事业供应的使用限制以及由本条款所述的任何此类情况引起的分包供应商的交付或工作缺陷或延迟，包括此类分包供应商的破产（“不可抗力”）。

13.2 在不可抗力导致供应商减量或暂停其履行义务的情况下，供应商不应对延迟或未交付承担任何责任，履行时间应延长为需要消除此类原因的天数，再加上合理的重启供应商业务和履行所需的额外时间。在任何不可抗力事件导致原材料短缺的情况下，供应商还可以根据买方的要求以当时市场价格获得替代原材料或零部件，该价格应转由买方支付。

13.3 主张不可抗力的一方应尽快在不可抗力事件发生后以及不可抗力事件结束后书面通知对方。

13.4 买方应支付供应商在不可抗力事件发生之前已交付的部分履约费用，以及已产生的或不可避免已经发生的供应商与履行合同相关的所有费用和支出。

#### 14. 知识产权侵权

14.1 根据本通用条款中所约定的限制，如果因使用或销售产品而引起合同成立日期已存在的专利、注册设计、设计权、商标或版权（“知识产权”）的侵权主张，供应商应对买方进行赔偿，包括因此而在任何侵权行为中对判决由买方承担的所有合理费用和损害赔偿，或者买方在任何此类诉讼中可能承担的赔偿，但前提是供应商在下列情形下应不承担对买方进行赔偿的责任，如果：

pandemics, quarantine, strikes, lock-outs, official order, war, acts of terrorism, including cybercrime and any measures to combat cybercrime, sabotage, military mobilization, requisition, riots and insurrection, the cessation of import or export possibilities, especially sanctions or embargoes, natural disaster, fire, floods, restrictions in the use of utility supplies as well as defects or delays in deliveries or work by sub-suppliers, including such sub-suppliers' insolvency, caused by any such circumstances referred to in this Clause ("Force Majeure").

13.2 To the extent that such Force Majeure causes Supplier to reduce or suspend its performance, Supplier shall not be subject to any liability for delay or non-delivery and the time for performance shall be extended for as many Days beyond the date thereof as are required to obtain the removal of such causes, plus an additional reasonable time period for restart of supplier's operations and the performance. Supplier may also, during any period of shortage due to any event of Force Majeure at the request of Buyer, obtain substitute raw material(s) or component part(s) at the then prevailing market price, which price shall be passed through and paid by Buyer.

13.3 The Party claiming Force Majeure shall give notice in writing as soon as possible both after the occurrence of the Force Majeure and after the end of the Force Majeure event.

13.4 Buyer shall be obliged to pay for the part of the performance that Supplier delivered, and all of Supplier's Contract-related costs and expenses incurred or having become inevitable, prior to the Force Majeure event.

#### **14. INTELLECTUAL PROPERTY INFRINGEMENTS**

14.1 Subject to the limitations set forth in these GTC, Supplier shall indemnify Buyer in the event of any claim for infringement of letters patent registered design, design right, trademark or copyright ("Intellectual Property Rights") existing at the date of formation of the Contract arising from the use or sale of the Products, against all reasonable costs and damages awarded against Buyer in any action for such infringement, or for which Buyer may become liable in

(a) 此类侵权是由于供应商遵循买方做出或给出的设计或指示，或者买方未向供应商明确或披露在合同日期之前产品已经以某种方式、用途或在某些国家进行使用，或者与任何其他设备或软件联合或组合使用；

(b) 供应商已自费为买方获取继续使用产品的权利或已修改或更换产品，以使产品不再侵权；

(c) 买方未能尽早以书面形式通知供应商，即将提出的或已提出的任何索赔，或对买方有威胁的或向买方提起的任何诉讼，并且未能允许供应商以供应商的费用进行并控制可能随之发生的任何诉讼和所有索赔的协商；

(d) 买方未经供应商明确事先书面同意而做出可能就相关诉讼或索赔对供应商有损害的任何承认，或者

(e) 未经供应商事先明确书面同意修改了产品。

14.2 买方保证其提供的任何设计或指示不会导致供应商在履行合约下的义务时侵犯任何知识产权，并且应赔偿供应商因此而遭受的所有合理费用和损害赔偿。

## 15. 保密信息

15.1 除非双方另有约定，供应商向买方提供的任何信息应视为保密信息。然而，本条款不适用于买方能够证明在披露时 (a) 已在公共领域中，(b) 由无需对供应商承担任何保密义务的第三方披露，或 (c) 已为买方所知的任何信息。

15.2 买方同意将直接或间接从供应商处收到的所有信息视为机密信息，并且仅在与合同履行相关的情况下使用此类保密信息。买方不得向任何第三方披

any such action, provided always that Supplier shall not be liable to so indemnify Buyer in the event that: (a) such infringement arises as a result of Supplier having followed a design or instruction furnished or given by Buyer, or the Products having been used in a manner or for a purpose or in a country not specified by or disclosed to Supplier prior to the date of the Contract or in association or combination with any other equipment or software; or (b) Supplier has at its expense procured for Buyer the right to continue to use the Products or has modified or replaced the Products so that the Products no longer infringe; (c) Buyer has failed to give Supplier the earliest possible notice in writing of any claim made or to be made or of any action threatened or brought against Buyer and/or Buyer has failed to permit Supplier, at Supplier's expense, to conduct and control any litigation that may ensue and all negotiations for a settlement of the claim; or (d) Buyer has made without Supplier's express prior written consent any admission which is or may be prejudicial to Supplier in respect of any such claim or action, or (e) the Products have been modified without Supplier's express prior written authorization.

14.2 Buyer warrants that any design or instruction given by it shall not cause Supplier to infringe any intellectual property rights in the performance of Supplier's obligations under the Contract and shall indemnify Supplier against all reasonable costs and damages which Supplier may incur as a result of any breach of such warranty.

## 15. CONFIDENTIAL INFORMATION

15.1 Unless otherwise agreed upon between the Parties, any Information given by Supplier to Buyer shall be considered Confidential Information. This Clause however does not apply to any information which Buyer can prove was at the time of disclosure (a) in the public domain (b) disclosed by a third party without any confidentiality obligation towards the Supplier or (c) already known by Buyer.

15.2 Buyer agrees to treat all information received directly or indirectly from Supplier as confidential and to only use such Confidential Information in connection with the performance of the Contract. Buyer shall not

露或提供对此类信息的访问权限。

#### 16. 遵守法律 - 安全、健康、环境、出口管制和数据保护

16.1 买方应负责遵守所有适用的进口、出口管制和制裁法律、法规、命令和要求（随时可能进行修订），包括但不限于美国、欧盟以及供应商和买方所在地或可能供应物品的司法管辖区的相关法律法规，以及满足与其接收和使用硬件、软件、服务和技术相关的任何许可证、授权、通用许可或许可例外的要求。

16.2 在任何情况下，买方在使用、转让、发布、出口或再出口任何此类硬件、软件或技术时，均不得违反上述适用法律、法规、命令或要求，或与之相关的任何许可证、授权或许可例外的要求。

16.3 买方进一步同意，其不得从事任何活动从而可能使供应商或任何供应商关联公司面临根据任何相关司法管辖区禁止不当付款的法律法规的处罚的风险，包括但不限于向任何政府官员或机构、部门或其政治分支机构、政党、政党官员或公职候选人、或任何其他其客户或任何供应商的员工进行行贿。

16.4 买方同意遵守适用的健康、环境、安全、安全、道德、合规相关法律和其他强制性要求，并保证供应商对买方不遵守上述要求而导致的任何损害免责。

16.5 不论本协议中的其他规定如何，相关国家的数据保护法律和《通用数据保护条例 (EU 2016/679)》(GDPR)（含其修订）都适用，并应被双方遵守。各方应仅为履行合同的目的是而使用，并确保各自的分包商

disclose or provide access to such information to any third parties.

#### *16. COMPLIANCE WITH LAWS - SAFETY, HEALTH, ENVIRONMENT, EXPORT CONTROL & DATA PROTECTION*

16.1 Buyer shall be responsible for compliance with all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union, and the jurisdictions in which Supplier and Buyer are established or from which items may be supplied, and for fulfilling the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto which will apply to its receipt and use of hardware, software, services and technology.

16.2 In no event shall Buyer use, transfer, release, export or re-export any such hardware, software or technology in violation of such applicable laws, regulations, orders or requirements or the requirements of any licenses, authorizations, or license exceptions relating thereto.

16.3 Buyer agrees furthermore that it shall not engage in any activity that would expose Supplier or any Supplier Affiliates to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties, or political party officials or candidates for public office, or to any employee of any customer or supplier.

16.4 Buyer agrees to comply with applicable statutory health, environmental, safety, security, ethics, compliance laws and other mandatory requirements and shall hold Supplier harmless from any damage arising due to non-compliance with the above.

16.5 Notwithstanding any other provisions hereunder, national data protection laws and the General Data Protection Regulation (GDPR) EU 2016/679 as amended shall apply and be adhered to by both Parties. Each Party shall use, and ensure that its

仅为上述目的而使用披露方的个人数据。披露方确认其有权向接收方提供个人数据。

respective subcontractors use, all personal data of the disclosing Party exclusively for the purposes of performing the Contract. The disclosing Party confirms that it is authorized to provide the receiving Party with personal data.

#### 17 书面形式

对于本通用条款以及所有合同相关文本的任何法律效力相关的修正、变更或补充, 只有以书面形式并由双方签章的情况下才有效。如果通过电子邮件发送给另一方正式授权的代表, 则应被视为书面形式。

#### *17. WRITTEN FORM*

Any legally relevant amendment, change or supplement to these Terms and Conditions and the entire Contract shall only be valid in writing and signed by both Parties. Constitutive declarations shall be considered to be in writing if made by email and sent to the duly authorized representative of the other Party.

#### 18. 可分割性

如果合同的任何条款、子条款或其他约定, 在任何法律法规下无效, 则仅在这种范围内被视为无效, 不影响合同的其余部分的有效性。

#### *18. SEVERABILITY*

If any clause, sub-clause or other provision of the Contract is invalid under any statute or rule of law, such provision, to the extent only, shall be deemed to be omitted without affecting the validity of the remainder of the Contract.

#### 19. 不放弃权利

任何一方对于任何违约或过错, 或任何权利或救济的放弃, 以及任何交易过程的放弃, 除非根据第 17 条 (“书面形式”) 双方明确书面同意, 否则均无效。任何这样的放弃不得被解释为持续的放弃或针对任何其他事件的放弃。

#### *19. NO WAIVER*

No waiver by either Party with respect of any breach or default or of any right or remedy and no course of dealing, shall be valid unless expressly agreed upon between the Parties in writing in accordance with Clause 17 (“Written Form”). No such waiver shall be interpreted as continuous waiver or waiver for any other occurrence.

#### 20. 终止

#### *20. TERMINATION*

##### 20.1 因故终止

##### 20.1 TERMINATION FOR CAUSE

20.1.1 如果发生任何终止原因, 或者供应商合理的相信即将发生任何终止原因, 则供应商可以 (不影响其在本协议下或其他方面的其他权利) 随时提前五个工作日通知买方, 采取以下一项或多项措施: (a) 终止合同, 以及必要时, 终止与买方的任何其他合同; (b) 暂停根据合同或与客户的任何其他合同下进行的任何交付。

20.1.1 If any Cause for termination occurs, or if Supplier reasonably believes that any Cause is about to occur, then Supplier may (without prejudice to its other rights hereunder or otherwise) at any time by five workdays prior notice to Buyer, do any one or more of the following: (a) terminate the Contract, and, as the case may be, any other Contracts with Buyer; (b) suspend

#### 20.1.2 “终止原因”视为形成，如果：

(i) 买方未按时支付合同价款或部分合同价款，或以其他方式违反合同或任何与供应商或任何供应商关联公司的其他协议；

(ii) 买方无法按时支付其未清偿的款项，或者以其他方式变得资不抵债，或暂停支付或威胁要暂停支付，或停止营业；

(iii) 买方未能采取对合同履行必要或必须的行动，或

(iv) 买方采取了如下措施：(a) 提出涉及买方及其债权人的任何协议或安排，(b) 收到涉及买方或其任何财产的行政命令或任命任何接收人，(c) 清盘或解散买方，或(d) 直接或间接改变买方的所有权结构和/或控制。

20.2 便利终止 如果合同具有持续性义务，供应商可以（不影响其在本协议下或其他方面的其他权利）随时提前 30 天书面通知买方终止合同。由于此类终止或解除而引起的买方损害赔偿要求将被排除。

#### 21. 现场服务工作

如果现场服务，包括但不限于供应商或其分包商在买方现场、买方的合同伙伴现场、或任何其他第三方现场的工作，是协议的内容或在履行过程中是必要的，买方应有义务允许供应商进入现场。如果买方自身不控制进行现场服务地点的进入权限，买方应保证供应商能够进入现场。特别是，买方应负责识别并在可能的范围内满足任何必须事先满足的形式或实质性要求，包括但不限于法定或政府要求，或买方自身或任何相关第三方适用的政策。买方应尽早以书面形式通知供应商任何此类要求。双方约定的任何履行或完工日期应自动推迟至少买方和供应商满足所有此类要求所需的时间。如果供应商的人员在进入现场服务地点之前需要完成特定的培训、指示或程序，买方应在不收取供应商费用的情况下，与供应商约定在供应商人员的时间允许的时间内，提供充足的培训和指示。如果由于买方的原因导致供应商的服务延迟，并因此导致供应商

any deliveries to be made under the Contract, or under any other Contract with the Customer.

20.1.2 "Cause" shall be constituted if: (i) Buyer fails to pay the Contract Price or any part of it when due or otherwise breaches the Contract or any other agreement with Supplier or any Supplier Affiliates; (ii) Buyer is unable to pay its outstanding payments as they become due, or Buyer otherwise becomes insolvent or suspends payment or threatens to do so or ceases to do business, (iii) Buyer fails to act where Buyer's action is obligatory or necessary for the performance of the Contract, or (iv) steps are taken to: (a) propose any composition or arrangement involving Buyer and its creditors generally, (b) obtain an administration order or appoint any receiver in relation to Buyer or any of its property, (c) wind-up or dissolve Buyer, or (d) directly or indirectly change the ownership structure and/or control of Buyer.

#### 20.2 TERMINATION FOR CONVENIENCE

In case of a Contract with continuous obligations, Supplier may (without prejudice to its other rights hereunder or otherwise) at any time by 30 Days prior written notice to Buyer terminate the Contract. Claims for damages on the part of Buyer due to such termination or rescission are excluded.

#### 21. FIELD SERVICE WORKS

If field services including, but not limited to, Supplier's or its subcontractors' works on Buyer's site, the site of any of Buyer's contractual partners or that of any other third party, are a subject matter of the Agreement or become necessary during its performance, Buyer shall be obliged to grant Supplier access to the site. If Buyer doesn't control access to the site where the field service shall take place, Buyer shall guarantee Supplier's access to the site. In particular, Buyer shall be responsible for identifying and, to the extent possible, fulfilling any prior formal or substantive requirements to be fulfilled, including without limitation statutory or government requirements, or Buyer's own or any relevant third party's applicable policies. Buyer shall inform Supplier in writing at the earliest possible of any such requirements. Any performance or completion date

产生额外费用，则买方应赔偿供应商的任何额外费用，包括人员调动或撤离费用。

agreed to between the Parties shall be deemed automatically postponed by at least the time that it takes Buyer and Supplier to meet all such requirements. If specific training, instructions or procedures are required of Supplier's personnel prior to them accessing the field services site, Buyer shall, without cost to Supplier, provide sufficient training and instructions in accordance with Supplier and subject to availability of Supplier's personnel. If Supplier's Services are delayed due to reasons attributable to Buyer and as a result additional costs occur at Supplier's end, Buyer shall compensate Seller for any such additional costs, including mobilization or demobilization.

## 22. 适用法律

22.1 除非另有书面约定，双方之间的合同关系将完全受到供应商所在司法管辖区的法律管辖。除国际私法规则外，对这些规则的任何援引以及联合国《国际货物销售合同公约》的规定一并排除。

22.2 所有因合同而产生的争议由供应商主要营业地的有管辖权的法院的管辖。

## *22. APPLICABLE LAW*

22.1 Unless otherwise agreed in writing, the contractual relationship between the Parties shall be exclusively governed by the laws of the jurisdiction in which the Supplier's office is located. With the exception of International Private Law Rules, any reference norms of these laws and the provisions of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

22.2 All disputes arising out of the Contract shall be subject to the exclusive jurisdiction of the competent courts at Supplier's principal place of business.

## 23. 制裁条款

23.1 买方特此确认，本合同项下货物和服务的提供可能受到制裁的约束（即任何适用的出口管制、贸易或经济制裁、禁运或类似法律、法规、规则、许可、命令或要求，包括但不限于联合国、英国、美国和欧盟的相关法规，以下简称“制裁”）。

23.2 在当地相关法律法规允许的范围内，买方应对制裁的遵守独立负责，并不得采取任何可能导致供应商违反制裁的行为。特别是，在当地相关法律法规允

## *23. SANCTIONS CLAUSE*

23.1 Buyer hereby acknowledges that the supply of Goods and provision of Services may be subject to sanctions (meaning any applicable export controls, trade or economic sanctions, embargoes or similar laws, regulations, rules, licenses, orders or requirements including, without limitation those of the UN, UK, U.S. and the EU, hereinafter "Sanctions").

23.2. To the extent permissible under mandatory applicable local laws, the Buyer is solely responsible for complying with and shall not do anything which would cause Supplier to be in breach of, Sanctions. In particular and to the extent permissible under mandatory applicable local laws, Buyer warrants and represents that it: (i) is not, and is not owned or controlled by a sanctioned party (any party or parties

许的范围内，买方保证并声明：（i）买方本身不属于受制裁方（任何被列入制裁名单或其他受制裁方名单的一方，包括但不限于欧盟维护的受欧盟金融制裁的个人、团体和实体的综合名单、英国财政部维护的被制裁金融制裁目标综合名单以及美国外国资产控制办公室维护的特别指定国民和被封锁个人名单，以下简称“受制裁方”），也不被受制裁方拥有或控制；（ii）不会直接或间接地使用、销售、转售、出口、再出口、转让、分发、处置、披露或以其他方式将货物和/或服务、任何技术或知识产权用于：（a）任何受制裁的地区或国家（根据制裁规定，货物和/或服务、任何技术或知识产权（包括纯知识）的提供将受到限制或禁止，客户须获得所需的任何许可证和/或批准）；包括但不限于，根据经修订的欧盟理事会法规 833/2014 的 12g 条范围内，禁止向俄罗斯或白俄罗斯再出口违禁产品和技术或用于在俄罗斯或白俄罗斯使用违禁产品和技术；（b）任何国家、地区或目的地，作为政策，供应商不与该国家、地区或目的地开展业务（包括但不限于伊朗、叙利亚、苏丹、古巴、白俄罗斯、俄罗斯、克里米亚和塞瓦斯托波尔、顿涅茨克和卢甘斯克共和国、克赫尔松和扎波罗热的领土以及朝鲜，以及任何时常受到全面制裁的其他地区）；（c）任何受制裁方（或受制裁方拥有或控制的任何一方）；（iii）将获得并保持所需的出口许可证或其他政府批准，并完成可能需要的所有形式手续，以便使用、销售、转售、出口、再出口、转让、分发、处置、披露或以其他方式处理货物和/或服务；（iv）不会将货物和/或服务全部或部分用于与任何适用禁运的违反军事目的使用相关的开发、生产、处理、运作、维护、存储、检测、识别或传播化学、生物或核武器或开发、生产、维护或储存能够运送这种武器的导弹或违反任何适用禁运的军事目的使用（包括但不限于欧盟、英国、美国、欧洲安全与合作组织和/或联合国维护的禁运）的情况。此外，买方不得向任何第三方出售、转售、供应、出口、再出口、转让、转移、分配或处置货物和/或服务、任何技术或知识产权（包括纯知识），如果买方知道或有理由怀疑货物和/或服务、任何技术或知识产权（包括纯知识）是、或可能是用于本通用条款第 23 条列出的用途之一。

listed on any list of designated or other restricted parties maintained under Sanctions, including but not limited to the, the consolidated list of persons, groups and entities subject to EU financial sanctions maintained by the European Union, the Consolidated List of Financial Sanctions Targets in the UK maintained by HM Treasury and the Specially Designated Nationals and Blocked Persons List maintained by the US Office of Foreign Assets Control, hereinafter “Sanctioned Party”); (ii) will not use, sell, resell, export, re-export, transfer, distribute, dispose of, disclose or otherwise deal with the Goods and/or Services, any technology and/or intellectual property directly or indirectly, to: (a) any territory to which the supply of the Goods and/or Services, technology and/or intellectual property of any kind (e.g. also mere knowledge) would be restricted or prohibited under Sanctions (subject to the Customer obtaining any and all licenses and/or approvals required); including - but not limited to - under the scope of Art 12g of the EU Council Regulation 833/2014, as amended, as regards the re-export of prohibited goods and technology to Russia and Belarus or for use in Russia and Belarus; (b) any country, territory, or destination with which Supplier, as a matter of policy, does not conduct business (including but without limitation to Iran, Syria, Sudan, Cuba, Belarus, Russia, Crimea & Sevastopol, the republics of Donetsk and Luhansk, the territories of Kherson and Zaporizhzhia and North Korea, and any other territory subject to comprehensive Sanctions from time to time); (c) any Sanctioned Party (or any party owned or controlled by a Sanctioned Party); (iii) will obtain and maintain any required export license or other governmental approval and complete such formalities as may be required in order to use, sell, resell, export, re-export, transfer, distribute, dispose of, disclose or otherwise deal with the Goods and/or Services; (iv) will not put the Goods and/or Services, in their entirety or in part, to any use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, production,

maintenance or storage of missiles capable of delivering such weapons or to any military end-use in violation of any applicable embargo (including, but not limited to, embargoes maintained by the EU, UK, US, OSCE and/or UN). In addition, Buyer shall not sell, resell, supply, export, re-export, transfer, divert, distribute, or dispose of the Goods, Services, technology and/or intellectual property of any kind (e.g. also mere knowledge) to any third party where Buyer knows or has grounds for suspecting that the Goods, Services, technology and/or intellectual property of any kind (e.g. also mere knowledge) are or may be intended for one of the uses specified in this Clause 23.

23.3 买方应建立并维护一个充分的监测机制，以发现任何第三方（包括可能的再销售商）可能违反制裁的行为。

23.4 违反本条第 1、2 或 3 款的任何行为均构成合同的重大违约，并使供应商有权：（i）终止与买方的任何待处理或未来订单/合同；及（ii）采取任何已协商或可用的补救措施。

23.5 在应用本条第 1、2 或 3 款时如有任何问题，买方应立即通知供应商。

23.6 供应商保留对买方进行筛查和背景调查的权利，并在供应货物和/或服务之前及在履行相应订单/合同期间的任何时候，要求提供有关履行义务的信息。买方应及时提供（i）所有请求的信息，和（ii）供应商在相关筛查和检查方面所需的所有协助，这是供应商的合理要求。

23.3 Buyer shall set up and maintain an adequate monitoring mechanism to detect possible violations of the Sanctions by any third parties, including by possible resellers.

23.4 Any violation of sub-clauses 1, 2 or 3 shall constitute a material breach of the agreement between the parties and shall entitle Supplier (i) to terminate any of the pending or future orders / Contracts with the Buyer and (ii) to apply any agreed and/or available remedies.

23.5 Buyer shall immediately notify Supplier in case of any problems in applying the sub-clauses 1, 2 or 3.

23.6 Supplier reserves the right to carry out screening and background checks on the Buyer and to request information concerning compliance with the obligations, prior to the supply of the Goods and/or Services and at any time during the performance of the respective order / Contract. Buyer shall promptly provide (i) all requested information and (ii) all assistance that Supplier reasonably requires in relation to such screening and checks.