



MOCAP Standard Terms and Conditions

茂凯标准条款声明

PLEASE NOTE THAT THE FOLLOWING TERMS AND CONDITIONS OF SALE

APPLY TO ALL SALES OF PRODUCT BY MOCAP.

请注意，以下的销售条款条件适用于茂凯产品的所有销售。

1. DEFINITIONS. As used in these Terms and Conditions, “Seller” means Zhongshan Maokai Industrial Limited Company; “Buyer” means the purchaser of any of the Products and all others liable for the purchase price. “Products” means the products identified on the Seller’s website, or in any quotation, proposal or purchase order accepted by Seller.

1. 定义. 本条款与条件使用的“卖方”指中山茂凯工业有限公司，“买方”指任何产品的购买人或其他付款人。“产品”系指卖方网站陈列或卖方已接受的报价单、提议书、或购买订单中列明的产品。

2. PURCHASE ORDER ACCEPTANCE. Sales of Products are expressly conditioned upon Seller’s acceptance of the purchase order and Buyer’s assent to these Terms and Conditions. None of Buyer’s terms and conditions, if any, contained in Buyer’s purchase order, bid, or other document, shall apply or be deemed to amend these Terms and Conditions.

2. 接受购买订单. 产品的销售明确建立在卖方接受购买订单以及买方同意本处条款条件的基础上。买方的购买订单、竞标书、或其他文件中包含的条件与条款皆不适用产品销售，且不得视为修改本处的条款条件。

3. CUSTOM MOLDED PRODUCTS/TOOLING. The following provisions also apply to all sales of custom molded products sold under a purchase order. In the event Seller fabricates, casts or manufactures any molds, dies, forms or patterns (collectively called “Molds”) necessary for the manufacture of custom molded products sold under a purchase order, Buyer shall reimburse Seller for the full cost of making such Molds and such Molds shall remain the property of Seller until Seller receives full payment from Buyer for these Molds. All tooling in Seller’s possession will receive normal maintenance for the production of parts unless there is no production activity for more than 12 consecutive months. In the event Seller is required to re-design, repair or replace any Molds, Buyer shall reimburse Seller for all such costs, including tooling and re-tooling costs. Buyer acknowledges that such Molds will be based on technical information and drawings provided by Buyer to Seller, and Buyer agrees not to assert any claim against Seller with respect to any such technical information or drawings Buyer may have disclosed to Seller. Seller shall comply with all specifications, drawings, quality requirements and procedures specified by Buyer, but once Buyer has agreed in writing to the design for a Mold, Buyer shall be solely responsible for the proper form, fit and function of the products manufactured using the Mold. Without limiting Buyer’s obligations as stated elsewhere in these Terms and Conditions, Seller shall have no liability to Buyer for, and, Buyer shall indemnify and hold Seller harmless from, any claims including, but not limited to, claims of third parties arising out of or relating in any way to the Molds or the products manufactured using such Molds, whether based on patent, trademark, copyright, defective design, product liability, and whether arising out of contract, tort or strict liability, except to the extent such claim arises out of the gross negligence or willful misconduct of Seller or its employees. In the event Buyer provides Molds to Seller, Seller shall have no liability to Buyer for any loss or damage to such Molds during transportation from Buyer to Seller or during Seller’s possession and control of such Molds, unless such loss or damage is due solely to the gross negligence or willful misconduct of Seller or its employees. Buyer shall be solely responsible for obtaining and paying for any insurance on such Molds. To the fullest extent permitted by applicable law, Seller shall



retain a security interest, which may be reflected in a UCC-1 Financing Statement, in the Molds (whether created by Seller or provided by Buyer) in an amount equal to the total of (i) any unpaid amount due Seller hereunder for cost of fabrication, casting, manufacturing, repairing or re-tooling of such Molds, plus (ii) any unpaid amount due Seller for any products manufactured by Seller using the Molds. Buyer shall, at Buyer's sole cost and expense, promptly arrange for removal of the Molds from Seller's facility after the last production run using such Molds, provided Buyer has fully paid for such Molds and re-tooling costs, if any. In the event Buyer fails to do so within 18 months after the last production run using such Molds, Seller shall have the right to dispose of such Molds without further notice to Buyer and Seller shall have no liability to Buyer for the Molds or the disposal thereof.

3. 定制产品/工具. 以下条款同样适用于订单项下所有定制产品的销售。若卖方制造、铸造、或生产任何模具、模板、样式或图案（合称“模具”）用于生产订单的定制产品，买方应该向卖方支付模具的全部生产费用，并且，在卖方收到模具的全部款项前，模具应属卖方所有。除非连续十二（12）个月没有生产活动，卖方持有的工具都应得到正常维护。若卖方被要求重新设计、修复或替代任何模具，买方应该补偿卖方的一切相关费用，包括工具费用与重新加工费。买方承认，模具均基于买方向卖方提供的技术信息与图样进行制作，买方不得针对该等技术信息或图样对卖方提出任何指控。卖方应该遵守卖方指定的所有产品规格、图样、质量要求与制作程序，但一旦买方书面同意模具的设计，买方将对依照模具生产的产品的形式、符合程度以及功能承担全部责任。不限制买方根据本条款与条件其他部分应付责任的前提下，卖方不承担并且买方应赔偿卖方并保全卖方不受以下索赔的损害，包括但不限于，与模具或使用模具生产的产品相关或导致的索赔，无论该等索赔是否基于专利、商标、著作权、缺陷设计、产品责任，以及无论该等索赔是由合同、侵权或严格责任引起的，除非该等索赔是由卖方或卖方的员工的重大过失或故意不当行为而导致的。若买方给卖方提供模具，对于该等模具从买方运至卖方途中或卖方拥有与控制该等模具时发生的任何损失与损害，卖方均不向买方承担责任，除非该等损失与损害完全由卖方或卖方员工的重大过失或故意不当行为导致的。买方应独自负责获取并支付该等模具的保险。在合适法律允许的最大限度下，卖方应对模具获得担保权益，该等担保权益可以由UCC-1融资声明体现（无论由卖方取得还是由买方提供），担保数额为（i）未支付给卖方的卖方制造、铸造、生产、修复或再加工模具的费用，加上（ii）对于卖方使用模具制造的任何产品，买方尚未支付的部分。当最后一批产品使用模具后，买方应自负费用与开销，及时安排将模具从卖方的场所移除，前提是买方已经支付模具以及再加工费用（如有）。若最后一批产品使用模具后十八（18）个月内买方未能如此行动，则卖方有权不另行通知买方的情况下处置模具，且卖方不对模具或模具处置承担责任。

4. SHIPMENT TERMS. All Products are shipped Incoterms 2010 F.O.B. Seller's premises for North America or FCA - Free Carrier (meaning that Products are placed at the disposal of the Buyer at the Seller's premises, cleared for export and loaded with Buyer's selected carrier) for shipments outside North America. Unless otherwise requested in writing by Buyer, Seller shall select the carrier. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of purchase order.

4. 运输条款. 所有产品都按照Incoterms 2010船上交货（地点为卖方北美场所），对于运出北美的货物，应交至承运人（意味产品由买方放置卖方的场所，完成出口清关，并装载至买方的指定承运人）。除非买方书面要求，应该由卖方选择运输公司。卖方可以自主决定对产品进行部分发货，且不对此承担任何责任或受任何责罚。每次发货都构成独立的销售，无论产品按照订单的全部或部分发货，卖方都应该支付发货部分的产品价款。

5. TITLE AND RISK OF LOSS. Title and risk of loss pass upon delivery to the carrier and Buyer must file any claim for damage in transit with the carrier. Buyer assumes all risks of and responsibility for



loss, damage to, delay in shipment or non-delivery of the Products after their delivery to the point of destination. Seller assumes no responsibility to insure shipments unless requested to do so by Buyer, at Buyers' expense. As collateral security for the payment of the purchase price of the Products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Missouri Uniform Commercial Code.

5. 所有权及灭失风险。 产品的所有权以及灭失风险在产品交付运输方时进行转移。对于任何产品运输过程中发生的损失，买方都应向运输方进行主张赔偿。一旦产品交付目的地，买方应承担产品灭失、损坏、交付迟延或无法交付的所有风险与责任。除非买方要求并支付费用，卖方不负责购买运输保险。作为产品购买价格的支付担保，买方在此向卖方授予买方对产品权益、所有权以及利益的留置权与担保权益，无论该等产品位于何处，无论已经存在或之后产生或获得，包括所有新增、替换或修改部分、以及产品上述部分所有孳息（包括保险收益）。本条规定的担保权益构成密苏里州统一商法典规定的购买款担保权益。

6. PRICES. Prices stated on this website or in a quotation are those currently in effect and are subject to change without notice. Except as otherwise agreed in writing between Buyer and Seller, all prices are given by the Seller on an F.O.B. or ex Works basis, and where the Seller agrees to deliver the Products otherwise than at the Seller's premises, the Buyer shall be liable to pay the charges for transport, packaging and insurance. All prices are based on Chinese RMB, and exclude shipping charges and sales, use, excise or similar taxes. Buyer shall pay, or reimburse Seller for, the gross amount of all shipping charges, all import and export charges, license fees, duties and similar charges, and any present or future taxes (including any applicable local taxes), fees (including those covering preparation of consular documents and consular fees), deductions or withholdings (other than income taxes) on any amounts payable to Seller or applicable to the sale or furnishing of Products. All drawback of duties paid on items entering into manufacture of the Product hereunder shall accrue to Seller, and Buyer will furnish Seller, wherever possible all documents necessary to obtain payment of such drawbacks and expenses and will cooperate with Seller in obtaining such payment. Seller may change prices due to changes in customs duties, taxes, vendor prices, foreign exchange fluctuations, currency regulations, or other. If Seller is prevented from charging any price in effect by any governmental law, order, regulation or ruling, then Seller may cancel a purchase order by giving Buyer thirty (30) days written notice thereof.

6. 价格。 本网站或报价单上列明的价格是目前的有效价格，可能在没有通知的情况下进行修改。除非买方与卖方另有书面约定，卖方提供的价格皆为离岸价F.O.B.或工厂交货价ex Works，当卖方同意将产品交付至卖方场地以外的地方，买方应支付相应的交通费、包装费、以及保险费用。所有的价格均以人民币表示，并且不包含运输费用以及销售、使用、消费或其他类似税收。买方应该支付或者补偿卖方所有的运输费用、进出口费用、许可费用、关税及类似收费，并且应该支付所有现有的或未来的税收（包括适用的当地税收）、费用（包括领事文件准备以及领事费用）、买方应收款或产品销售的减免或扣除（收入税除外）。对于进入本产品制造的项目所产生的关税退税均应归卖方所有，买方应向卖方提供所有获取此类退税与费用的必要文件，并且配合卖方取得退税。卖方可根据关税、税费、供应商价格、外汇波动、货币管制以及其他变化来调整产品价格。若卖方因任何政府法律、法令、规定、或裁决而无法收取任何价格，则卖方可以通过向买方发出三十（30）天书面通知取消购买订单。

7. PAYMENT TERMS. Buyer agrees to pay, and Products will be invoiced at, prices prevailing at the time of shipment. Unless otherwise expressly provided in these Standard Terms and Conditions (i) terms of payment are net cash payable at thirty (30) days from the date of shipment as evidenced by Seller's invoice date, and (ii) no discounts, anticipation or allowances are permitted. Buyer is not entitled to



withhold from, set off against or otherwise reduce any payments due to the Seller unless expressly agreed in writing in advance by Seller.

7. 支付时间. 产品将按照发货时的适用价格进行收费，买方同意按照该等价格进行支付。除非标准条款条件中另有明确规定，(i) 付款时间为发货日期（即卖方账单日期）后的三十（30）天内以净价支付；以及 (ii) 任何折扣、预支或补贴皆不得使用。除非卖方提前明确同意，买方不得扣除、抵销或减免任何应付款项。

8. ASSURANCES. Shipments and deliveries of Products are subject to the approval of Seller's Credit Department, and Seller may at any time stop work in process, refuse to make shipment, or instruct the common carrier or other third person in possession of the Products to hold, store or return the Products to Seller if Buyer fails to make any payment or perform any other obligation owed to Seller when due or if Seller reasonably determines that Buyer's credit worthiness is unsatisfactory or that the Buyer will not be able to pay the amounts due and payable. Buyer warrants to Seller that it is solvent, that it is able and intends to pay each of its obligations when due, and that all checks, drafts and other items tendered to Seller in payment for the Products will be honored in accordance with Seller's terms. Buyer acknowledges that Seller relies upon Buyer's representations of its solvency to induce Seller to ship Products. As such, Buyer agrees that Seller shall have the right to cancel any unfilled order and cancel any future orders without notice to Buyer in the event that Buyer becomes insolvent, is adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business.

8. 保证. 产品的发货与交付都应由卖方的信贷部门同意，若买方未支付任何款项、未履行对买方的其他义务、或者卖方合理判断认为买方的信用记录不合格或买方无法支付款项，卖方可任何时候停止生产、拒绝发货、或要求通用运输方或其他持有产品的第三方中止、储存或退回产品。买方向卖方保证其具有偿付能力，并且有能力、有意愿支付所有到期义务，所有支票、汇票以及其他用以支付产品款项的物品都将按照卖方的条款给予承兑。买方同意，卖方倚赖买方的偿付能力声明发运产品。因此，买方同意，若买方失去偿付能力、被裁定破产、请求或同意任何破产重组法的救济、或在正常业务中无法履行财务义务，则卖方有权不通知买方而取消任何未发货的订单与取消任何未来的订单。

9. CLAIMS. Any claim concerning Products that could be discovered by inspection upon delivery of said Products must be reported promptly in writing to the delivering carrier and also to Seller. In the case of a claim against Seller, inspection shall be promptly arranged with Seller and, where appropriate, representatives of the carrier. Buyer must settle any damage, loss or shortage occurring in transit with the common carrier without offset of or deduction from the purchase price of the Products affected. Buyer shall set aside, protect and hold those Products which are the subject of its claim without further processing until Seller has an opportunity to inspect Products and advise Buyer of the disposition, if any, to be made of them. In no case shall any Products be returned without first securing the written authority of Seller. Buyer shall inspect the Products within 30 days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Products unless it notifies Seller in writing of any Nonconforming Products during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. "Nonconforming Products" means only the following: (i) Product shipped is different than identified in the purchase order; or (ii) Product's label or packaging incorrectly identifies its contents. If Buyer timely notifies Seller of any Nonconforming Products, Seller shall, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) repair such Nonconforming Goods. Buyer shall ship, at its expense and risk of loss, the Nonconforming Products to Seller's facility. If Seller exercises its option to replace Nonconforming Products, Seller shall, after receiving Buyer's shipment of Nonconforming Products, ship to Buyer, at Buyer's expense and risk of loss, the replaced Products. Buyer acknowledges and agrees that the remedies set forth in this Section 9 are Buyer's exclusive remedies for



the delivery of Nonconforming Products. Except as provided in this Section 9, all sales of Products to Buyer are made on a one-way basis and Buyer has no right to return Products purchased to Seller.

9. 索赔. 任何有关产品的索赔只要能在交付时通过检查发现的，必须及时书面报告交货承运人以及卖方。若有向卖方的索赔，应及时与卖方以及合适的运输代表安排检查。买方与承运人解决运输过程中发生的赔偿、损失或缺失时，必须不得抵扣或减少产品的购买价格。对于索赔产品，买方应该将其单独划出、保护并保留，不得进一步处置，直至卖方有机会检查产品并告知卖方如何处置这些产品。任何产品不得在未得到卖方书面授权之前退回。买方应在收到产品后三十（30）天内检查产品（“检查期间”）。除非买方在检查期间书面告知卖方有任何不符产品并提供卖方要求的书面证据或其他文件，买方将被视为已经接受产品。“不符产品”仅指下列类别：（i）运输的产品与购买订单注明的不一致；或（ii）产品的标签或包装错误地显示其内容。若买方及时将不符产品告知卖方，卖方应自主决定：（i）用符合要求的产品替换不符产品；或（ii）修复该等不符产品。买方应自负花销及成本，将不符产品运至卖方场所。若卖方选择替换不符产品，卖方应在收到买方的不符产品退货后，由买方负责花销并承担损失，将替换产品运至买方。买方承认并同意，除本第9条规定外，所有的产品销售均以单方向进行，买方无权将购买的产品退回卖方。

10. DELIVERY. Delivery dates specified are desired estimates only, and not promised dates. Seller will make reasonable efforts to adhere to the delivery dates furnished by the Buyer; provided Buyer provides Seller with reasonable written notice of its desired delivery dates. Seller shall not be liable for any damages, loss or expense of the Buyer for failure to comply with any shipping or delivery dates for any reason whatsoever. By consenting to or accepting delivery of the Products, Buyer waives any and all claims against Seller for damage by reason of any delay, whether subject to Seller's control or not.

10. 交付. 所有注明的交付日期皆为预计日期，而非承诺日期。买方向卖方书面提出合理的交付日期时，卖方将尽合理努力达到买方指定的交付日期。若卖方无法满足买方的任何发货或交付日期，无论出于何种原因，卖方皆无需向买方承担任何赔偿、损失或费用。通过同意或接受产品交付，买方放弃一切追究卖方迟延交货的责任，无论该等迟延是否受卖方控制。

11. MODIFICATION AND CANCELLATION. Buyer may not modify or amend any terms of a purchase order or hold up releases after the Products ordered are in process, except with Seller's written consent and subject to conditions then to be agreed upon, including timely receipt of all change orders and reimbursement to Seller for all costs, expenses and lost profits resulting therefrom. Seller reserves the right at any time to discontinue the manufacture of any Products, to make changes in design, or to make improvements to the Products without incurring any obligation to correct, modify, adjust or improve the Products previously manufactured and sold by Seller. Purchase orders are not subject to cancellation, except upon (i) written approval of the Seller and (ii) the payment of a fair and equitable charge paid by the Buyer. In the case of any goods manufactured by the Seller, this will be based upon Seller's actual costs to the date cancellation notice is received and approved by Seller, including all charges made by suppliers or subcontractors of the Seller, any commissions on such sales paid by Seller prior to receipt and acceptance of the cancellation notice.

11. 修改与取消. 除非卖方书面同意，买方不得修改或变更购买订单的任何条款或者在产品订单已经开始处理时延迟释放，更改将受制于当时同意的条件，包括及时收到改变的订单以及补偿卖方因修改而产生的所有成本、费用以及损失利润。卖方保留在任何时候停止生产产品、改变设计以及改善产品的权利，但卖方没有改正、修改、调整或改善之前生产或销售的产品义务。购买订单不得取消，除非（i）卖方书面批准，以及（ii）买方支付公平合理费用。对于任何由卖方生产的产品，这将取决于卖方截止收到并批准取消通知之日的实际费用，包括卖方的供应商及分包商收取的一切费用，以及收到并接受取消通知之前卖方支付的销售佣金。



12. LIMITED WARRANTY. All Products manufactured by Seller are warranted to be free from defects in material and workmanship at the time of delivery. This limited warranty extends only to Buyer, and Seller's obligation under this limited warranty is strictly limited to repairing and replacing at Seller's option any Products found to its satisfaction to be defective, provided that a written claim has been received from Buyer within 30 days after delivery thereof, and said Products are, upon request, returned to Seller's factory from which it was shipped, transportation prepaid. Neither the receipt of information from Buyer nor delivery by Seller of the Products shall in any manner imply a warranty on the part of Seller that the Products will be suitable for the purposes disclosed by Buyer nor any other obligation or liability on the part of Seller respecting the suitability of the Products. Buyer expressly agrees that Seller shall not be liable under any warranty nor for any defects or nonconformity in the Products, if Buyer's order is illegible, is in error, or specifications, technical information or instructions set forth therein are faulty or improper. This warranty does not apply where any claimed defect arose as a result of Buyer's misuse, neglect, alteration or accident with respect to the Products. **THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES EXPRESS OR IMPLIED AND SELLER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** Buyer will indemnify, defend and hold Seller harmless from and will be responsible for any loss, damage or injury to persons or property arising out of the use of the Products supplied by Seller, except and only to the extent such loss or damage was caused as a direct result of Seller's negligence in product design or manufacture, and in no case will Seller be liable to purchaser for special, indirect, consequential or exemplary damages. These limitations and exclusions will apply regardless of the form of action is based on contract or tort.

12. 有限保证. 卖方保证, 所有由其生产的产品在交付时均无材料或工艺缺陷。此等有限保证仅对买方有效, 且卖方的有限保证义务严格限于由卖方决定修复或替换其认为具有缺陷的产品。卖方有限义务的前提是买方在产品交付后三十(30)天内提交书面要求, 且该等产品在卖方的要求下由买方支付运费退回至出货工厂。从买方获得信息或由卖方交付产品均不暗示卖方保证产品符合买方所透露的目的或有关产品合适性的任何卖方责任。买方明确同意, 若买方的订单不合法、有错误, 或者其中包含的规格、技术信息或说明有误或不恰当, 卖方均不对任何保证或产品的缺陷和不符合负责。当控诉的缺陷是由买方的错误使用、过失、更改或意外造成, 本条项下的保证不得适用。本保证明确取代其他任何明示或暗示的保证, 卖方明确否认任何暗示的产品适销性或符合特定目的的保证。买方将赔偿、维护、并保全卖方不受任何由使用卖方产品而带来的损失、赔偿或人身、财产伤害, 除非该等损失或赔偿是由卖方的产品设计或生产的过失所直接造成的, 并且, 卖方不对购买者负责一切特别的、间接的、偶然的或惩罚性的赔偿。无论索赔行为基于合同或侵权, 本条的限制与例外都将适用。

13. LIMITATION OF LIABILITY. The uses to which Products are put are solely within the discretion and responsibility of the Buyer and/or end user. Buyer assumes any and all liability arising out of or in any way connected with the use of such Products and hereby agrees to indemnify Seller for such liability. Seller shall not be liable for incidental, consequential or special or exemplary damages, loss of profit, loss by reason of plant shutdown, for costs of removal or disposal, costs of any substitute for products, non-operation or increase expense of operation or for costs of shipment and Buyer expressly waives all claims for such loss or damage. Under no circumstance shall Seller's liability or Buyer's remedy for damages against Seller exceed the amount of the purchase price. The price stated for the Products is based upon and in consideration for limiting Seller's liability. Failure of Buyer to give timely written notice of its claim shall bar Buyer from any remedy. No claim or action arising out of these Terms and Conditions, Buyer's order, or other document pertaining to the products may be brought by Buyer more than twelve (12) months after the date of shipment of the Products.

13. 责任限制. 产品的使用完全由买方以及终端用户自行决定。买方承担一切与产品使用相关或由产品使用导致的责任, 同时, 买方同意赔偿卖方相关损失。卖方不对偶然的、附带的、特别的或惩罚性的赔偿、利润损失、工厂停工造成的损失、拆除或处置费用、替代产品的成本、不运营或运营开销增加或运输费用, 同时买方明确放弃对于该等损失或损害的索赔。在任何情况下,



卖方的责任以及对买方的赔偿都不应超过购买价款。产品的价格是基于并考虑限制卖方的责任。如买方没有及时书面通知索赔，则其不应得到任何赔偿。任何基于本条款与条件、买方的订单或与产品有关等文件都不得在产品发货后十二（12）个月之后提出。

14. INTELLECTUAL PROPERTY; INDEMNITY. If the Products are to be manufactured or any process is to be applied to the Products by the Seller in accordance with a specification, technical information or drawings submitted by the Buyer, the Buyer warrants that any design, drawings, specifications, information or instructions furnished or given by it shall not be such as will cause the Seller to infringe any registered designs or trade mark or trade name or copyright or letters patent in the performance of the fulfillment of the purchase order and shall indemnify, defend and hold harmless the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification. Any patent and design rights held by the Seller shall remain the sole and absolute property of the Seller and such designs, drawings, equipment, process or any part thereof shall not be reproduced or disclosed or allowed to be reproduced or disclosed by the Buyer, without the advance express written consent of the Seller.

14. 知识产权；赔偿。 若卖方按照买方提供的规格、技术信息或图纸进行产品生产或设计流程，则买方保证其提供的任何设计、图纸、规格、信息或说明均不会导致卖方在完成产品购买订单的时候侵犯任何已注册的设计、商标、商号、著作权或专利证书，且对于卖方支付或同意支付的因使用买方提供的规格而被控诉侵犯专利、著作权、设计、商标以及其他工业或知识产权的任何索赔和解，买方应赔偿、维护并保全不使卖方受到损失、赔偿、成本、费用的伤害。任何卖方拥有的专利与设计权应继续保持为卖方的独有绝对财产，未经卖方事先明确书面同意，该等设计、图纸、器材、流程或任何部分都不得被复制或披露、或被买方允许复制或披露。

15. FOREIGN SHIPMENTS. The Products, including any software, documentation, and any related technical data included with, or contained in, such Products, and any products utilizing any such Products, software, documentation, or technical data (collectively, "Regulated Products") may be subject to US export control laws and regulations, including the Export Administration Regulations and the International Traffic in Arms Regulations. The Buyer shall not, and shall not permit any third parties to, directly or indirectly, export, reexport, or release any Regulated Products to any jurisdiction or country to which, or any party to whom, the export, reexport, or release of any Regulated Products is prohibited by applicable federal or foreign law, regulation, or rule. The Buyer shall be responsible for any breach of this Section by its, and its successors' and permitted assigns', parent, affiliates, employees, officers, directors, shareholders, customers, agents, buyers, resellers, or vendors. The Buyer shall comply with all applicable federal and foreign laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, reexporting, or releasing any Regulated Products. The Buyer shall provide prior written notice of the need to comply with such laws and regulations to any person, firm, or entity which it has reason to believe is obtaining any such Regulated Products from the Buyer with the intent to export or reexport.

15. 国外发货。 产品，包括任何软件、文件以及产品包含的相关技术数据，以及任何使用该产品、软件、文件以及技术信息的产品（合称“管制产品”）可能受到美国出口管制法律法规的限制，包括美国出口管制规定以及国际武器贸易条例。买方不得自身或允许第三方直接或间接地向任何联邦或国外法律、法规或条例禁止出口、再出口或释放管制产品的领域、国家或主体出口、再出口或释放管制产品。买方应对其自身、其继任者、以及允许的受让方、母公司、关联方、员工、职员、董事、股东、客户、代理、买家、转销商或供应商的任何违约行为进行负责。买方应遵守所有适用的联邦与国外的法律、法规及规定，并在出口、再出口或释放任何管制产品前完成所有要求的保证（包括取得必要的出口许可以及其他政府批准）。对于买方认为可能将从买方处



获得的管制产品计划用于向任何个人、公司或主体出口或再出口，买方应提前向其书面告知遵守该等法律法规的必要性。

Neither Buyer nor any of its directors, officers, employees, or agents, is a person or entity who (a) is currently the subject of any investigation by the Office of Foreign Assets Control (“OFAC”), Department of the Treasury or any other governmental entity imposing economic sanctions and trade embargoes (“Sanctions Investigation(s)”), or (b) is directly or indirectly owned or controlled by any person who is currently the subject of a Sanctions Investigation. Buyer shall promptly notify Seller when it or any of its directors, officers, employees, or agents becomes the subject of any Sanctions Investigation. Buyer is, and has been, in compliance with all statutes, laws, ordinances, regulations, rules, codes, governmental orders, or any other requirement or rule of law of any governmental authority administered by OFAC or any other governmental entity imposing economic sanctions and trade embargoes (“Economic Sanctions Laws”) against designated countries (“Embargoed Countries”), entities, and persons, including without limitation, any person or entity who is named on the List of Specially Designated Nationals and Blocked Persons (collectively, “Embargoed Targets”).

买方或买方的任何董事、职员、员工或代理均不是：（a）海外资产管理办公室（“OFAC”）、美国财政部或其他政府机构施加经济制裁以及贸易禁令（“制裁调查”）的调查对象；或（b）直接或间接受制裁调查的对象所有或受其控制。当买方或其董事、职员、员工或代理成为任何制裁调查的对象时，买方应及时通知卖方。买方现在及过去均遵守一切由OFAC管理的政府机构或者其他颁发经济制裁或贸易禁令（“经济制裁法”）的主体所制定的条例、法律、命令、法规、规定、法典、政府命令或其他任何法律，该等主体所颁发的经济制裁或贸易禁令对象为指定国家（“禁运国家”）、主体及个人，包括但不限于，任何在特别之人国民和被阻禁者名单上的个人或主体（合称“禁运目标”）。

The Buyer is not, and has not been an Embargoed Target or otherwise subject to any Economic Sanctions Law. Buyer shall comply with all Economic Sanctions Laws. Without limiting the generality of the foregoing, Buyer shall not (a) directly or indirectly export, reexport, transship, or otherwise deliver the Products or any portion of the Products to an Embargoed Target or (b) broker, finance, or otherwise facilitate any transaction in violation of any Economic Sanctions Law. The monies used to fund Buyer’s purchase of the Products were not funded by or otherwise derived from the government of, or any Embargoed Target.

买方不曾是禁运目标或受任何经济制裁法的限制。买方应遵守所有经济制裁法。不限制前述条款普适性的情况下，买方不得（a）直接或间接出口、再出口、转运或将任何产品或产品的任何部分送至禁运目标，或（b）违反任何经济制裁法为任何交易提供中间服务、财政支持或其他便利。买方购买产品的款项并非来自任何禁运目标的政府。

16. COMPLIANCE WITH LAWS. Buyer shall be responsible for processing all registrations and importation permits to import the Products and shall comply, prior to importing the Products, with all applicable laws and other requirements including but not limited to those regarding labeling, safety and usage, handling and disposal of hazardous materials, import and export of materials, and with all other applicable laws and regulations. Buyer represents and warrants that neither it nor any of its officers, directors, employees, or agents is an official, agent, or employee of any government, governmental agency, or political party or a candidate for any political office. Buyer shall promptly notify Company of the occurrence of any event that may reasonably result in an exception to the foregoing. Buyer may not directly or indirectly, in the name of, on behalf of, or for the benefit of Company, offer, promise, or authorize to pay, or pay any compensation, or give anything of value to, any official, agent, or employee of any government or governmental agency, or to any political party or officer, employee, or agency thereof, or any candidate for political office, for purposes of influencing any act or decision of such Foreign Officials, or in an effort to obtain or retain business. Buyer shall require each of its directors, officers, employees,



and agents to comply with the provisions of this Section, the Foreign Corrupt Practices Act (“FCPA”) of the United States, 15 U.S.C. § 78dd-1 et. seq, and any other similar acts applicable to Buyer.

16. 法律合规。 买方应负责处理所有产品进口的注册与许可，并且买方应在进口产品之前，遵守所有适用的法律与其他要求，包括但不限于有关标签、安全使用、处理放置危险物质、材料进口与出口的法律要求以及其他所有适用的法律法规。买方声明并保证，其本身或其任何职员、董事、员工或代理均不是任何政府、政府机构或政党的官员、代理、或员工，亦不是任何政治职位的候选人。买方应及时通知公司任何可能合理导致上述例外情形发生的事件。买方不得直接或间接，以公司的名义、代表公司、或为公司的利益向任何政府或政府机构的官员、代理或员工，或者向任何政党或其职员、员工、或代理或者任何政治职位的候选人，以影响该外国官员的行为或决定、或为了得到商业交易的目的，提供、承诺或授权支付、支付报酬或给予任何有价物。买方应要求其自身的所有董事、职员、员工与代理遵守本条的规定、美国海外反腐败法（15 U.S.C. § 78dd-1 et. seq）的规定以及其他任何适用于买方的类似规定。

17. CHARGE BACK LANGUAGE. Buyer agrees not to “charge back” or debit payments of purchase orders, without first contacting Seller to discuss whether the alleged error resulting in Buyer’s claim for a price adjustment was a sole, direct and proximate result of error or negligence on the part of Seller. Buyer must prove by preponderance of the evidence that the damages allegedly sustained by Buyer are the sole, direct and proximate result of Seller’s error or negligence. Buyer agrees that any disputes cannot be resolved amicably between Seller and Buyer shall be submitted to the local court of the city where Seller is located under and subject to the laws of the People’s Republic of China, without regard to conflict of law principles. Under no circumstances shall a charge back or debit occur on a payment of a purchase order without first contacting Seller relative to the above-outlined procedure. In the event Buyer debits payment of a purchase order without first following the above provisions, Seller shall be entitled to recover damages, including attorney’s fees and interest, on the debited amount.

17. 扣费；语言。 在没有首先与卖方联系商讨导致买方应得价款调整的错误是否完全由卖方的错误或过失直接造成之前，买方同意不“收回”或减少付款。买方必须提供充足证据表明买方声称的错误是完全由卖方的错误或过失直接造成的。买方同意，双方之间任何不可得到友好解决的争议都应提交至卖方所在地法院中华人民共和国法律进行解决。在未首先按照以上程序联系卖方之前，任何情况下都不得对购买订单的付款进行收回或减少付款。若买方未按照以上条款操作而减少订单付款时，卖方应得到减少款项部分的损失赔偿，包括相应的律师费与利息。

18. FORCE MAJEURE. Neither Seller nor Buyer shall be liable for loss or damage, resulting from any delay or failure in performing any of its obligations arising from any cause beyond its reasonable control, which could not have been foreseen or avoided in whole or in part by such party and which affects either Buyer, the Seller, or the production of the Products. Such cause shall include: (a) governmental action or lack of action, governmental restriction or control; (b) plant shutdowns or reduction in production in respect of one or more production plants of the Seller caused by mechanical or other failure; (c) tidal wave, earthquake, storm, adverse weather conditions, national emergency, typhoon, flood, fire, explosion, epidemic, acts of God, accident; (d) total or partial unavoidable breakdown of delivery facilities; or (e) shortage of feedstock, fuel and utilities and the suspension of power supply affecting one or more production plants of the Seller. Seller shall have no obligation to source Products from any other of its or its affiliates manufacturing locations or procure Products from any third parties in order to comply with any obligations hereunder.

18. 不可抗力。 对于任何由超出合理控制范围之外、不能预见或由任何一方全部或部分避免并给买方、卖方或产品生产造成影响而引起的迟延履约或履约失败，卖方或买方都不应对相关的损失或损害负责。相关原因包括：（a）政府作为或不作为，政府限制或控制；（b）由于机械或其他故障而导致卖方一处或多处生产停滞或减少；（c）潮汐、地震、风暴、恶劣天气条件、国家紧急状况、台风、洪水、火灾、爆炸、瘟疫、不可抗拒的自然力、事故；（d）全部或部分运输设施



出现不可避免的故障；或（e）原料、燃料或设施短缺，电力供应不足影响卖方一处或多处生产。卖方没有义务从卖方或其关联方的其他生产地点、或者任何其他第三方采购产品以履行其本处的义务。

19. CONDITIONS NOT WAIVED. Seller's failure to enforce or declare a default or breach with respect to any particular term or condition listed in these Terms and Conditions shall not constitute a waiver of Seller's right to enforce or be protected by any other terms or conditions or, on a subsequent occasion, that particular term or condition.

19. 未放弃的条件. 卖方未能就特定条款与条件执行或宣告对方违约的情形，不得构成卖方对于行使其他权利或受其他条款与条件保护的放弃，亦不得构成今后对于同样条款或条件的放弃。

20. RELATIONSHIP OF THE PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in these Terms and Conditions, or any Quotation or purchase order, shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

20. 各方关系. 各方之间为独立合同方的关系。本条款与条件或任何报价单与购买订单均不得被解读为在双方之间建立起任何代理、合伙、联合经营或其他任何形式的共同营业、雇佣或信托的关系。任何一方均无权以任何形式代表另一方签订合同或使另一方受合同约束。

21. NO THIRD-PARTY BENEFICIARIES. These Terms and Conditions are for the sole benefit of the Buyer and Seller and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms and Conditions.

21. 无第三方受益人. 本条款与条件仅以买方与卖方及它们各自的继承方以及允许的转让方为受益人。本条款与条件的任何内容，无论明示或暗示的，均不旨在向任何其他个人或主体赋予任何法律或衡平法上的权利、利益或本条款与条件下任何性质的救济。

22. ASSIGNMENT. Buyer may not transfer or assign its obligations under these Terms and Conditions or any purchase order, whether by sale, merger, acquisition, or by operation of law, without the prior express written consent of Seller. Any purported transfer or assignment in violation hereof shall be void and of no force and effect.

22. 转让. 未得到卖方的事先书面同意，买方不得转移或转让其在本条款与条件下或者任何购买订单中的义务，无论该转让或转移是由销售、合并、购买、或法律的实施而导致的。任何违反此规定的转让或转移均是无效的。

23. ENTIRE AGREEMENT; ALTERATION OF TERMS. These Terms and Conditions contain the entire agreement and understanding of the parties related to its subject matter and supersede all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to the subject matter hereof. None of Buyer's terms and conditions, if any, contained in Buyer's purchase order, bid, or other document, shall apply or be deemed to amend these Terms and Conditions. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement these Terms and Conditions will be binding or be used to qualify, explain or supplement any of these terms and conditions unless the party to be bound has agreed in writing, and no modification shall be effected by the acknowledgment or acceptance of sale or shipping instruction forms containing terms or conditions at variance with or in addition to these Terms and Conditions. No addition to or modification of these Terms and Conditions shall be binding upon Seller, unless specifically agreed to in advance by Seller in writing. In the event of any conflict between these Terms and Conditions and those submitted by Buyer, the following Terms and Conditions will prevail.



23. **完整协议；条款更改。** 本条款与条件包含双方有关本议题的完整协议与理解，并取代先前与本议题相关的所有提案、理解、协议、通信、安排与同时发生的口头协议。买方购买订单、标书或其他任何文件所包含的条款与条件（若有）均不得适用或更改本条款与条件。除非双方书面同意，否则任何声称修改、改变、解释或补充本条件条款的条件、商业管理、交易过程或履行、理解或协议都不得约束任何一方，或用于限定、解释、或补充任何条件与条款。并且，销售或发货说明文件中包含跟本条款与条件不一致或范围之外的条款与条件时，对该等销售或发货说明文件的接受不得使任何更改生效。除非卖方事先明确书面同意，任何对于本条款与条件的补充或修改皆不应对卖方具有约束力。若本条款与条件与买方提交的任何条款与条件存在冲突，则以下述的条款与条件为准。

24. **INVALID TERM.** The invalidity of any term within these Terms and Conditions shall not affect any other of its terms, each of which shall be enforced to the full extent permitted by the governing law.

24. **无效条款。** 本条款与条件中任何无效条款皆不影响任何其他条款，所有条款都应在管辖法律允许的范围得到最大程度的适用。

25. **SURVIVAL.** Provisions of these Terms and Conditions, which by their nature should apply beyond their terms will remain in force after any termination or expiration of a purchase order or these Terms and Conditions including, but not limited to, the following provisions: Compliance with Laws, Governing Law, Limited Warranty, Limitation of Liability, Intellectual Property; Indemnity, and Survival.

25. **存续。** 本条款与条件的内容，按照它们的性质应该在特定购买订单或者本条款与条件终止或到期后继续有效的应包括但不限于以下：法律合规、管辖法律、有限保证、责任限制、知识产权、赔偿、以及存续。

26. **GOVERNING LAW.** These Terms and Conditions and any sale hereunder shall be governed by and construed in accordance with the internal laws and not the conflict of law rules of the Peoples' Republic of China. The parties hereby agree to exclude application of the United Nations Convention on the International Sale of Goods in connection with the sale of any goods or Products.

26. **管辖法律。** 以上条款与条件以及任何与之相关的销售都将由中华人民共和国法律进行管辖。各方皆认可排除《联合国国际货物销售合同公约》对任何产品销售的适用。