



A PERFECT ALLIANCE.

ODU Terms and Conditions of Sale

ODU 销售条款和条件

Party A: ODU (Shanghai) International Trading Co., LTD (hereafter referred to as “Party A” or “ODU”)

甲方: 欧度(上海)国际贸易有限公司(以下称为“甲方”)

Party B: (hereafter referred to as “Party B” or “Customer”)

乙方: (以下称为“乙方”)

I. General Terms

一般条款

1. All of Party A’s business offers, supplies, performances, goods, products and other legal activities are subject to these Terms and Conditions of Sale.

甲方所有的商业报价、供应品、履约行为、货物、产品以及其他法律行为均受本销售条款和条件的约束。

2. All forms of General Terms and Conditions other than these, including but not limited to General Terms and Conditions of the Customer, will not become part of any of Party A’s contracts or business orders. Party A rejects any such General Terms and Conditions, which cannot become part of the contract even if Party A supplies goods or accepts payment without further objecting to such General Terms and Conditions of the Customer.

除本条销售条款和条件之外的其他任何形式的一般条款和条件,包括但不限于乙方的一般条款和条件,均不构成甲方的合同或商业订单的任何一部分。甲方拒绝接受任何此类一般条款和条件,即使甲方在提供货物或接受付款时未进一步拒绝接受乙方的该类一般条款和条件,该类一般条款和条件也不得构成该合同的一部分。

3. The quality (materials, appearance and workmanship) of the goods to be delivered is

defined only and solely by the ODU drawing and specifications given within the drawing, as set forth in the confirmation notice of the purchase order. Should the ODU-drawing in Party B’s opinion be incomplete or require any changes, Party B’s request for modification must be received by Party A within 3 working days after Party B received the confirmation notice. Otherwise any request for modification will not be considered. Party B understand that any change requests may lead to changes in Party A’s production time and Party A therefore may be unable to meet initially agreed terms of deadlines for delivery. All other requested changes regarding the quality, materials or workmanship of the goods to be delivered will only become binding if Party A confirms and accepts in writing.

待交付的货物的质量(材料、外观和工艺)应当仅由在采购订单确认通知中列出的图纸及图纸中所含的技术规格确定。若乙方认为上述甲方的图纸不完备或需要作相应变更的,该等变更要求应当在乙方收到确认通知之后的3个工作日内送达甲方。否则甲方将不会考虑任何变更请求。乙方理解任何变更请求都将可能导致甲方的生产时间发生变化,甲方因此可能无法按照最初约定的交货期限交货。所有其他涉及待交付货物的质量、材料或工艺的请求更改仅在甲方书面确认并接受之后才具有约束力。

4. Title and ownership to all copyrights, other intellectual property and ownership of all drawings, drafts, cost estimates and similar data remain with Party A at all times, including negotiation, conclusion and execution of the contract. All of such data must not be modified or made available to any third party without Party A’s prior written consent. If the Customer decides not to make a business order, all data and documents supplied by Party A must be returned to Party A immediately.

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权始终归甲方所有，包括在合同的谈判、订立和履行阶段。未经甲方的事先书面同意，所有此类数据都不得修改或提供给任何第三方。如果乙方最终决定不发出商业订单，乙方应当立即将甲方提供的所有数据和资料返还给甲方。

5. The validity period of these Terms and Conditions shall be [2017/10/01] to [2020/12/31].

本条款和条件的有效期限为 2017 年 10 月 1 日至 2020 年 12 月 31 日。

6. Unless otherwise agreed, the version of these Terms and Conditions in force at the time of the contract conclusion shall be an integral part of the Purchase Contract and business order. Party A reserves the right to revise the current version of these Terms and Conditions, and issue new versions. Party A shall deliver the revised version to the Party B, and the Party B shall confirm the contents or provide feedback in writing within 10 working days upon receiving it, otherwise it shall be regarded as the Party B's acceptance of the revised version.

除非另有约定，在合同订立时有效的该等条款和条件版本应当构成采购合同和商业订单不可分割的组成部分。甲方保留修改该等现行条款和条件的权利，并发布新的版本。甲方应当将修改后的版本发送至乙方，乙方应当在收到修改版本之后的 10 个工作日内予以书面确认或提供书面反馈，否则将视为乙方已接受修改后的版本。

II. Offers, Supply, Passing of Risk

要约，供货，风险转移

1. The terms of Party A's offer of goods is set forth in Party A's written offers. With its business order, the Customer makes a binding commitment to purchase the ordered goods. The business order of the customer is accepted either by written confirmation or by Party A simply supplying the ordered goods to the Customer. Written confirmations will be given after internal

review and consideration of production capacities. Party A's employees are not authorized to give binding oral representations, covenants or pledges which vary from or are in addition to these Terms and Conditions or the written terms of any contract.

甲方的供货条款订立于甲方的书面要约邀请中。乙方发出商业订单时即作出了一个具有法律约束力的购买其所订购货物的邀约。乙方的商业订单自甲方书面确认或直接向乙方提供其预订的货物时方视为接受（承诺）。甲方的该等书面确认将在内部审查和对生产能力进行考量之后做出。甲方的雇员无权做出不同于或超越本条款和条件或任何书面合同条款的有拘束力的口头陈述、约定或承诺。

2. Unless a particular design or specification is specifically set forth in the order confirmation from Party A, the sales contract, or a related drawing accepted by Party A, Party A may at any time make technical changes or change shape, color and / or weight within reasonable ranges. Furthermore, Party A may make changes to Party A's goods due to technical developments in Party A's sole discretion and the Customer has no right to make any claims against Party A as a result of such changes.

除非特定的设计或规格经由甲方的订单确认书、销售合同或甲方接受的相关图纸明确载明，甲方有权随时做出技术调整或者在合理范围内改变形状、颜色和/或重量。此外，甲方可以基于技术发展的原因自行决定对甲方的货物做出调整，乙方无权就该等变更产生的后果向甲方提出任何主张。

3. Delivery in mainland China is DDP (DDP Incoterms 2010). Unless otherwise agreed in writing, Party A arranges transport on behalf and cost of the Customer. Party A's performances and deliveries of goods must be accepted by the Customer. The risk of loss passes to the Customer when the goods are made available to the carrier. This also applies in all cases in which Party A agrees to transfer goods at Party A's cost. On the

request of the Customer, Party A may arrange for delivery of the product to its final destination at the cost of the Customer. The choice of the means of transportation is made by Party A with due care without any warranty for the lowest cost, unless the Customer provides binding instructions in writing regarding a specific carrier for transportation.

在中国大陆的交付适用国际贸易术语解释通则 2010 版下的 DDP 术语（完税后交货）。除非另有书面约定，甲方以乙方名义安排货物运输并由乙方承担费用。乙方须接受甲方的履行和交付。货交承运人时，货物灭失的风险转移至乙方。这一风险转移原则也适用于甲方同意自费安排运输的场合。甲方可根据乙方的要求将货物运输至其最终目的地，费用由乙方承担。除非乙方已以书面形式就运输的特定承运人做出强制性指示，甲方仅以应尽的审慎义务选择运输方式，而不保证其成本的最低性。

4. If Party A is required by the governing law to provide proof to the tax authorities, that the Customer has in fact received the goods, the Customer is therefore required to provide written confirmation of the receipt of the goods shortly after arrival. This confirmation must contain the name of the Customer, its place of business, the Customer identification number and the identification number of the business order and Party A's invoice. Each part delivery must be confirmed individually.

如果甲方依据管辖法律应当向税务机关提供相应凭证证明乙方事实上已经收到货物，乙方必须在货物到达之后立即提供货物收据的确认书。该确认书必须包含乙方的名称、营业地点、乙方识别号、商业订单识别号及甲方的发票。每一笔交付必须单独确认。

5. If Party A cancels an order at the request of the Customer, the Customer bears Party A's cost that have been incurred up to the time of cancellation, with a minimum of at least 5 % of the net value of the invoice. The Customer has

the burden to establish that the cost in a particular case is less than the 5.0% minimum.

如果甲方应乙方的要求取消订单，乙方应当承担甲方截至取消日已产生的费用，该费用不得低于 5% 的净值金额。乙方有义务证明在特定情况下，费用低于前述 5% 的净值。

All business orders or contracts with Party A shall be performed by Customer and must not be assigned. Should there be evidence that casts doubt about the financial condition of the Customer, particularly if the Customer writes bad checks or the Customer stops payments, Party A is entitled to cancel all non-delivered business orders of the Customer and demands immediate payment of all open invoices. This also applies for any order in which Party A has accepted checks for invoices. In such instance, Party A is entitled to require advance payment or due security for all open orders for such Customer. Party A may also terminate any granted extensions or prolonged payment terms for such Customer.

乙方与甲方签订的所有商业订单或合同都应当由乙方履行，不得转让。若有证据表明乙方的财务状况存在问题的，特别是乙方签发空头支票或乙方停止付款的，甲方有权取消所有该乙方名下未交付的商业订单，并立即主张所有未付款项的偿付。上述规定同样适用于甲方已经就相应款项接受支票的订单的情形。在该种情形下，甲方有权要求该等乙方就所有未结订单支付预付款或适当的保证金。甲方也有权终止任何对该等乙方授权的延期付款安排或延期支付条款。

III. Blanket Order

一揽子订单

If the Customer requests, Party A shall provide blanket orders for goods in which the quantities of goods ordered are not delivered all at once, but rather more than one delivery in amounts that are determined by the Customer.

甲方应当按照乙方的要求提供一揽子订单的货物，该订单下订购的货物并非一次性交付，而是以乙方确定的数量分批进行交付。

The total amount of goods ordered through a blanket order are binding and the Customer must designate delivery of all of the goods by the date of expiration of the blanket order as shown in Party A's order confirmation. In case the Customer does not designate delivery of all of the goods by the expiration date, Party A will store the remaining goods for a maximum of three (3) months past the expiration. Party A reserves the right to charge the Customer a storage fee of five percent (5%) of the net value of the stored goods.

通过一揽子订单订购的货物总量具有拘束力，乙方须在甲方订单确认书所规定的一揽子订单的失效日之前就所有货物的交付做出指示。如果乙方在订单失效日之前未就所有货物的交付做出指示，甲方将在失效日后至多三（3）个月的期间内保存尚未交付的货物。甲方有权向乙方收取所存储货物净值的 5% 作为存储费用。

If the goods still have not been designated for delivery after the three (3) month storage period in spite of a written notification to the Customer, Party A reserves the right to deliver the goods to the Customer unsolicited and at their expense. At the time of shipment, the goods become due for payment.

尽管已经书面通知乙方，乙方仍然在上述三（3）个月存储期之后未就货物的交付做出指示的，甲方有权主动将货物交付给乙方，费用由乙方承担。货物装运完成时即为货款到期应付之日。

IV. Quantity delivered

交货数量

All deliveries, including partial deliveries are deemed to be separate business orders. They are invoiced and due separately and apart from any other deliveries.

所有交付，包括部分交付均被系独立的商业订单。针对该等交付应单独开具发票和支付到期应付款，每一笔交付均独立于任何其他交付。

V. Date of Delivery - Remedy of Delay

交付日—迟延交付的救济

1. The date of delivery or the week of delivery are fixed in Party A's confirmation. In case of delay due to circumstances, that Party A did not know at the time of Party A's confirmation and are beyond Party A's reasonable control, the date of delivery is extended for a reasonable period. In no event shall the Customer be entitled to any damages as a result of delays in delivery due to any force majeure event or similar circumstances even if Party A does not comply with originally agreed dates of delivery.

交付日或交付周依据甲方的确认书确定。若由于甲方在其出具确认书时不知晓的和超出其合理控制范围内的情形导致交付迟延的，交付日期应当相应地延长一段合理的期间。即使甲方没有按照最初约定的交付日交付，乙方在任何情况下都无权就不可抗力或类似情形所导致的迟延交付主张任何损害赔偿。

The aforesaid circumstances include delay due to strike, lockout, official and governmental order or similar event, and also if such event impacts any of Party A's external suppliers.

上述情形包括因罢工、停工、官方和政府命令或类似事件导致的迟延，以及如果此类事件影响到了甲方的外部供应商。

2. Dates of delivery are deemed to be met if the goods were in time loaded from Party A's factory and made available to the Customer or designated carrier, or the loading was prevented by delay in acceptance of the goods by the Customer. In these cases the risk of loss passes to the Customer upon receipt of Party A's notice that the goods are available for transport by the carrier.

如果货物及时地从甲方的工厂装货并提供给乙方或乙方指定的承运人，或者货物的装载因乙方迟延接受货物而受阻，交付日期将被视为符合要求。在该等情形下，货物灭失的风险在乙方收到甲方关于货物可以交由承运人运输的通知时转移给乙方。

3. In cases of delay caused by the Customer, the Customer agrees that the delivery date is extended by 4 weeks. Delay in delivery is deemed to occur only if goods are not delivered after the 4 week extension. If delay in a binding written delivery date is at Party A's fault, the Customer damages are limited to a maximum of 0.5 % for every week in delay and a total maximum of 5.0 % of the net value of goods that were delayed. Other claims of the Customer than this are explicitly waived and excluded. This does not apply if the delay on Party A's side was caused by Party A's gross negligence or intentional misconduct.

如因乙方原因造成迟延，乙方同意交付日期延长 4 周。仅当货物在 4 周延长期后仍未交付时方构成迟延交付。若因甲方的过错导致有约束力的书面交付日期的迟延，乙方每周损失的最高限额为迟延交付部分货值的 0.5%，且总损失的最高限额为迟延交付货物净值的 5%。乙方明确放弃并排除除此之外的其他权利和主张。但如果甲方的迟延是由甲方的重大过失或故意不当行为导致，上述条款不予适用。

VI. Price, Packing

价格，包装

Packing costs are included in the invoice cost. Party A does not accept return of any packing materials. Prices do not include value added tax (VAT). This tax is invoiced in addition to Party A's invoice price at the rate lawfully binding for such tax on the date of invoice.

包装费用包含在开票金额中。甲方不接受任何包装材料的返还。价格不包括增值税。增值税依据开具发票之日的法定税率在甲方开票金额之外另行计算。

VII. Conditions of payment

付款条件

1. Payment must be made to Party A's specified bank accounts in full without any deductions or set offs. Unless otherwise designated in Party A's order confirmation, payment in due within 30 days after receipt of the invoice.

款项应全额支付至甲方指定的银行账户，不得扣减或抵消。除非甲方的订单确认书中另有规定，否则应当在收到发票之后的 30 日内完成货款支付。

2. Payments shall be effected in full and without any discounts.

付款时应当无折扣的全额支付。

3. If payment is not received at the end of the payment period, Customer is automatically late in making payment. At any time thereafter, Party A may charge interest of 8.0 % in addition to the base rate of the Peoples Bank of China (PBOC). In the event damage in excess of this amount is incurred due to the delay of payment, Party A reserves the right to prove and claim damages in excess of the additional interest.

如果甲方在付款期限到期时仍未收到货款，自动视为乙方延迟付款。在此后的任何时候，甲方将在同期中国人民银行的基准利率基础上加收 8.0%的罚息（即同期中国人民银行的基准利率*1.08）。如果由于延迟付款造成的损失超过前述利息，甲方有权对此加以证明并主张该超出上述利息部分的额外损失。

4. Party A is not obligated to accept checks instead of bank transfer. Acceptance of bank- confirmed draft is subject to prior agreement by ODU according to its bank draft policy. In the case where Party A accepts bank-confirmed drafts, payment is deemed to be made at the time the draft has cleared payment with Party A's bank.

甲方无义务接受支票而非银行转账汇款的支付方式。接受银行承兑汇票应当由甲方根据其银行汇票政策事先同意。如果甲方接受银行承兑汇票，付款在汇票经甲方银行贴现时被视为已经完成。

5. The Customer may set off or make deductions against amounts due for Party A's invoices only after final legally binding determination that Customer is entitled to damages payable by Party A.

仅当具有法律拘束力的生效法律文书最终确定乙方有权向甲方主张损害赔偿时，乙方才可在应付甲方的发票金额中予以扣除或者抵消。

6. Party A may - even at the objection of the Customer - apply payments first to the oldest or older amounts due from the Customer. In the event of delay of payment by the Customer, or if costs are incurred for breach by the Customer of the contract, or if interest is to be paid by the Customer, Party A may apply payment amounts first from any costs for breach, then for any interest owed and lastly to amounts owed under invoice(s).

甲方有权单方选择首先向乙方主张支付其最早或较早的到期应付款。如果乙方延迟付款，或因乙方违约而产生了费用，或者乙方尚未支付利息，甲方可首先抵扣违约产生的任何费用，然后抵扣任何欠付的利息，最后再主张欠付的发票金额。

VIII. Reservation of title

所有权保留

1. Party A retains title to and a security interest in all goods supplied until the invoice is paid in full.

在货物开票金额被全额支付前，甲方保留对其提供的所有货物的所有权和担保物权。

2. The Customer is entitled to sell, utilize or incorporate the supplied goods and collect payment for such goods sold by Customer to

third parties only in the ordinary course of business and customary business practices.

乙方仅有权在正常业务范围内且按照交易习惯出售、使用或添附所供应的货物并向第三方收取所出售货物的货款。

The Customer hereby assigns to Party A, and Party A is entitled to decide whether to accept, the right to collect all claims or payment for invoices payable to Customer resulting from the sale, utilization or incorporation of Party A's goods or due to any loss by Party A of any security interest in or title to the goods sold. The assignment of the right to collect payment directly from third party is in the amount of the sum of all invoices payable to Party A by Customer, including vat, due or not due. This applies not only for the sale of Party A's goods, but for all kinds of contracts in which the Customer works on or processes or manufactures Party A's goods.

乙方在此将因其对甲方货物的销售、使用或添附而享有的主张索赔或收取应付款项的权利让与甲方；或由于甲方对所售货物的任何担保权益或所有权的损失而享有的索赔或收取应付款项的权利。甲方有权决定是否接受该等权利转让。直接向第三方收取款项的权利转让限于应向甲方支付的所有应付货款的总额，包含增值税，且无论该等货款是否已经到期。以上规定不仅适用于出售甲方货物的场合，同时适用于乙方对甲方货物进行处理或加工或制造的各种合同。

3. The reservation of right to title to and a security interest in the goods extends to all finished goods made through incorporation or processing the goods into a final product in the amount equal to the full value of the final product used by the end user customer. If any form of further processing or incorporation of Party A's goods by the Customer is done on Party A's behalf and to Party A's benefit, Party A will be deemed as producer of the final product. In the event goods of other suppliers are also used in the final



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product, Party A rightfully reserves title to and a security interest in any goods of other suppliers which are incorporated into the final product and Party A acquires joint title to the final product together with the co-suppliers in the proportion of the value of Party A's own goods to the value of the goods of Party A's co-suppliers in the final product.

对货物的所有权和担保物权的保留亦适用于所有通过将该货物添附或加工而成的新的最终产品，其金额等于终端客户使用的最终产品的全部价值。如果乙方代表甲方并为甲方的利益对甲方货物进行任何形式的进一步加工或添附，甲方将被视为最终产品的制造者。如果最终产品使用了其他供货商的货品，甲方有权保有对任何包含在最终产品中的其他供货商的产品的所有权和担保物权，甲方根据其自有货物和合作供货商的货品在最终产品中的价值比例，与合作供货商共有最终产品的所有权。

In case Party A lose title to or a security interest in the goods through incorporation or utilization of Party A's goods into a final product, the Customer immediately assigns and transfers to Party A Customer's own title to the finished product in an amount equal to the invoice(s) for the goods supplied by Party A for the production of the final product. Party A accept this assignment. The Customer stores the finished product(s) on Party A's behalf without cost to Party A.

如果甲方丧失对通过添附或使用甲方货物制成的最终产品的所有权或担保物权的，乙方应立即向甲方转让其自身享有的对最终产品的所有权，其份额等于甲方为最终产品的生产而提供货物后开具的发票金额。甲方接受该等转让。乙方代表甲方存储最终产品，甲方无须支付费用。

The Customer is authorized to collect the money from the sale of any final product or Party A's non-processed goods despite the assignment, as long as Party A do not revoke this authorization. Party A will not directly collect money from a

third party as long as the Customer timely pays Party A's invoice(s). On the first written notice from Party A, Customer must immediately send Party A a complete list of all purchasers of any of Party A's processed or unprocessed goods for which Customer has assigned to Party A payment rights and claims, and give written notice of the assignment of such claims and rights to payment to such third party /debtors. If Customer is late in payment, Party A are entitled to demand from the third party /debtors direct payment to Party A concerning all assigned claims and invoices. The Customer is required to turn over to Party A all invoices, reminders, delivery slips etc. that Party A need to collect the money due for all assigned claims. In addition, Customer must give to the third party /debtor all necessary notices and declarations required or useful for Party A to collect the money due for any of the assigned claims or invoices.

只要甲方不撤回其授权，尽管存在上述权利转让，乙方仍然有权收取销售任何最终产品或甲方未加工的货物的款项。只要乙方按时向甲方支付开票金额，甲方不会直接从第三方收取货款。乙方在收到甲方的第一次书面通知时必须立即向甲方发送一封所有甲方已加工或未加工货物的购买者的完整名单；就这些货物而言，乙方已向甲方转让收取货款和索赔的权利，并已就该等权利转让向第三方/债务人发送书面通知。如果乙方迟延支付货款，甲方有权在所有上述已转让的索赔和付款请求权范围内向第三方/债务人直接主张权利。乙方须向甲方移交甲方就上述转让权利收取到期款项所需要的所有账单、催款单、送货单等。此外，乙方须向第三方/债务人发出所有甲方基于转让的债权或发票收取货款所必需的通知和声明。

If Customer is late in payment, or there are reasonable doubts about the Customer's financial standing, or the Customer breaches any of its contractual obligations, Party A may revoke the authorization of the Customer to resell the goods according to Section 2 above and to directly collect the claims assigned to Party A on Party A's own behalf.



A PERFECT ALLIANCE.

如果乙方迟延支付款项，或合理怀疑乙方的财务状况存在问题，或乙方违反其任何合同义务的，甲方有权撤销根据本条第 2 款对乙方转售货物的授权，并以甲方名义直接行使乙方已转让给甲方的请求权。

Should Customer be subject to bankruptcy or similar insolvency proceeding, or the Customer should stop making payments, or should the Customer have provided notice of its intent to seek bankruptcy or insolvency proceedings, or should there be a change in the financial standing of the Customer such that the Customer is unlikely to meet its payment obligations, the authorization to resell the supplied goods and to collect the assigned claims on its own behalf, is waved automatically.

如果乙方处于破产或类似清算程序的，或者乙方停止支付相关款项的，或者乙方已就其寻求破产或清算程序的意向发送通知的，或者乙方因其财务状况发生变故而无法履行其付款义务的，甲方对乙方转售所供货物的授权以及乙方以其自身名义行使转让的债权的授权自动失效。

4. The Customer will store the goods for which Party A have retained title or a security interest on Party A's behalf using commercially reasonable standards of care to protect the goods and will insure the goods against the risks of fire, theft and other common risks. The Customer shall store the goods separate from its own property and will mark them clearly as property of ODU.

乙方将代表甲方存储甲方保留所有权或担保物权的货物，乙方应尽到商业上合理的注意义务以保护存储的货物，并为货物的火灾、失窃和其他常见风险购买相应保险。乙方应将上述货物与其自有财产分开存储，并清楚地标明甲方的财产。

5. The Customer will not grant a security interest or any other lien on the goods and Party A reserves title and a security interest in the property. The Customer will give Party A immediate notice of all security interests, liens or

encumbrances or any other claims to the goods, and shall provide declaration in writing to Party A and all third parties that Party A are the owner of the goods and have a security interest in such goods. The Customer will bear all costs arising out of a legal dispute concerning the ownership of the goods.

乙方不得在货物上设立担保物权，或其被第三方行使任何留置权，甲方保留对该财产的所有权和担保物权。乙方应及时将货物上的所有担保权益、留置权或产权负担或其他任何权利主张通知甲方，并向甲方和所有第三方发出书面声明表明甲方为货物的所有权人且对该等货物具有担保物权。乙方将承担因货物所有权而产生的法律纠纷所引起的一切费用。

6. Should the Customer breach the contract, including any delay of payment, Party A is entitled to repossess all goods supplied. In that case, the Customer declares its consent to the shipment of the goods to Party A's factory immediately. The Customer waives and disclaims all claims, that could arise for him out of certain legal privileges and allows Party A free access to all areas and warehouses in which the goods for which Party A has reserved title are stored. Party A is entitled to specifically declare a termination in writing in such case. Costs arising out of the repossession and collection, including but not limited to transportation and shipping costs, will be paid by the Customer. Customer may request shipment of the goods repossessed and collected only if this agreement or the applicable order has not been terminated and after full payment of the corresponding invoice(s) and all costs incurred. Without waiving the obligation of the Customer to pay the invoice(s), Party A is authorized to resell or otherwise utilize the repossessed and collected goods. This can be either by resale on the market or by credit to the account of the Customer in the amount of the market price (price the goods can actually be sold on the free market) or by credit to the account of the Customer in the amount of the contract price, minus all discounts, time-

discounts and other allowances and minus a decrease in value of 30%.

若乙方违约，包括任何迟延付款，甲方有权收回其提供的所有货物。在该等情形下，乙方应立即宣布其同意将货物运输至甲方工厂。乙方放弃所有其可能因某些特定法律权利而享有的索赔权利，并允许甲方自由进入存放甲方保留所有权的货物的所有区域和仓库。甲方有权在此情形下以书面形式明确表示终止合同。因取回和收回货物而产生的费用，包括但不限于交通和运输成本，将由乙方承担。仅当本条款和条件或适用的订单未被终止，且乙方全额支付相应的货款和产生的费用后，乙方才可请求运回被甲方收回的货物。在不免除乙方支付货款义务的前提下，甲方有权转售或以其他方式使用其收回的货物。该等转售或利用既可以通过在市场上转售或以市场价格（货物实际可以在自由市场上出售的价格）的数额记到乙方的信用账户，或以合同价格的数额记到乙方的信用账户，减去所有折扣、时间折扣和其他津贴，并减去30%的价值折损。

IX. Tools

工具

Tools which were developed, manufactured, or furnished by Party A to produce the goods for the Customer remain the sole and exclusive property of ODU, unless otherwise agreed upon in writing.

The Customer does not gain any right or title to the tools unless Customer in full paid for the cost of purchase of such tools.

除非另有书面约定，为给乙方生产货物而由甲方开发、制造或提供的工具属于甲方独有的财产。

除非乙方全额支付购买该等工具的费用，否则乙方不能就工具享有任何权利或所有权。

X. Warranty

保证

1. The period of warranty starts on the day on which the risk of loss passes to the Customer and ends 12 months later, irrespective of when Customer had possession of or began to use the goods, unless there is explicit written warranty provided by Party A for a longer period.

无论乙方何时占有或开始使用货物，保证期限于风险转移至乙方之日开始，并于12个月之后结束，除非甲方已在书面保证中明确提供了更长的保证期限。

2. The Customer must inspect and examine all goods immediately after receipt. All damages, missing numbers, defects in the goods, etc. must be disclosed in writing immediately. All visible damages and defects must be disclosed immediately after receipt, hidden damages or defects immediately after their detection, otherwise the Customer loses all rights with respect to any damages, or defects, missing numbers, or wrongful delivery in general.

乙方必须在收到货物后立即检查并检验所有货物。乙方应当立即就所有损坏、数量短缺、货物缺陷等情形提供书面报告。乙方应当在收到货物后立即披露所有可见的损害和缺陷，以及在检测货物之后立即披露货物的潜在损害或缺陷，否则乙方将失去所有关于任何损坏、缺陷或数量短缺、或一般不当交付的权利。

In case of transport by truck or vehicle, visible damage to the goods must be declared in writing on the delivery sheet and the bill of lading. This has to be confirmed and signed by the driver. The Customer must give Party A the chance to examine and inspect goods claimed to be damaged or defective.

通过卡车或车辆运输时，必须在交付单和提单上注明货物的可视损坏情况，并由司机签字确认。乙方必须向甲方提供检查和检验其声称受损的或有缺陷的货物的机会。

3. In case of fault, Party A will, in Party A's sole discretion, repair or replace any defective product. If Party A fails to remedy the defect, the Customer may, in his own discretion, demand a price reduction or cancellation of the purchase order. The Customer cannot cancel an order for insignificant defects. If the Customer chooses to cancel the order, it cannot also demand damages as compensation for the same defective order. If the Customer chooses to seek damage compensation for Party A's failure to adequately address any defective product, the goods remain in the possession of the Customer if just and reasonable. The amount of damage compensation is limited to the difference between the contract-price of the goods and the actual value of the defective goods. This restriction on damages does not apply if the defect was due to the intentional misconduct of ODU.

若发生故障，甲方可自行决定修理或更换任何缺陷产品。若甲方未能补救该等缺陷，乙方可以自行决定要求减价或取消采购订单。乙方不能由于轻微缺陷而取消订单。若乙方选择取消订单，便不能就同一缺陷产品的订单要求损害赔偿。若乙方选择针对甲方未能充分补救的缺陷产品提出损害赔偿，其仅能在公正和合理的限度下继续占有缺陷产品。损害赔偿的数额限于货物的合同价格与缺陷货物的实际价值之间的差额。若该等缺陷是由甲方的故意不当行为造成的，上述损害赔偿数额的限制不予适用。

4. Defective goods must be returned to Party A without cost. If the goods are determined to be defective after inspection, Party A will bear all costs necessary to repair or replace the product and all shipping costs to the place of fulfillment. Party A will not pay additional costs for any goods that were transported to a place other than the place of fulfillment of the contract. If the goods do not prove to be defective, the Customer must pay all costs of inspection, including statements of an expert and including all related costs such as travel expenses, accommodation, etc.

疑似存在缺陷的货物必须退回甲方，甲方不对此承担费用。如果货物经检查后被认定存在缺陷，甲方将承担维修或更换产品所需的一切费用以及所有运送至履行地点的运费。甲方不额外承担任何将货物运送至合同履行地之外的其他地点的费用。如果未检测出货物存在缺陷，乙方必须支付所有的检测费用，包括寻求专家意见的费用，以及所有相关的费用，例如差旅费、住宿费等。

XI. Damage Compensation

损害赔偿

1. Except as provided in Section 2 below, Party A is only liable for damage compensation for breach of contract, and tortious act, and only if those damages were caused by gross negligence or intentional misconduct of us or Party A's employees.

除了在本条第 2 款中所述情形，甲方仅就其违约行为和侵权行为承担损害赔偿责任，且该等损害必须是由甲方或甲方员工的故意或重大过失引发。

2. Party A is liable for all forms of negligence for mental distress, bodily injury or death, or breach of written material representations or failure to perform material terms or material duties of the contract. In the case of breach or failure to perform material duties, terms or representations, Party A's liability is limited to compensation of foreseeable, average damage that is typical for this kind of contract, which shall not exceed [10]% of the value of the such contract. This limitation also applies to Party A's employees and agents.

甲方对由于其任何形式的过失导致的精神损害、人身伤害或死亡、或是违反书面陈述或未能履行合同的重要条款或是合同的主要义务承担责任。在甲方违约或未能履行主要义务、重要条款或陈述的情况下，甲方的赔偿责任限于可预见的、同类合同下通常发生的损害，且不能超过该合同价值的百分之【10】。上述限制同样适用于甲方的员工和代理人。

3. Party A is liable for infringement of intellectual property rights of a third party only if Party A's goods infringe such intellectual property right valid in the People's Republic of China and publicly known at the time of delivery. Party A is not liable if Party A has produced Party A's goods according to drawings, models or other description or specification given by the Customer and Party A did not know and, in connection with the goods developed by Party A, could not have known, that the goods thus produced would infringe intellectual property rights of a third party. In these cases the Customer is solely liable for existing and future infringements. The Customer is obligated to give Party A written notice of possible or demanded infringements of intellectual property, immediately after becoming aware of any such alleged infringements. The Customer will defend, indemnify Party A and hold Party A harmless of all claims of third persons and all liabilities, costs and expenses arising out of such infringement.

仅当甲方货物侵犯的知识产权在中华人民共和国境内有效注册且该知识产权在在货物交付时已被公开时，甲方才承担对第三方知识产权的侵权责任。如果甲方根据乙方提供的图纸、模型以及其他乙方提供的型号或规格生产出侵犯了第三方的知识产权产品，且甲方对涉案产品相关的知识产权权属不知情或不可能知情的情况下，甲方不承担责任。在上述情形下，乙方对现有的以及未来的侵权承担全部责任。乙方在获悉任何潜在的侵权后，应当立即将可能存在的知识产权侵权书面通知甲方。因乙方的该等侵权产生的所有责任、费用和开支，以及第三方的索赔，乙方均应当予以赔偿，维护并使甲方免受损害。

4. All other claims of damage compensation are specifically excluded. In all cases, all claims for damage compensation are limited to a total maximum of 2,000,000.00 RMB.

所有其他损害赔偿的请求权均被明确排除。在任何情形下，所有损害赔偿的总金额不得超过人民币 2,000,000.00 元。

XII. Place of Jurisdiction, Applicable Law

管辖地和适用法律

Any dispute arising out of or in connection with these Terms and Conditions, including any question regarding its existence, validity or termination, shall first be resolved through friendly consultation. If such dispute cannot be resolved within thirty (30) calendar days after the initiation of the consultation, either Party may submit the same to China International Economic and Trade Arbitration Commission ("CIETAC") Shanghai Sub-Commission for arbitration in accordance with the Arbitration Rules of the CIETAC then being in force which rules are deemed to be incorporated by reference to this clause. The tribunal shall consist of three arbitrators of which each Party shall appoint one arbitrator and the third arbitrator shall be appointed by the Chairman of CIETAC. The language of the arbitration proceedings shall be English and the arbitration procedure shall be held in Shanghai. The arbitration award shall be final and binding on the Parties. The losing Party shall bear all costs and expenses of the arbitration. Unless otherwise agreed, these Terms and Conditions shall be governed by and construed in accordance with the laws of the People's Republic of China. If this Contract has an international sales nature, the application of the United Nations Convention on Contracts for International Sales of Goods of April 11, 1980 shall be excluded.

任何因本条款和条件引起的或有关的争议，包括关于本条款和条件的存续，效力或终止的任何问题，应当首先通过友好协商解决。如果该等争议未能在最初磋商后的三十（30）个自然日得到解决，任何一方可以将争议提交到中国国际贸易仲裁委员会（“CIETAC”）上海分会依照 CIETAC 现行有效的仲裁规则进行仲裁，该等仲裁规则已经通过本条规定并入了本条款和条件。仲裁庭应当由三名仲裁

员组成，其中每一方应当指定一个仲裁员，第三名仲裁员应当由 CIETAC 的主席任命。仲裁程序的语言应当是英文，仲裁程序应当在上海进行。仲裁裁决是终局的，对于缔约双方都有约束力。败诉方应当承担仲裁的所有费用和支出。除非另有约定，这些条款和条件应当受中华人民共和国法律的管辖并解释。如果本合同具有国际销售性质，1980 年 4 月 11 日《联合国国际货物销售合同公约》被排除适用。

XIII. MISCELLANEOUS

其他条款

1. Effectiveness. This Terms and Conditions becomes effective after both Parties' legal representative signs and affixes the official seal on it.

效力。本条款和条件在双方的法定代表人签字并加盖公章之后生效。

2. Counterparts. This Terms and Conditions may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be deemed one single instrument.

副本。双方可能就本条款和条件签署一个或多个副本。每一个副本都应当被视为原件，且所有副本内容仅应视为一份文件。

3. Languages. This document is written in Chinese language and English. In case of any discrepancies, the English language shall prevail.

语言。本文件以中文和英文写就。如果中文与英文版本之间有任何差异，以英文为准。