



工程设计供应及其他工程采购条款

CONDITIONS OF PURCHASE for Engineering Supplies and other works

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1. 定义/Definitions

- 1.1 “验收”指买方以书面或电子邮件形式明确声明订单标的已通过验收且无重大缺陷。处于买方核查状态，测试、检验、相关物品或硬件的使用或买方的付款不构成验收。
“Acceptance” shall mean the explicit declaration in writing or by e-mail of the Buyer that the Ordered Items is accepted and free of major defects. Review status, test(s), inspection(s), the use of the Associated Object or of the Hardware, or payment by Buyer is not an Acceptance.
- 1.2 “关联方”就某特定主体而言，指控制该主体、受该主体控制或与该主体共同受另一法律实体控制的任何法律实体。
“Affiliate” of a respective person shall mean any legal entity which controls the respective person, is controlled by the respective person or is together with the respective person under common control of another legal entity.
- 1.3 “相关物品”是指与订购项目相关的物品，例如买方和/或所有者(拥有或许可)的软件、买方(拥有、租用或租赁)的硬件、买方的场所或其部分等。如果没有此类相关对象，则本采购条件中涉及该对象的规定不适用。
“Associated Object” shall mean an object to which the Ordered Items is related, e.g. Buyer’s and/or Owner’s (owned or licensed) software, Buyer’s (owned, rented or leased) hardware, Buyer’s premises or parts thereof etc. If there is no such Associated Object, the stipulations of these Conditions of Purchase referring to it shall not be applicable.
- 1.4 “买方”指主文件中进一步规定的、与卖方签订订单的林德工程实体。在本订单中，买方也称“合作方”。
“Buyer” shall refer to the Linde Engineering entity entering into the Order with the Vendor as further specified in the Main Document. Buyer shall also be referred to herein as “Party”.
- 1.5 “硬件”指基于订单标的所创建的可移动或不可移动物项，例如根据订购工程的装置或一部分装置。若无此类硬件，则本采购条款中提及硬件的条款不适用。
“Hardware” shall mean a movable or immovable item created on the basis of the Ordered Items, e.g. the Plant or part of the Plant created on the basis of ordered engineering. If there is no such Hardware, the stipulations of these Conditions of Purchase referring to it shall not be applicable.
- 1.6 “标的”或“采购订单标的”指主文件中按行项编号提及的各项供应和/或者工作成果内容。
“Item” or “PO-Item” shall mean each respective supply and/or work result as agreed on in the Main Document referred to therein by a line-item number.
- 1.7 “主文件”指订单第 1 条及后续条款，包括与订单相关的任何后续补充文件的任何条款以及订单附件。
“Main Document” shall mean the Article 1 et seqq. of the Order including any Article of any later Supplement related to the Order and the enclosures of the Order.



- 1.8 “订单”或“采购订单”或“PO”指构成买方与卖方之间关于订单标的之合同协议的正式文件，包括但不限于本采购条款，而无论这些文件是否已签署。“订单”一词也包括所提及的任何订单补充文件。

“Order” or “Purchase Order” or “PO” shall mean the formal documents comprising the contractual agreements between the Buyer and the Vendor concerning the Ordered Items, including amongst others these Conditions of Purchase, irrespective of whether these documents have been signed or not. The term “Order” also comprises any supplements to the Order referred to.

- 1.9 “订单标的”指卖方为准备交付物（例如准备图纸、社会公告、软件、应用程序、分析、报告和其他要提供的文件，或进行维修、施工或土木工程等）而提供的全部工作以及履行的与订单相关的其他配件和服务。

“Ordered Items” shall mean the entire work e.g. preparation of drawings, social posts, software, apps, analysis, reports and other documents to be supplied, or the performance of repair, construction or civil works etc., as well as all other accessory supplies and services to be provided by the Vendor in connection with the Order.

- 1.10 “业主”指买方的客户，即订单标的的所有者。若无此业主，则本采购条款中提及业主的条款不适用。

“Owner” shall mean the client of the Buyer for which the Ordered Items is intended. If there is no such Owner, the stipulations of these Conditions of Purchase referring to the Owner shall not be applicable.

- 1.11 “装置”指买方提供给业主的且订单标的为之配套的整套装置，具体详见主文件中的项目号。若无此项目号，则本采购条款中提及装置的条款不适用。

“Plant” shall mean the overall plant to be supplied to the Owner by the Buyer and for which the Ordered Items is intended as further mentioned in the Job No. in the Main Document. If there is no such Job No., the stipulations of these Conditions of Purchase referring to Plant shall not be applicable.

- 1.12 “立即”指不得无故拖延。

“promptly” shall mean undue delay without.

- 1.13 “现场”指买方场所和/或主文件中指定的地点。

“Site(s)” shall mean Buyer’s premises and/or the place(s) specified in the Main Document.

- 1.14 “卖方分包商”指卖方雇佣来履行订单义务的自然人或法人。

“Sub-Vendor” shall mean a natural or legal person, whom the Vendor uses to fulfil its obligations of the Order.

- 1.15 “卖方”指主文件中进一步规定的、被买方授予订单的自然人或法人。在本订单中，卖方也称“合作方”。

“Vendor” shall refer to the natural or legal person to which the Order has been awarded by the Buyer as further specified in the Main Document. The Vendor shall also be



referred to herein as “Party”.

- 1.16 “书面”或“以书面形式”指通过信函（包括邮寄）或电子邮件附件的形式发送的手签或数字签名文件。

“written” or “in writing” shall refer to a document signed by hand or digitally which is transferred by letter (including courier) or as e-mail attachment.

2. 订单内容/Content of the Order

- 2.1 任何与本采购条款存在偏离或冲突的卖方条款，须经买方书面同意或在订单中予以确认后方才有效。尤其是在沟通过程中和/或卖方文件中提及的卖方任何其他通用条款，和/或当买方访问供应商的信息并因此(不得不)接受它时，将不予采纳并视为无效条款。

Any conditions of the Vendor that deviate from or contradict these Conditions of Purchase shall only apply if the Buyer agrees to them in writing or by Order. In particular any reference to any other general terms and conditions in the communication sent and/or in documents produced by the Vendor and/or when Buyer accesses Vendor’s IT and thereby (has to) accept it shall be disregarded and considered obsolete.

- 2.2 订单和其他声明只有在经买方签发书面确认后或发布正式订单后才生效。

Orders and other declarations shall only be binding if they are issued or confirmed in writing by the Buyer or in the form of an Order.

- 2.3 如果构成订单的文件中存在不一致之处，供应商应要求买方给出指示，并在给出指示之前遵守更严格的条件。如果缺少卖方设计的具体数据，卖方应向买方索取这些数据。

In case of discrepancies in the documents forming the Order, the Vendor shall request Buyer’s instruction and until such is given comply with the tougher conditions. In case specific data for Vendor’s design is missing Vendor shall request such data from Buyer.

3. 订单标的执行与订单分包/Execution of the Ordered Items and subcontracts

- 3.1 卖方执行订单标的时，应考虑硬件的设计、建造和运行及装置的位置等所有相关要求，相关物体和工厂位置的所有相关要求。

When executing the Ordered Items, the Vendor shall take into account all relevant requirements for the design, construction and operation of the Hardware, all relevant requirements of the Associated Object and of the location of the Plant.

- 3.2 在考虑约定供应和服务排除项的前提下，卖方须完全确保订单标的规定的功能齐全及运行安全，使其符合本订单要求。仅本订单中明确标明不包含的供货和服务内容才能被排除在订单标的之外。

The Ordered Items shall be executed in such a complete manner that taking into account the agreed supply and service exclusions – it is fully functional and safe to operate for the purpose as specified in the Order. The only supplies and services that are excluded from the Ordered Items are those which are explicitly designated as such



in the Order.

3.3 卖方应该按照国际公认的质量管理体系（ISO 9001 或同等标准）要求及时执行订单。
The Vendor shall execute the Order in a timely manner and in accordance with the requirements of an internationally recognized quality management system (ISO 9001 or equivalent).

3.4 卖方应遵守其工作实施地和/或硬件和/或相关联的对象使用所在地的法定、官方及专业机构的相关规定、建议和指导方针。

The Vendor shall comply with the statutory, official and professional organizations' regulations, recommendations and guidelines that apply in the place where the work by the Vendor is performed and/or where the Hardware and/ or the Associated Object is to be used.

3.5 未经买方事先以书面或电子邮件形式同意，卖方不得将订单标的（或其部件）分包。
The Vendor shall not subcontract (parts of) the Ordered Items without Buyer's prior consent in writing or via e-mail.

3.6 卖方应仅雇用具备资质且资质可验证的卖方分包商，并恰当全面地向各卖方分包商传递本订单中约定的有关技术和交期方面的所有要求。卖方应确保整个供应链中的任何相关承包商或供应商均将本条款纳入其分包合同中。

The Vendor shall only employ Sub-Vendors with qualifications that can be verified. Any technical and deadline requirements set out in the Order shall be passed on by the Vendor to each Sub-Vendor as appropriate in a complete way. The Vendor shall ensure that any of the involved contractors or suppliers along the entire supply chain will include this provision into their subcontracts.

3.7 卖方应补偿买方并使买方免于遭受由于卖方或卖方分包商违反法定责任而导致的第三方或政府机构对买方提出的任何责任、索赔及罚款，无论该等处罚是基于何等法律依据。

The Vendor shall indemnify and hold the Buyer harmless from any liabilities, claims and fines of third parties or public authorities asserted against the Buyer due to non-compliance with statutory obligations by the Vendor or Sub-Vendor, irrespective of the legal grounds.

3.8 卖方应确保自身及卖方分包商所聘用人员具备有效的工作许可，并确保整个供应链中的任何相关承包商或供应商均将本条款纳入其分包合同中。

The Vendor shall ensure that the personnel used by it and its Sub-Vendors are in possession of a valid work permit and shall ensure that any of the involved contractors or suppliers along the entire supply chain will include this provision into their subcontracts.

3.9 如卖方对买方提出的执行方式或给出的指示（如：硬件或者相关联的对象的相关要求、提交给买方的文件格式、买方指定的分包商、买方提供的文件、材料或设备的质量，或其他承包商提供的服务等）存有疑问，卖方应立即（如可能，应在开始执行订单标



的前) 以书面或电子邮件形式通知买方, 并与买方共同商定解决方案。

If the Vendor has concerns regarding the proposed type of execution or instructions given by the Buyer, e.g. concerning the Hardware or the Associated Object, the format of the document to be submitted to the Buyer etc., subcontractors nominated by the Buyer, the quality of documents, materials or equipment provided by the Buyer or the services provided by other contractors, it shall promptly notify the Buyer thereof in writing or by e-mail, if possible before the execution of the Ordered Items begins, and shall develop a solution together with the Buyer.

- 3.10 供应商在意识到必须使用新的技术、性能值或技术特征时, 应立即通知买方。
The Vendor shall inform the Buyer promptly upon realizing that Vendor would have to use a technology, performance value or technical characteristic that is new to it.

- 3.11 若本订单需在(部分)现场执行, (i) 卖方应提供订单标的执行人员的信息数据; (ii) 卖方应确保其有权向买方提供该等人员的个人数据。
If the Order is (partly) executed on the Site(s), (i) the Vendor shall provide data of the personnel involved in the execution of the Ordered Items and (ii) the Vendor shall ensure that he is entitled to provide to the Buyer personal data of such person.

- 3.12 卖方应负责及时提供其执行订单标的所需的所有材料、仪表、工具和设备, 并确保这些物资的储存不会对买方造成干扰。
The Vendor shall be responsible for the timely provision of all materials, instruments, tools and equipment which it needs to execute the Ordered Items and store it without interference to the Buyer.

- 3.13 卖方应遵守适用于以下场所的健康、安全与环境(HSE)保护及事故预防相关规定: 现场。
The Vendor shall comply with the regulations on health, safety, environmental (HSE) protection and accident prevention that at the Site(s).

- 3.14 对现场拍照、录像或进行其他记录, 需经买方事先批准。
Taking photographs, videos or other records on Site(s) shall require Buyer's prior approval.

- 3.15 卖方应全权负责对其人员进行指导、指示及监督管理。此条款不影响买方随时检查订单标的执行情况的权利, 以确保订单标的以专业、及时的方式按本订单要求执行。
The Vendor shall have sole responsibility for providing guidance and instructions to, as well as for supervising its personnel. This shall not affect Buyer's right to check the Ordered Items at any time to ensure that they are being executed in accordance with the Order, and in a professional and timely manner.

- 3.16 若卖方要求进入买方的 IT 系统, 应提前通过书面或电子邮件形式获得买方许可, 且应遵守买方的 IT 安全规定(林德标准 LS 940-05(EN))。现行的 IT 安全规定可通过以下网站查询:



<https://www.linde-engineering.com>

If the Vendor requires access to Buyer's, IT infrastructure, the Vendor shall obtain Buyer's prior consent in writing or by e-mail and shall comply with Buyer's IT security regulations (Linde Standard LS 940-05 (EN)). The current IT security regulations can be accessed and consulted on the Internet at: <https://www.linde-engineering.com>

Contact Our Expectations to Suppliers >Linde Standards.

- 3.17 若卖方要求进入买方的 IT 系统，卖方应提供订单标的执行人员的信息数据，并确保其有权向买方提供该等人员的个人数据。

If the Vendor requires access to Buyer's IT infrastructure, the Vendor shall provide data of the personnel involved in the execution of the Ordered Items and shall ensure that he is entitled to provide to the Buyer personal data of such person.

- 3.18 若卖方的 IT 系统中发生任何黑客攻击、木马程序、病毒或其他影响或可能影响本订单执行或根据本订单共享或准备的文件的事件时，卖方应立即将该类事件的发生情况及影响程度通知买方。

The Vendor shall inform the Buyer promptly about the occurrence and extent of any hacker attack, trojan horse, virus or other incident in Vendor's IT infrastructure which has or may have any impact on the Order execution or on documents shared or prepared under the Order.

- 3.19 供应商不得将任何利用买方或订单相关信息的人工智能系统用于自身培训、自学或进一步开发。

The Vendor must not use any AI systems that utilize information related to the Buyer or the Order for its own training, self-learning, or further development.

- 3.20 未经买方明确要求，卖方不得与业主直接联系。若业主联系卖方，卖方应在作出任何回复前先行与买方沟通。

The Vendor is not allowed to have direct contact with the Owner except such is explicitly requested by the Buyer. In case the Owner contacts the Vendor, the Vendor shall prior to any reply involve the Buyer.

- 3.21 除非订单中另有约定，否则订购物品不得转让，也不得导致买方的 IT 系统将数据或信息传回卖方或未经买方授权作为此类数据和信息接收方的任何第三方。此类不允许的转让包括但不限于用于培训和供应商 IT 系统进一步开发的订购项目的结果和发现。

Unless otherwise agreed in the Order, the Ordered Items may not transfer and may not cause Buyers IT system to transfer data or information back to the Vendor or to any third party not authorized by the Buyer as a recipient of such data and information. Such not allowed transfer includes for instance, but not limited to, results and findings of the Ordered Items for training and further development of Vendors IT system.

4. 保险/Insurance

- 4.1 卖方应评估自身风险，若认为有必要，可自费购买比下述要求范围更广和/或限额更



高的保险。在不限制或放弃本订单和/或法律规定的任何责任、义务或职责的前提下，卖方应自费（包括免赔额）在本订单整个有效期内（含质保期）投保并维持至少以下险种完全有效：

The Vendor shall assess its own risks and, if it deems appropriate, provide broader insurance coverage and/or higher limits as the following at its own cost. Without limiting or waiving any of its liabilities, obligations, or responsibilities under the Order and/or law, the Vendor shall take out and maintain in full force and effect throughout the duration of the Order (including the warranty period) at its own cost and expenses (including deductibles) as minimum the following insurances:

- 工伤保险和雇主责任险：针卖方人员，按照本订单相关活动和/或工作执行地所有适用法律（包括卖方人员居住国法律）的规定投保，保额不低于这些法律规定的最低限额；

Worker's Compensation Insurance and Employers' Liability Insurance for Vendor's personnel as prescribed by all laws applicable at the place where activities and/or works in connection with the Order are to be performed, including the laws of the countries of residence of Vendor's personnel, in amounts not less than the minimum value required by these laws; and

- 健康保险：为每位参与人员投保，涵盖订单涉及的所有国家；
Health insurance for each involved person covering all countries relevant for Order; and

- 第三方责任险：包括产品责任险、完工责任险和环境责任险，每起事故最低限额为：

Third Party Liability Insurance, including product liability, completed operations coverage and environmental liability coverage, with the following minimum limits per occurrence:

人身伤害：伍佰万（500 万）欧元；

EURO 5,000,000 for bodily injury,

财产损失：伍佰万（500 万）欧元；

EURO 5,000,000 for property damage, and

纯经济损失：壹佰万（100 万）欧元。

EURO 1,000,000 (one million) for pure financial losses.

卖方投保的第三方责任险应涵盖专业服务，以及由卖方保管、看管或控制的财产及/或使用或操作的财产的损失或损坏；

Vendor's Third-Party Liability Insurance shall not exclude professional services and shall also cover loss of or damage to property under Vendor's care, custody or control and/or property used or worked upon; and

- 职业责任险/过失与疏忽责任险：每起索赔最低限额为贰佰万（200 万）欧元，如果订购的项目是为工厂设计的，应在装置最终竣工后维持有效不少于三（3）年；

Professional Liability/Errors and Omissions Insurance with a minimum limit of EURO 2,000,000 (two million) per claim. In case the Ordered Items are intended



for a Plant, this insurance shall be maintained for not less than 3 (three) years following the final completion of the Plant; and

- 法律要求投保的所有保险，以及卖方认为根据本订单规定和/或法律要求有必要投保以抵御自身风险的任何其他保险。

All insurances required by law and any insurances as deemed appropriate by Vendor to insure its risks under the Order and/or by law.

- 4.2 卖方投保的所有保险均应通过财务状况稳健、信誉良好且经本订单相关活动及/或工作执行所在司法管辖区合法授权经营的保险公司办理。所投保的地域范围应覆盖全球。

All of Vendor's insurances shall be obtained with financially sound and reputable insurers lawfully authorized to do business in the jurisdictions where any activities and/or works in connection with the Order are performed. The geographical scope of the insurances shall be worldwide.

- 4.3 在法律允许的最大范围内，卖方的每份保单均应包含保险公司放弃向买方和业主及两者各自的关联方和保险公司行使代位求偿权的条款。卖方的保险应为主险，且不与买方、业主及两者各自关联方的任何保险构成分摊关系。

To the maximum extent permitted by law, each of the Vendor's insurance policies shall include insurers' waiver of subrogation against the Buyer, the Owner and their Affiliates and insurers. The Vendor's insurances shall be primary and non-contributory to any insurances of the Buyer, the Owner and their Affiliates.

- 4.4 卖方应遵守任何保单所产生的所有义务、保证、要求等，且不因其行为或疏忽导致任何保险失效。

The Vendor shall comply with all obligations, warranties, requirements and the like resulting from any insurance policy and do not by its acts or omissions vitiate any insurance.

- 4.5 卖方应确保卖方分包商以及整个供应链中的所有承包商或供应商均遵守本订单规定的保险要求，投保并维持与本订单规定相同范围和限额的保险，并按其工作范围需要投保其他一切必要险种。

The Vendor shall ensure that its Sub-Vendors and all contractors or suppliers along the entire supply chain fulfil the insurance requirements pursuant to the Order and take out and maintain equivalent insurance coverage and limits as set forth in the Order and all other necessary insurances adequate to their scope of works.

- 4.6 若买方提出要求，卖方应立即向买方提交由卖方及/或整个供应链中所有相关承包商或供应商的保险公司签发的有效保险凭证。买方对任何保险凭证的接受、未提出异议或未提出索要要求，均不得以任何方式免除卖方履行并促使卖方分包商及整个供应链中所有相关承包商或供应商履行本采购条款所规定保险要求的义务。

If requested by the Buyer, the Vendor shall promptly submit valid insurance certificates issued by the insurer of the Vendor and/or of all involved contractors or suppliers along the entire supply chain to the Buyer. The acceptance, non-rejection, or non-request of



any insurance certificate by the Buyer shall in no way relieve the Vendor of its obligations to fulfil, and to cause the Sub-Vendors and all involved contractors or suppliers along the entire supply chain to fulfil, the insurance requirements set forth herein.

5. 订单标的的修改/**Modifications to the Ordered Items**

- 5.1 若买方要求修改订单标的, 卖方应立即自费以书面形式通知买方因此导致的价格增减以及对约定日期和约定截止日期的影响, 并提供充分证据。买方有权要求相应降低价格。价格的增减应依据本订单所使用的计算方法确定。若已约定单价, 仅在订购数量减少导致卖方承受不合理的财务负担, 且卖方能够提供相应证据的情况下, 卖方才能要求提高单价。数量减少不视为第 15 条所述的 (部分) 终止执行订单。

If the Buyer requests modifications to the Ordered Items, the Vendor shall on its own cost inform the Buyer promptly in writing of any increase or decrease in price and any effects on the agreed dates and agreed deadlines, backed-up by sufficient proof. The Buyer is entitled to claim such decrease in price. The price increase or decrease shall be determined based on the calculation used for the Order. If unit prices have been agreed, the Vendor can only demand an increase in the unit prices in cases in which quantities are reduced if it can furnish evidence of an unreasonable financial burden. A decrease of quantities does not constitute a (partial) termination according to section 15.

- 5.2 卖方在知悉其认为有权提高订单价格或变更约定日期和/或约定截止日期的任何情况后, 应在七 (7) 个工作日内以书面形式通知买方, 并向买方提出相应 (预期) 实质性索赔。否则, 应视为卖方已放弃提出任何此类索赔。

The Vendor shall within seven (7) working days upon gaining knowledge of any circumstances, which the Vendor believes entitles it to increase the Order price or change the agreed dates and/or agreed deadlines, inform the Buyer in writing about it and lodge such (supposed) claim on the merits at Buyer. Otherwise, any such claim shall be deemed waived by it.

- 5.3 本订单的变更应由双方协商确定, 旨在达成合同协议, 并适当考虑双方利益及诚信义务。买方有权推迟协商, 但最晚应在卖方履行完合同义务 (不包括保修义务) 后立即进行协商。一旦就变更达成协议, 买方应签发订单补充文件, 列明约定的变更和合同修改内容。

Changes to the Order shall be negotiated by the Parties aiming at a contractual agreement giving due consideration to mutual interests and the duty of good faith. The Buyer is entitled to postpone the negotiation at the latest until promptly after the fulfilment of the contractual obligations of the Vendor (not including warranty). Once an agreement has been reached on the changes, the Buyer shall issue a supplement to the Order setting out the agreed changes and contractual modifications.

- 5.4 然而, 即使尚未就订单变更达成协议, 卖方也应根据暂时维持不变的订单条款和条件, 应买方要求立即着手执行相应内容的修改。



The Vendor shall, however, even if changes to the Order have not yet been agreed, promptly proceed to carry out the requested modification on Buyer's demand based on the terms and conditions of the Order remaining unchanged for the time being.

5.

5.5 卖方无权就因买方对卖方预定工序实施变更或对其工作进度表进行其他变更而产生的任何成本、损失或损害向买方索赔。

The Vendor shall not be entitled to claim from the Buyer any costs, losses or damages incurred due to changes by the Buyer in Vendor's intended sequence of work or other changes to Vendor's working schedule.

6. 技术资料 Technical documentation

6.1 买方对供应商技术文件的任何变更通知或批准不得免除供应商对其中所含信息的责任，如订购项目的尺寸、设计、计算和功能。

Any change notification or approval by the Buyer in the Vendor's technical documentation shall not release the Vendor from its responsibility for the information contained therein, such as dimensions, design, calculation and function of the Ordered Items.

6.2 供应商应告知买方其对图纸和其他文件所做的任何变更，并应明确标记每一处变更。在买方批准标记的变更后，供应商应提交一份干净的本版本。

The Vendor shall advise the Buyer of any changes that it makes to drawings and other documents and shall clearly mark every single change. A clean version shall be submitted by Vendor upon Buyer's approval of the marked changes.

7. 日期、截止日期与违约金/Dates, deadlines, contractual penalties

7.1 卖方承诺进行自行监控，以确保符合截止日期的规定。卖方应全权负责监控和指导卖方分包商及相关承包商履约，以确保符合约定日期和约定截止日期的规定，并且随时可提供标明目标进度和实际进度的最新进度表。

The Vendor undertakes to monitor the deadlines itself. The Vendor shall bear sole responsibility for monitoring and directing its Sub-Vendors and involved contractors to ensure that the agreed dates and agreed deadlines are met and that an up-to-date schedule showing target status and actual status is available at all times.

7.2 一旦出现任何延误迹象或其他可能影响约定日期和/或约定截止日期的情形，卖方应立即通过电子邮件通知买方，且邮件需包含以下详细信息：导致延误或引发延误风险的原因、对约定交付日期和/或约定截止日期的预期影响、计划及已采取的赶工措施（包括对预期进度改善情况的说明）。但是，此类通知并不免除卖方遵守约定日期和约定截止日期的义务。若卖方因过失未能提交此通知，则由此导致的全部损失将由卖方承担。

The Buyer shall be informed promptly of any potential delays or other likely to affect



the agreed dates and/or agreed deadlines via e-mail containing the following details: the causes of the delay or causes of the delay risk and forecasted impact on the agreed delivery dates and/or agreed deadlines and acceleration measures planned and already taken including a description of the expected improvement in the scheduling situation. Such notification shall not, however, release the Vendor from its obligation to adhere to the agreed dates and agreed deadlines. If Vendor culpably fails to submit such notification, it shall be liable for all damages resulting therefrom.

- 7.3 如因卖方原因导致将无法满足约定的日期和/或截止日期，或存在延误风险，卖方应在意识到此等延误或风险后立即自费用采取必要合理的赶工措施以避免延误，如果延误无法避免，则应尽最大可能缩短延误。赶工措施特别包括：增加人力及物料资源、安排多班、加班、周末和公共假日加班及采用特殊运输方式等。只要相关赶工措施是必要且合理的，应买方要求，卖方必须执行此等赶工措施。卖方还应按照市场上普遍适用的工时费率，对买方就此等延误及延误风险向卖方提供的任何必要的支持及采取的适当的监控措施进行补偿。如果买方有理由认为卖方因其自身原因将无法按时履行其订单项下的全部或部分义务，则前述规定同样适用，卖方也应在收到买方表达相关顾虑的通知后立即采取相应的赶工措施。

In the event of delays with regard to agreed dates and/or agreed deadlines for which the Vendor is responsible, or in the event of such impending delays, the Vendor shall, promptly after becoming aware of the delay or the risk of delay, take at its own expense the acceleration measures reasonably required to avoid the delay or, if the delay cannot be avoided, to shorten the delay to the greatest extent possible. The acceleration measures include, in particular, increased use of personnel and material resources, multishift operations, overtime, work performed on Sundays and public holidays and special shipment(s) which have to be carried out by the Vendor upon request of Buyer as far as necessary and reasonable. The Vendor shall also bear the costs for any necessary support taken by the Buyer, as well as appropriate monitoring and control measures taken by the Buyer in connection with the delay and the risk of delay, with remuneration in this regard being paid based on the usual market hourly rates. The provisions set out above shall apply accordingly in the event of reasonable concerns on the part of the Buyer that the Vendor will not fulfil all or some of its obligations arising from, or in connection with, the Order in a timely manner for reasons for which the Vendor is responsible, with the proviso that the acceleration measures are to be taken promptly after notification of the concerns by the Buyer.

- 7.4 若尽管已收到订单可能终止的通知，卖方仍未加快工作进度且未采取应对措施以避免延误或避免引发延误风险，可能对买方、第三方或环境造成重大损害，或将危及硬件或者相关联的对象运行的安全性，则买方可因卖方之故终止本订单，后果按第 15.3 条、15.5 条至 15.7 条的规定执行。

If, despite having been notified of the possibility of termination, the Vendor fails to expedite the work and fails to take countermeasures to avoid a delay or imminent delay which would cause substantial damage to the Buyer or to third parties or to the environment, or which would endanger the operational safety of the Hardware or the



Associated Object, the Buyer may terminate the Order for cause by Vendor with the consequences as per section 15.3, 15.5 till 15.7.

- 7.5 对于延误及其他合同义务的约定损害赔偿金和违约金(两者均为“*Vertragsstrafe*”),买方即使在接收订单标的时未索要,仍可在支付最后一笔款项前提出相关主张。买方还可以主张卖方就延误造成的任何进一步损害承担赔偿责任。订单取消(德语:“*Rücktritt*”)或终止不影响索要任何已产生的支付约定损害赔偿金、违约金及补偿金。Liquidated damages and penalties (both “*Vertragsstrafe*”) for delays and other contractual obligations can be asserted by the Buyer until the payment of the final invoice, even if no reservation is expressed on receipt of the Ordered Items. The assertion of any further-reaching claims for damages due to delays is not excluded. Rescission (“*Rücktritt*”) or termination shall not affect any claims for payment of liquidated damages, penalties and compensation that have already arisen.

8. 不可抗力/*Force Majeure*

8.1 不可抗力应理解为

Force majeure is to be understood as an event

- 超出了一方合理控制,并阻止或妨碍该方履行本订单义务的事件;
beyond a Party’s reasonable control preventing or hindering the Party from performing its obligation under the Order; and
- 在缔结本订单时无法合理预计并予以考虑的事件;
which could not reasonably have been expected to have been taken into account at the time of the conclusion of the Order; and
- 无法合理避免或克服的问题;
which could not reasonably have been avoided or overcome, and
- 后果无法得到合理避免或克服的问题。
the consequences of which could not reasonably have been avoided or overcome.

尽管有前述规定,以下情形(但不限于此类情形)不应构成不可抗力事件:

Notwithstanding the foregoing, the following shall not – without limitation - constitute cases of *Force Majeure*:

- 整个供应链中的任何相关承包商或供应商出现延误,或业主出现延误,且此类延误并非不可抗力所致;
delays of any involved contractor or supplier along the entire supply chain or of the Owner, except if caused by *Force Majeure*,
- 未经相关工会批准的罢工活动;
strikes not authorized by the trade union in question,
- 卖方未获得或未能及时获得提供订单标的所需的许可证或授权书;
a lack or delay of any permits or authorizations which the Vendor is obliged to obtain in order to provide the Ordered Items, and



- 冻害、暴风雨雪、洪水等本应合理预见的气候和天气状况。
climatic and weather conditions, e.g. freezing, storms, floods etc., which can be reasonably expected.

如果本条第一段的条件得到满足,则下列事件(但不限于此类事件)应构成不可抗力:
Provided the conditions of the first paragraph of this section is fulfilled, the following events - without limitation to such events - shall constitute cases of Force Majeure:

- 宣布或未宣布的战争、武装冲突或类似的严重威胁,包括但不限于敌对行动、入侵、外敌行为、广泛的军事动员;
war whether declared or not, armed conflict or the serious threat of same including but not limited to hostilities, invasion, act of a foreign enemy, extensive military mobilization;
- 内战、暴动、叛乱与革命、军事斗争或篡权、起义、民变或骚动;
civil war, riot rebellion and revolution, military or usurped power, insurrection, civil commotion, or disorder;
- 货币与贸易限制、禁运、制裁;
currency and trade restriction, embargo, sanction;
- 恐怖主义行为、蓄意破坏或海盗行为;
act of terrorism, sabotage or piracy;
- 瘟疫、流行病、大流行病、自然灾害,包括但不限于暴风、气旋、台风、飓风、龙卷风、雪暴、地震、火山活动、山体滑坡、潮汐波、海啸、洪水、雷击造成的损害或破坏、干旱;
plague, epidemic, pandemic, natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, blizzard, earthquake, volcano activity, landslide, tidal wave, tsunami, flood, damage or destruction by lightning, drought;
- 爆炸、火灾、机器或工厂毁坏、运输、电信或电力持久瘫痪,但由卖方或整个供应链内任何承包商或供应商造成的除外。
explosion, fire, destruction of machines or factories, prolonged breakdown of transport, telecommunication, or electric current, each unless caused by the Vendor or any involved contractor or supplier along the entire supply chain.

8.2 如果不可抗力事件对本订单执行造成局部或全面的影响,卖方根据本协议提出任何索赔的先决条件包括:卖方应在三(3)个日历日内将不可抗力事件的起始时间、预期延误情况以及不可抗力对本订单造成的任何其他预期后果通知对方,并应随时采取所有合理的预防措施和补救措施以尽可能减轻不可抗力的影响,并应在合理时间内证明不可抗力事件及其后果的真实性。

As a prerequisite for any claim by the Vendor hereunder, if the execution of the Order is affected in part or as a whole by Force Majeure, the Vendor shall within 3 calendar days give notice of the start of Force Majeure, the expected delay and any other expected consequences on the Order caused by Force Majeure, and shall at any time take all reasonable precautions and measures to minimize the effects of Force Majeure, and shall prove Force Majeure and its consequences in reasonable time.



- 8.3 受影响方将无须就不可抗力引起的后果对另一方承担责任, 并有权合理延长受影响的约定日期和/或截止日期。双方应各自承担自身与不可抗力及其任何后果相关的费用。一方在收到不可抗力通知前根据本订单条款所产生的付款义务不受任何影响。

The affected Party shall not be liable to the other Party for the consequences of such Force Majeure and shall be entitled to a reasonable extension of the agreed and affected dates and/or deadlines. Both Parties shall bear their own cost related to Force Majeure and any of its consequences. Liabilities accrued by a Party under the terms of this Order prior to receiving the notice of Force Majeure shall not be affected in any manner.

- 8.4 卖方按上述第 8.2 条发出通知或买方发出此类通知后, 若不可抗力事件持续或预计将对本订单产生全面或局部影响超过六 (6) 个月, 双方应本着诚信善意原则商讨订单的后续履行问题。买方有权随时中止或终止本订单, 终止后果按第 16.1 条第 2 款[因便利终止订单, 但不包括其中 b) 项所规定的成本]以及第 16.5 条至 16.7 条的规定执行, 中止后果则按第 16.5 条和 16.8 条的规定执行。

If Force Majeure is or will be affecting the Order wholly or partially for more than six months upon Vendor's notice as per section 8.2 above or Buyer's notice respectively, Parties shall discuss the continued implementation of the Order in good faith. The Buyer is at any time entitled to suspend or terminate the Order with the consequences of termination as per section 16.1 para 2 (termination for convenience) excluding cost as defined under b) therein, and as per sections 16.5 till 16.7, or with the consequences of suspension as per sections 16.5 and 16.8.

- 8.5 受影响方在本第 8 条项下的权利和索赔应具有排他性, 并取代任何其他权利和索赔
The rights and claims of the affected Party under this section 8 shall be exclusive and in lieu of any other rights and claims.

9. 买方提供的材料、设备和工具/Provision of materials, equipment and tools by the Buyer

- 9.1 若买方提供材料、设备或工具 (以下统称“供应物”), 卖方仅可将此类供应物用于本订单的执行。供应物应始终为买方的财产, 因此, 若其实物提供给卖方, 卖方必须自费将其作为第三方财产单独存储、标记、管理、保护和投保。供应商应检查并核实供应品无缺陷。卖方在己方或卖方分包商接触到供应物后, 即对供应物的丢失或损坏承担全部责任。供应品的使用或安装并不免除供应商对订购项目的质量和及时履行的责任或义务, 也不免除其保修义务。

If the Buyer provides materials, equipment or tools (hereinafter together “Provisions”), the Vendor may only use these the execution of the Order. Provisions shall remain the property of the Buyer and as such – if physically provided to the Vendor – must be stored separately, labelled, managed, safeguarded and insured by the Vendor as third-party property at its expense. The Vendor shall examine and verify that the Provisions are free from defects. The Vendor shall be fully responsible for loss of, or damage to the Provisions upon Vendors or Sub-Vendors access to the Provisions. . The use or installation of the Provisions does not release the Vendor from its responsibility or liability for the quality and timely fulfilment of the Ordered Items or from its warranty



obligation.

- 9.2 除非卖方能够凭例如已获认可的图纸和材料清单等方式证明供应物安装于订单标的物，否则卖方应将其退还给买方。若卖方无法返还此类供应物（例如因其已丢失），则应由卖方自费采购替代供应物予以补齐。

Unless the Vendor can prove, for example using recognized drawings and material lists, that Provisions have been installed, such Provisions shall be returned to the Buyer. If the Vendor cannot return such Provisions, e.g. because they have been lost, substitute provisions shall be procured by Vendor at its expense.

10. 验收/Acceptance

- 10.1 除非存在重大缺陷，买方应在卖方成功完成订购项目后签发验收证书。

The Buyer shall issue Acceptance upon successful completion of the Ordered Items by the Vendor unless there is a significant defect.

- 10.2 若在尝试验收之前或期间发现订单标的明显不符合订单要求，卖方应立即自费采取所有必要措施以满足订单要求。若因卖方的过错导致验收不合格，所产生的费用，例如买方为验收进行的投入、与审批机构相关的费用等，应由卖方承担。

If it becomes apparent before or during attempted Acceptance that the Ordered Items do not comply with the Order, Vendor shall immediately at its own expense take all the measures required to fulfil the requirements of the Order. The costs of the unsuccessful Acceptance attempt, e.g. efforts incurred by Buyer, costs relating to approving authorities etc., shall be borne by the Vendor if the latter is at fault.

- 10.3 对于涉及微小缺陷的情况，验收结果应取决于是否按买方确定的合理期限内消除了这些缺陷。

In cases involving insignificant defects, Acceptance shall be subject to the proviso that these defects are eliminated within a reasonable period to be determined by the Buyer.

- 10.4 订单标的的验收不构成买方放弃其享有的任何权利，特别是保修索赔、索要延误损害赔偿、索要约定违约金等权利。

Acceptance of the Ordered Items shall not constitute a waiver by the Buyer of any rights to which it is entitled, in particular warranty claims, claims for damages due to delays, contractual penalties, etc.

- 10.5 除非本订单中另有规定，否则规范、标准、指南和法律要求应以验收时的有效版本为准。

Unless otherwise stipulated in the Order, the versions of the specifications, standards, guidelines and legal requirements valid at the time of Acceptance shall apply.

11. 质量保证/Warranty for defects

- 11.1 卖方应保证订单标的不能有任何质量缺陷，即：尤其要符合本订单中规定的相关要求，并满足业内普遍接受的技术规定（德语：“*allgemein anerkannte Regeln der Technik*”）



和相关技术文件的要求以及第 3.4 条中提及的规范，建议及指导方针,并且将安全 and 无中断地运行。此外，卖方保证订单标的将使硬件和相关联的对象在满足其既定功能的前提下实现安全稳定的运行要求。

The Vendor warrants that the Ordered Items will be free from defects, i.e. in particular that they will comply with the Order, the generally accepted technical rules ("*allgemein anerkannte Regeln der Technik*"), the relevant technical documents and with the regulations, recommendations and guidelines pursuant to section 3.4, and will operate safe and disruption-free.. Furthermore, the Vendor warrants, that the Ordered Items will enable safe and disruption-free operation of the Hardware and the Associated Object for the intended purpose.

- 11.2 若在硬件安装调试完成后立即发出缺陷通知，则该通知应被视为及时通知。
A notice of defect shall be deemed to have been made on time if it is issued promptly after installation and commissioning of the Hardware.
- 11.3 缺陷通知应要求卖方查找所有类似缺陷并予以整改，并使买方有权就所有类似缺陷行使本文件所述权利。
The notice of a defect shall oblige the Vendor to search for similar defects and to remedy them all and entitles the Buyer to exercise its rights described herein with respect to all similar defects.
- 11.4 除非本订单中另有约定，若订单标的属于可移动的物体，包括软件或 IT 硬件。则质保期应为自买方验收订单标的之日起三十六（36）个月，或适用法定质保期，以较长者为准。另一方面，若订单标的属于建筑物（德语：“*Bauwerk*”），则质保期应为自买方验收订单标的之日起五（5）年，或法定质保期，以较长者为准。
Unless otherwise agreed in the Order, the warranty period for the Ordered Items, to the extent that the Ordered Items are related to movable items including Software or IT-Hardware, shall be 36 months from the time of the Acceptance of the Ordered Items by the Buyer, or the statutory period, whichever is longer. If, on the other hand, the Ordered Items are related to a building ("*Bauwerk*"), the statutory warranty period of 5 years from the Acceptance of the Ordered Items by the Buyer shall apply whichever is longer.
- 11.5 如果订单标的在质保期内出现缺陷，买方有权要求卖方经与买方商议后，立即对缺陷产品进行免费整改（以下简称“整改措施”）。供应商应承担由此类缺陷导致的所有额外费用，例如但不限于成功重新安装相关物件的重复费用、变更费用，并承担由此类缺陷导致的硬件变更的所有额外费用，特别是与材料和劳动力、文件、旅行和运输、硬件拆卸和重新组装相关的费用。If defects of the Ordered Items arise within the warranty period, the Buyer shall be entitled to have the Vendor, in consultation with the Buyer, remedy these defects promptly and free of charge (hereinafter "Remedial Measures") . The Vendor shall bear all additional costs caused by such defect, for instance, but not limited to, cost for repetition(s) of the successful re-installation of the Associated Object, cost for changes to the Hardware, cost related to material and labor, documentation, travel and transport, dismantling and reassembling of the Hardware.



- 11.6 卖方应增加人员和/或物料，并在满足所在国法律法规的前提下安排多班和/或加班（包括周日和公共假日加班）来实施整改措施。对某一缺陷进行整改并不妨碍买方再次核查订单标的并记录其他缺陷。

The Remedial Measures shall be carried out with increased personnel and/or material resources, working in multi-shifts, performing overtime and/or to the extent permitted under the laws and regulations that apply in the country in which the work is to be carried out, also on Sundays or public holidays. The remedy of a defect does not prevent the Buyer to review the Ordered Items again and note other defects.

- 11.7 如果(i)相同(类型)的缺陷出现不止一次，或者(ii)尽管采取了重复的补救措施，相同(类型)的缺陷仍继续出现，或者(iii)这是设计中的缺陷，买方有权分析根本原因和/或测试对相关对象和硬件的影响，费用由卖方承担，或者要求卖方提供此类根本原因分析，费用由卖方承担。作为补救措施的一部分，供应商应对缺陷的根本原因进行补救，例如通过改变设计和/或使用其他材料，或者应买方的要求，同意合理延长有问题零件的保修期。

If (i) the same (type of) defect occurs more than once or if (ii) in spite of repeated Remedial Measures, the same (type of) defect keeps occurring or if (iii) it is a defect in the design, Buyer is entitled to analyze the root cause and/or to test the impact on the Associated Object and the Hardware on Vendor's cost or demand such root cause analyses from the Vendor on Vendor's cost, and Vendor shall as part of the Remedial Measures remedy the underlying cause of the defect, e.g. by changing the design and/or using other materials, or shall agree to a reasonable extension of the Warranty Period, as requested by the Buyer, for the parts in question.

- 11.8 如果缺陷或根本原因指向某个人或次级供应商，买方有权要求用一个经买方确认的合格人员替换该个人或次级供应商，以执行补救措施和/或订购项目，视情况而定。

If the defect or the root cause point to a certain person or Sub-Vendor, the Buyer is entitled to demand replacement of that person or Sub-Vendor with a qualified one confirmed by the Buyer to carry out the Remedial Measures and/or the Ordered Items, as the case may be.

- 11.9 若卖方未在合理期限内妥善履行整改措施，买方有权自行决定：

If the Vendor has failed to carry out the Remedial Measures in a due and proper manner within a reasonable period of time being granted, the Buyer is entitled, at its discretion:

- 11.9.1 自行开展整改措施或委托第三方开展（自行整改，德语：“*Selbstvornahme*”）。与该自行整改相关的所有费用均应由卖方承担。若通过该自行整改未能（完全）纠正缺陷，卖方仍应按照本订单规定对该缺陷承担责任。

to carry out the Remedial Measures itself or have them carried out by third parties (substitute performance, "*Selbstvornahme*"). All costs in connection with such substitute performance shall be borne by the Vendor. Insofar as a defect is not (completely) remedied by such substitute performance that has been carried out, the Vendor shall remain liable for this defect in accordance with the provisions of the Order.



以及
and

11.9.2 要求买方按照本订单签订时订单标的在无缺陷状态下的价值与目前的实际价值按比例做折价处理, 如果买方已支付的金额超出了折价后的价格, 卖方应将差额部分退还买方。

to demand a reduction of the price by reducing the payment of the Buyer in the proportion which, at the date of the Order, the value of the Ordered Items in a state free of defects would have had to its actual value. If the Buyer has already paid more than the reduced remuneration, the Vendor shall reimburse the excess amount.

或
or

11.9.3 撤销或终止本订单
to rescind or terminate the order

以及
and

11.9.4 就订单标的缺陷造成的任何损害和损失要求全额赔偿, 包括订单标的范围外的损害, 例如但不限于硬件变更或重新制造的费用, 或因白费支出而产生的费用赔偿, 除非该缺陷非因卖方责任导致。

to claim full compensation for any damage and losses caused by defects of the Ordered Items, including damage occurring outside of the Ordered Items, for instance but not limited to cost for change or re-manufacturing of Hardware, or compensation for expenses incurred in vain unless the Vendor is not responsible for the defect.

11.10 在下述情形下, 买方有权根据第 10.7 条之规定自行实施整改措施, 无需事先设定截止日期。

The Buyer shall be entitled to the rights according to section 10.7 above without the need to set a deadline for the Remedial Measures in advance, provided that

- a) 卖方已经严肃且明确地拒绝对缺陷实行整改措施, 或
the Vendor has seriously and definitively refused performance of the Remedial Measures, or
- b) 整改已经失败, 或
performance of the Remedial Measures has failed, or
- c) 确定卖方无法在合理期限内完成整改, 或
it is certain that the Vendor will not remedy the defect within the reasonable period of time, or
- d) 卖方无法执行整改, 或
the remedy of the defect is impossible for the Vendor or
- e) 考虑到双方利益, 其他的有理由认为应立即全部或部分执行第 10.7 条相关规定的特殊情形, 尤其指:



there are special circumstances that justify the immediate exercise of some, or all of the rights set out in section 10.7, taking into account the interests of both Parties. This can be the case, in particular, if

- 买方已经对卖方的缺陷整改失去信心, 或
the Buyer has lost confidence in the Vendor's ability to perform, or
- 卖方欺骗性隐瞒缺陷, 或
the Vendor has concealed the defect with fraudulent intent, or
- 缺陷是因卖方故意行为导致, 或
the defect is due to willful intent on the part of the Vendor, or
- 因订单标的缺陷, 硬件或装置的运营许可证即将被吊销, 即: 无法等到卖方在截止期内实施整改措施, 或
the withdrawal of the operating permit for the Hardware or the Plant is imminent as a result of defects of the Ordered Items, meaning that it would be unreasonable to wait for the expiration of the deadline set for the Remedial Measures, or
- 等待卖方在截止期内完成整改措施将对买方或第三方带来重大损失风险, 或
there is a risk of disproportionate damage to the Buyer or to third parties as a result of waiting for the expiration of the deadline set for Remedial Measures, or
- 硬件, 相关联的对象, 或其他不属于卖方的财产的安全, 或人员或环境的安全存在风险。
the safety of the Hardware, the Associated Object of property not owned by the Vendor, or the safety of individuals or the environment is at risk.

11.11 包括质保期在内的时效期间中止和重新起算的法定规定应适用。

The statutory provisions on suspension and recommencement of a limitation period, including the warranty period, shall apply.

11.12 第 11 条所述权利也可在验收前提出。

The rights under section 11 can also be asserted prior to Acceptance.

12. 产品责任、违约/Product liability and breach of duty

12.1 若因订单标的存在缺陷, 导致第三方依据产品责任法或相关法规提出索赔, 进而使买方遭受损失, 卖方应就此对买方进行赔偿, 并使买方免受此类索赔的侵害。此外, 卖方还应赔偿买方因此产生的所有费用和开支, 包括但不限于法律辩护费用, 以及买方合理开展和/或实施的缺陷产品 (包括硬件) 召回所产生的费用。买方将通知卖方召回的内容和范围。

The Vendor shall indemnify and hold the Buyer harmless from claims by third parties resulting from product liability laws or legislation if and to the extent the exposure or the damage has been caused by a defect of the Ordered Items. In addition, the Vendor shall reimburse all costs and expenses incurred by the Buyer in this respect, including, but not limited to, cost of legal defense and of any recall of the defective product



including the Hardware reasonably undertaken and/or conducted by the Buyer. The Buyer will notify the Vendor of the content and scope of any recall.

- 12.2 如果卖方实质性违反其本订单项下或与之相关的任何责任和义务, 买方有权要求卖方赔偿由此造成的包括订单标的范围外的所有损害或损失。但是, 作为对卖方的一种止损, 买方将不会就生产损失或利润损失向卖方索赔, 除非此等损害或损失的产生是出于卖方的重大过失或恶意行为, 或业主或第三方已就此等损失向买方提出索赔, 或卖方投保的保险已涵盖了此等损失。

If the Vendor commits a culpable breach of any of its obligations resulting from, or in connection with, the Order, the Buyer shall have the right to be indemnified by the Vendor for any damages or losses incurred as a result, including damage caused outside of the Ordered Items. By way of derogation from the above, however, the Buyer will not claim loss of production or loss of profit unless such damages or losses are due to gross negligence or willful misconduct on the part of the Vendor, such claim is asserted in turn against the Buyer by the Owner or third parties in this respect, or such damages are covered by an insurance taken out by the Vendor.

- 12.3 卖方应对卖方分包商在执行订单过程中的任何作为或不作为负责, 如同是自己的订单一般。并应独自承担向卖方分包商支付款项的责任。无论根据合同还是法律, 买方在任何情况下均无需承担此类付款责任。法律规定的强制性法律义务不可排除。

The Vendor shall be liable for any acts or omissions of Sub-Vendors in connection with the execution of the Order as if they were its own and shall be solely responsible for the payment of Sub-Vendors. Buyer shall in no case be liable for such payments whether by contract or by law. legal obligation mandatory by law cannot be excluded.

13. 第三方权利/Third-party rights

如果因卖方过错导致买方遭受来自第三方的包括侵犯所有权、专利权、商标权或著作权等的侵权索赔, 卖方应赔偿买方由此产生的损失和费用并安排从权利持有者那里获得所需的相关权利。

If claims are asserted against the Buyer by a third party due to a defect in title, infringement of patent, trademark or copyright etc. for which the Vendor is responsible, the Vendor shall compensate the Buyer for the resulting damage and expenses and shall arrange for the required rights to be obtained from the holder of such rights.

14. 所有权、保密、数据保护和版权/Ownership, confidentiality, data protection and copyright

- 14.1 卖方为执行本订单而从买方处收到的文件、图纸、数据和物料仍应归属于买方财产。Documents, drawings, data and objects which the Vendor receives from the Buyer for the execution of the Order shall remain the property of the Buyer.

- 14.2 卖方从买方处收到的所有信息资料以及卖方在此等信息资料和订单条款基础上产生或创建的所有文件, 图纸, 数据和物料, 包括其中包含或收录的技术, 商务和个人信息, 应被卖方作为机密处理且仅能用于执行本订单之目的。未经买方书面或电子邮件



许可或在本订单中另有约定时，卖方不得复制，发布或提供给第三方（如：卖方分包商）。仅有在双方签订保密协议或在本订单中作相关约定后才能向卖方分包商提供信息资料。获得批准的第三方（包括卖方分包商）接受信息资料须承担同等的保密责任。对于卖方向经批准的第三方（包括卖方分包商和卖方雇员）披露保密信息的行为和疏忽，卖方应承担责任。

Any information that the Vendor receives from the Buyer and any documents, drawings, data and objects produced or otherwise created by the Vendor on the basis thereof as well as the conditions of the Order, including technical, commercial and personal data contained or embodied therein, shall be treated as confidential by the Vendor. They may only be used by the Vendor to process the Order and must also not be copied, published or made available to third parties (e.g. Sub-Vendor) without Buyer's approval in writing, by e-mail or in the Order. The approval regarding Sub-Vendor is given herewith except a Non-Disclosure-Agreement between the Parties or the Order stipulates otherwise. Disclosure to approved third parties (including Sub-Vendors) requires in addition that these third parties are subject to an equivalent confidentiality obligation. The Vendor shall be liable for the acts and omissions of a person to whom the Vendor disclosed confidential information to approve third parties (including Sub-Vendors and Vendor's employees

- 14.3 应买方要求，卖方应将买方提供的文件、图纸、数据和物料以及由卖方据此准备或创建的资料立即移交给买方和/或从卖方的数据媒介中删除，除非卖方在法律上有义务须对此等资料进行存档。卖方应将此要求传达给其雇员和卖方分包商并使他们履行相应的义务。

The documents, drawings, data and objects handed over by the Buyer and those prepared or otherwise created by the Vendor on the basis thereof shall, at the Buyer's request, be handed over to the latter promptly and/or erased from the Vendor's data media promptly, unless the Vendor is legally obliged to archive them. The Vendor shall brief its employees and Sub-Vendors accordingly and subject them to corresponding obligations.

- 14.4 订购项目以及由供应品产生的数据在交付时应成为买方的知识产权和实物产权，可由买方使用，并可由买方指定的任何第三方使用，例如但不限于由买方的关联公司和合同伙伴使用。

The Ordered Items as well as data that are generated from the supplies shall become the intellectual and physical property of the Buyer upon delivery and may be used by the Buyer, and at Buyer's discretion by any third party, for instance but not limited to, by Buyer's Affiliates and contractual partner of the Buyer.

- 14.5 若因订单标的产生了受版权保护的作品，则仅买方有权行使知识产权，特别是使用和利用此类作品的权利。

Insofar as copyrightable works are created in connection with the Ordered Items, only the Buyer is entitled to exercise intellectual property rights, in particular to use and exploit such work.



15. 发布与广告/Publications and advertising

未经买方书面或电子邮件许可，卖方不得对外披露有关本订单或装置的任何信息或促成类似信息被披露。此条规定也同样适用于将此类信息用作参考的情形。

Without the Buyer's written or by e-mail given permission, the Vendor must not make public any information in connection with the Order or the Plant or cause any such information to be made public. This shall also apply to the use of such information as a reference.

16. 暂停与终止/Suspension and termination

16.1 买方有权随时以书面形式通知卖方立即或在一个特定的时间点或里程碑节点全部或部分地暂停或终止执行本订单，无需遵守通知期限或说明理由（即“任意”终止权）。

The Buyer is entitled to suspend or terminate the execution of the Order, either in full or in part, immediately or at a certain point in time or milestone, at any time by submitting a written notice to the Vendor without having to adhere to a notice period or provide grounds for its decision (i.e. for convenience).

在此类终止情况下，除其他任何索赔外，卖方有权获得（a）截至终止日期，根据订单条款执行订单标的所产生的已证明且合理的费用（包括合理的管理费用和利润），以及（b）未执行部分订单标的的已证明且合理的管理费用。不合理费用包括但不限于卖方本可避免或减轻的费用。卖方应在收到买方终止通知后的三十天（30）天内，将终止费用告知买方（a 和 b），包括相关证明，并应在买方付款前交付作为 a)项费用依据的（部分）订单标的。若买方根据本订单支付的款项超过了终止费用（a 和 b），则买方有权要求退款。

In case of such termination, the Vendor shall – to the exclusion of any other claim – be entitled to payment of (a) the proven and reasonable cost (including reasonable overhead and profit) incurred for the performance of the Ordered Items in accordance with the conditions of the Order prior to the date of termination and (b) the proven and reasonable share of overhead costs for the part of the Ordered Items that was not executed. Not reasonable are without limitation cost that Vendor could have avoided or mitigated. The Vendor shall notify the Buyer of the termination cost (a and b) including their proofs within 30 days upon Buyer's termination notice and shall deliver the (part of) the Ordered Items forming the basis of the cost as per a) prior to the payment by the Buyer. As far as the payments of the Buyer under the Order exceeds the termination cost (a and b), the Buyer is entitled to claim re-payment.

16.2 在无需遵守通知期限的情况下，买方和卖方均有权因故以书面形式终止全部或部分订单。有权终止本订单的一方，仅可在获悉终止事由后的合理期限内终止本订单。

The Buyer and the Vendor are entitled to terminate the Order in full or in part for cause in writing without observing a period of notice. The Party entitled to do so can only terminate the Order within a reasonable period of time after becoming aware of the reason for termination.

“因故”指下列任一情形：



The term “cause” refers to a scenario in which

- 另一方资不抵债或过度负债；或
the other Party is insolvent or overindebted, or
- 另一方停止向第三方付款；或
the other Party ceases its payments towards third parties, or
- 已针对另一方资产申请启动破产程序或类似法律程序，或该等程序已被启动，或因资产不足而遭驳回；或
an application has been filed for insolvency proceedings or comparable legal proceedings in relation to the assets of the other Party, or such proceedings have been opened or the opening of such proceedings has been rejected due to a lack of assets, or
- 因卖方之故，业主终止了买方与业主之间的合同。
the Owner terminates the contract between the Buyer and the Owner for reasons for which the Vendor is responsible.

16.3 若“因故”涉及违反本订单项下义务，则仅当该违约行为构成重大违约，且在设定的合理整改期限届满后整改未果时，或在发出书面警告（若再次违约将终止订单）未起作用时，方可终止本订单。若出现以下情形，则可免除设定期限或发出警告的要求：
(a) 违约方严重且明确拒绝履约；或 (b) 尽管及时履约对另一方来说至关重要（另一方已在签署订单前或签署本订单时通知违约方），或尽管本订单中规定的日期或期限具有惩罚性，违约方仍未在本订单规定的日期或期限内履约；或 (c) 存在特殊情形，在权衡双方的利益后，证明立即终止本订单是合理的。

If the “cause” relates to a breach of a duty arising from the Order, termination is only permissible if this breach is a major one and then only after the expiry of a reasonable deadline set to remedy the scenario to no avail or after an unsuccessful written warning which included the declaration to terminate in case of a second breach. The setting of a deadline or the warning can be dispensed with if (a) the Party in breach seriously and definitively refuses performance or (b) the Party in breach does not affect performance by a date or deadline specified in the Order, even though timely performance is essential for the other Party based on its notification to the Party in breach before or at the time of the conclusion of the Order or even though the date or deadline is penalized or (c) there are special circumstances which justify immediate termination after weighting up the interests of both Parties.

若买方因故终止订单，买方可自行决定：

If the Buyer terminates for cause, the Buyer may, at its sole discretion,

- 要求交付已完成的全部或部分图纸、数据媒介及其他文件和物品，这些均是订单标的组成部分；此外，买方还可选择自行完成并交付订单标的，或由第三方完成并交付订单标的，费用由卖方承担。对于买方按其要求已收到的订单标的部分，卖方在排除进一步索赔的前提下，有权索偿于终止日期前按本订单条款履约产生的、已证实合理的费用（包括合理的间接费用和利润），但须扣除因代完成和/或订单终止给买方造成的成本与费用。若买方根据本订单支付的款项和/或买方根



据本订单提出的索赔超过了前述卖方的终止成本，买方有权要求返还。

demand delivery, either in full or in part, of the drawings, data media and other documents and objects already completed which form part of the Ordered Items and, in addition, choose to complete and deliver the Ordered Items itself or have them completed and delivered by third parties at the Vendor's expense. For those parts of the Ordered Items which the Buyer has received according to its request, the Vendor is to the exclusion of any further claim entitled to claim the proven and reasonable cost (including reasonable overhead and profit) incurred for its performance in accordance with the conditions of the Order prior to the date of termination less any costs and expenses incurred by the Buyer as a result of the alternative completion and/or the termination. As far as the payments of the Buyer under the Order and/or Buyer's claims hereunder exceed the aforementioned termination cost of the Vendor, the Buyer is entitled to claim re-payment.

- 或

or

或放弃已终止（部分）订单标的的交付，要求用赔偿代替履约。因订单终止而产生的硬件拆卸、移除、与关联对象相关的成本及其他相关费用应由卖方承担。卖方对买方不享有任何索赔权。

waive the delivery of the terminated (parts of the) Ordered Items and claim damages in lieu of performance. The costs of any dismantling and removal of the Hardware, cost related to the Associated Object and other costs incurred in connection with the termination shall be borne by the Vendor. The Vendor has no claims against the Buyer whatsoever.

16.4 若卖方因买方的原因终止订单，则应按照第 15.1 条第 2 款执行。

If the Vendor terminates for cause attributable to the Buyer, the consequences of section 15.1 para 2 shall apply.

16.5 如果订单终止或暂停，卖方应立即或在买方指定的时间点或里程碑节点：

In the event of termination or suspension, the Vendor shall, either promptly or at the point in time or milestone specified by the Buyer:

- a) 针对已终止或暂停的订单标的（部分），停止与其相关的工作；且
stop working on the terminated or suspended (parts of the) Ordered Items; and
- b) 不得就已终止或暂停的订单标的（部分）继续向第三方派发任何后续合同；且
not issue any further contracts to third parties in respect of the terminated or suspended (parts of the) Ordered Items; and
- c) 立即终止卖方就已终止的订单标的（部分）向卖方分包商授予的所有合同；或
promptly terminate all contracts that Vendor has awarded to Sub-Vendors concerning the terminated (parts of the) Ordered Items; or
- d) 立即暂停或根据买方的具体要求终止卖方就已暂停的订单标的（部分）向卖方分包商授予的所有合同；且



promptly suspend or upon specific request from Buyer terminate all contracts that Vendor has awarded to Sub-Vendors concerning the suspended (parts of the) Ordered Items; and

- e) 保护好卖方及整个供应链中相关承包商或供应商处受订单终止或暂停影响的所有正在进行的工作和已经完成的工作，直至收到买方的进一步指示；且 safeguard all work in progress and work completed which are affected by the termination or suspension at Vendor and any involved contractors or suppliers along the entire supply chain until further instructions have been received from the Buyer; and
 - f) 遵从买方就此事项的相关指示；且 follow the Buyer's instructions in this regard; and
 - g) 将提供给卖方的文件、图纸、方案、数据媒介及其他文件和物品返还或销毁，且不享有任何留置权； hand over or erase the documentation, drawings, plans, data media and other documents and objects made available to the Vendor without any right of retention; and
 - h) 随时将损失和成本降至最低。 gat any time minimize damages and costs.
- 16.6 订单终止后，任何一方均有权要求另一方配合共同确定订单的履约程度。若一方因非己方原因未能履行此项义务且已立即通知另一方，此项规定不适用。
Following termination, either Party can require the other to cooperate in a joint determination of the level of performance. This shall not apply if the Party fails to meet this obligation as a result of circumstances for which it is not responsible and which it has immediately reported to the other Party.
- 16.7 在订单终止前，若买方提出合理要求，卖方应自行承担费用，提供可供核实的、根据上述条款有权索赔的（潜在）终止费用。应业主要求，买方有权将此类证明及相关文件提供给业主。
On justified request of the Buyer before termination the Vendor shall provide on its own account the (potential) termination cost, as he would be entitled to claim in accordance with the sections above, in a verifiable manner. On request of the Owner, the Buyer is entitled to share these proofs and related documents with the Owner.
- 16.8 若本订单在执行过程中被（全部或部分）暂停后又重新启动，卖方有权就因此产生的合理且可证实的额外成本提出补偿，也有权要求合理延长约定日期和/或约定截止日期。
In the event that the execution of the Order (in full or in part) is suspended and recommenced, the Vendor is entitled to claim compensation for the resulting appropriate and proven additional costs and to request an appropriate extension of agreed dates and/or agreed deadlines.
17. **付款、开票、担保、抵销、付款违约、转让、税收和关税/Payment, invoicing, guarantees, offsetting, fault in payment, assignment, taxes, duties**



- 17.1 发票、付款申请、借贷票据应以电子发票或 PDF 文件形式发送至以下电子邮箱地址：
invoice0010@linde-le.com。单封电子邮件应仅包含一个 PDF 文件。单个 PDF 文件应
包含一份付款申请或一张发票或一张借贷票据，包括所有相关附件，例如费用证明。
卖方不得向该邮箱发送催款通知、其他附件或其他信函；此类信函应发送给主文件第
1 页所列的、负责会计事务的联系人。

Invoices, requests for payment, credit and debit notes shall either be submitted as e-
invoice or as pdf-file to the following email address: invoice0010@linde-le.com. One e-
mail shall only contain one pdf-file. One pdf file shall contain one request for payment
or one invoice or one credit note or one debit note including all related attachments,
e.g. proofs of expenses. Vendor shall not send reminders, other attachments, or other
correspondence to this email address; such correspondence shall be sent to the contact
person responsible for accounting as mentioned on page 1 of the Main Document.

- 17.2 发票至少应包含以下信息：

The invoices should contain at least the following information:

- 卖方的全称、详细地址和税务登记号；
full name, full address and tax registration number of the Vendor;
- 买方的全称、详细地址和税务登记号；
full name, full address and tax registration number of the Buyer;
- 开票日期；
date of invoice issuance,
- 发票编号；
invoice number,
- 订单号（包括补充文件号）；
Order number including Supplement number,
- 当涉及预付款（交付前）时：本订单中对该笔预付款做出约定的条款；
In case of downpayment (before delivery): the Article of the Order by which this
down payment was agreed on,
- 其他情况下：对发票项目的详细说明（交付物和/或服务）、买方的采购订单
标的号及交付和/或提供服务的日期；
In any other case: detailed description of the invoice items (deliverables and/or
related services), Buyer's PO-Item number and date(s) of delivery(ies) and/or
provision of the service(s),
- 税基；
tax base,
- 增值税税率和增值税金额或增值税免税原因，以及；
VAT rate and VAT amount or VAT exemption reason, and
- 银行信息（国际银行账号、银行代码）。
bank details (IBAN, SWIFT).

- 17.3 若买方因某种原因享有债权，则买方有权扣减或扣留到期应付款项。

In case the Buyer is entitled to a financial claim for whatever reason the Buyer shall be



entitled to reduce or withhold due payments.

17.4 不适用。

Not applied.

17.5 若双方约定可通过提供担保的方式来赎回质保保留金,则在业主因订单标的相关事由扣留买方款项期间,买方有权拒绝回赎该质保保留金。

If it has been agreed that the warranty retention can be redeemed by way of a guarantee, the Buyer is entitled to refuse the redemption of the retention for such time as the Owner withholds payments from the Buyer for any reason attributable to the Ordered Items.

17.6 仅当卖方对买方的债权无争议或已通过终审法院或仲裁裁决确认时,卖方才有权以其自身债权抵销买方的付款申诉。买方不仅有权使用自身对对方的债权,还有权根据其被授予的权力,用关联方的全部债权来冲抵卖方提出的付款申诉。若这些债权的到期日不同,买方的债权最迟应在买方债务到期时进行结算,并按起息日核算。

The Vendor is only entitled to offset the Buyer's claims for payments against its own claims if these are undisputed or have been determined by final court or arbitration award. The Buyer is entitled to offset claims for payment by the Vendor against not only its own counterclaims but also, on the basis of the powers granted to it, against all claims of its Affiliates. If these claims are due on different dates, the Buyer's claims shall be settled at the latest when the Buyer's liabilities fall due and shall be accounted on the value date.

17.7 仅当买方在付款到期日及根据第 16 条收到发票后三十(30)天期限届满且收到卖方书面催款通知后仍未付款时,或未按本订单(如有)约定日期付款时,方视为买方构成付款违约。

The Buyer shall only be deemed in default in payment if it fails to pay on receipt of a written reminder by the Vendor after the expiry of thirty (30) days from the due date of payment and receipt of the invoice pursuant to sections 16, or if it fails to pay on the date agreed in the Order, if any.

17.8 若买方发生付款违约,应按年利率 5% 支付利息,除非卖方能证明其因买方付款违约遭受了更大损失。卖方的其他债权或权利不包括在内。

In the event of Buyer's default in payment, it shall owe interest of 5% p.a., unless the Vendor can prove that it has suffered more substantial damages due to such default. Other claims or rights of the Vendor are excluded.

17.9 卖方对买方权利的转让须经买方书面同意,且买方不得无理由拒绝。

In order to be effective an assignment by the Vendor of its rights against the Buyer shall require Buyer's written consent, which shall not be withheld unreasonably.

17.10 各方应独自承担因本订单产生的、根据法律或主管机关指令向该方征收的各类性质的税费及纳税义务。

Each Party shall be solely responsible for taxes and tax obligations of any nature arising



from the Order and imposed by law or by order of authority to the respective Party.

- 17.11 本订单中规定的所有报酬均为净额，即不含增值税。
All of the remuneration specified in the Order specified as net amounts, i.e. exclusive of VAT.
- 17.12 卖方应遵守相关国家针对开票提出的所有形式、内容和法律要求，确保增值税顺利抵扣。若因国家税务部门政策调整，导致一方增值税缴税额增加或一方的进项税额减少，双方均有义务对相关发票作相应修正。
The Vendor shall fulfil all formal, content-related and legal requirements of the involved countries in connection with the issuance of invoices in order to ensure the correct reimbursement of VAT. If, as a result of measures taken by the authorities, the VAT payment burden of one Party is increased or the input tax of one of the Parties is reduced, both Parties shall be obliged to correct the invoice concerned accordingly.
- 17.13 在买方所在国根据付款征收的直接税费应由卖方承担。本订单项下所有应付款项均应在扣除一切必须在源头扣缴的、并依据法定规定由买方向税务主管机关缴纳的税款、关税或行政管理费后支付。若根据相关双重征税协定的规定可减免预提税，且如果卖方最迟在付款日已将有效的免税证明提交给买方，买方应支付相应的款项。
Direct taxes which are levied on the basis of the payments in the country of the Buyer shall be borne by the Vendor. All amounts payable in respect to the Order shall be paid after deduction of any taxes, duties or administrative fees that have to be withheld at source and paid to the responsible tax authorities by the Buyer on the basis of statutory provisions. If the relevant Double Taxation Treaty provides for a reduction in, or exemption from, withholding tax, the Buyer shall only pay the corresponding amount if and when the Vendor has presented a valid exemption certificate on the date of payment at the latest.
- 17.14 卖方负责履行法律强加给他的所有额外义务。由于卖方未能遵守这些义务而导致买方遭受的任何索赔或不利条件应由卖方承担。
The Vendor is responsible for fulfilling all additional obligations imposed on him by law. Any claims or disadvantages incurred by the Buyer as a result of the Vendor failure to comply with these obligations shall be borne by the Vendor.
- 17.15 供应商应负责支付给其雇员和订单执行过程中涉及的第三方雇员的所有关税、费用和任何种类的税收、薪水和其他报酬。
The Vendor shall be responsible for all duties, fees and taxes of any kind on salaries, wages and other remuneration paid to its employees and third- party employees involved in the execution of the Order.
- 17.16 若约定的款项是按小时或按日计费的，卖方应按工作日编制此类服务报告，并提交给买方的技术联络人确认。报告必须注明订单号、相关林德项目、已完成工作的详细说明、工作天数/小时数，并注明正常工作时间、夜间以及周六、周日和公共假日完成



的工作。若需支付差旅费，则必须在报告中将差旅花费的时间与工作时间分开列示。仅当本订单中有规定时，方会为卖方提供的材料、部件、设备、工具和辅助设备支付报酬。

In case the agreed payment is based on hourly or daily rates, the Vendor shall submit a report on such services to be drawn up per working day and submitted to a technical contact person of the Buyer for confirmation. The report must show the order number, the relevant Linde project, a detailed description of the work performed, the number of days/hours worked, indicating work performed during normal working hours, during the night and on Saturdays, Sundays and public holidays. If remuneration is to be paid for hours spent travelling, these hours must be shown separately from the working hours in the report. Remuneration for materials, components, devices, tools and auxiliary equipment provided by the Vendor shall only be paid if this is provided for in the Order.

17.17 最终发票应标注“最终发票”字样，并应在订单标的验收合格后四（4）周内提交。除第16.2条所述的各项信息外，最终发票还应注明保留金金额以及保留金与到期应付款项的合计金额。支付最终发票款项并不意味着卖方可以免除其合同义务或保修责任。Final invoices shall be marked as such and shall be submitted within 4 weeks after Acceptance of the Ordered Items. The final invoice shall include in addition of the requirements as per section 16.2 the retention amount and the aggregate amount of retention and due payments. The payment of the final invoice shall not release the Vendor from its contractual obligations or warranties.

18. 供应商行为准则与德国《供应链尽职调查法》/Supplier Code of Conduct and German Supply Chain Due Diligence Act

18.1 卖方承诺将遵守“林德集团供应商行为准则”的各项要求，包括其中提及的各项准则和政策（以下称“供应商行为准则”）。此文件可通过以下网站浏览和查阅：www.linde-engineering.com>Contact>Our Expectations to Supplier。

The Vendor undertakes to comply with the requirements of the “Code of Conduct for Suppliers of the Linde Group”, including the therein mentioned codes and policies (hereinafter referred to as the ‘Supplier Code of Conduct ’), which can be accessed and consulted on the Internet at www.linde-engineering.com>Contact>Our Expectations to Supplier.

18.2 卖方应按照买方要求提供相关的数据资料，或组织自我评估并将评估结果发送给买方，以证实其遵守了“供应商行为准则”的相关要求。

The Vendor shall demonstrate compliance with the requirements of the Supplier Code of Conduct at Buyer's request by making corresponding data available or conducting self-assessments and submitting the results to the Buyer.

18.3 不适用。
Not applied.

18.4 如果买方有理由认为卖方可能实质性违反了“供应商行为准则”的要求，则买方或其指



定的第三方机构可到卖方场所进行审计以验证卖方是否遵守了“供应商行为准则”或德国《供应链尽职调查法》(SCA)义务的要求。卖方与买方应采取一切合理措施,确保该审计按照所有适用的数据保护法及其他相关规定执行,且既不对卖方的商业活动造成不合理的干扰,也不会违反卖方与第三方之间的任何保密协议。卖方承诺将配合所有此类审计工作。与该审计有关的所有费用由各方自行承担。

If the Buyer has reason to believe that the Vendor may be in material breach of the requirements set out in the Supplier Code of Conduct, the Buyer or a third party appointed by the Buyer, may conduct audits on the Vendor's premises to verify the Vendor's compliance with the requirements of the Supplier Code of Conduct or of the SCA Obligations. The Vendor and the Buyer shall use all reasonable efforts to ensure that the audits will be conducted in accordance with any applicable data protection law and other provisions and shall neither unreasonably interfere with the Vendor's business activities nor violate any of the Vendor's confidentiality agreements with third parties. The Vendor undertakes to reasonably cooperate in any audits conducted. Each Party shall bear its own expenses in connection with such audits.

18.5 不适用。

Not applied.

18.6 在以下情形下,买方除享有其他权利外,还有权根据第 15.3 条之规定因故终止订单且无需遵从任何通知期限的要求:

In addition to its other rights, the Buyer shall also have the right to terminate the Order for cause pursuant to section 15.3 without observing a period of notice if the Vendor

- 卖方实质性违反“供应商行为准则”或 SCA 义务; 或
commits a material breach of the Supplier Code of Conduct or the SCA Obligations
or
- 卖方未按第 17.5 条之规定实施补救方案中的约定措施; 或
has not carried out the agreed measures of the Remedial Concept as per section
17.5 or
- 按第 17.5 条之规定实施的补救方案中的约定措施未能纠正违反 SCA 义务的行为;
the agreed measures of the Remedial Concept as per section 17.5 did not remedy
the violation of the SCA Obligations

且卖方在买方发出书面通知后未能对其违反行为进行纠正,或买方之前已经对其实质性违反行为发出过书面警告。

and the Vendor either fails to remedy the breach after written notification by the Buyer or was previously given a written warning by the Buyer related to this material breach.

18.7 实质性违反行为包含但不限于: 强迫劳动或使用童工、腐败和贿赂、忽视职业安全与健康义务、侵犯结社自由、就业歧视, 以及违背“供应商行为准则”等。

Material breaches include but are not limited to incidents of forced or child labor, corruption and bribery, disregarding occupational safety and health obligations, freedom of association unequal treatment in employment, and failure to comply with the “Supplier Code of Conduct’s.



19. 贸易管制/Trade restrictions

19.1 “被制裁实体”

Denied Party

19.1.1 “被制裁实体”是指，根据贸易条例，买方不得直接或间接向其提供经济资源，和/或买方不得与之进行任何其他形式交易的自然人或法人。由“被制裁实体”直接或间接多数控股，或以其他方式直接或间接控制的自然人或法人，其自身亦应被视为“被制裁实体”。若某一主体直接或间接持有足以选举多数董事或管理机构成员的投票权，或能够以其他方式支配法人的事务或管理，则该主体被视为控制该法人实体。

Denied Party shall mean a natural or legal person to whom Buyer may not directly or indirectly provide an economic resource to and/or with whom Buyer may not otherwise deal with according to a trade regulation. A natural or legal person, who is directly or indirectly majority-owned or otherwise directly or indirectly controlled by a Denied Party, shall itself also be considered as a Denied Party. A person is deemed to control a legal person if it owns directly or indirectly sufficient voting interest to elect a majority of the directors or managing authority, or if it can otherwise direct the affairs or management of a legal person.

19.1.2 卖方保证并声明，自订单生效之日起，其并非“被制裁实体”。卖方一旦成为“被制裁实体”，应立即以书面形式通知买方。

The Vendor warrants and represents that, upon entry into force of the Order, Vendor is not a Denied Party. The Vendor shall notify Buyer in writing promptly whenever the Vendor becomes a Denied Party.

19.1.3 在不影响前述规定的前提下，卖方应（i）在买方要求时，立即提交其股东和管理层结构（包括最终受益所有人）信息；并（ii）在其所有权或控制权发生变更时立即提交相关变更信息。

Without prejudice to the foregoing the Vendor shall submit (i) its shareholder and management structure promptly upon Buyer’s request, including the ultimate beneficial owner(s), and (ii) any change in its ownership or control promptly upon such change.

19.1.4 此外，卖方保证并声明，其（i）不会致使买方直接或间接与任何“被制裁实体”进行交易；（ii）不会使用任何“被制裁实体”履行订单；（iii）不会直接或间接向任何“被制裁实体”提交有关买方或订单的任何信息；且（iv）不会将自买方收到的任何货物提供给任何“被制裁实体”。

Furthermore, the Vendor warrants and represents that it (i) will not cause the Buyer to directly or indirectly deal with a Denied Party (ii) will not use a Denied Party for the performance of the Order, (iii) will not directly or indirectly submit any information on the Buyer or the Order to a Denied Party and (iv) will not provide any items received from the Buyer to a Denied Party.

19.2 贸易条例

Trade Regulation



- 19.2.1 卖方不得采购或使用任何源自俄罗斯联邦、白俄罗斯、克里米亚及塞瓦斯托波尔、卢甘斯克、顿涅茨克或欧盟第 2022/2063 号条例（经修订）中提及的任何其他地区（以下统称“受限区域”）的材料或设备。

The Vendor shall not procure or use any material or equipment originating from the Russian Federation, Belarus, Crimea and Sevastopol, Luhansk, Donezk or any other region as mentioned in Regulation EU 2022/2063 as amended (together hereinafter referred to as “Restricted Areas”).

应买方要求，卖方应提供所有使用材料的来源证明。订单标的或其部件不得经由受限区域运输。

Upon request of Buyer, Vendor shall provide evidence on the origin of any used material. The Ordered Items or parts thereof shall not be transported via the Restricted Areas.

- 18.2.2 卖方有义务遵守适用于买方、业主或者所提交信息的任何法规，包括但不限于美国（再）出口管制法规。在不影响前述规定的前提下，卖方无权将直接或间接从买方收到的任何货物（再）出口至受限区域或在受限区域内使用。

The Vendor is obliged to adhere to any regulations including without limitation U.S. (re-) export control applicable to the Buyer, the Owner or the submitted information. Without prejudice to the foregoing, the Vendor is not entitled to (re-)export to or to use in the Restricted Areas anything received directly or indirectly from the Buyer.

- 19.2.3 在不影响前述规定的前提下，卖方无权将任何受（再）出口、进口或过境至下列国家或经下列国家运输禁令限制的物品用于订单标的或其任何部件：(i) 装置所在国；(ii) 订单标的的履行、存储和/或获取所在国；和/或 (iii) 将使用硬件和/或 (iv) 订单标的相关其他工作实施所在国。

Without prejudice to the foregoing, the Vendor is not entitled to use anything for the Ordered Items or any parts thereof that is subject to any (re-)export, import or transit prohibitions into or via the country where (i) the Plant is situated, (ii) the performance of and/or storage of and/or access to the Ordered Items takes place and/or (iii) the Hardware will be used and/or (iv) other works on or for the Ordered Items are carried out.

- 19.2.4 卖方有义务确保订单标的及其任何部件，在以下国家（再）出口（如两用物项）、进口或过境至或经由以下国家时，不受任何贸易管制：(i) 装置所在国；(ii) 订单标的的履行、存储和/或获取所在国；和/或 (iii) 将使用硬件和/或 (iv) 订单标的相关其他工作实施所在国。若订单标的或其任何部件受政府贸易授权或通知要求约束，卖方应在收到订单后立即以书面形式通知买方相关要求及所需批准事项。卖方在知悉适用贸易管制发生变更后，应立即向买方提交相关变更信息，且最迟不得晚于交付时。

The Vendor is obliged to ensure that the Ordered Items and any parts thereof are not subject to trade restrictions regarding the (re-)export (e.g. dual use), import or transit into or via the country where (i) the Plant is situated, (ii) any performance and/or storage of and/or access to of the Ordered Items takes place and/or (iii) the Hardware will be used and/or (iv) other works on or for the Ordered Items are carried out. If the Ordered Items or part(s) thereof are subject to governmental trade authorizations or



notification requirements, the Vendor shall inform the Buyer about the requirements and approvals needed in writing promptly upon receipt of the Order. Changes regarding the applicable trade restrictions shall be submitted by the Vendor to the Buyer promptly upon gaining knowledge and not later than with delivery.

19.3 适用的管制条例

Applicable restrictions

在不影响第 18.1 条和第 18.2 条的前提下，卖方确认将遵守所有适用的贸易管制条例，以及由欧盟（包括其成员国）、美国、英国、联合国及中国颁布或修订的贸易管制条例，并承诺不采取任何构成违反前述贸易管制条例的行为，以保障买方的权益。Without prejudice to section 18.1 and 18.2 Vendor confirms to comply with all applicable trade restrictions and those issued or amended by the European Union (including member states), the United States of America, the United Kingdom, the United Nations and Republic of China confirms to refrain from any actions that constitute a breach of any of these trade restrictions for the Buyer.

19.4 再出口禁令

Re-export prohibition

在法律要求的范围内，买方不得直接或间接向俄罗斯联邦或白俄罗斯销售、出口或再出口订单项下供应的任何标的物，也不得在俄罗斯联邦或白俄罗斯境内使用这些货物，并应尽合理努力确保业主不会妨碍上述禁令目的。买方应立即通知卖方任何可能妨碍前述销售、出口或再出口禁令目的实现的问题。

As far as legally obliged, the Buyer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any Item supplied under the Order and shall undertake reasonable effort to ensure that the purpose of this prohibition is not frustrated by the Owner. The Buyer shall promptly inform the Vendor about any problems that could frustrate the purpose of the aforementioned prohibition to sell, export or reexport.

19.5 违约后果

Consequences of breach

若卖方违反第 18.1 条至第 18.3 条规定的义务，买方有权终止订单，且无需遵从任何通知期限的要求，并产生第 15.3 条、第 15.5 条及第 15.6 条所述之后果。

A breach of Vendor's obligation as per sections 18.1 till 18.3 entitles the Buyer to terminate the Order without observing a period of notice with the consequences as per section 15.3, 15.5 and 15.6.

若买方违反第 18.4 条规定的义务，卖方有权在该等违约发生后立即终止订单，且无需遵从任何通知期限的要求，并产生第 15.3 条、第 15.5 条及第 15.6 条所述之后果。

A breach of Buyer's obligation as per sections 18.4 entitles the Vendor to terminate the Order promptly upon the breach without observing a period of notice with the consequences as per section 15.3, 15.5 and 15.6.



20. 生效与部分失效/Effectiveness and partial ineffectiveness

20.1 第 14、15、18.5、22 和 23 条的相关规定和第 3.7、17.10 和 17.14 条项下的责任义务,以及本 20.1 条的规定,不应受到订单终止、义务期满或订单撤销(德语:“Rücktritt”)的影响,即即使订单终止、义务期满或订单撤销,各方仍受这些条款的约束。此外,对于买方在订单终止后接管的订单标的部件,除上述条款外,第 13 条之规定及第 19 条中提及的信息义务也应适用。

The provisions set out in section 14, section 15, section 18.5, section 22 and section 23, as well as the responsibilities set out in sections 3.7, 17.10 and 17.14 and the provisions set out in this section 20.1 shall not be affected by a termination of the Order, by the expiration of the obligations or by rescission (“Rücktritt”) from the Order, i.e. the Parties kept be bound by these sections even in case of termination, expiration or rescission. With regard to the parts of the Ordered Items that are taken over by the Buyer in the event of termination, this shall also apply additionally to the provisions set out in section 13, as well as to the information obligations referred to in section 19.

20.2 即使订单终止或撤销,任何一方仍将保留在订单终止或撤销生效日之前已经产生的权利。

Notwithstanding termination or rescission of the Order either Party shall retain the rights that have already arisen prior to the effective date of termination or rescission.

20.3 如果本采购条款中的任何条款或其他的订单条款已经或将要失效和/或无法实行,其余条款的有效性应不受影响。

Should any provision of these Conditions of Purchase or other components of the Order be or become ineffective and/or impracticable, the validity of the remaining provisions shall not be affected.

21 履行地点 Place of fulfilment

除非订单中另有规定,履行地应为买方注册营业地。

Unless otherwise stated in the Order, the place of performance shall be the place where the Buyer has its registered place of business.

22. 适用法律/Applicable law

22.1 本订单应受中华人民共和国法律管辖,但不包括其冲突法规定、海牙《国际货物买卖统一法公约》及维也纳联合国国际贸易法委员会制定的《联合国国际货物销售合同公约》(CISG)。

The Order shall be governed by the law of the Republic of China, albeit excluding the conflict of law provisions, the Hague Uniform Law on the International Sale of Goods and the Vienna UNCITRAL Convention on Contracts for the International Sale of Goods (CISG).



23. 司法管辖与仲裁地点/Place of jurisdiction and arbitration

23.1 因本采购订单引起或与之相关的任何争议，应通过友好协商妥善解决。如协商无法解决争议，若买方为林德工程亚太有限公司(Linde Engineering APAC Co., Ltd.)，则将争议提交至杭州仲裁委员会仲裁，仲裁地为杭州；若买方为林德工程(大连)有限公司(Linde Engineering (Dalian) Co., Ltd.)或林德氢能科技(大连)有限公司(Linde Hydrogen Fuel Tech (Dalian) Co., Ltd.)，则将争议提交至大连仲裁委员会仲裁，仲裁地为大连。仲裁裁决为终局裁决，对双方均具有约束力。仲裁费用由败诉方承担。

“Any dispute arising from or in connection with this purchase order, shall be settled amicably through friendly negotiation. In case no settlement can be reached through negotiation, if the buyer is Linde Engineering APAC Co., Ltd., the case shall then be submitted for arbitration to Hangzhou arbitration commission with venue in Hangzhou, if the buyer is Linde Engineering (Dalian) Co., Ltd. or Linde Hydrogen Fuel Tech (Dalian) Co., Ltd., the case shall then be submitted for arbitration to Dalian arbitration commission with venue in Dalian. The arbitral award is final and binding upon both parties. Arbitration fee shall be borne by the losing party.”