



分离技术部销售订单的通用条款和条件

1. TERMS APPLICABLE 条款适用范围

The Terms and Conditions of Sale listed below are the exclusive terms and conditions applicable to quotations made and order confirmations issued by the ANDRITZ entity supplying the same ("Seller") for the sales of products, equipment and associated parts and/or services relating thereto ("Products"). Any of Buyer's terms and conditions that are in addition to or different from those contained herein, which are not separately agreed to by Seller in writing, are hereby objected to and shall be of no effect. The term "Agreement" as used herein means collectively (a) the Seller's quotation, (b) the Buyer's purchase order expressly accepted by the Seller and (c) the Seller's order confirmation, together with any attachment hereto, any documents expressly incorporated by reference, (d) and these General Terms and Conditions of Sale. 本销售订单的通用条款和条件为安德里茨（简称“卖方”）在进行销售产品，设备及相关零件及/或服务（简称“产品”）提供销售报价时和订单确认时在协议里列明的唯一条款。若买方附加了其通用条款或是与本通用条款有不一致的，除非卖方有另外的书面确认，则卖方并不接受该类通用条款且该通用条款属无效。本文所称的“协议”是统称，指(1)卖方的报价，(2) 卖方明确接受的买方采购订单，(3) 卖方的订单确认和任何附件以及任何明确纳入的参考文件，(4) 本销售订单的通用条款和条件。

2. DELIVERY OR PERFORMANCE 交货或服务履约

Delivery or performance dates are good faith estimates and do not mean that "time is of the essence" Buyer's failure to promptly make advance or interim payments, supply technical information, drawings and approvals will result in a commensurate delay in delivery or performance. Upon and after delivery, risk of loss or damage to the Products shall be Buyer's. Delivery of the Products hereunder will be made on the terms agreed to by the parties as set forth in the Agreement, and in accordance with the most current version of INCOTERMS®, in effect at the date the Agreement enters into force.

交期或履约时间是基于诚信估算，并不代表“时间是最重要的”。买方没有按时支付预付款或进度款，没按时提供技术信息、图纸、批复都会导致交货或履约顺延。交付时和交付后，产品损失或损坏的风险应由买方承担。本协议项下的产品交付将按照协议中各方约定的条款进行，交付条款依据本协议生效之日生效的最新版国际贸易术语解释通则进行解释。

3. WARRANTY 质量保证

(1) Product Warranty: Seller warrants to Buyer that the Products manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the Products and shall expire on the earlier to occur of 12 months from initial operation of the Products and 18 months from delivery thereof (the "Warranty Period"). If during the Warranty Period Buyer discovers a defect in material or workmanship of a Product and gives Seller written notice thereof within 10 days of such discovery, Seller will, at its option, either (a) deliver to Buyer, on the same terms as the original delivery was made, according to agreed INCOTERMS®, a replacement part or (b) repair the defect.

Any repair or replacement part furnish pursuant to this warranty are warranted against defects in material and workmanship for one period of 12 months from completion of such repair or replacement, with no further extension. Seller will have no warranty obligations for the Products under this paragraph 3(1): (i) if the Products have not been operated and maintained in accordance with generally approved industry practice and with Seller's specific written instructions; (ii) if the Products are used in connection with any mixture or substance or operating condition other than that for which they were designed; (iii) if Buyer fails to give Seller such written 10 day notice; (iv) if the Products are repaired by someone other than Seller or have been intentionally or accidentally damaged; (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable; or (vi) for expenses incurred for work in connection with the removal of the defective articles and reinstallation following repair or replacement.

产品的质量证明：卖方向买方保证其制造的产品没有材料及工艺上的缺陷。质保期由产品交付之日起算，期满后不晚于产品首次使用后的12个月或者交货后的18个月，时间以先到者为准（简称“质保期”）。若在质保期内买方发现材料或工艺上有缺陷，则应在发现该等缺陷后的10天内书面通知卖方，卖方可自行选择a)根据双方同意的国际贸易术语解释通则以原交货条款补发货给买方进行更换或b)在缺陷位置上进行维修。任何修理或更换后的部件的材料、工艺质保期为修理、更换完成后的12个月，时间不作进一步延长。卖方在本条3(1)所述的质保责任不包括：(i)产品没有按照普遍认可的行业惯例和卖方的具体书面说明进行操作和维护；(ii)产品与其他混合物、物质使用或在其他运行条件下使用，而没有依照原设定的情况下使用；(iii)如买方未能在10天内向卖方发出该类缺陷的书面通知；(iv)如果产品由卖方以外的人修理，或产品被故意或意外地损坏；(v)对于侵蚀，腐蚀，常见的易损易耗件或者针对那些本身就暴露在容易遭受严重磨损的环境中使用的部件或被认为是消耗性的部件；(vi)因拆除有缺陷的物品而在维修或更换后重新安装工作所产生的费用。

(2) Seller further warrants to Buyer that at delivery, the Products manufactured by it will be free of any liens or encumbrances. If there are any such liens or encumbrances, Seller will cause them to be discharged promptly after notification from Buyer of their existence.

卖方进一步向买方保证，产品交付时无任何留置权或产权负担。若存在任何留置权或产权负担，则卖方在收到买方相关通知后有责任对其作恰当的处理。

(3) THE EXPRESS WARRANTIES SELLER MAKES IN THIS PARAGRAPH 3 ARE THE ONLY WARRANTIES IT WILL MAKE. THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, ORAL, EXPRESS OR IMPLIED. IN PARTICULAR, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

卖方质保仅限于本通用条款第3条明确规定的內容。除此之外的其它担保，无论是法定的，口头的，明示的或暗示的均不属本协议担保范围；尤其是本协议不包括货物具有商业价值或适合于某一特定用途的暗示担保。

(4) The remedies provided in paragraphs 3 are Buyer's exclusive remedy for breach of warranty.

本第3条规定的补救措施是卖方在违反质量保证情况下对买方的唯一赔偿。

(5) With respect to any Product or part thereof not manufactured by Seller, Seller shall pass on to Buyer only those warranties made to Seller by the manufacturer of such Product or part which are capable of being so passed on.

对于非卖方制造的任何产品或其部分，卖方仅向买方保证该类产品或部件的制造商已向卖方保证的内容。

4. LIMITATION OF LIABILITY 责任限制

Notwithstanding any other provision in this Agreement, the following limitations of liability shall apply:

无论本协议是否有其他规定，下列责任限制条款都适用：

(1) In no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable to Buyer or any third party (a) for loss of profits or anticipated profits, revenue or business opportunity, loss of production, loss of use, loss of goodwill, loss arising from business interruption, loss of anticipated savings or wasted overheads, loss by reason of shutdown of facilities or inability to operate any facility at full capacity, or cost of obtaining other means for performing the functions performed by the Products, loss of contracts, claims of customers, cost of money or loss of use of capital, increased capital or financing in each case whether or not foreseeable, or for any fines or penalties or damages (liquidated or otherwise) payable under agreements other than this Agreement and (b) for any indirect, special, incidental, punitive, exemplary, aggravated, nominal or consequential damages of any nature.

任何情况下，且无论是基于合同、侵权（包括过失）、严格责任、约定赔偿或是其他理由提起主张时，卖方及其执行官、董事、职员、分包商、供应商或其关联公司对买方或任何第三方的以下损失均不负责且无论该损失是否可以预见：(a)利润或预期利润损失、收益或商业机会的损失、生产损失、使用损失、商誉损失、业务中断造成的损失、预期节余的损失或运营费用的损失、设备停产原因导致的损失、设备开工不足损失、为实现该产品功能而所采用其他措施时所耗的成本、合同损失、客户索赔、现金成本或资本利用的损失，增加的资本或融资，或根据本协议以外的协议而支付的任何罚款或罚金或损害赔偿（违约金或其他）及（b）任何间接、特殊、偶然、惩罚性、惩戒性、加重性、名义上或从属性损失。

(2) The aggregate liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, for all claims of any kind for any loss, damage, indemnity or expense resulting from, arising out of or connected with the Products or this Agreement or from the performance or breach thereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed 50% of the contract price.

对于由本协议引起的，或与本协议产品相关联的，或因履约或违约导致的卖方及其执行官、董事、职员、分包商、供应商或其关联公司的任何损失、损害或成本等的累计责任总额，包括为通过性能测试而产生的设备性能整改费用（若适用），最多不超过订单总额的50%。

(3) The limitations and exclusions of liability set forth in this paragraph 4 shall take precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise. The remedies provided in this Agreement are Buyer's exclusive remedies.

本通用条款第4条有关责任限制和除外的规定将优先于协议其他约定，且无论是基于合同、质保、侵权（包括过失）、严格责任、约定赔偿或是其他理由提起主张时均适用。卖方需承担的责任限于本协议明确规定的內容。

(4) All liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, resulting from, arising out of or connected with the Products or this Agreement or from the performance or breach thereof shall terminate on the third anniversary of the date of this Agreement.

卖方及其执行官、董事、职员、分包商、供应商或其关联公司因本协议或与本协议产品相关联的，或因履约或违约导致的所有责任，自本协议签订日期起三年后终止。

(5) In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of Products (unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under this Agreement) or caused by the use of



分离技术部销售订单的通用条款和条件

Product by the Buyer against the advice of Seller. If Seller furnishes Buyer with advice or assistance concerning any products or systems that is not required pursuant to the Agreement, the furnishing of such advice or assistance shall not be subject to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

在任何情况下，卖方均不对因未能发现或修复产品设计中固有的或潜在的缺陷（除非此类发现或修理通常可通过本协议工作范围中明确规定的测试而被发现）或由于买方没有根据卖方的建议使用产品引起的任何损失或损害承担责任。如果卖方为买方提供了非本协议要求的有关产品或系统的建议或协助，则卖方无需对此建议或协助承担责任，且无论是基于合同、约定赔偿、质保、侵权（包括过失）、严格责任或是其他理由。

5. CHANGES, DELETIONS AND EXTRA WORK 变更，取消以及额外工作

(1) Seller shall not make any changes in the Products unless Buyer and Seller have executed a written Change Order for such change. Any such Change Order shall include an appropriate adjustment to the contract price and delivery terms. If the change impairs Seller's ability to satisfy any of its obligations to Buyer, the Change Order shall include appropriate modifications to this Agreement. If, after the date of this quotation or acknowledgment, new or revised governmental requirements should require a change in the Products, the change shall be subject to this paragraph 5.

卖方不得对产品进行任何变更，除非买方和卖方已就此类变更签署了书面变更单。任何此类变更单应包括适当的合同价格和交货条件调整。如果变更损害卖方对买方履行任何义务的能力，则变更单应包括对本协议的适当修改。在本报价单或确认之日后，若有政府新增或者变动的要求需要变更产品时，则该变更适用于本通用条款第5条。

(2) The Seller shall be eligible for extension of time and/or cost compensation for events, such as - site risks, unforeseen conditions, Buyer's default, change in law and regulation, change in facilities, force majeure, or any reasons not attributable to the Seller.

对于例如现场风险、不可预见的情形、买方的违约、法律和法规的变更、设施的变更、不可抗力或任何不归因于卖方原因的事件，卖方都可以延长履行期和/或获得费用补偿。

6. TAXES 税收

Seller's prices do not include any sales, use, excise or other taxes. In addition to the price specified herein, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products shall be billed to and paid by Buyer unless Buyer provides to Seller a tax-exemption certificate acceptable to the relevant taxing authorities.

卖家的价格不包括任何销售税，使用税，消费税或其他税费。除了此处指定的价格外，任何适用于销售或使用乙方产品的现有或未来的销售税，使用税，消费税或任何其他税款的金额应由买方支付，除非买方向卖方提供相关税务当局接受的免税证明。

7. RETENTION OF TITLE 所有权的保留

The ownership in the Products vests in the Seller until all payments hereunder have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such retention of title in Seller and to protect Seller's interest in the Products.

产品的所有权归卖方所有，直到本协议项下的所有付款全部付清为止。买方承认卖方可以根据适用法律的要求提交一份财务声明或类似文件，并可以采取其认为合理必要的其他所有措施，以完善和维护卖方仍保有的所有权从而保护卖方对产品的权益。

8. SET OFF 抵销

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under this Agreement or otherwise.

买方或者其任何关联公司均无权用同等金额的应付款抵消在本协议下对卖方或者其任何关联公司的索赔。

9. DATA COLLECTION – SOFTWARE 数据收集 - 软件

(1) Buyer is aware of the fact that parts of the Product generate machine and/or process data (the "Machine Data") that the Seller may use for the optimization of the performance and further improvement of the Product (the "Purpose"). Machine Data related to the Product shall be kept confidential by the Buyer and may be accessed exclusively by the Seller free of charge without prior notice either by direct duplication from the control systems installed at the plant, by direct access via a computer network or by any other means agreed between the parties. The Seller shall only be entitled to use such Machine Data for the Purpose. Seller shall keep confidential all Machine Data, and shall neither publish nor communicate such Machine Data to third parties in a form that personally identifies the Buyer or its clients. In order to ensure the operation of such tools the Buyer will fulfill the system requirements as requested by the Seller in writing. The undisturbed collection of and access to such proprietary Machine Data is an important pre-requisite for the proper fulfillment of Seller's warranty obligations and Seller's possibility to support Buyer operation remotely.

In the event Seller develops new methods, tools, improvements, etc., based on the Machine Data, Seller shall be the owner of all intellectual property rights and shall have title to any patent, trademark, copyright and other intellectual property rights.

(1) 买方知晓卖方所供的设备将会产生机械和/或流程上的数据（统称为“机器数据”），而这些机器数据将可能被卖方运用于产品性能优化和进一步的改善优化（以下称为“目的”）。买方应当对与产品有关的机器数据信息给予保密，卖方可在不先行通知买方的情况下免费并排他地通过工厂安装的控制系統直接复制，或通过计算机网络直接访问，或任何双方同意的其他方式访问该等机器数据。卖方仅在为前述“目的”时才有使用机器数据。卖方应对所有机器数据保密，不得以个人身份代表买方或其客户的形式向第三方公布或传达此类机器数据。为了确保此类工具的操作，买方将按照卖方的书面要求满足系统需求。不受干扰地收集和访问此类专有机器数据是卖方恰当地履行质保义务和为买方提供远程数据支持可能的重要先决条件。

如果卖方根据机器数据开发了新的方法，工具，改进等，卖方应是该类知识产权的所有者，并拥有任何专利，商标，版权和其他知识产权。

(2) The following Software Terms and Conditions apply to any software furnished by Seller, whether separately packaged or embedded in the Products furnished by Seller hereunder.

以下软件的条款和条件适用于卖方提供的任何软件，无论是单独包装还是嵌入卖方提供的产品中。

(a) Seller hereby grants to Buyer a non-exclusive, non-transferable, fully paid-up license to use any computer software delivered to Buyer under this Agreement in machine-readable, object code form and any modifications made by Seller thereto ("Software"), but only in connection with the configuration of the Products and operating system for which the Software is ordered and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile, translate, transfer from object code to source code or reproduce the Software, without Seller's prior written consent. Except to the extent that the parties otherwise agree in writing, Buyer's license to use such Software shall terminate upon breach of this license or Agreement by Buyer, including, without limitation, breach of payment or confidentiality obligations.

卖方特此许可买方非独占的，不可转让的，已付费的许可证，以机器可读，目标代码或通过卖方进行的任何修改的形式去使用本协议下交付给买方的任何计算机软件（“软件”），但该使用仅限于产品的相关配置和所订购软件的操作系統，并用于卖方操作文档中规定的最终用途。买方同意，未经卖方事先书面许可，其或任何第三方均不得修改，逆向工程，反编译，翻译，从源代码转换为目标代码或复制本软件。除非双方另有书面协议，否则在买方违反本许可或本协议包括但不限于违反付款或保密义务时，买方应终止使用该软件的许可。

(b) Buyer may not transfer this software license and warranty to a third party without Seller's previous written consent, signed by a Seller authorized representative.

买方不得未经卖方事先由卖方授权代表签署书面同意的情况下，将此软件许可证和保修的权利转让给第三方。

(c) Seller warrants that on the date of shipment of the Software only to Buyer or Buyer's Seller-authorized transferee hereunder that: (1) the Software media is free from material defects; (2) Seller has the right to grant the license hereunder; and (3) the Software will function substantially in accordance with the related Seller operating documentation. Seller disclaims any warranty that the operation of the Software will be uninterrupted or error free and that the programs selected by the Buyer are compatible. Software products from other manufacturers shall be subject only to the warranty conditions of the manufacturer concerned. Any warranty for malfunctions caused by computer viruses is excluded.

卖方在本软件发货之日仅向买方或卖方许可的买方受让人保证以下内容：(1) 该软件媒体没有实质缺陷；(2) 卖方有权根据本协议授予许可；且(3) 要正确运行软件需要遵照卖方提供的相关操作说明。卖方不保证软件能不间断或无差错地运行以及买方所选用的程序是兼容的。由其他制造厂家生产的软件仅适用于该制造厂家所提供的质保条款。对计算机病毒导致的故障不提供质保。

(d) If within 6 months from date of initial installation (but not more than one year from date of shipment by Seller to Buyer) of Software, Buyer discovers that the Software is not as warranted above and promptly notifies Seller in writing, within this period of time, of the nonconformity, the Supplier shall at his discretion either supply a new software or modify the existing software.

如果软件自初始安装之日起6个月内（但不超过卖方为买方发货之日起一年），买方发现本软件不像上文所保证的那样，卖方可自行选择提供新软件或对现有软件进行修改。

(e) If any infringement and trade secret claims are made against Buyer based on the Buyer's use of the Software in a manner specified or approved by Seller, Seller shall: (i) defend against any suit or proceeding brought by an unaffiliated third party against Buyer to the extent the suit or proceeding is based on a claim that the Software or that the specified or approved use of the Software infringes, a copyright or violates a trade secret agreement in which Seller was a party and provided that Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense and settlement of such suit or proceeding (including the sole



分离技术部销售订单的通用条款和条件

authority to select counsel and remove the Software or stop accused infringing usage); (ii) Seller shall satisfy any settlement or final judgment (after any appeals) for

damages entered against Buyer in such suit; and (iii) if such settlement prohibits or judgment enjoins Buyer from using the Software, Seller shall at its option: (a) obtain for Buyer the right to continue using such Software; (b) eliminate the infringement by replacing or modifying the Software, or (c) take back such Software and refund to Buyer all payments for such software on the purchase price which Seller has received, in which case neither Buyer nor Seller will have any claim against the other under this Agreement or arising out of the subject matter of this Agreement. However, Seller's obligations with respect to infringement and trade secret claims will not apply to the extent that the claim or adverse final judgment is based on: (1) Buyer's running of the Software after being notified to discontinue running due to such a claim; (2) the combination of the Software with a non-Seller software, product, data or process; (3) damages attributable to the value of the use of a non-Seller software, product, data, or process; (4) Buyer's alteration of the Software; (5) Buyer's distributed the Software to, or its use for the benefit of, any third party; or (6) Buyer's acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than Seller) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. Buyer will reimburse Seller for any costs or damages that result from these actions 1 to 6. If Seller receives information about an infringement claim related to the Software, Seller may do any of the following, at its expense and without obligation to do so: (i) procure the right to continue use of the Software, (ii) replace the Software with a functional equivalent and (iii) modify the Software to make it non-infringing (including disabling the challenged functionality and under circumstances (ii) and (iii) Buyer will stop running the allegedly infringing software immediately).

如果因为买方按卖方指定或批准的方式使用本软件而受到任何侵权和商业秘密的索赔, 则卖方应: (i)对独立第三方向买方提起的任何诉讼或程序进行抗辩, 具体情形是指诉讼或程序是基于软件或者软件使用的指定或批准侵犯了版权或违反了卖方作为协议一方所签订的商业秘密协议, 前提是卖方应及时收到书面通知, 并得到必要的授权、信息和协助, 以用于抗辩和解决此种诉讼或程序 (包括只有卖方才可自行选择律师并删除软件或停止使用被指控的软件) (ii)针对买方的诉讼中达成的任何经上诉后的和解或最终判决, 卖方应作出损害赔偿; 及(iii)如果该解决方案或判决禁止买方使用本软件, 卖方可自行选择: (a)为买方获得继续使用这种软件的授权; (b)通过更换或修改软件来消除侵权行为, 或者(c)收回此类软件, 并将卖方已收到的软件合同价款退还给买方, 在此情况下买卖双方均不得再向另一方提出与本协议或本条主题有关的其它索赔要求。然而, 卖方在应对有关侵权和违反商业秘密的索赔时所负的义务并不适用于当索赔或不利的最终判决是基于以下的情形时: (1) 买方因收到此类索赔而被告知停止运行该软件后仍然继续运行本软件; (2) 软件与非卖方的软件, 产品, 数据或工序的组合; (3) 由于使用非卖方的软件, 产品, 数据或工序而造成的价值损害; (4) 买方对软件的变更; (5) 买方向任何第三方分发软件, 或者为第三方谋取利益而使用软件; 或(6) 买方通过以下情况谋取某商业秘密 (a)通过不正当手段; (b)某些情形促使其本身有义务保密或限制使用的; 或(c)通过某人 (卖方除外) 获得商业秘密, 而此人对主张索赔的当事人负有保密或限制使用商业秘密的义务。卖方因第1至第6条行为所产生的任何费用或损害应由买方赔偿。如果卖方收到与软件相关的侵权索赔信息, 卖方可以自行选择是否自付费用采取下列任何措施: (i)获得继续使用软件的授权, (ii)用同等功能的产品替换该软件, 和(iii)修改软件使其不引起侵权 (包括禁用被起诉的功能和在 (ii)和(iii) 情况下买方将立即停止使用的涉嫌侵权的软件)。

(f) This warranty will apply for the period specified in (d) above, provided that: (1) the Software is not modified, changed, or altered by anyone other than Seller or its suppliers, unless authorized by Seller in writing; (2) the Software was installed on goods supplied or authorized by the Seller and that there is no change by anyone other than Seller to the goods for which the Software is ordered; (3) the goods are in good operating order and are installed in a suitable operating environment; (4) the nonconformity is not caused by Buyer or any of their agents, servants, employees, or contractors, or any third party; (5) Buyer promptly notifies Seller in writing, within the period of time set forth in (d) above, of the nonconformity after it is discovered; and (6) All fees for the Software due to Seller have been paid. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

本担保适用于上述(d)中规定的期限, 但前提是: (1) 除非卖方以书面形式授权, 除卖方或其供应商以外的任何人不得修改, 变更或修订本软件; (2) 软件安装在卖方供应或授权的产品上并且除卖方以外的任何人不得对所订购软件的货物进行任何更改; (3) 货物运作良好有序, 并安装在合适的操作环境中; (4) 不符项并不是由买方或其代理人、服务员、雇员或承包商或任何第三方引起的; (5) 买方在发现不符项后, 在上述(d) 项规定的期限内及时书面通知卖方; (6) 应付卖方的所有软件费用已支付。卖方特此声明, 对软件不做任何明示或暗示的担保, 包括但不限于对适销性的默示担保, 某一特定用途的适用性担保, 交易过程和贸易惯例的暗示担保。

(g) Buyer and successors of Buyer are limited to the remedies specified in this paragraph 9 and shall have no others for a nonconformity in the Software. Buyer agrees that these remedies provide Buyer and its successors with a minimum adequate remedy and are their exclusive remedies, whether Buyer's or successors' remedies are based on contract, warranty, tort (including negligence), strict liability, indemnity, or any other legal theory, and whether claims arise out of warranties, representations, instructions, operating documentation, installations, or non-conformities from any cause.

买方和买方的继承人均仅受限于本第9款规定的赔偿, 对于软件中的不符项, 除第9条所述内容外没有其他赔偿。买方同意这些赔偿为卖方给买方及其继承人提供的最低限度的恰当的赔偿, 并且是买方或其继承人排他的赔偿, 不论买方或继承人的赔偿是基于合同、保证、侵权(包括过失)、严格责任、赔偿或任何其他法律理论, 也无论索赔是基于质保、陈述、说明、操作文件、安装或任何引起不符项原因而产生的。

(h) Unless otherwise provided in this Agreement, the fees for this Software license are included in the purchase price of the Products. Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

除非本协议另有规定, 本软件许可证的费用已包括在产品的购买价格中。卖方对软件做出的任何后续修改或改进均由卖方决定, 需对应收取费用。

10. SITE RISKS 现场风险

(1) Concealed Conditions. The parties acknowledge and agree that increased costs or schedule extensions due to any concealed conditions at the job site or other events and circumstances coming for the Buyer's sphere of influence including strikes of personnel not in our employ shall be to Buyer's account. Buyer shall hold Seller harmless for increased costs and grant any necessary schedule extensions if any concealed or hazardous conditions are found.

隐藏条件。双方承认并同意, 由于工作现场的任何隐藏条件或在买方影响范围内的其他事件和情况 (包括非卖方雇员的罢工) 而导致的成本增加或延期应由买方承担。如果发现任何隐藏或危险情况, 买方应使卖方免受成本增加的责任并允许其延期任何必要的时间安排。

(2) Environmental Remediation. Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by change order or otherwise to perform any environmental remediation as part of the Product supply, including but not limited to asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer will contract directly with a qualified third party to perform such work.

环境修复。买方承认卖方不是环境修复方面的专家, 并且不得通过变更订单或其他方式指引其作为产品供应范围的一部分去执行任何环境修复的工作, 包括但不限于石棉和含铅油漆的清除。如果需要进行任何环境修复, 买方将直接与有资质的第三方签订合同以执行此类工作。

11. TERMINATION 终止

In general a Party may have the right to terminate its obligations under this Agreement if the other Party is in material breach of the Agreement and a period to cure the breach of at least 30 days has been granted to the breaching Party. In case of such termination by the Buyer, the Seller shall be compensated by the Buyer for the expenses and investments incurred to the date of termination for the performance of Agreement. Seller shall have the right to suspend and/or terminate its obligations under this Agreement if any payment is not received within 30 days of due date. In the event of the bankruptcy or insolvency of Buyer or in the event of any bankruptcy or insolvency proceeding brought by or against Buyer, Seller shall be entitled to terminate any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

一般而言, 买卖双方仅可在对方违反实质性义务并在准予的30天内未做出补救措施的情况下终止本协议。若买方提出了该类终止, 则应赔偿卖方在终止合同日之前其为履行协议所发生的费用和投入。如果卖方在货款到期日的30天内仍未收到任何货款, 则卖方有权暂停和/或终止其在本协议项下的义务。如果买方破产或无力偿付债务, 或在买方提起或针对买方提起的任何破产或在破产程序中时, 卖方有权在允许对买方财产提出索赔的期间内随时终止任何未完成的订单, 并获得取消订单费用的赔偿。

12. CONFIDENTIALITY AND INTELLECTUAL PROPERTY 保密与知识产权

(1) Buyer acknowledges that the information which Seller share with the Buyer (whether orally or in written form) in connection with this quotation, acknowledgment or performance of this Agreement includes Seller's confidential and proprietary information, both of a technical and commercial nature. Buyer agrees not to disclose such information to third parties without Seller's prior written consent.

买方承认卖方与买方 (无论是口头还是书面形式) 分享的有关本协议的报价、确认或执行的信息无论是技术或商业属性的内容, 都含有卖方的机密和专有信息。买方同意没有卖方事先书面同意的情况下不向第三方透露此类信息。

(2) The intellectual property rights, copyrights and other rights connected therewith, in respect of design, manufacture, supply of the Product, drawings, specifications, documents, data and software made available by the Seller to the Buyer shall be owned solely by the Seller and shall remain its property and may be reclaimed by the Seller at any time.

卖方向买方提供的有关产品的设计、制造、供货、图纸、规格、文件、数据和软件的知识产权、版权和其他与此相关的权利仅属卖方所有并属于卖方的财产, 其可随时由卖方收回。



分离技术部销售订单的通用条款和条件

(3) Seller grants to Buyer a non-exclusive, non-transferable, royalty-free, perpetual, paid-up license to use Seller's software, confidential and proprietary information for purposes of this Agreement and the Products that are the subject hereof only. Buyer further agrees that it is not allowed to permit any third party to fabricate the

Products or any parts thereof from Seller's drawings or to use the drawings other than in connection with this Agreement. Buyer will defend and indemnify Seller from any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against related costs, charges and expenses (including attorney fees).

卖方授予买方非排他性的、不可转让的、免版税的、永久的、已付费的许可证去使用为执行本协议和与之相关为目的而涉及的卖方的软件、机密和专利信息。买方还进一步同意，不允许任何第三方使用卖方的图纸制造产品或其任何部分或将图纸用于与本协议无关的目的。买方应为卖方抗辩并使卖方免受任何与第三方制造的产品或其部分相关的人身伤害（包括死亡）或财产损失、诉讼或责任以及任何与之相关的成本和费用（包括律师费），除非第三方制造的产品事先已得到卖方的书面同意。

13. END USER 最终用户

If Buyer is not the end user of the Products sold hereunder (the "End User"), then Buyer will use its best efforts to obtain the End User's written consent to be bound to Seller by the provisions hereof. If Buyer does not obtain such End User's consent, Buyer shall defend and indemnify Seller and Seller's agents, employees, subcontractors and suppliers from any action, liability, cost, loss, or expense for which Seller would not have been liable or from which Seller would have been indemnified if Buyer had obtained such End User's consent. If the Buyer of the Products is not the end user, the Buyer is obliged to name (i) the end user, (ii) the Product, (iii) the Product number and (iv) the country where the Products are used.

如果买方不是本协议下所销售产品的最终用户（“最终用户”），则买方将尽最大努力获得最终用户的书面同意使其也遵守本协议条款。如果买方没有得到最终用户的同意，买方应为卖方和卖方的代理人、雇员、分包商和供货商进行抗辩并使其免受其不应负责的任何行为、责任、成本、损失或费用或者如果买方已获得最终用户的同意，买方应为其进行抗辩并赔偿其可能遭受的任何损害。如果产品的买方不是最终用户，买方有义务陈述出 (i) 最终用户, (ii) 产品, (iii) 产品号和 (iv) 产品使用国。

14. FORCE MAJEURE 不可抗力

(1) Force Majeure defined: For the purpose of this Agreement "Force Majeure" will mean all events, beyond the reasonable control of either party, whether foreseeable or not, which affect the performance of this Agreement, including, without limitation, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, riots, earthquakes, fires, storms, severe weather, floods, inability to obtain labor or materials from usual sources, serious accidents involving the work of suppliers.

不可抗力的定义：就本协议目的而言，“不可抗力”将指影响此协议执行的超出任何一方可控范围的所有事件，无论其是否可预见，包括但不限于禁运，罢工，停工或其他工业干扰，公敌行为，战争，暴动，地震，火灾，风暴，恶劣天气，洪水，无法从常规来源处获得劳动力或材料，涉及供应商工作的严重事故。

(2) Suspension of obligations: If either Buyer or Seller is unable to carry out its obligations under this Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected promptly notifies the other of such delay, then all obligations that are affected by Force Majeure will be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the performance of its obligations, and the delivery schedule will be adjusted to account for the delay.

暂停履行义务：如果买方或卖方因不可抗力而无法履行本协议项下的义务，除了应支付本协议项下到期货款的义务外，受影响的一方应及时通知另一方该类延迟，在不可抗力影响期间，受不可抗力影响的义务应当中止或者减少，重新执行义务的额外执行时间及发货安排应当得到相应的调整。

(3) Option to terminate: If the period of suspension or reduction of operations will extend for more than four (4) consecutive months, then either Buyer or Seller may terminate this Agreement.

终止的选择：如果暂停或服务执行时间减少的情况持续超过四（4）个月，则买方或卖方任何一方均可以终止本协议。

15. GENERAL 其它条款

(1) If the Buyer decides, whatever the reason, not to take possession of the Product according to the agreed Incoterm at the agreed delivery date, (a) the risk of loss shall pass to the Buyer, (b) the acceptance shall be deemed as achieved, (c) the Seller shall be allowed to invoice any storage costs on the basis of documentary evidence and (d) the mechanical warranty period shall start at the agreed delivery date.

If the storage period exceeds thirty (30) days (a) the Seller shall be entitled to invoice the total amount of the Agreement and (b) the Seller shall be compensated for all costs incurred and duly proved.

无论出于何种原因，如果买方决定在约定的交货日期内不按原约定的国际贸易术语取得产品的所有权，则(a) 损失的风险应转移给买方，(b) 验收应视为已达成，(c) 卖方可以依据书面证明开具仓储费用的发票和 (d) 机械保修期应在约定的交货日期开始计算。

(2) If the delivery date mentioned in the order confirmation has been expressly defined as a Seller's obligation to comply with, the following shall apply: (i) Seller's liability for late delivery for reasons attributable only to Seller is limited to the payment of liquidated damages on the basis of 0.5% of the delayed delivery per completed week of delay, limited to 5% of the contract price as Buyer's sole and exclusive remedy.

如果订单确认中提到的交货日期已被明确定义为卖方应履行的义务，则以下条款适用：(i) 卖方对仅归因于其自身原因而导致的延迟交付责任仅限于支付违约金，延迟交货违约金按延迟交货部分价值的0.5%/周计算，延迟交货违约金的累积总额不超过合同总价的5%，该违约金是延迟情况下对买方的唯一和排他的赔偿。

(3) If performance guarantees are expressly agreed between the parties, the following shall apply: (ii) Seller's liability for failure to achieve performance guarantees expressly agreed is limited to the payment of liquidated damages in accordance with the Seller's acceptance and test protocol. Such liquidated damages shall be limited to 5% of the contract price as Buyer's sole remedy.

如果双方明确约定了性能保证，则以下条款适用：(ii) 卖方性能保证不达标的责任明确为仅限于根据卖方的验收和测试协议的约定而应支付的违约金。此类违约金应不超过合同总价的5%，以作为买方的唯一赔偿。

(4) The aggregate liability for all liquidated damages (for delay and performance) shall be limited to an amount not exceeding 10% of the contract price.

所有违约金（延迟交货和性能保证）的累计总额应不超过合同总价的10%。

(5) The Buyer shall notify any claim for damages within ten (10) days from the occurrence date of the event generating the claim. If the Buyer fails to issue a claim for damages within such period of ten (10) days, the Buyer shall not be entitled to obtain any compensation.

买方应在产生索赔事件发生之日起的十(10)天内通知其所受到的任何损害。如果买方未能在十(10)天内提出该类损害，则买方无权获得任何赔偿。

(6) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable federal, state and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.

卖方声明卖方制造的任何产品或其零部件将按照适用其生产的所有联邦、州和当地法律以及根据卖方的工程标准而生产。卖方对产品未能遵守任何其他规范，标准，法律或法规不承担责任。

(7) This Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Any assignment of this Agreement or any of the rights or obligations hereunder, by either party without the written consent of the other party shall be void.

本协议仅适用于买方和卖方及其各自的继承人和受让人的利益。未经另一方书面同意，任何一方转让本协议或本协议项下的任何权利或义务均告无效。

(8) This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products and any prior course of dealings or usage of the trade not expressly incorporated herein.

本协议为双方之间就关于本协议主题事项的全部且唯一的协议，取代买卖双方先前的所有有关产品、服务的口头、书面理解和在此协议中未明确阐述的过往交易习惯。

(9) This Agreement may be modified, supplemented or amended only by a writing signed by an authorized representative of Seller. Seller's waiver of any breach by Buyer of any terms of this Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of this Agreement at any time, shall not affect, limit or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition thereof.

本协议可通过卖方授权代表签署的书面文件进行修改、补充或订正。卖方放弃执行买方违反本协议任何条款的相关规定时，必须以书面形式提出，卖方的任何放弃或卖方在任何时候未能执行本协议的任何条款和条件，不得影响、限制或免除卖方此后强制执行其每个条款和条件的权利。

(10) This Agreement is governed by Singapore Law under exclusion of the Vienna Convention for the International Sale of Goods and its conflict of law rules. Only in case the parties are located in the same country, the national law of this country shall apply.

本协议受新加坡法律管辖，但排除适用“维也纳国际货物销售公约”以及与之相冲突的法律规则。只有当双方位于同一国家时，合同双方所在国的国家法律才适用。

(11) Any dispute, controversy or claim arising out of, or in relation to this Agreement, including the validity, invalidity, breach or termination thereof, shall be settled by the competent national court provided that both parties are located in the same country. In all other cases such disputes, controversies or claims arising out of, or in relation to this Agreement shall be submitted to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force. (i) The number of arbitrators shall be one; (ii) The seat of the arbitration shall be Singapore; (iii) The arbitral proceedings shall be conducted in English. (iv) The arbitration award shall be final and binding.



分离技术部销售订单的通用条款和条件

因本协议引起或与本协议有关的任何争议、争论或索赔，包括协议有效性、无效性、违约或终止等，若双方位于同一国别，则交由双方国家主管法院处理。除此以外的任何情况下，由本协议引起的或与本协议有关的任何争议，争论或索赔应提交至新加坡国际仲裁中心（“SIAC”）根据其届时有效的仲裁规则（“SIAC Rules”）进行仲裁并最终通过仲裁解决。(i) 仲裁庭由一名仲裁员组成；(ii) 仲裁地点为新加坡；(iii) 仲裁程序应以英文进行；(iv) 仲裁裁决是终局的，具有法律约束力。