

1. INTERPRETATION

1. 释义

1.1 In this Contract:

1.1 在本合同中:

"Business Day" means a day other than a Saturday, Sunday or public or bank holiday in China;

“营业日”是指中国境内除周六、周日、公共假日和银行节假日以外的一天。

"Buyer" means the party ordering Goods and/or Services from the Seller;

“买方”是指从卖方处订购商品和/或服务的一方;

"Buyers Materials" means the designs, drawings, parameters, specifications and any IPR for Products provided by the Buyer to the Seller in connection with the Contract;

“买方材料”是指买方根据本合同向卖方提供的产品相关设计、图纸、参数、说明书和任何知识产权;

"Conditions" or "GTC" means these Morgan General Terms and Conditions for Purchase of Goods and/or Services (Sep. 2021 v.1, China);

“条件”或“GTC”是指摩根商品和/或服务采购一般条款和条件（2021年9月第1版，中国）;

"Contract" a contract for the supply of Goods and/or Services by the Seller to the Buyer incorporating these Conditions together with any terms and special conditions contained in the Order;

“合同”是指就卖方向买方供应商品和/或服务相关事项签订的合同，包括本文件项下条款和订单所含任何条款与特别条件;

"Deliverables": means all documents, products and materials developed by the Seller or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

“交付物”是指卖方或其代理、承包商和员工编制或研发的作为服务组成部分或者与服务相关的所有文件、产品与材料（无论采用何种形式或媒介），包括图纸、地图、计划、图表、设计、图片、计算机程序、数据、说明书和报告（包括草稿）;

"Delivery Address" means the Buyer's delivery address stated in the Order or if no such place is defined, the Buyer's place of business.

“交付地址”是指订单项下所述买方的交付地址或者买方的营业场所（若订单项下无指定交付地址）;

"Goods" means the goods (including any instalment of the goods or any part of them) described in the Order.

“商品”是指订单项下所述商品（包括分期供应商品或商品任意部分）;

IPR" means knowhow, information relating to inventions, secret processes and manufacturing techniques, patents, patent applications, utility models, copyright and related rights, trademarks, trade names and domain

names, rights in get-up, unfair competition rights, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in Confidential Information and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

“**知识产权**”是指登记或未登记的专门技术、发明相关信息、秘密制造过程、制造工艺、专利、专利申请、实用新型、版权和相关权利、商标、商业秘密和域名、装订权、不公平竞争权、商誉权或者起诉仿冒权、设计相关权利、计算机软件相关权利、数据库相关权利、地志权、精神权利、保密信息相关权利和任何其它知识产权，包括前述权利的各种申请（或者申请权利）/续期或延期以及各种类似或同等权利或者当前或者未来在世界任何角落可能存在的保护形式；

"**Order**" means the Buyer's purchase order issued to the Seller for the purchase of Goods and/or Services.

“**订单**”是指买方为采购本合同项下商品和/或服务而向卖方出具的采购订单；

"**Party**" means the Buyer or Seller, collectively the Parties.

“**一方**”是指买方或卖方，统称为双方；

"**Price**" means the price of the Goods and/or the charge for the Services.

“**价格**”是指商品价格和/或服务费；

"**Seller**" means the party providing Goods and/or Services to the Buyer.

“**卖方**”是指向买方供应商品和/或服务的相关方；

"**Services**" means the services (if any), including any Deliverables, described in the Order.

“**服务**”是指订单所述服务（如有），包括任何交付物；

"**Specification**" includes any plans, drawings, data or other information relating to the Goods or Services, a copy of which is incorporated to the Order by reference.

“**说明书**”包括与商品或服务相关的任何计划、图纸、数据或其它信息，其复印件通过引用被纳入订单；

"**Writing**" save for notices where the provisions of clause 20.2 apply, includes email, telex, cable, facsimile transmission and comparable means of communication and the word "written" shall construed accordingly.

“**书面**”包括邮件、电传、电报、传真传输以及类似通信方式，第 20.2 条规定适用的通知除外。

1.2 Any reference in these Conditions to a statute or provision of a statute shall be constructed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.2 本合同条款引用的任何法规或者法规规定均应被理解为引用前述法规或规定及其相关时间的修订内容、重新颁布内容或者延伸内容。

2. BASIS OF PURCHASE

2. 采购基础

- 2.1 A Contract is formed when the Seller accepts any quotation issued by the Buyer (verbal or written) by issuing an Order OR where the Seller performs any act consistent with fulfilling an Order submitted by the Buyer for Goods and/or Services. The Buyer is not obliged to accept any quotation issued by the Seller.
- 2.1 对于商品和/或服务，当卖方通过出具订单接受买方（口头或书面）提出的任何报价时或者卖方实施与完成买方所下订单相一致的任何行为时，合同成立。买方没有义务接受卖方提供的任何报价。
- 2.2 These Conditions are the only terms and conditions on which the Buyer will purchase Goods and/or Services. They apply in place of any terms and conditions that the Seller may seek to apply or which may otherwise be implied, including any which are endorsed on, delivered with or contained in the Seller's quotation, Order acknowledgement, on the Seller's website or other sales materials or media or on any delivery note ("Seller T&Cs") and the Seller waives any rights to rely on any such Seller T&Cs. Delivery of Goods and/or commencement of performance of Services is conclusive evidence of the Seller's acceptance of these Conditions.
- 2.2 本合同条款是买方采购商品和/或服务所依据的唯一条款和条件。本合同条款将取代卖方可能试图采用的或者可能以其它方式暗示的任何条款和条件，包括卖方报价单、订单确认回执、卖方网站或其它销售材料或媒介或者提货单上背书的或者包含的或者随其交付的任何条款和条件（以下简称为“**卖方条款和条件**”），并且卖方放弃依据前述任何卖方条款和条件的权利。交付商品和/或开始履行服务是卖方接受本合同条款的决定性证据。

3. SELLER'S OBLIGATIONS

3. 卖方的义务

- 3.1 The Seller shall deliver the Goods:
- 3.1 卖方交付商品，必须：
- 3.1.1 in accordance with all applicable laws, regulations, guidelines and industry codes;
- 3.1.1 遵守各种适用法律、法规、指南和行业准则；
- 3.1.2 in accordance with the Contract (including any Specification);
- 3.1.2 遵守本合同（包括任何说明书）规定；
- 3.1.3 free from defects in design, material and workmanship;
- 3.1.3 确保商品没有任何设计、材料和工艺方面缺陷；
- 3.1.4 which are of satisfactory quality, comprise genuine and new materials;
- 3.1.4 确保商品质量合格，包括采用真材实料及新型材料；
- 3.1.5 with full and unencumbered title and shall not infringe the IPR of any third party;
- 3.1.5 确保自身对商品享有完整的无产权负担的所有权并且商品未侵害任何第三方的知识产权；
- 3.1.6 fit for any particular purpose specified in the Contract or, in absence thereof, fit for the purposes for which such Goods and/or Service would ordinarily be used;
- 3.1.6 确保商品适合本合同所述任何特殊用途或者（若本合同项下未指定任何用途）该等商品和/或服务的常见用途；

- 3.1.7 guaranteed on time delivery, where a period of delivery is agreed in the contract, the seller may deliver the subject matter at any time within such period;
- 3.1.7 确保商品按时交货,如果约定的是交付期限的, 卖方可在该交付期限内的任何时间交付;
- 3.1.8 which are of the specify quantity and deliver the subject matter at the agreed place; and
- 3.1.8 确保商品在约定的交付地点足量交货;以及
- 3.1.9 delivering the subject matter or the documents for taking delivery thereof, and transferring the ownership over the subject matter to the buyer.
- 3.1.9 交付商品或者交付提取商品的单证, 并转移商品所有权。
- 3.1.10 All risks and expense of destruction, damage, or loss of the Goods shall be borne by the seller prior to the delivery.
- 3.1.10 商品毁损、灭失等一切风险及由此造成的损失, 在商品交付之前由卖方承担。
- 3.2 In respect of the Services (including any Deliverables), the Seller shall:
- 3.2 对于服务(包括任何交付物), 卖方应:
 - 3.2.1 conform with the Contract (including any Specification), the Buyer's reasonable instruction and the reasonable purposes notified by the Buyer;
 - 3.2.1 遵守本合同(包括任何说明书)规定并遵照买方的合理要求以及买方告知的合理用途;
 - 3.2.2 use appropriately qualified, trained and experienced personnel;
 - 3.2.2 指派具有相关资格及经验并经适当培训的人员;
 - 3.2.3 use due care and diligence and such high standard of quality as is reasonable for the Buyer to expect in all circumstances;
 - 3.2.3 足够细心、尽职尽责, 并采用买方在各种情况下合理预期的较高质量标准;
 - 3.2.4 comply with all applicable laws, regulations, guidelines and industry codes and observe all health and safety rules and regulations as well as any other security requirements that apply at any of the Buyer's premises; and
 - 3.2.4 遵守各种适用法律、法规、指南和行业准则以及买方所在地适用的各种安全卫生条例规定和任何其它安全要求; 以及
 - 3.2.5 assume full and exclusive responsibility for any occupational accident or disease occurred to its employees and its subcontractors in relation to the provision of the Goods and/or Services.
 - 3.2.5 独自全权承担其员工和分包商在商品和/或服务提供过程中遭遇的任何职业性意外事故或疾病。
- 3.3 The Seller shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

- 3.3 卖方应确保其始终拥有并持有其履行本合同项下相关义务所需的各种执照、许可、授权、同意书和许可证。
- 3.4 No change in the place of manufacture of the Goods shall be made without the prior written consent of the Buyer.
- 3.4 未经买方事先书面同意，严禁更改商品生产地。
- 3.5 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 3.5 卖方不得无理拒绝买方于发货前提出的对卖方或任何第三方场所生产、加工或储存商品进行检测、测试的要求，并且卖方应向买方提供前述检测和测试合理所需的各种设施。
- 3.6 If as a result of inspection or testing it transpires that the Goods do not comply in all respects with the Contract and the Buyer so informs the Seller within twenty one days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 3.6 若商品经检测或测试后被发现在任何方面不符合本合同规定并且买方于前述检测或测试之日算起二十一日内告知卖方，卖方应采取必要措施以确保商品的合规性。
- 3.7 The Seller shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Contract, and the Buyer shall have the right to conduct further inspections and tests after the Seller has carried out remedial actions.
- 3.7 卖方应对商品负全责，任何上述检测或测试不应减少或者以其它方式影响本合同项下卖方义务，并且买方应有权于卖方采取补救措施后进一步检测、测试。
- 3.8 The seller has an obligation to guarantee that no third person has any right over the subject matter delivered, unless otherwise provided by law.
- 3.8 卖方就交付的标的物，负有保证第三人对该标的物不享有任何权利的义务，但是法律另有规定的除外。
- 3.9 Where the seller's performance is not in conformity with the agreement ,the assumption of the risks of destruction ,damage ,or loss of the subject matter by the buyer does not affect the buyer's right to request the seller to bear default liability.
- 3.9 商品毁损、灭失的风险由买方承担的，不影响卖方履行义务不符合约定，买方请求其承担违约责任的权利。

4. PRICE OF GOODS AND SERVICES

4. 商品和服务价格

- 4.1 The Price of the Goods and Services shall be as stated in the Order and shall unless agreed otherwise be:
- 4.1 商品和服务价格应被列于订单内，并且除非另行达成一致：
- 4.1.1 inclusive of any applicable value added tax; and

- 4.1.1 包含任何适用增值税；以及
- 4.1.2 inclusive of all charges for packaging, packing, shipping carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies.
- 4.1.2 应包含商品的各种包装、装箱、运输及保险费用、交付商品到交付地址所需各种费用以及各种关税、强缴款项和征税。
- 4.2 The Seller shall issue an invoice or related Orders, and itemise clearly price details.
- 4.2 卖方应就其商品出具发票或相关的订单及价格明细。
- 4.3 No increase in the Price may be made (whether on account or increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing. If a price increase is agreed, Seller shall give Buyer not less than sixty days' notice of the date upon which the increase shall become effective.
- 4.3 未经买方事先书面同意，不得提高商品/服务价格（无论是否赊购，无论材料、劳动力或运输成本是否增加，无论是否存在汇率波动）。若双方同意提价，卖方应从提价生效日期算起至少提前六十日通知买方。
- 4.4 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume customarily granted by the Seller, whether or not shown on its terms and conditions of sale.
- 4.4 买方应有权享受卖方就即时付款、大宗或批量采购所提供的任何折扣，无论卖方销售条款和条件项下是否有相关说明。

5. TERMS OF PAYMENT

5. 付款条件

- 5.1 The Seller shall be entitled to invoice the Buyer on or at any time after completion of delivery of the Goods or performance of the Services and each invoice shall quote the Buyer's Order reference number.
- 5.1 卖方应有权于商品交付或服务履行得以完成之时或之后任何时候向买方出具发票，并且每张发票均应指明买方订单参考编号。
- 5.2 Each invoice shall be priced in accordance with the Order and sent to the address specified in the Order.
- 5.2 每张发票的金额应与订单价格一致，并且发票应被寄送至订单项下指定地址。
- 5.3 Unless otherwise stated in the Order or a shorter period is prescribed by law, the Buyer shall pay the Price of the Goods and Services within sixty (60) days after the end of the month of receipt by the Buyer of a proper invoice.
- 5.3 除非订单另有约定或者法律规定有更短期限，否则买方应于买方收到相应发票当月结束后六十（60）日内支付商品和服务价格。
- 5.4 Payment shall be made to the bank account nominated in Writing by the Seller to the Buyer.
- 5.4 上述款项应被支付至卖方以书面形式向买方指定的银行账户。

5.5 The Buyer shall be entitled, without limitation, to set-off or withhold payment for Good and/or Services not provided in accordance with the Contract. The Seller shall not be entitled to assert any credit, set-off or counterclaim against the Buyer in order to justify withholding of payment of any such amount in whole or in part.

5.5 买方应有权（但不限于）抵销或者拒绝支付本合同项下未提供商品和/或服务的相关款项。卖方应无权就买方拒付任何前述金额之全部或部分而向买方主张任何抵免、抵销或反索赔。

6. DELIVERY

6. 交付

6.1 The Goods shall be delivered and the Services shall be performed on the date or within the period stated in the Order, to/at the Delivery Address or as instructed by the Buyer prior to delivery, and during the Buyer's usual business hours or as instructed by the Buyer.

6.1 商品的交付及服务的履行应于订单所述日期或期限内于买方正常营业时间或者买方指定时间在交付地址或者买方于交货前指定的其它地址完成。

6.2 Where the date of delivery of Goods or the performance of the Services is to be specified after the Order, the Seller shall give the Buyer reasonable notice of the specified date.

6.2 若商品交付日期或者服务履行日期将于下订单后指定，则卖方应就该指定日期对买方给予合理提示。

6.3 The time of delivery of the Goods and/or the performance of the Services is of the essence of the Contract and is a fundamental term of the same.

6.3 商品交付时间和/或服务履行时间是本合同的要素，也是本合同的基本条款。

6.4 Unless otherwise stated in the Order or prescribed by law, the Buyer may deduct from the Price (or if already paid, claim from the Seller) liquidated damages of 2% of the value of the delayed Goods/Services per week of delay, up to a maximum of 20% of the value of the Order.

6.4 除非订单另有约定或者法律另有规定，若卖方延迟交付商品/服务，每延迟一周，买方可从商品/服务价格中扣除被延迟商品/服务价值的 2% 作为延迟交付违约金，但最多不超过订单价值的 20%。

6.5 The Seller shall:

6.5 卖方应：

6.5.1 mark the Goods in accordance with the Buyer' instructions as communicated to the Seller prior to delivery, any applicable laws and regulations as well as requirements of the carrier;

6.5.1 按照买方于交货前向卖方出具的指示、任何可适用法律法规以及承运人要求对商品进行标记；

6.5.2 issue and display prominently a packing note quoting the date and reference number of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are to be delivered by instalment, the outstanding balance of Goods remaining to be delivered;

- 6.5.2 出具包装记录单，在其中注明订单日期和参考编号、商品类型和数量（包括商品代码（若适用））、特殊储存说明（如有）以及商品是否分期交付，拟交付的剩余商品，并将其置于明显位置；
- 6.5.3 provide the customs tariff numbers of the country of consignment, and the countries of origin for all Goods.
- 6.5.3 提供交货国家海关关税编号以及所有商品来源国；
- 6.5.4 provide proofs of preferential origin as well as conformity declarations and marks of the country of consignment or destination are to be submitted without being requested as well as certificates of origin upon request; and
- 6.5.4 提供首选来源证明、未经要求而应提交的目的地或交货国家唛头和符合性声明，并且可根据要求提供原产国证书；
- 6.5.5 ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition and in accordance with the Specification.
- 6.5.5 确保商品已经适当包装、固定，足以按照说明书要求以完好的状态到达相关目的地。
- 6.6 Where the Buyer agrees in Writing to accept delivery of the Goods or performance of the Services by instalments the Contract will be treated as a single contract and not severable in respect of each instalment. Nevertheless failure by the Seller to deliver any one instalment shall entitle the Buyer at its option to treat the whole Contract as repudiated.
- 6.6 若买方以书面形式同意接受分期交付的商品或者分期履行的服务，本合同应被视为一份合同，并且不能按照每期商品或服务进行分割。但是，若卖方未能交付任何一期商品或服务，买方应有权自行决定拒绝履行本合同之全部。
- 6.7 The Buyer shall not be deemed to have accepted the Goods until it has had reasonable time to inspect them following delivery or, if a defect was not reasonably detectable, within a reasonable time after any latent defect in the Goods become apparent.
- 6.7 交货后，在买方有合理时间检测商品前，或者于商品中任何潜在缺陷变得明显后的合理时间内，未能合理检测到缺陷时，买方不应被视为接受商品。
- 6.8 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted the Goods until the Buyer has had reasonable time (being a period of at least fourteen (14) days) to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods become apparent.
- 6.8 买方应有权拒收已交付但不符合本合同规定的任何商品，并且交货后，买方有合理时间【至少十四（14）日】检测商品前，或者（若更晚）商品中任何潜在缺陷变得明显后的合理时间内，买方不应被视为接受商品。
- 6.9 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.

- 6.9 买方没有义务向卖方归还商品所用包装或包装材料，无论买方是否接受商品。
- 6.10 Where the parties agree to alleviate or exempt the seller's liability for defects of the subject matter, if the seller ,intentionally or by gross negligence, fails to inform the buyer of the defect ,he has no right to claim alleviation or exemption of the liability.
- 6.10 如果双方约定减轻或者免除卖方对标的物瑕疵承担的责任，因卖方故意或者重大过失不告知买方商品瑕疵的，卖方无权主张减轻或者免除责任。

7. RISK AND TITLE

7. 风险与所有权

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery to the Buyer in accordance with the Contract. The risks of destruction, damage, or loss of the subject matter shall be borne by the seller prior to the delivery and by the buyer after the delivery.
- 7.1 商品受损或者缺失风险应于商品按照本合同规定交付至买方时转移至买方。商品毁损、灭失的风险，在标的物交付之前由卖方承担，交付之后由买方承担。
- 7.2 The property in the Goods shall pass to the Buyer upon the earlier of delivery or payment.
- 7.2 商品所有权应于交货或支付货款时转移至买方，以较早者为准。

8. WARRANTIES

8. 保证

- 8.1 The Seller warrants to the Buyer thatthe Goods, for a minimum period of two years (or such longer period as is specified in the Order) from the date of their initial use:
- 8.1 卖方向买方保证：自商品最初使用日期算起，至少两年内（或者订单项下规定的更长时间内），商品应：
- 8.1.1 will comply with the obligations in clause 3.1;
- 8.1.1 符合第 3.1 条项下相关义务规定；
- 8.1.2 will correspond with any relevant Specification or sample; and
- 8.1.2 与相关说明书或样品保持一致；以及
- 8.1.3 will, to the extent that such terms are more favourable than those contained within these Conditions, benefit from the Seller's standard warranty,
- 8.1.3 被纳入卖方标准保证范围内（在该等条款优于本合同所含条款的情况下）。
- 8.2 The Seller warrants to the Buyer that the Services will comply with the Seller's responsibilities in clause 3.2.
- 8.2 卖方向买方保证：服务应满足符合第 3.2 条项下卖方责任相关规定。

9. REMEDIES

9. 补救措施

- 9.1 Without prejudice to any remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the Buyer shall be entitled, at its sole discretion, to:
- 9.1 在不影响任何补救措施的情况下，若任何商品或服务未按照本合同规定供应或履行，则买方有权自行裁量决定：
- 9.1.1 terminate the Contract;
- 9.1.1 终止本合同；
- 9.1.2 reject the Goods (in whole or in part) and return them to the Seller at the Seller's own risk and expense and the Seller shall provide a full refund of the price of the rejected Goods (if paid);
- 9.1.2 拒收商品（之全部或部分）并将其归还给卖方（相关风险及费用由卖方自行承担），并且卖方应全额退还被拒收商品价格款项（若已支付）；
- 9.1.3 require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within twenty one days;
- 9.1.3 要求卖方于二十一日内按照本合同规定修复商品或者提供替换商品或服务；
- 9.1.4 refuse to accept any subsequent delivery of the Goods or performance of the Services which the Seller attempts to make;
- 9.1.4 拒绝接受卖方试图随后交付的商品或者随后履行的服务；
- 9.1.5 recover from the Seller any costs incurred by the Buyer in obtaining substitute goods or services from a third party; and
- 9.1.5 要求卖方赔偿买方在向第三方获取替代商品或服务过程中所招致的任何费用；以及
- 9.1.6 claim damages for any costs, losses or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to carry out its obligations under the Contract.
- 9.1.6 就买方因卖方未能履行本合同项下其相关义务而招致的任何成本、损失或费用向卖方索要赔偿金。

10. TOOLING

10. 工装

- 10.1 All patterns, dies, moulds or other tooling or materials, supplied by the Buyer or prepared or obtained by the Seller for the Buyer at the Buyer's cost ("**Tooling**"), will be marked with the Seller's name and will be and remain the Seller's exclusive property returnable in good condition on demand.
- 10.1 买方提供的或者卖方在买方承担费用情况下为买方准备或获取的所有模型、模具、模子和其它工装与材料（以下简称为“**工装**”）应标有卖方名称并且应成为卖方专属财产（可按要求以完好状态归还）。
- 10.2 The Seller shall:

10.2 卖方：

10.2.1 insure against all risks any Tooling

10.2.1 应为各种工装投保一切险；

10.2.2 keep all Tooling safe, in good condition and separate form Seller's stock and other inventory while in the Seller's custody and/or control;

10.2.2 应确保所有工装在卖方保管和/或控制期间保持安全与良好状态，并且与卖方存货及其它库存物品分开存放；

10.2.3 not dispose of any Tooling other than in accordance with the Buyer's prior written instructions; and

10.2.3 不应在没有买方事先书面指示情况下处置任何工装；以及

10.2.4 not, at any time, use Tooling, nor allow Tooling to be used by anyone else for any purpose other than the supply of the Goods/Deliverable unless the Seller has provided prior written consent.

10.2.4 在任何时候，均不应将工装用于或者允许他人将工装用于除商品/交付物之供应外的任何用途，但卖方事先出具书面同意的情况除外。

10.3 The Buyer shall have the right to (i) charge the Seller for the cost of any Tooling if it is destroyed or damaged or rendered unfit for the purpose for which it was originally manufactured while under the Seller's control; and (ii) to enter the Seller's premises and remove Tooling at any time without being liable for trespass or for damages of any sort.

10.3 买方应有权（i）在任何工装受卖方控制期间被销毁、被损坏或者被认为不适合最初制造工装所为目的时要求卖方支付前述工装的成本费用；并（ii）随时进入卖方场所并搬走工装，并且无需为任何形式的损害或者非法侵入承担责任。

11. INDEMNITY

11. 赔偿

11.1 The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (whether direct or indirect), including any interest, penalties and reasonable legal and other professional fees and expenses awarded against or incurred by the Buyer as a result of or in connection with:

11.1 对于买方因以下情况而被要求承担的或者招致的或者买方被要求承担的或者招致的并与以下情况相关的各种责任、损失、损害、成本费用（无论直接或间接）（包括各种利息、罚金和合理的法律及其它专业费用、手续费），卖方应全额赔偿买方：

11.1.1 breach of: any warranty given by the Seller in relation to the Goods or the Services; or Clauses 16, 17, 18 and 19;

11.1.1 卖方违反自身就商品或服务出具的任何保证或者违反第 16 条、第 17 条、第 18 条或者第 19 条规定；

- 11.1.2 any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Buyer Materials);
- 11.1.2 商品的生产、供应或使用或者服务的接收、使用或供应（不包括买方材料）造成买方实际或者涉嫌侵害第三方知识产权并遭遇任何索赔；或者买方实际或者涉嫌侵害第三方知识产权的行为与前述商品的生产、供应或使用或者服务的接收、使用或供应有关，并使得买方遭遇任何索赔；
- 11.1.3 any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, provision of the Services or the Deliverables; and
- 11.1.3 对于因已交付商品存在缺陷或者服务或交付物的提供而产生的死亡、人员伤亡或财产受损等事故或者与商品缺陷或服务或交付物的供应相关的死亡、人员伤亡或财产受损等事故，第三方向买方提出任何索赔；以及
- 11.1.4 any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 11.1.4 买方因已交付商品或服务的供应而面临第三方的索赔或者第三方向买方提出的任何索赔与前述已交付商品或服务的供应有关。

12. FORCE MAJEURE

12. 不可抗力

- 12.1 Neither party shall be liable to the other or be deemed to be in breach of the Contract by reason of any delays in performing, or any failure to perform any of its obligations in relation to the Goods or the Services if the delay or failure was beyond that party's reasonable control, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the Seller shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the Contract.
- 12.1 若任一方延迟履行或者未能履行与商品或服务相关的任何义务，前述延迟履行或者未能履行已超出该方合理控制范围并且就性质而言无法被该方所预见或者无法避免（若能预见），该方不应为违反本合同而对另一方负责或者不应被视为违反本合同规定，但前提是该方应尽一切合理努力补救任何前述事件或情况并恢复履行本合同。
- 12.2 If any events or circumstances prevent the Seller from carrying out its obligations under the Contract for a continuous period of more than thirty working days, the Buyer may terminate the Contract immediately by giving notice in Writing to the Seller.
- 12.2 若任何事件或情况持续阻止卖方履行本合同项下其相关义务超过三十个工作日，买方可向卖方出具书面通知，立即终止本合同。

13. TERMINATION

13. 终止

- 13.1 The Buyer shall be entitled to cancel the Contract in whole or in part by giving notice to the Seller at any time prior to delivery, in which event the Seller shall discontinue all work on the Contract and the Buyer's sole liability shall be to pay such fair and reasonable compensation for work-inprogress at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.1 交货前，买方有权随时通知卖方取消本合同之全部或部分；该情况下，卖方应中止与本合同相关的所有工作，而买方唯一的责任便是支付与本合同终止时在制品相关的公平、合理补偿，但前述补偿不应包括预期利润的损失或者任何后果性损失。
- 13.2 The Buyer shall be entitled to terminate the Contract with immediate effect and without liability to the Seller by giving notice to the Seller at any time if the Seller:
- 13.2 若卖方存在以下情况，买方有权随时通知卖方终止本合同并使其立即生效，而无需对卖方承担任何责任：
- 13.2.1 commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen days of receipt of notice in writing of the breach;
- 13.2.1 严重或持续违反本合同约定并且未能在收到书面违约通知十四日内纠正前述违约行为（若前述违约行为可纠正）；
- 13.2.2 enters into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them;
- 13.2.2 与其债权人或任意类型债权人就其债务的清偿达成任何协定、折中方案或者和解；
- 13.2.3 passes a resolution or makes a determination for it to be wound up;
- 13.2.3 通过清盘决议或者做出清盘决定；
- 13.2.4 has a winding-up order or bankruptcy order made against it;
- 13.2.4 收到清盘令或者破产令；
- 13.2.5 has appointed to it an administrator or administrative receiver;
- 13.2.5 任命管理人或者行政接管人；
- 13.2.6 being a partnership, in addition to the above, suffers bankruptcy orders being made against all of its partners; or
- 13.2.6 作为合伙人遭遇针对其所有合作伙伴的破产令；或者
- 13.2.7 suffers a change of control in relation to which the Buyer has not provided its prior written consent.
- 13.2.7 变更控制权并且买方未事先就其出具书面同意书。
- 13.3 On termination of the Contract, the Seller shall immediately deliver to the Buyer all Deliverables whether or not then complete, and return all Buyer Materials.

- 13.3 一旦本合同终止，卖方应立即向买方交付所有交付物（无论是否完工）并归还所有买方材料。
- 13.4 Termination shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination shall continue in full force and effect.
- 13.4 本合同的终止不应影响截至终止时间双方已经发生的任何权利和补救措施。本合同明确规定或者暗示不会随本合同终止而失效的条款应继续全面有效。

14. INTELLECTUAL PROPERTY

14. 知识产权

- 14.1 All Buyer Materials provided by the Buyer and IPR specifically produced for the Buyer in connection with this Order shall be the exclusive property of the Buyer. The Seller shall use it solely for the purpose of completing this Order and shall surrender it to the Buyer on completion of this Order. All IPR in such materials shall also belong to the Buyer and the Seller will assign such IPR to the Buyer on request on terms provided by the Buyer.
- 14.1 买方提供的所有买方材料以及就本合同项下订单专为买方创建的知识产权应是买方的专属财产。卖方只能将其用于完成本合同项下订单并于订单完成之时将其交还给买方。前述材料的所有知识产权也应归买方所有，而卖方将根据买方规定条款及买方要求向买方转让前述知识产权。

15. INSURANCE

15. 保险

- 15.1 The Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 15.1 卖方应向声誉良好的保险公司购买专业责任险、产品责任险和公众责任险，以应对本合同项下可能产生的或者可能与本合同相关的类似责任，并保持前述保险一直有效，卖方还应按照买方要求制作注明详细保险范围的保险凭证以及当年各种保险费用的收据。

16. REACH

16. REACH 法规

- 16.1 The Seller warrants that where it sells, supplies or transfers Goods to the Buyer in Europe, and Regulation (EC) No.1907/2006 of the European Parliament concerning the registration, evaluation, authorisation and restriction of chemicals ("REACH") applies, it has complied with REACH and that each chemical substance constituting or contained in or used in the manufacture of Goods sold, supplied or transferred to the Buyer is, where required, registered; registered for the Buyer particular use; supplied with a safety data sheet compliant with REACH; is not restricted under Annex XVII of REACH; and if it appears on Annex XIV of REACH is authorised for the Buyer's use.

- 16.1 卖方保证：若卖方在欧洲向买方销售、供应或转让商品并且欧洲议会第 1907/2006 号关于化学品注册、评估、授权和限制的法规（EC）（以下简称为“REACH”）适用，卖方应按照 REACH 行事。卖方还保证：构成卖方向买方销售、供应或转让商品一部分的各种化学物质或者前述商品包含的或者前述商品制造过程中使用的各种化学物质已按照要求注册登记，专门登记用于买方的特殊用途，配有符合 REACH 要求的安全数据表，并非 REACH 附录十七项下受限物质，并且已被授权用于买方用途（若其出现在 REACH 附录十四项下）。
- 16.2 Whether or not REACH applies, the Seller will immediately notify the Buyer if any Goods sold, supplied or transferred to Buyer contain a substance listed on the Candidate List of Substances of Very High Concern for Authorisation (“the Candidate List”) published by the European Chemicals Agency. The Seller will give the Buyer the name of the chemical substance and any information required by the Buyer to allow safe use of the Goods or to fulfil its own obligations under REACH. This clause 16.2 applies whether the sale, supply or transfer of Goods to the Buyer is inside or outside Europe.
- 16.2 无论 REACH 适用与否，若卖方向买方销售、供应或转让的任何商品含有欧洲化学品管理局所发高度关注物质候选清单（以下简称为“候选清单”）上列出的任何物质，卖方应立即通知买方。卖方应向买方提供前述化学物质的名称以及买方为确保安全使用商品或者履行 REACH 项下其相关义务而需要的各种信息。无论卖方是在欧洲境内或者境外向买方销售、供应或转让商品，本合同第 16.2 条均适用。
- 16.3 Whether or not REACH applies to any Goods sold, supplied or transferred to the Buyer, on request by the Buyer, Seller will provide all information required by Buyer which will enable Buyer to comply with its duty to communicate information on substances in articles as required by Article 33 of REACH, including but not limited to chemical composition, test data, hazard information and safety data sheets. This clause 16.3 applies whether the sale, supply or transfer of Goods to the Buyer is inside or outside Europe.
- 16.3 无论 REACH 是否对卖方向买方销售、供应或转让的任何商品适用，卖方将按照买方要求为买方提供买方履行 REACH 第 33 条项下规定物质信息传递义务所需的各种信息，包括但不限于化学成分、测试数据、危害信息和安全数据表等。无论卖方是在欧洲境内还是境外向买方销售、供应或转让商品，本合同第 16.3 条均适用。
- 16.4 The Seller will comply with any other request for information by Buyer which is required to enable the Buyer to comply with its obligations under REACH. All information supplied to the Buyer under clauses 16.1 to 16.4 will comply with REACH and any other requirements of the Buyer expressly notified to the Seller by Buyer. This clause 16.4 applies whether the sale, supply or transfer of Goods to the Buyer is inside or outside Europe.
- 16.4 卖方应提供买方为履行 REACH 项下相关义务而需要的任何其它信息。依据第 16.1 条至第 16.4 条规定向买方提供的所有信息均应符合 REACH 规定以及买方明确告知卖方的买方任何其它要求。无论卖方是在欧洲境内还是境外向买方销售、供应或转让商品，本合同第 16.4 条均适用。
- 16.5 Without prejudice to the Seller’s obligations in Clause 16.1 to 16.4, the Seller shall comply with all relevant laws and regulations in force regarding:

16.5 在不影响第16.1条至第16.4条项下卖方义务的前提下，卖方应遵守与以下内容相关的所有生效且适用的法律法规规定：

16.5.1 the classification, labelling, packaging, transport, storage and handling of substances, mixtures and chemicals (including, but not limited to, CLP European Regulation (EC) No 1272/2008 and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Regulations 2012 (as amended)) applicable to the supply of the Goods; and

16.5.1 对商品供应适用并且与物质、混合物和化学品分类、标记、包装、运输、储存和搬运相关的法律法规（包括但不限于第 1272/2008 号 CLP 欧洲条例（EC）以及 2012 年关于限制在电子电器设备中使用某些有害成分的指令（及其修订版））；以及

16.5.2 health and safety and health and safety instructions applicable to the supply of the Goods and/or provision of the Services under the Contract including any required by or related to the Buyer's customer.

16.5.2 对本合同项下商品的供应和/或服务的提供适用的各种安全卫生指示，包括买方客户提出的相关指示或者与买方客户相关的指示。

17. EXPORT / IMPORT / ECONOMIC SANCTIONS CONTROLS

17. 出口/进口/经济制裁管控措施

17.1 The Seller undertakes to comply with all applicable export controls and import and economic sanctions laws and regulations, including those of the Seller's country of incorporation, from where the Goods will be supplied, where the Goods will be received and any other relevant jurisdiction. The Seller will also obtain, as required, and comply with all applicable government authorizations and their provisos in supplying the Goods. Without limiting the foregoing, the Seller shall not transfer any export controlled item, data or services provided by the Buyer in relation to the Contract, to include transfer to any persons, including those persons employed by or associated with, or under contract to you or your lower-tier suppliers, without the authority of an applicable licence, exemption or exception.

17.1 卖方承诺遵守所有适用的出口管控、进口与经济制裁相关法律法规，包括卖方注册国家、商品供应国家、商品接收国家以及任何其它相关司法管辖区的相关法律法规。卖方还将根据要求取得并遵守各种适用的政府授权及其与商品供应相关的附文。在不限制前述规定的前提下，若无适用许可、豁免或例外，卖方不应将买方于本合同项下提供的任何出口管控物品、数据或服务转让给卖方聘用的、与卖方相关的、与卖方签约的、成为卖方较低级别供应商的所有人员。

17.2 The Seller shall provide the Buyer with all information necessary to support any regulatory or government authorization requirements the Buyer has regarding the Goods.

17.2 卖方应向买方提供各种必要信息，以支持买方符合与商品相关的任何监管或政府授权要求。

18. COMPLIANCE

18. 合规性

- 18.1 The Seller shall conduct its business ethically and lawfully and in accordance with the Supplier's Code of Conduct (<https://www.morganadvancedmaterials.com/en-gb/supplier-code-of-conduct/>) or an equivalent code of ethics.
- 18.1 卖方应以道德、合法的方式按照供应商行为准则 (<https://www.morganadvancedmaterials.com/en-gb/supplier-code-of-conduct/>) 或者同等道德规范规定从事业务。
- 18.2 The Seller represents and warrants that it is and undertakes that it:
- 18.2 卖方声明、保证并承诺:
- 18.2.1 and its sub-contractors and suppliers do not use or permit unacceptable labour practices, such as child or forced labour, or unsafe working conditions and comply with all applicable labour and employment laws, regulations, standards and conventions, from time to time in force including without limitation, the UK Modern Slavery Act (2015), the Labor Law of the People's Republic of China (2018 Amendment), the UN's Guiding Principles on Business & Human Rights and the International Labor Organization's Conventions;
- 18.2.1 卖方及其分包商和供应商未使用并且也不允许使用非法劳工 (如童工和强制劳动力), 也未采用不安全的工作条件, 并将始终遵守不时生效的且与劳动和雇佣相关的各种适用法律、法规、标准与公约, 包括但不限于英国现代奴役法案 (2015 年)、中华人民共和国劳动法 (2018 年修正)、联合国商业与人权指导原则以及国际劳工组织公约等;
- 18.2.2 shall remain compliant at all times, in its dealings with the Buyer and any third party with whom it deals in relation to the Order, with (i) all applicable anti-bribery and anti-corruption laws from time-to-time in force including but not limited to the UK Bribery Act and the US Foreign Corrupt Practices Act (FCPA) (and related regulation and guidance), the Anti-Unfair Competition Law of the People's Republic of China (2019 Amendment) and the Criminal Law of the People's Republic of China (2020 Amendment); and
- 18.2.2 卖方在与买方以及因本合同项下订单与卖方发生关系的任何第三方交易过程中始终遵守 (i) 不时生效的各种适用的反贿赂和反腐败法律【包括但不限于英国反贿赂法和美国海外反腐败法 (以及相关条例和指南), 《中华人民共和国反不正当竞争法 (2019 年修正)》、《中华人民共和国刑法 (2020 年修正)》的规定】; 以及
- 18.2.3 shall only supply minerals to the Buyer from sources that do not (i) contribute to conflict; and/or (ii) benefit or finance armed groups in the Democratic Republic of Congo or any adjoining country. The Seller has adopted, and required its suppliers of minerals to adopt, conflict mineral policies and management systems.
- 18.2.3 卖方向买方供应的矿物只能来自于 (i) 不会造成冲突的地方; 和/或 (ii) 不会使刚果民主共和国或任何相邻国家境内武装分子获益或者不会资助前述武装分子的地方。卖方已落实并要求其矿物供应商落实冲突矿物政策和管理制度。
- 18.3 The Buyer reserves the right to inquire and investigate the Seller's conduct and compliance with this Clause 18 and to immediately terminate any Order with the Seller if the Seller or any of its officers, directors or employees is found to have breached any part of this Clause 18.

18.3 若卖方或其任何高管、董事或员工被发现违反本合同第 18 条的任何规定，买方有权质疑、调查卖方行为以及卖方对本合同第 18 条的符合性，并且有权立即终止与卖方之间的任何订单。

19. PERSONAL DATA

19. 个人数据

19.1 If the Seller deals in the Personal Data of any employee or contractor of the Purchaser, it will at a minimum and regardless where it is located and whether it is the controller or processor of such information, comply with the Purchaser's instructions, and the relevant laws on the protection of Personal Data in the jurisdiction of the Purchaser entity placing an Order.

19.1 当卖方处理买方任何员工或承包商的个人数据时，卖方应至少遵守买方指示以及买方下单单位所属司法辖区内的个人数据保护法，无论卖方身在何处，无论卖方是前述数据的控制人还是处理人。

19.2 If the Seller discloses Personal Data to the Buyer, the Seller agrees that the Buyer may use the Personal Data for legitimate business purposes, to comply with its legal obligations and to perform the Contract and provide any such Personal Data received from the Seller to Affiliates of the Seller and to third parties for use for the same purposes.

19.2 若卖方向买方披露个人数据，卖方同意：买方可以将前述个人数据用于合法的商业用途，利用前述个人数据履行其法律义务，履行本合同，并向卖方关联公司和第三方提供从卖方处收到的任何个人数据，确保其被用于相同用途。

19.3 The Seller will, at all times during and after the contract period, indemnify the Purchaser and keep the Purchaser indemnified for and against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Purchaser arising from its breach of this clause except and to the extent that such liabilities have resulted directly from the instructions of the Purchaser.

19.3 本合同有效期内以及本合同到期后，卖方将就买方因卖方违反本条规定而招致的、被要求赔偿的或者同意支付的各种损失、损害、成本或费用以及其它债务（包括法律费用）（前述债务是因买方指示直接导致的情况除外）对买方进行赔偿。

20. CONFIDENTIALITY

20 保密

20.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or purchasers of the other party, except as permitted by Clause 19.2.

20.1 各方承诺：任何时候，均不会向任何人披露与另一方业务、事务、客户、委托人或买家相关的任何保密信息，但第 19.2 条允许的情况除外。

20.2 Each party may disclose the other party's confidential information:

20.2 各方可以：

- 20.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information must comply with this Clause 19;
- 20.2.1 为履行本合同项下该方义务之目的而向需要知晓另一方保密信息的员工、高管、代表、分包商或顾问披露前述信息。各方应确保接收其披露的另一方保密信息的员工、高管、代表、分包商和顾问按照此处第 19 条规定行事；
- 20.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 20.2.2 按照法律规定或者有管辖权法院或者任何政府或监管权力机关的要求披露另一方的保密信息。
- 20.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 20.3 任一方均不应将另一方的保密信息用于除履行本合同项下相关义务外的任何用途。

21. GENERAL

21. 一般规定

- 21.1 The Seller shall not assign, transfer, charge, sub-contract or deal in any other manner with any or all of its rights or obligations under the Contract. The Buyer may, at any time, assign, transfer, charge or sub-contract or deal in any manner with any or all of its rights or obligations under the Contract.
- 21.1 卖方不得让渡、转让、质押、分包或者以任何其它方式处置本合同项下其任何或所有权利或义务。买方可随时让渡、转让、质押、分包或者以任何其它方式处置本合同项下其任何或所有权利或义务。
- 21.2 Any notice required or permitted to be given by either party to the other under these Conditions, shall be in writing (not including email) addressed to that other party at its registered office address or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and shall be sent by recorded delivery, commercial courier or fax. A notice shall be deemed to have been received: if sent by recorded delivery, at 9:00 am on the second working day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, twenty four hours after transmission.
- 21.2 本合同项下一方必须或者可以向另一方出具的任何通知应采用书面形式（不包括邮件），通过挂号邮递、商业快递或传真等方式寄至另一方注册办公地址或者主要营业场所或者另一方可能按照本条规定于相关时间告知通知方的其它类似地址。满足以下条件的通知应被视为送达：若通过挂号邮递，则通知应于邮寄后第二个工作日上午 9 点视为送达；若通过商业快递寄送，则通知应于快递公司回执被签收的日期和时间被视为送达；若通过传真寄送，则通知应于传输后二十四小时视为送达。

- 21.3 No waiver by the Buyer of any breach of the Contract by the Seller shall be construed as a waiver of any subsequent breach of the same or any other provision.
- 21.3 买方放弃追究卖方的任何违约行为不应被视为放弃追究卖方随后违反同一规定或者任何其它规定的行为。
- 21.4 A person who is not party to the Contract shall not have any rights under or in connection with it.
- 21.4 非本合同相关方的任何人都不能享有本合同项下任何权利或者与本合同相关的任何权利。
- 21.5 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in Writing.
- 21.5 对于本合同的任何变更（包括引入任何其它条款和条件），只有双方以书面形式达成一致，方才具有约束力。
- 21.6 If any term of these Conditions or the Contract are deemed unenforceable as drafted, it will not affect the enforceability of any other term of the Conditions or the Contract, as appropriate, and if it would be enforceable if amended, it will be treated as so amended.
- 21.6 若本合同或其任何条款被认为如同草稿不可强制执行，这不会影响本合同或其任何其它条款（视具体情况而定）的可强制执行性，并且若本合同或前述条款经修订后可强制执行，则其应照此修订。
- 21.7 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the laws of China.
- 21.7 本合同以及因本合同或其标的事项或构成产生的或者与本合同或其标的事项或构成相关的任何争议或索赔均应受中国法律管辖并且应该按照中国法律解释。
- 21.8 The Seller and the Buyer irrevocably submit to the jurisdiction of the court of China in the Buyer's area.
- 21.8 卖方和买方不可撤销地服从买方所在地法院的管辖权。