



运输和物流服务采购条款

TERMS AND CONDITIONS OF PURCHASE FOR TRANSPORT AND LOGISTICS SERVICES

(Issued: July 2021 / 2021 年 7 月版)

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1. 定义/Definition

1.1 “**买方**”指的是林德亚太工程有限公司，中国杭州市莲花街333号莲花商务中心北楼，邮编310012

"Buyer" shall mean Linde Engineering APAC Co.,Ltd., North Building, Lotus Business Center, No.333 Lianhua Street, Hangzhou, 310012, China.

1.2 “**物流服务提供商**”或“**LSP**”系指与买方订立合同的人士或法人实体。如果订单是促成订立合同的交换文件中的一部分，则除非订单中另有明确定义，否则，该订单的收件人即应作为LSP

"Logistics Services Provider" or "LSP" shall mean the person or legal entity entering into the Contract with the Purchaser. If an Order is part of the exchanges leading to the Contract, the addressee of such Order shall be the LSP, unless expressly defined otherwise in such Order.

1.3 “**代理人**”系指各方为履行其在本合同项下的任何职责而聘用的所有代理人、雇员和关联公司

"Agents" shall mean all agents, servants and affiliates which the respective Party employs to perform any of its duties hereunder.

1.4 “**订单**”系指买方向LSP发出的标有“物流服务订单”或“运输订单”字样的文件，无论该文件签字与否，和/或是以原件、电子邮件附件还是其他传输方式发送的。

"Order" shall mean a document issued by the Purchaser to the LSP labelled as "Logistics Services Order" or "Transport Order", irrespective of whether the document is signed or not, and/or sent as original, as e-mail attachment or otherwise others transmitted.

1.5 “**服务**”系指LSP在本合同项下提供的所有服务。

"Services" shall mean all services to be provided by the LSP under the Contract.

1.6 “**合同**”系指通过订单订立的任何合同，且在必要情况下，还包括（明示或暗示的）任何相关确认、商定的补充订单、或双方之间以书面或电子邮件形式签订的与运输、货运代理、物流和/或相关服务有关的任何其他合同，但双方之间受《物流框架协议》管辖的合同关系除外。

"Contract" shall mean any contract made by the Order and, if needed, any related confirmation (whether express or implied), an agreed supplemental Order or any other contract entered into between the Parties in writing or by e-mail relating to transport, freight forwarding, logistics and/or related services, with the exception of a contractual relationship between the Parties which is governed by a Logistics Frame Agreement.

1.7 “**运输时间**”系指运输时间和/或交货天数。

"Transit Times" shall mean transit times and/or delivery dates.



1.8 “条款及条件”或“T&C”系指名为“运输和物流服务采购条款及条件”的本文件，且其构成本合同不可分割组成部分。

"Terms and Conditions" or "T&C" shall mean this document called "Terms and Conditions of Purchase for Transport and Logistics Services" and form an integrated part of the Contract.

2. 合同文件及其优先性/ Contract documents, priority of documents

2.1 除订单、或本合同其他主要文件中另有约定外，本合同及LSP在本合同项下提供的服务均应受下列合同文件中的规定管辖：

- a) 订单（或补充订单，视执行情况而定）；
- b) 本条款及条件；
- c) 与本条款及条件相关的文件，尤其是《林德供应商行为守则》和中英文《林德标准 LS 940-04》；
- d) 在无订单的情况下，本合同主要文件中的规定；及
- e) 本合同中提及的任何其他文件。

Unless otherwise agreed in the Order or other main document of the Contract, the Contract and the Services provided by the LSP thereunder shall be governed by the stipulations of the following contractual documents:

- a) the Order (or supplemental Order, as the case may be);
- b) these Terms and Conditions;
- c) documents linked to these T&C (in particular the **Linde Supplier Code of Conduct** and the **Linde Standard LS 940-04** Bilingual in English & Chinese);
- d) the stipulations in the main document(s) of the Contract in case no Order exists; and
- e) any other documents referred to in the Contract.

2.2 若本合同第2.1条所述文件中的各项规定之间存在任何矛盾或冲突，则优先级较高的文件（最高为a项）应取代优先级较低的文件，且LSP应将发现的任何此类情况及时通知买方。

In case of any contradiction or conflict between stipulations of the documents referred to in Clause hereof of the higher ranking documents (the highest being item a)) shall supersede the lower ranking ones, and LSP shall promptly inform Purchaser of any such finding.

2.3 除第 2.1条所述条款外，买方拒绝将其他通用条款及条件纳入本合同。特此拒绝LSP的通信和文件中所提及的任何其他通用条款及条件。移交货物、确认接收、支付服务费、或买方就服务提供的任何支持，均不构成同意LSP的任何通用条款及条件，即使在知晓存在冲突或补充的LSP条款及条件的情况下进行了验收或付款。此外，先前商定同意的但与本条款及条件存在冲突或作为补充的LSP通用条款及条件亦不再获得承认。

The Purchaser rejects incorporating other general terms and conditions than those referred to in Clause 2.1 into the Contract. Any references to such other general terms and conditions in the LSP's communications and documents are herewith rejected. Handing over of the goods, confirmation of receipt, payment of Services, or



any support by Purchaser regarding the Services does not constitute agreement to any of the LSP's general terms and conditions, even if the acceptance or payment is made with knowledge of conflicting or supplementary terms and conditions of the LSP. Furthermore, any such general terms and conditions of the LSP previously agreed upon that conflict with or supplement these T&C shall no longer be recognized.

3. LSP服务/Services of the LSP

3.1 LSP应根据本合同中的所有规定提供服务。

The LSP shall perform the Services in accordance with all stipulations of the Contract.

3.2 LSP所提供的服务应符合提供相关服务时适用的相关行业中的最佳惯例及标准。

The Services provided by the LSP shall comply with best practices and standards in the relevant trade, applicable at the time the relevant Services are provided.

3.3 LSP应根据《林德标准LS 940-04》（“物流服务供应商操作及HSE要求”）提供服务，且该标准可通过以下网站下载：

The LSP shall perform the Services in accordance with the Linde Standard LS 940-04 ("Operating and HSE requirements for logistic service providers"), which can be downloaded at

<http://ebusiness.linde-le.com/lis.ext/Data/LS900/940-/04/E1502.pdf> (English)

<http://ebusiness.linde-le.com/lis.ext/Data/LS900/940-/04/C1502.pdf> (Chinese)

3.4 LSP应根据ISO 9001（或执行同等或更为严格要求的类似标准），达到国际公认质量管理体系所预期的质量水平。在不限上述规定的情况下，本规定应适用于所有服务的及时履行。

The LSP shall achieve a quality level as intended by an internationally recognized quality management system in accordance with ISO 9001 (or a comparable standard implementing equal or stricter requirements). Without limitation, this shall apply to the timely performance of all Services.

3.5 无任何中断地和迟延地提供服务至关重要。LSP在规划和提供服务时应考虑到这一点，且在解释本合同的任何条款时亦应考虑到这一点。鉴于买方业务的性质，任何中断或迟延均极有可能造成严重的商业和经济影响，例如建筑工程中断和/或，买方应向其客户支付高额罚款或违约金，因此应严格避免物流服务中断和迟延。

Providing the Services without any interruptions and delays is of the essence. This shall be taken into account by the LSP when planning and performing the Services, and this shall be considered when interpreting any stipulation of the Contract. Due to the nature of the Purchaser's business, any interruptions or delays are very likely to have a severe commercial and financial impact, such as the interruption of construction work and/or significant penalties or liquidated damages payable by the Purchaser to its customers, and therefore strictly need to be avoided.



- 3.6 如服务包括货物运输，LSP应及时与收货人协调该等货物的交付事宜。本规定同样适用于协调从非买方的实际托运人处提货。如果货物被运送到买方的现场或车间，则该协调职责还可能包括与现场管理人员联系并寻求指示，尤其是在当地及时寻求该现场或车间的准入性、安全条例现场和特定卸货地点的路线和运输条例方面的指示。该等指示可能包括为LSP或其分包商人员对于卸货提供合理帮助。

Where the Services include the transport of goods, the LSP shall timely coordinate the delivery of such goods with the consignee. The same applies to coordinating pickup of goods from actual shippers different from the Purchaser. If the goods are carried to the site or a workshop of the Purchaser, this coordination duty may involve liaising with the site management and seeking instructions in particular to timely and locally accessibility of such site or workshop, safety regulations, routing and transport regulations at site and specific places for unloading. Such instructions may include reasonable assistance to unloading by the personnel of the LSP or its sub-contractor.

- 3.7 如果LSP有理由相信，收货人或其代表发出的指示和/或收货人或其代表计划的卸货操作并不恰当和/或在其他方面可对货物造成风险，则LSP应及时将该等问题通知收货人。除非经该沟通得出可令LSP满意的变更，否则，LSP应及时通过电话和电子邮件将该等问题和根本情况通知买方。

If the LSP has reason to believe that instructions given by the consignee or its representatives and/or planned unloading operations of the consignee or its representatives are not suitable and/or otherwise including a risk for the goods, the LSP shall promptly communicate those concerns to the consignee. Unless such communication leads to changes satisfactory to the LSP, the LSP shall promptly inform Purchaser by telephone and e-mail of those concerns and the underlying circumstances.

- 3.8 如果服务包括货物运输和/或其他搬运或存储，LSP应实施并执行适当的交接控制，尤其是在货物照管发生变化时。交接活动及任何特殊情况（尤其是任何显著损失或损坏）均应妥善记录。交接记录应由LSP保存，并应在买方要求时立即提供给买方，任何特殊情况均应立即通知买方。

Where the Services include the transport and/or other handling or storage of goods, the LSP shall implement and perform suitable interchange controls, in particular at any time when the custody over such goods changes. The interchange event as well as any particular circumstances (in particular any discernable loss or damage) shall be recorded. The interchange documentation shall be stored by the LSP and shall be provided to the Purchaser at once upon request, any particular circumstances shall be notified to the Purchaser at once.

- 3.9 如服务包括货物运输，

- 除非买方明确同意，否则，不允许使用开放式、未封闭的运输工具；
- 除非双方之间已同意在甲板上装运，否则，货物应装在甲板下（但如果货物已装在集装箱内，则本要求不应适用；且
- LSP应根据商定的国际贸易术语解释通则，以买家或买家身份（视情况而定）执行与运输相关的买方职责（例如，在提取 EXW 货物时，装载并保护货物）；使用的国际贸易术语解释通则，如未明确提及某一特定版本，则应视为指国际贸易术语解释通则 2010。



Where the Services include the transport of goods,

- the use of open, uncovered conveyances is not permissible unless expressly agreed by Purchaser;
- unless shipment on deck has been agreed between the Parties, the goods shall be stowed under deck (this requirement shall, however, not apply where the goods have been stowed in a container; and
- the LSP shall implement the transport-related duties of the Purchaser as seller or buyer (as the case may be) under the agreed INCOTERM (for example loading and securing of goods in case of a pick-up of EXW cargo); use of INCOTERMS without express reference to a specific version shall be read as a reference to INCOTERMS 2010.

4. 审查及通知职责/Review and notification duties

4.1 LSP应审查本合同以及所收到的与服务有关的任何信息和文件，以便发现可能对有序、安全、可靠且及时提供服务造成影响的潜在问题。这应包括任何海关法律项下的任何限制或进出口管制限制，除非LSP已收到办理所有清关手续所需的恰当单据。LSP应在发现任何此类问题后及时通知买方，并应为了以对买方最为有利的方式解决该问题而向买方提供建议。在必要情况下，LSP应与买方进一步协商并寻求额外指示。

The LSP shall review the Contract and any information and documents received in relation to the Services, in order to identify potential issues which might impair the orderly, safe, secure and timely performance of the Services. This shall include any restrictions under customs laws or export/import control restrictions, unless the LSP has received documentation suitable for all clearances needed. The LSP shall promptly notify the Purchaser when having identified any such issue, and shall advise the Purchaser with the aim to resolving the issue in the Purchaser's best interest. The LSP shall further consult with the Purchaser and seek additional instructions, where needed.

4.2 本合同第4.1条第1句和第2句规定的LSP审查职责，应包括对下文第5条所述任何具体要求进行商业审查。如可以更低价格实现预期目标，LSP则应及时与买方商讨将对该等要求作出的潜在调整。

The LSP's duty to review under Clause 4.1 sentence 1 and 2 hereof shall include a commercial review of any specific requirements as referred to in Clause 5 below. If the intended aim can be achieved otherwise for a lower price, the LSP shall promptly consult with the Purchaser on a potential adaptation of the requirements.

4.3 此外，如对于LSP人员（或代理人，视情况而定）可行且考虑到相关情况亦可行，则LSP应对作为本服务组成部分运输的任何货物、及其装载和固定进行检查，尤其是LSP应审查：

- 货物是否经恰当包装，及是否存在任何其他明显缺陷或损坏；
- 任何装载、固定和卸货工作，即使该等工作并非是由LSP或其代理人进行的；
- 在任何货品及包装上打上适当唛头；



- 在接收和交付货物时，审查所接收或交付货物的特性和完整性（包括运输单据中的适当文件）以及
- 因货物性质而产生的潜在风险（包括但不限于破损、生锈、干燥或渗漏风险）。

如 LSP 发现本第 4.3 条所述任何问题，应及时通知买方，并应为了以对买方最为有利的方式解决该问题而向买方提供建议。在必要情况下，LSP 应与买方进一步协商并寻求额外指示。

Furthermore, the LSP shall – to the extent possible for the LSP's personnel (or Agents, as the case may be) and regarding the circumstances – inspect any goods to be transported as part of the Services and the loading and securing thereof. In particular, the LSP shall review:

- the goods as to whether they have suitable packaging and any other discernable flaws or damage.
- any loading, securing, and unloading work even if not carried out by the LSP or its Agents.
- proper marking of any goods and packages.
- upon taking over and delivery of the goods, the identity and completeness of goods received or delivered (including a proper documentation in the transport documents) and
- potential risks resulting from the nature of the goods (including, without limitation, the risk of breaking, of rusting, of drying out, or of leakages).

The LSP shall promptly notify the Purchaser when having identified any issue as referred to in this Clause 4.3, and shall advise the Purchaser with the aim to resolving the issue in the Purchaser's best interest. The LSP shall further consult with the Purchaser and seek additional instructions, where needed.

5. 具体要求/Specific requirements

- 5.1 LSP应严格遵守买方向LSP提供的任何具体服务要求。如果买方在签订本合同时未将该等具体要求（以直接或通过引述的方式）包括在本合同中，而是稍后由买方（以书面、电子邮件或口头形式）提供，LSP亦须遵守该等具体要求，但随后有权根据本合同第10条规定，获得运输时间的合理延长和/或针对合理额外费用的补偿。如果本可以更低价格实现预期目标，LSP则应及时与买方商讨将对具体要求作出的潜在调整。

The LSP shall strictly comply with any specific requirements regarding the Services provided by the Purchaser to the LSP. If such specific requirements are not included (directly or by reference) in the Contract when the latter is entered into, but provided at a later stage by the Purchaser (whether in writing or by e-mail or orally), the LSP also has to comply with such specific requirements, but shall then be entitled to reasonable extension of Transit Times and/or compensation against reasonable additional expenses, subject to Clause 10 hereof. If the intended aim can be achieved otherwise for a lower price, the LSP shall promptly consult with the Purchaser on a potential adaptation of the specific requirements.

- 5.2 具体要求可能涉及（但不限于）
- 需在特定温度下保存货物的控温运输；
 - 使用配备空气悬挂的交通工具；



- 适用于交通工具的速度限制;
- 对运输路线有所要求的限制和排除事项和/或与路线和站点相关的指示;
- 使用的特定技术, 例如冲击波探测器或射频识别技术;
- 与使用分包商相关的限制和排除事项;
- 具体的运输单据;
- 使用的托盘、箱子或其他包装和捆扎装置及其更换;
- 货物装卸的具体方法、限制或要求; 或
- 与货物固定相关的具体要求。

Specific requirements may relate – without limitation – to

- temperature controlled transports requiring the goods to be kept at a certain temperature;
- the use of conveyances having air suspension;
- speed limits applicable to conveyances;
- limitations and exclusions requiring transport routes and/or instructions regarding routes and stops;
- the use of specific technology such as shock wave detectors or RFID technology;
- limitations and exclusions regarding the use of subcontractors;
- specific transport documents;
- pallets, boxes or other packing and bundling equipment used and its exchange;
- specific methods, restrictions or requirements regarding the loading and/or unloading of goods or
- specific requirements regarding the securing of cargo.

- 5.3 在第5.1条使得LSP有权就额外的合理费用获得赔偿的情况下, 唯有当索赔总额超过合同约定报酬总额的2%时(最低减让), 该索赔方属正当。

To the extent that Clause 5.1 is entitling the LSP to compensation for additional reasonable expenses, this claim shall only be justified if the total amount exceeds 2% of the total remuneration agreed in the Contract (de minimis).

- 5.4 除非另有指示, 例如通过运输图纸或包装唛头另行指示, 否则, 在包装(木箱和板条箱)相互堆叠时, 每单位面积的统一载荷不得超过1公吨/平米。未遵守本规则的任何情况均须取得买方或买方代表的批准。

Unless otherwise instructed, e.g. by transport drawings or package marks, a uniform load per unit area of 1 metric ton per m² must not be exceeded when packages (wooden boxes and crates) are stowed on top of each other. Any deviations from this rule must be approved by Purchaser or Purchaser's representative.

- 5.5 无包装货物上不得堆放任何物品, 例如但不限于冷箱、罐体、柱体等材料和设备, 且其他货物堆放时不得与LSP根据本合同接收的无包装货物直接接触。未经买方或买方代表的事先书面批准, 一旦无包装货物已装船并捆扎, 该等货物即不得在运输工具上调换位置或转船。此外, 下列规定亦应适用于该等装运:



如买方以书面形式同意转船，则买方须有机会指派一名自己选定的代表监督转船。该监督费用应由 LSP 承担。LSP 须及时，但无论如何须在运输工具到达转运港或其他转运地点前至少八（8）个日历日，以书面或电子邮件形式向买方发出预计转运港或其他转运地点的通知。

No items shall be stacked on unpacked goods, such as but not limited to cold boxes, tanks, columns and equivalent materials and equipment, and no other cargo must be stowed alongside in direct contact with such unpacked goods taken over by the LSP under the Contract. Once unpacked goods are loaded and lashed, such goods shall neither be repositioned on the means of transport nor transshipped without the prior written approval of the Purchaser or the Purchaser's representative. Furthermore, the following shall apply to such shipments:

In case the Purchaser agrees for transshipment in writing, then Purchaser must have the chance to assign a representative of own choice for supervising the transshipment. The costs of this survey shall be for the account of the LSP. A notification of the planned transshipment port or other transshipment location must be sent by LSP in due time - at least however 8 calendar days before arrival of the means of transport in the transshipment port or other trans-shipment location - in writing or e-mail to Purchaser.

6. 分包商/ Subcontractors

6.1 除非本合同中另有相反规定，LSP 有权为了提供服务而聘请分包商。物流服务的实际履行须由 LSP、或是一级或二级分包商进行；不允许进一步分包。

Unless provided to the contrary in the Contract, the LSP shall be entitled to engage subcontractors for the performance of the Services. The actual performance of the Services must be in the hands of the LSP, or of first or second tier subcontractors; further subcontracting is not permissible.

6.2 LSP 应确保各级分包商均由其精心挑选，并具备履行本合同项下服务所需的充分资质。LSP 应使各级分包商了解本合同中与分包商服务相关的所有要求。即使遵守了上述要求，LSP 仍应对任何分包商及其人员与履行本合同项下服务相关的作为和不作为负责。

The LSP shall ensure that the subcontractors of any tier are diligently selected and sufficiently qualified to perform Services hereunder. The Subcontractors of any tier need to be made aware by LSP of all requirements under the Contract to the extent that these are concerning their services. Even if the above requirements were complied with, the LSP shall have responsibility for actions and omissions of any subcontractor and their personnel relating to the performance of Services hereunder.

6.3 LSP 应执行合理的分包商管理制度，书面记录分包商选定事宜，包括但不限于证实下列事宜：
-任何分包商均应根据市场惯例或更高标准，就其履行服务方面的责任投保合理责任险。
-分包商已被告知本合同项下与其服务相关的所有要求，尤其是第 5 条所述任何具体要求。



-分包商选定标准，旨在确保分包商符合所需标准，并有能力根据本合同，特别是在规定时间内，履行服务。

LSP 应按要求向买方提供与提供服务所用分包商相关的任何此类文件。

The LSP shall implement a reasonable subcontractor management system, documenting the selection of subcontractors and, without limitation, evidencing the following:

- Any subcontractor shall have reasonable liability insurance for its liabilities in relation to performance of Services, in accordance with market practice or better.
- The subcontractor was informed about all requirements under the Contract to the extent that these are concerning their services, in particular about any specific requirements as addressed in Clause 5.
- The criteria for selecting the subcontractor, aimed at ensuring that the subcontractor is meeting the required standards and capable of performing the Services in accordance with the Contract and in particular in time.

The LSP shall provide the Purchaser upon request with any such documentation regarding a subcon-tractor used to perform Services.

7. 运输及交付时间/Transit and Deliver Times

7.1 除非另有约定，本合同中规定的运输时间，或在本文件中未规定运输时间的情况下，在下订单前（或在未下订单的情况下，则在缔结本合同前）双方通信中规定的最近运输时间，应被视为有约束力的运输时间。如未商定运输时间，LSP须根据适用地区和行业中高品质物流业的最佳惯例，在相应的运输时间内交付货物。

Unless otherwise agreed, Transit Times provided in the Contract – or, if missing in this document, the most recent Transit Times provided in the correspondence between the Parties prior to the Order (or the Contract being concluded where no Order is issued) – shall be construed as binding Transit Times. Where no Transit Times have been agreed, the LSP shall be bound to deliver the goods within the Transit Times corresponding to the best practice in the high quality logistics industry for the applicable area and trade.

7.2 鉴于买方业务性质，根据第7.1条在对LSP有约束力的运输时间内交货确属至关重要。即使延迟交货的时间很短通常亦会给建筑工程造成延误并产生高额罚款。因此，LSP应执行一套恰当制度，以便（i）以能够尽可能降低延误风险并避免延误的方式规划和组织运输（例如持续监测各项障碍并向运输经理和司机作出反馈），（ii）（通过使用远程信息技术和其他恰当系统）尽早发现任何延误，并（iii）及时采取旨在避免和/或缓解延误的紧急措施。如为实现目标确实需要，采取紧急措施的职责可能涉及使用替代运输手段或方式和/或利用额外资源的职责。

In view of the Purchaser's business, delivery within the Transit Times binding on the LSP in accordance with Clause 7.1 are of the essence. Even short delays in delivery will usually lead to delays of construction work and severe penalties. Therefore, the LSP shall implement a system being suitable to (i) plan and organize transports in a manner minimizing the risk of and avoiding delays (such as a constant monitoring of obstacles



and feedback to the transport managers and drivers), (ii) to detect any delays as soon as possible (by using telematics technology and other suitable systems), and (iii) to promptly implement emergency measures aiming at avoiding and/or mitigating delays. The duty to take emergency measures may involve – if required to reach the aim – a duty to use alternative means or modes of transport and/or additional resources.

- 7.3 若LSP未能在约定的运输时间内交付托运的货物，且本合同中就具体情况约定了罚金则买方有权收取约定的罚金，但LSP能够证实即使按照约定的尽职程度亦无法避免该延误的情况下除外。买方无需在交货时作出索赔预约。但在买方提出延误损害赔偿的情况下，买方应可自主证实其损失超过了罚金金额。 If the LSP fails to deliver cargo to be transported within the agreed Transit Times, and a penalty is agreed in the Contract for the specific case, the Purchaser shall be entitled to charge a penalty as agreed, unless the LSP can show that the delay could not be avoided applying the agreed standard of diligence. The Purchaser shall not be required to make a reservation of the claim upon delivery. Provided that the Purchaser has a claim for delay damages, the Purchaser shall be free to prove that his loss exceeded the amount of the penalty.

8. 影响履约的事件/Events Affecting Performance

- 8.1 意外的障碍和阻碍不得限制或中止LSP在本合同项下的职责。LSP应尽最大努力提供约定服务，如不可行，则应尽量减少任何障碍和阻碍的影响。 LSP应立刻将该等情况通知买方，并及时通知所要采取的任何措施。

Unexpected obstacles and hindrances shall not limit or suspend the duties of the LSP under the Contract. The LSP shall use best efforts to provide the Services as agreed, or, if that is not possible, to mitigate the impact of any obstacles and hindrances. The Purchaser shall be notified of the circumstances at once and of any measures promptly.

- 8.2 如有必要，LSP应毫不延误地向买方寻求指示（例如但不限于，无法识别收货人或无人提货的情况）。 Where needed, the LSP shall – without undue delay – seek instructions from the Purchaser (for example, but without limitation, in cases where the consignee cannot be identified or does not take delivery).

- 8.3 影响履约的下列事件（但不限于此）应被视为在LSP所需承担风险范围内：

- LSP或其代理人服务所用任何设备出现技术故障或无法使用，
- 履行服务所用到的任何港口或枢纽出现拥塞，
- 未获得或延迟获得LSP为履行服务而须获得的任何许可证或授权，
- LSP或其代理人的雇员罢工，及履行服务所用到的任何港口或枢纽发生罢工，即使该等罢工并未取得相关工会授权，和/或
- 对于LSP或其代理人使用服务所需的任何运输方式和/或LSP或其代理人规划的运输路线造成限制或不利影响的任何其他情况。

Without limitation, the following events affecting performance shall be seen as falling within the LSP's sphere of risk:



- technical breakdown or unavailability of any equipment used by the LSP or its Agents for the Services,
- congestion of any ports or hubs used to perform the Services,
- lack or delay of any permits or authorizations which the LSP is obliged to obtain in order to perform the Services,
- strike of employees of the LSP or its Agents and strike at ports or hubs used to perform the Services if such strikes are not authorized by the trade union in question, and/or
- any other circumstances restricting or negatively affecting the use of any means of transport used for the Services and/or the route of transport planned by the LSP or its Agents.

- 8.4 唯有意外障碍和妨碍是由买方或其任何代理人造成，而非由LSP及其代理人造成时，根据上文第8.1和8.2条所采取的额外措施才应使LSP有权获得合理的费用补偿和/或合理的运输时间延长，但始终须遵守本合同第10条规定，且前提是LSP须已事先获得买方指示。

Only if unexpected obstacles and hindrances have been caused by the Purchaser or any of its Agents other than the LSP and the LSP's Agents, additional measures taken under Clauses 8.1 and 8.2 above shall entitle the LSP to compensation of reasonable expenses and/or reasonable extension of Transit Times, all subject to Clause 10 hereof, and provided that LSP had obtained prior instructions from the Purchaser.

- 8.5 在任何情况下（第16.14条所述情况除外），LSP均无权要求买方先支付任何预付款，采取上文第8.1和8.2条所述额外措施。

In no event whatsoever (other than the case addressed in Clause 16.14) shall the LSP be entitled to make additional measures taken under Clauses 8.1 and 8.2 above depending upon any advance payment of the Purchaser.

9. 变更及补充/ Changes and additions

- 9.1 买方可随时要求对本合同作出变更或补充。在此情况下，LSP应毫不延误地以书面或电子邮件形式提供一份提案，列明任何此类变更或修改对于时间和价格的影响（增加或减少），如有。如果LSP在其提案中提议修改运输时间和/或报酬，则可通过提供时间和/或费用影响证据的方式证实该提案。报酬的任何增减均应根据与计算本合同中约定的报酬总额相同的计算方法来计算；就此而言，约定单价亦应适用于减少的数量，除非其可能给LSP造成不公平且过于繁重的经济负担。

The Purchaser may, at any time, request changes or additions to the Contract. In that case, the LSP shall without undue delay provide a proposal in writing or e-mail on the time and price impact (increase or decrease) of any such change or amendment, if any. In case that the LSP is suggesting in its proposal a modification of Transit Times and/or the remuneration, such proposal shall be substantiated by providing evidence on the time and/or cost impact. Any increase or decrease of the remuneration shall be made on the basis of a calculation similar to the calculation on which the total remuneration agreed in the Contract was based; for that purpose, unit prices agreed shall apply also to reduced quantities, unless this would lead to an unjust and excessive financial burden for the LSP.



- 9.2 所要求的修改或补充条款应在考虑到双方合法利益的情况下善意协商。达成的协议应在修改原订单的补充订单中予以证实。

The terms of changes or additions requested shall be negotiated in good faith, taking into account the legitimate interest of both Parties. The agreement reached shall be evidenced in a supplemental order amending the Order.

- 9.3 即使未能就补充订单条款（包括但不限于对于时间和价格的影响）达成一致，LSP亦无权拒绝履行买方以书面或电子邮件形式要求的额外或变更服务。

An outstanding agreement on the terms of the supplemental order (including, without limitation, impact on time and price) shall not entitle the LSP to refuse performing additional or changed services if requested in writing or e-mail by the Purchaser.

10. LSP索赔/Claims of the LSP

- 10.1 如果LSP认为发生的某些情况（第11条明确适用的情况除外）使得LSP有权获得额外报酬、费用补偿和或运输时间延长，无论该索赔的法律依据为何，LSP均应在知晓或本应知晓该情况后叁（3）个日历日内以书面形式将该情况通知买方。

If the LSP believes that there are circumstances – other than those specifically governed by Clause 11 – entitling the LSP to additional remuneration, compensation against expenses and/or an extension of Transit Times, irrespective of the legal basis for such claim, the LSP shall notify the Purchaser thereof in writing within a time period of 3 calendar days after having or should have become aware of such circumstances.

- 10.2 如果LSP未能根据第10.1条及时通报索赔，则该索赔应立即被禁止并排除。

If the LSP has failed to timely notify claims in accordance with Clause 10.1, such claims shall forthwith be barred and excluded.

- 10.3 如果本合同允许LSP就费用或开销提出索赔，则该索赔始终应以LSP提供的文件和证据为准。

Where the Contract allows the LSP to claim compensation for costs or expenses, such claim shall always be subject to documentation and evidence being provided by the LSP.

11. 车辆延迟费/ Truck Detention

- 11.1 在通过卡车装载或交付货物时，唯有因买方或其任何代理人疏忽导致LSP持续等待时，LSP才有权提出适当的法定延迟费索赔。通过其他运输方式产生的等待时间和延迟费均不应受本第11条管辖。

Only if the LSP is kept waiting when picking up or delivering cargo by truck caused by negligence of the Purchaser or any of its Agents, the LSP shall be entitled to an adequate statutory detention claim. Waiting time and detention for other means of transport shall not be governed by this Clause 11.



- 11.2. 货物装卸开始前3小时的等候时间应被包含在内，且不得因此提出延迟费索赔。
A waiting time prior to commencement of loading and unloading of 3 hours shall be included and shall not give rise to a detention claim.
- 11.3. 约定的装卸时间（及根据地点和具体情况另行确定的正常时间）加上3小时的缓冲时间应被包含在内，且不得因此提出延迟费索赔。
The agreed time for loading and unloading (and otherwise the usual time considering place and circumstances) plus a time buffer of 3 hours shall be included and shall not give rise to a detention claim.
- 11.4. 在任何情况下，一旦已准备好装卸货，司机即须立刻通知提货或交货地点的负责部门或负责人；免费等候时间（见第11.2条）在发出适当通知后才会开始计算。如果在该通知发出后30分钟内未能获得有约束力的装卸时间，则应立刻通知买方，以使买方能够采取适当措施；如 LSP 未遵守该规定，则免费等候时间应相应延长。
In any event, the driver needs to notify loading or unloading readiness at once to the responsible office or person at the place of pick-up or delivery; the free waiting time (Clause 11.2) will not start to run prior to a proper notice being given. If a binding loading or unloading time is not obtained within 30 minutes after such notice, the Purchaser shall be informed at once, enabling the Purchaser to take appropriate action; if the LSP fails to comply, the free waiting time shall be extended accordingly.

12. LSP责任/ Liability of the LSP

- 12.1. LSP的责任应受经本第12条修定的适用法律规定管辖。
The liability of the LSP shall be governed by the pro-provisions of the Applicable Law as amended by this Clause 12.
- 12.2. 在本合同涉及多式联运服务的情况下，且除非多式联运包括国际航空运输，否则，LSP的责任应受适用法律中与货物运输合同相关的一般规定管辖，无论是否可以确定相关事故是在某一特定运输环节发生的。
In cases where the Contract relates to multimodal transport Services, and unless the multimodal transport includes international transportation by air, the liability of the LSP shall be governed by the general provisions on contracts of carriage of goods of the Applicable Law, irrespective of whether it can be established or not that the relevant incident occurred on a particular leg of transport.
- 12.3. 若LSP的责任（依法或依据第12.2条）须受适用法律中与货物运输合同相关的一般规定管辖，则LSP就货物灭失或损坏所需承担的责任的适用限额应修改如下：
-除非适用法律在具体情况下规定了更高限额或无限额，否则，每公斤毛重 8.33 个特别提款权的法定限额应适用。



-如灭失或损坏的法定限额低于 10,000 欧元，则该限额应增加到 10,000 欧元，除非后者超过每公斤 40 个特别提款权的对应量，在此情况下，限额应为后者。

In cases where the liability of the LSP is governed (by statute or pursuant to Clauses 12.2) by the general provisions on contracts of carriage of goods of the Applicable Law, the applicable limitation of liability of the LSP for loss of or damage to the goods

shall be modified as follows:

- Unless a higher or no limitation amount is provided by the Applicable Law under the specific circumstances of the case, the statutory limit of 8,33 Special Drawing Rights / kilogram of the gross weight shall apply.

- Where the statutory limitation amount for loss or damage is less than EUR 10,000.-, the limitation amount shall be increased to the amount of EUR 10,000.-, unless the latter was more than the equivalent of 40 Special Drawing Rights per kilogram, in which case the limitation amount shall be the latter.

- 12.4. 若LSP的责任须受适用法律中与海上货物运输合同相关的规定管辖，则LSP就货物灭失或损坏所需承担的责任的适用限额应如法律条文所界定，但在任何情况下，该责任限额均不得低于10,000欧元。

In cases where the liability of the LSP is governed by the provisions on contracts of carriage of goods by sea of the Applicable Law, the applicable limitation of liability of the LSP for loss of or damage to the goods shall be as defined in the statutory provisions, but the limitation amount shall in no event be less than EUR10,000.

- 12.5. 对于因LSP或其任何代理人违反法定规章制度（例如，但不限于环境或社会事务中的违法行为）而导致买方须对任何第三方承担的责任，LSP须给予买方赔偿并使之免于因此受到损害。

The LSP has to indemnify and hold harmless the Purchaser from liabilities towards any third parties resulting from a breach by the LSP or any of its Agents of statutory rules and regulations (for example, but without limitation, in environmental or social matters).

- 12.6. 如货物遭灭失或损坏而LSP或其任何代理人并未遵守本合同第3.8条和/或第5.5条规定的职责，则应推定LSP已在明知可能造成灭失的情况下，罔顾后果地造成了该等货物灭失或损坏。

If goods will be lost or damaged while LSP or any of its Agents was not complying with the duties provided in Clauses 3.8 and/or 5.5 hereof, it shall be presumed that the LSP has caused such loss or damage recklessly and with the knowledge that loss will probably result.

- 12.7. 除非适用法律规定了更为严格的谨慎标准，否则，LSP及其代理人始终至少应按勤勉商人的谨慎程度行事。当LSP在不收取（额外）报酬的情况下提供特定服务时，本规定亦应适用。

Unless the Applicable Law provides for a stricter standard of care, the LSP and its Agents shall always at least have to act with the care of a diligent merchant This shall also apply in cases where the LSP is carrying out a specific Service without (additional) remuneration.

- 12.8. 买方在本合同项下的索赔不得因未在提供服务时进行检查、未通知任何不规则行为或未在交付时保留



买方权利而被禁止。

Claims of the Purchaser under the Contract shall not be barred as a result of not inspecting the Services when those are rendered and not notifying irregularities or reserving the Purchaser's rights upon delivery.

12.9. 在任何情况下，买方在本合同项下的索赔的诉讼时效均不得早于与该索赔相关的服务完成后两（2）年；如果适用法律不允许延长时效期间，则本规定不应适用。更长的诉讼时效在任何情况下均不受影响。

Claims of the Purchaser hereunder shall in no event become time barred earlier than two (2) years after the completion of the Services to which the claim relates; this shall not apply where the Applicable Law does not allow an extension of time bar periods. Longer time bar periods shall in any event remain unaffected.

13. 买方责任/Liability of the Purchaser

13.1. 买方因包装或标记不充分、信息或数据虚假或不完整、违反有关危险货物的通知义务和/或随附单据中存在虚假或不完整信息或单据而须承担的法定责任（如有），就某次具体运输而言，应限于与相关货值相对应的金额，但不超过每公斤毛重 8.33 个特别提款权，除非该等灭失是买方在明知可能造成灭失的情况下，故意或罔顾后果地造成的。

The statutory liability of the Purchaser, if any, for in-sufficient packaging or marking, false or incomplete information or data, breach of notice obligations regarding dangerous goods and/or false or incomplete information or documentation regarding accompanying documents, shall, in respect to a particular transport, be limited to an amount corresponding to the value of the relevant goods, but not more than 8,33 Special Drawing Rights per kilogram of the gross weight, unless such loss was caused intentionally or recklessly with the knowledge that loss would probably result.

13.2. 否则，买方责任（如有）应在不违反下列规定的前提下根据适用法律确定：

-如属买方或其任何代理人的故意或重大疏忽，则责任（如有）并无限额。

-如属轻微疏忽（即程度低于重大疏忽的疏忽），则买方就人身伤害（包括丧生和健康损害）所需承担的责任（如有）并无限额。如属涉及重大合同义务的轻微疏忽，则买方的责任应限于合同中典型的可预见损失。重大合同义务系指最初使合同约定的履约行为变为可能且 LSP 有权合理依靠的义务。

-如属其他轻微疏忽（即程度低于重大疏忽的疏忽），则买方的责任应限于每起事件 200,000 欧元。

Otherwise, the Purchaser's liability, if any, shall be determined in accordance with the Applicable law, subject to the following:

- In case of intent or gross negligence of the Purchaser or any of its Agents, there shall be no limitation of liability, if any.

- In case of mere negligence (i.e. negligence of a lesser degree than gross negligence), the Purchaser's liability, if any, for personal injury (including loss of life and impairment of health) shall be unlimited. If



case of mere negligence concerning a material contractual obligation, the liability of the Purchaser shall be limited to predictable loss typical for the Contract. Material contractual obligations are obligations which initially enable the contractually agreed fulfilment of the Contract and on which the LSP is entitled to reasonably rely on

- In other cases of mere negligence (i.e. negligence of a lesser degree than gross negligence), the liability of Purchaser shall be limited to EUR 200,000.- per event.

14. 保密及所有权/ Confidentiality and title

- 14.1. 买方关于本合同而向 LSP 提供的所有文件、数据和物品仍均应归买方所有。LSP 不得将之用于服务以外的其他目的，且未经买方事先书面确认，不得进行复制或公布。经买方要求，该等文件、数据和物品均应归还给买方。

All documents, data and objects provided by the Purchaser to the LSP in connection with the Contract shall remain the Purchaser's property. They must not be used by the LSP for other purposes than performing the Services, and must not be copied or published without the Purchaser's advanced written confirmation. Upon request, such documents, data and objects shall be returned to the Purchaser.

- 14.2. 除非法律另有规定（且仅在与买方协商并考虑到买方合理要求后方可披露），LSP 应严格保密与本合同相关的所有商业和技术信息以及本合同本身，除非该披露是根据本合同履行服务所需的。如需进行该等披露，则应严格按需披露，且接收方始终须承担类似的保密义务。

Unless otherwise required by law (and only then after consultation with, and taking into account the reasonable requirements of Purchaser) all commercial and technical information related to the Contract as well as the Contract itself shall be kept strictly confidential by the LSP, unless to the extent that disclosure is required to perform the Services in accordance with the Contract. If such disclosure is needed, it shall be made on a strict need-to-know basis, and always provided that the recipient is subject to similar confidentiality duties.

- 14.3. LSP 在履行服务过程中所制备的图纸、数据和其他文件均应归买方所有，或者如因该等作品产生知识产权，买方应被授予使用和修改该等作品的独家无限制许可。该等图纸、数据、文件和权利均应包含在双方约定的报酬中。

Drawings, data and other documents prepared by the LSP in performance of the Services shall become the Purchaser's property, or, where IP-rights are created as a result of such works, the Purchaser shall be granted an exclusive and unlimited license to use and modify those works. These drawings, data, documents and rights shall be included in the remuneration agreed between the Parties.



- 14.4. 除非已获得买方书面授权，否则，LSP 不得发布任何新闻稿、公告或提及本合同和/或买方的各个项目。

The LSP shall not make any press releases, publications or references to the Contract and/or respective project of the Purchaser unless having received the written authorization of the Purchaser.

- 14.5. 本条款应在本合同有效期届满及终止后继续有效。

This clause shall survive term and termination of the Contract.

15. 中止及终止/ Suspension and Termination

- 15.1. 买方可随时通过向 LSP 发出书面通知，中止或终止本合同。在收到该等通知后，LSP 应采取一切合理措施以缓解经济影响，并在 LSP 保管的任何货物被移交给买方或其指定人前，确保该等货物的安全。缓解措施可能包括但不限于，不再向分包商下订单，为减小经济影响而尽最大努力取消与分包商之间的现有订单，及遵循买方指示。

The Purchaser may at any time suspend or terminate the Contract by giving notice in writing to the LSP. Upon receiving such notice, the LSP shall take all reasonable steps to mitigate the financial impact and to ensure that any goods in the custody of the LSP shall be kept safe and secure until handing over to the Purchaser or a nominee. Mitigation measures may include, without limitation, not placing further orders with subcontractors, cancelling existing orders with subcontractors using best efforts to reduce the financial impact and following instructions of the Purchaser.

- 15.2. 如果因与买方客户合同相关的原因终止了本合同（例如，停止付款或取消买方客户合同），LSP 有权就已履行的服务按比例获得本合同中约定的报酬，有权就未履行服务所涉及的管理费获得合理补偿，并有权就经证实的合理直接成本获得补偿（包括缓解措施的成本），但前提是 LSP 须已遵守第 15.1 条。

If termination is made for reasons related to the Purchaser's customer contract (e.g. cessation of payment or cancellation of Purchaser's customer contract), the LSP shall be entitled the pro rata remuneration agreed in the Contract for Services performed, to a reasonable compensation for overhead relating to Services not performed, and to compensation for reasonable and proven direct cost (including cost for mitigation measures) provided that the LSP complied with Clause 15.1.

- 15.3. 如果根据第 15.4 条规定，因可归咎于 LSP 的原因而终止本合同，买方有权在以下选项中作出选择：

a) 若服务尚未提供，且买方选择不再要求任何服务，则买方有权要求退还已支付的任何款项，或



- b) 在任何情况下，买方均可要求进一步的服务（即达到某一特定位置）。在此情况下，或就终止后提供的服务而言，LSP 有权就履行的服务按比例获得本合同中约定的报酬。买方为完成服务而产生的超出剩余合同价款任何费用和支出，均应从应付给 LSP 的款项中扣除和/或向 LSP 索赔。

LSP 无权获得任何其他报酬或费用。买方提出的损害赔偿要求（如有）不应因上述原因受到影。 If termination is made for reasons imputable on the LSP in accordance with Clause 15.4, the Purchaser shall be entitled to choose between the following options:

- a) in cases where the Services have not yet been provided, and Purchaser choose not to request any Services, Purchaser shall be entitled to claim refund of any payments made, or
- b) in any event the Purchaser can request further Services (i.e. up to a certain location). In such case or in case Services have been provided upon termination, the LSP shall be entitled to the pro rata remuneration agreed in the Contract for the Services performed. Any cost and expenses in excess of the remaining Contract price incurred by Purchaser for completion of the Services shall be deducted from the payment to LSP and/or claimed from LSP.

The LSP shall not be entitled to any other remuneration or cost. Claims for damages by the Purchaser, if any, shall remain unaffected by the above.

15.4. 下列情形均应视为因 LSP 的原因终止本合同的理由：

- 有情况合理表明 LSP 将无法遵守适用的运输时间，除非 LSP 已采取了可行的最佳缓解措施，且无法合理期望其他承运人能够更早交付货物。
- LSP 或其任何代理人延迟向其任何（下级）分包商、雇员、当局或任何其他个人或组织付款，涉及到可能延迟交付货物或行使留置权或保留权的风险。
- LSP 停止付款。
- 为开展与 LSP 相关的破产程序或类似程序已提交申请。
- LSP 的任何其他违约行为，且因该违约行为并在权衡相关利益的情况下，无法合理预期买方可接受继续履行本合同。如果买方已为 LSP 设定了弥补违约的合理时间，但 LSP 未能满足该期，则视为已给予。

The following circumstances shall be considered as allowing termination for reasons imputable on the LSP:

- Circumstances reasonably showing that the LSP will not adhere to the applicable Transit Times, unless the LSP has taken best possible mitigation measures and it would be unreasonable to expect that another carrier would be able to deliver the goods earlier.
- Payment delays of the LSP or any of its Agents towards any of their (sub-) subcontractors, employees, authorities or any other person or organization, involving the risk that delivery of the



goods could be delayed or rights of lien or retention exercised.

- Cessation of payments by the LSP.

- Application for insolvency proceedings or similar proceedings being filed regarding the LSP.

- Any other breach of contract by the LSP in cases where the Purchaser, as a result of such breach and balancing the relevant interests, cannot reasonably be expected to accept continuation of the Contract. This is deemed to be given, where the Purchaser has set a reasonable time period for the LSP to remedy a breach, but the LSP failed to meet this time limit.

15.5. 在终止的情况下，向 LSP 提供的与服务相关的文件（包括但不限于图纸）、数据和物品均应毫不延误地归还或移交给买方或买方指定的任何第三方。

In case of termination, the documents (including, without limitation, drawings), data and objects provided to the LSP in relation to the Services shall be returned or handed over without undue delay to the Purchaser or any third person advised by Purchaser.

15.6. 在根据第 15.1 条中止本合同且稍后重新启动的情况下，LSP 有权根据第 10 条规定，获得任何运输时间的合理延长，并有权获得因中止而产生的合理且经证实的费用补偿。

In case of a suspension of the Contract in accordance with Clause 15.1, and a later restart, the LSP is entitled to a reasonable extension of any Transit Times and to compensation of reasonable and proven expenses incurred as a result of the suspension, subject to Clause 10.

16. 报酬、发票及税收/Remuneration, Invoicing and Tax

16.1. 除另有明确相反约定外，本合同中约定的报酬应视为充分包含服务的所有报酬、费用和开销。除另有明确相反约定外，LSP 尤其无权收取其向其任何代理人或其他第三方支付的费用、附加费、通行费或类似款项。

The remuneration agreed in the Contract shall be considered as fully including all remuneration, cost and expenses for the Services, unless expressly agreed to the contrary. The LSP shall in particular not be entitled to charge remuneration, cost, sur-charges, toll or similar payments made to any of its Agents or other third parties, unless expressly agreed to the contrary.

16.2. 除非本合同中另有明确规定，否则，本合同所示价格均为净额，即不含税。除上述金额外，还应额外支付增值税，但前提是 LSP 须根据所有适用法律提交发票，以使买方能够获得已付增值税的退税。在遵守上述要求的前提下，双方均可因为对相关发票和/或报酬有影响的适用法律变更或当局行为而请求修改发票。

Prices indicated in the Contract are net-amounts, i.e. excluding tax, unless expressly stated otherwise in the Contract. VAT shall be payable in addition to those amounts, provided that the LSP submits in-voices in accordance with all applicable laws enabling the Purchaser to obtain a refund



of the VAT paid. Always provided that those requirements are adhered to, both Parties can request a modification of invoices due to changes in the applicable laws or acts of authorities affecting the relevant invoice and/or remuneration.

- 16.3. 因 LSP 无视上述义务而对买方造成的索赔或损害均将由 LSP 承担。
Claims or disadvantages arising to the Purchaser due to disregarding of aforementioned obligations by the LSP will be borne by the LSP.
- 16.4. 各方仍应承担其本身的各类纳税责任，并承担其自身雇员及其分包商雇员的薪金担其自身雇员及其分包商雇员的薪金、工资和其他报酬以及社保缴费方面的责任。
Each of the Parties shall remain responsible for its own tax liabilities of any kind, and for duties on salaries, wages and other remuneration and on contributions to social security of its own employees and those of its subcontractors.
- 16.5. 本合同项下的所有付款均不得因任何税收原因而作出任何扣减或预扣，但任何适用法律要求进行该等扣减或预扣的除外。
All payments under this Contract will be made with-out any deduction or withholding for or on account of any tax unless such deduction or withholding is required by any applicable law.
- 16.6. 在根据本合同（尤其是本合同第 16.7 条）恰当开具发票的前提下，本合同项下的报酬应在达到约定的里程碑时支付，或者在未约定里程碑的情况下，则在各项服务已获履行时支付。就里程碑付款而言，除非之前的所有里程碑付款均已变得应付，否则，不应支付任何里程碑付款。
Always subject to proper invoicing in accordance with the Contract (and in particular Clause 16.7 hereof), remuneration under the Contract shall be payable when the agreed milestones are reached, or, if no milestones have been agreed, when the respective Services have been performed. In case of milestone payments, no milestone payment shall be payable unless all previous milestone payments have become payable.
- 16.7. LSP 提交发票时应附上所有约定单据，且在任何情况下均应附上证据证实相关里程碑已达到或相关服务已实际提供。
发票（以及任何其他付款申请或欠款单据）应以能够进行合理审查的适当方式开具，并标明（如适用）：
-买方的项目编号和项目名称，
-买方订单号，
-买方的批次交付号，
-订单中的包装件数、总重量和总体积
-服务的详细描述，



- 提供服务的日期，
- 单价和报酬总额（包括货币汇率声明，如适用），
- 按实际支出缴付的第三方服务费的原始发票复印件（如适用）；
- LSP 的 IBAN 和 BIC（如适用），
- LSP 增值税识别号（VAT ID）
- 相关买方的增值税识别号：
 - 林德亚太工程有限公司
 - TAX ID: UCSI 9133010077356588XQ
- 增值税税率/免征增值税（如适用）
- 增值税金额（如适用）。

发票应寄给买方的财务付款部门。最终发票亦应相应标明。唯有相关分期款项及所有先前分期款项的所有支付和开票标准均已满足时，相关款项相关款项才将到期应付。

The LSP shall submit invoices accompanied by all agreed documentation and in any event by evidence showing that the relevant milestone has been reached or that the relevant Services have actually been performed.

The invoices (as well as any other payment requests or credit notes) shall be made in a proper manner allowing reasonable review, indicating(if applicable):

- Purchaser's project number and project name,
- Purchaser's Order number,
- Purchaser's Part Delivery Number,
- number of packages, total weight and volume of Order,
- detailed description of Services,
- date of Services provided,
- unit price and total remuneration (incl. declaration of currency exchange rate, if applicable),
- copy of original invoice for third party services paid as per outlay, if applicable,
- LSP's IBAN and BIC,
- LSP's Value Added Tax Identification Numbers (VAT ID)
- VAT ID of the relevant Purchaser: Linde Engineering APAC Co.,Ltd (LECN)
 - TAX ID: UCSI 9133010077356588XQ
- VAT rate/VAT exemption, and
- VAT amount, if applicable.

The invoice shall be addressed to LECN Finance Dep.. The final invoice shall be labelled as such.

Payments will only be due, if all criteria for payment and invoicing of the instalment in question and of the previous instalments have been fulfilled.

16.8. LSP 宣称以其索赔抵销买方索赔的权利应仅限于已经是无争议的、或已由最终有约束力的法院



判决确认的 LSP 索赔。

The LSP's right to declare set-off with its claims against claims of the Purchaser shall be limited to claims of the LSP which are either undisputed or which have been confirmed in a final and binding court decision.

- 16.9. 买方有权宣称以买方自己的索赔、及买方关联公司的索赔抵销 LSP 的索赔；买方已获得该等关联公司相应授权。

The Purchaser shall be entitled to declare set-off against claims of the LSP not only with the Purchaser's own claims, but also with claims of Purchaser's Affiliates; the Purchaser has obtained an according authorization from those Affiliates.

- 16.10. 就买方宣称的抵销而言，其将被抵销的索赔的到期应付时间不得晚于 LSP 针对买方提出的索赔的任何到期应付时间，而不考虑本合同中与付款到期日相关的其他规定。

For the purpose of set-off to be declared by the Purchaser, its claims to be set-off shall fall due no later than any due claims of the LSP against the Purchaser, irrespective of other provisions in the Contract governing the due dates for payment.

- 16.11. 如收到发票后买方在应付款日期起满三十（30）个日历日后，尽管收到 LSP 的书面催款通知仍未付款，或买方未在本合同中规定的日历日付款，买方才将被视为迟延履行。

The Purchaser will be deemed in delay with payment only if he fails to pay on receipt of a written reminder by the LSP after the expiry of 30 calendar days from the due date and receipt of invoice, or if he fails to pay on the calendar date stated in the Contract.

- 16.12. 在买方迟延付款的情况下，其应支付不超过 5% 的年息（如有），但 LSP 可证实其已因迟延履行遭受更高损害赔偿金的除外。

In the event of Purchaser's delay of payment, he shall owe interest, if any, limited to 5% p.a., unless the LSP can prove that he has suffered higher damages due to such delay.

- 16.13. LSP 不得因物流服务和运输合同引起的索赔而享有该运输货物的留置权；该等索赔不得使 LSP 有权行使任何保留权。

The LSP shall not have a lien on transport goods for claims arising out of the logistics service or transport contracts, such claims shall not entitle the LSP to exercise any right of retention.

- 16.14. 根据本合同对买方提起的索赔不得转让。在要求时，买方可决定授予一项弃权，就特定索赔放弃该项禁令。

Claims against the Purchaser under the Contract must not be assigned. Upon request, the Purchaser may decide to grant a waiver from this prohibition for specific claims.



17. **保险/ Insurance**

- 17.1. LSP 应为与本合同相关的责任提供并维持承保范围充足的保险，但无论如何不得低于本条要求的范围。

The LSP shall provide and maintain adequate insurance coverage for liability in relation with the Contract, but in any case not lower than required in this clause.

- 17.2. LSP 应通过投保相应的责任险，充分保障因订立和履行本合同而对其造成的责任风险，且直至本合同终止/履行完毕为止并在此后维持该保险。作为最低要求，LSP 应按照“DTV-VHV laufende Versicherung 2003/2011”以对被保险人同等或更为有利的条款维持正常运输责任险。

The LSP shall adequately insure against its liability risks, created by concluding and performing the Contract, by concluding a corresponding liability insurance and maintaining this insurance until the Contract ends/is fulfilled and thereafter. As a minimum requirement, the LSP shall maintain usual transport liability insurance (Verkehrshaftungsversicherung) on terms equivalent to or more favorable to the insured than "DTV-VHV laufende Versicherung 2003/2011".

- 17.3. LSP 承诺按要求向买方提供已办理该等保险的恰当书面证据。

The LSP undertakes to provide the Purchaser upon request with appropriate written proof of the insurance cover.

18. **合规/ Compliance**

- 18.1. LSP 应遵守《林德集团供应商行为守则》的要求，已向 LSP 提供了该守则的一份副本，并可在 www.linde.com/supplierCoC 获取该守则在本第 18 条中称为“《供应商行为守则》”。

The LSP shall comply with the requirements of the "Code of Conduct for Suppliers of the Linde Group", a copy of which has been provided to the LSP and which may be found at www.linde.com/supplier-CoC (in this Clause 18 referred to as the "Supplier Code of Conduct").

- 18.2. 作为《供应商行为守则》所指的“供应商”，LSP 应按照买方要求，通过提供数据或进行自我评估等方式，令买方满意地证明其已遵守了《供应商行为守则》中的要求。

The LSP, being a "Supplier" within the meaning of the Supplier Code of Conduct, shall demonstrate compliance with the requirements of the Supplier Code of Conduct at the request and to the satisfaction of the Purchaser, e.g. by providing data or conducting self-assessments.



- 18.3. 若买方有理由相信 LSP 可能严重违反《供应商行为守则》规定的要求，则买方或买方指定的第三方可在 LSP 的场所开展检查，以便核实 LSP 是否遵守《供应商行为守则》中的要求。买方应尽一切合理努力确保所有检查均根据任何适用的数据保护法进行，而不得合理地干扰 LSP 的商业活动，亦不得违反 LSP 与第三方签订的任何保密协议。LSP 应合理配合所开展的任何检查。各方均应负担其自身与该等检查相关的开销。

If the Purchaser has reason to believe that the LSP may be in material breach of the requirements laid out in the Supplier Code of Conduct, the Purchaser or a third party appointed by the Purchaser may conduct inspections at the LSP's premises in order to verify the LSP's compliance with the requirements of the Supplier Code of Conduct. The Purchaser shall use all reasonable efforts to ensure that all inspections will be conducted in accordance with any applicable data protection law and shall neither unreasonably interfere with the LSP's business activities nor violate any of the LSP's confidentiality agreements with third parties. The LSP shall reasonably cooperate with any inspections conducted. Each party shall bear its own expenses in connection with such inspection.

- 18.4. 除任何其他权利和救济外，如 LSP 严重违反《供应商行为守则》或在买方以书面或电子邮件方式通知该违约后未能补救该违约，买方还有权终止本合同及根据本合同所下任何订单，而无须承担任何责任。

In addition to any other rights and remedies the Purchaser shall also have the right to terminate the Contract and any order issued thereunder without any liability whatsoever, if the LSP is in material breach of the Supplier Code of Conduct or fails to remedy any breach, after written or email notification about the breach by the Purchaser.

- 18.5. 严重违约包括但不限于强迫劳动或童工、腐败和贿赂、以及未遵守《供应商行为守则》中的环保要求。

Material breaches include, but are not limited to, incidents of forced or child labour, corruption and bribery, and failure to comply with the Supplier Code of Conduct's environmental protection requirements.

19. 出口管控/Export control

卖方须确保订单标的将不会受到任何的出口或进口管制，如被禁止出口或进口到装置所在国以及对订单标的进行组装和/或其他处理工作的国家。如果订单标的，订单标的部件和/或为便于运输而拆卸下来的任何部件受到其他的出口或进口管制，卖方应立即将此等信息以通过电子邮件发送至 customs.pullach@linde-le.com 或买方提供的任何其他邮箱地址的方式对买方进行通知。

The Vendor is obliged to ensure that the Ordered Items are not subject to any export or import



restrictions that prohibit its export or import into the country where the Plant is situated and in countries where the Ordered Items will be assembled and/or other works on the Ordered Items are carried out. If the Ordered Items, its individual parts and/or parts dismantled for transportation are subject to other applicable export or import restrictions, the Vendor shall notify the Buyer promptly by sending an e-mail to customs.pullach@linde-le.com or any other e-mail address provided by the Buyer.

如果卖方或其分包商属于或将成为“被制裁实体”，卖方应立即以书面形式通知买方。卖方不能使用任何“被制裁实体”来执行本订单，不能将与买方或订单相关的任何信息传递给任何被制裁实体，不能将任何的买方物资提供给被制裁实体。“被制裁实体”指：

- (i) 买方被禁止直接或间接向其提供任何经济资源的实体，和/或
- (ii) 买方被禁止直接或间接与之建立商业关系的实体。

如果卖方或其分包商属于“被制裁实体”，买方有权终止合同，不需遵守任何通知期限的要求。The Vendor shall inform the Buyer in writing promptly if it or any of its Subcontractors is or becomes a Denied Party. The Vendor shall not use any Denied Party for the performance of this Order, shall not transmit any information from or about the Buyer or the Order to any Denied Party and shall not supply any items of the Buyer to any Denied Party. A Denied Party is an entity (i) with whom/which the Buyer is not authorized to provide any economic resources either directly or indirectly and/or (ii) with whom/which the Buyer is not authorized to have a business relationship, be it directly or indirectly. The Buyer has the right to termination of the Order for cause without observing a period of notice if the Vendor or its Subcontractor is a Denied Party.

LSP 确认其并非为“被制裁实体”，且一旦成为“被制裁实体”，其应立刻通知买方。LSP 应确保买方不会直接或间接与“被制裁实体”进行与服务相关的交易。“被制裁实体”系指（i）买方不等对其进行销售的一，（ii）买方不能直接或间接向之提供经济资源的一方，和/或（iii）买方不能与之进行其他交易的一方，所有均以贸易法规为准。若某一方为“被制裁实体”的关联公司，则该方本身亦应视为“被制裁实体”。

LSP confirms that he is not a Denied Party, and shall at once notify Purchaser if he becomes a Denied Party. Related to the Services, LSP shall make sure that Purchaser does not directly or indirectly deal with a Denied Party. Denied Party means a party, (i) to whom Purchaser cannot sell, (ii) to whom Purchaser cannot provide directly or indirectly an economic resource, and/or (iii) with whom Purchaser cannot otherwise deal with, all according to a trade regulation. A party, who is an Affiliate of a Denied Party, shall itself also be considered as a Denied Party.

20. 可分割性/Severability

如果本合同或本条款及条件中的一项或多项规定完全或部分无效或不可强制执行，或将变得无效



或不可强制执行，这并不得影响本合同和/或本条款及条件其余条款的有效性和可强制执行性。为替换无效或未纳入本合同的任何一般条款及条件（Allgemeine Geschäftsbedingungen），适用法律中的法律条文应适用。在所有其他情况下，如对本合同的补充解释（ergänzende Vertragsauslegung）不具有优先性或不可行，双方应商定一项能尽可能接近地反映原始经济目的的有效规定，以取代无效或不可强制执行的规定。

Should one or more provisions of the Contracts or of this T&C be or become invalid or unenforceable in whole or in part, this shall not affect the validity and enforceability of the remaining provisions of the Contract and/or this T&C. In place of any general terms and conditions (Allgemeine Geschäftsbedingungen) which are invalid or not incorporated into the Contract, the statutory provisions of the Applicable Law shall apply. In all other cases, the Parties shall agree a valid provision to replace the invalid or unenforceable provision which reflects as closely as possible the original economic purpose, provided a supplementary interpretation of the Contract (ergänzende Vertragsauslegung) does not have precedence or is not possible.

21. 不可抗力/Force Majeure

21.1 不可抗力是指超出一方合理控制的，阻止或妨碍一方履行订单义务的无法预知的事件，且

- 在缔结订单时无法对其进行合理预计并予以考虑，以及
- 无法合理的对其进行避免或克服，以及
- 无法合理的对其相应后果进行避免或克服

非不可抗力原因引起的卖方分包商或当事人的延误，以及未经工会批准的罢工等情形将不构成不可抗力事件。

Force Majeure is to be understood as an unforeseeable event beyond a Party's reasonable control preventing or hindering the Party from performing its obligation under the Order and

- which could not reasonably have been expected to have been taken into account at the time of the conclusion of the Order, and
- which could not reasonably have been avoided or overcome, and
- the consequences of which could not reasonably have been avoided or overcome.

Scenarios in which (i) delays of Sub-Vendor or the Owner, except if caused by Force Majeure, and (ii) any strikes not authorized by the trade union in question shall not constitute cases of Force Majeure.

21.2 如果不可抗力事件对订单执行造成局部或全面的影响，作为卖方后续提出任何主张的一个前提条件，卖方应将不可抗力事件的起始时间以及导致的预计的延期和其他后续影响及时通知买方，卖方还应随时采取一切合理的预防措施和方法来减小不可抗力造成的影响，并在合理期限内提供证据证明不可抗力及其影响。

As a prerequisite for any claim hereunder, if the execution of the Order is affected in part or as a whole by Force Majeure, the Vendor shall give prompt 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.

- 21.3 受影响的一方将无须就不可抗力引起的后果对另一方承担责任，并有权对原先同意的且受到影响的时间和/或截止日期进行合理的延期。双方将各自承担不可抗力及其后果对各自造成的成本和费用。

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 times and/or deadlines. Both Parties shall bear their own cost related to Force Majeure and any of its consequences.

- 21.4 若不可抗力事件影响订单执行超过六个月，双方应就订单的继续履行进行友好协商，如因不可抗力需终止订单。卖方有权要求按比例支付在不可抗力事件发生前根据订单条件已经执行完毕的订单标的的相应价款，买方有权要求交付已经完成的订单标的及相关文件资料。

If Force Majeure affects the Order for more than six months, Parties shall discuss the continued implementation of the Order in good faith. Should the Order be terminated due to Force Majeure, the Vendor is entitled to payment of the pro rata price for the Ordered Items performed in accordance with the conditions of the Order prior to the Force Majeure event. The Buyer is entitled to demand delivery of the performed parts of the Ordered Items including the related documents.

22. 适用法律/ Applicable Law

- 22.1. 本合同及 LSP 在本合同项下提供的任何服务均应受中国法律（简称“适用法律”）管辖并根据该法律进行解释。中国法律亦适用于本合同的构成，包括纳入本条款及条件。任何提及的适用法律应包括在中国具有法律效力的国际法规和国际公约。

The Contract and any services carried out by the LSP thereunder shall be governed by and construed in accordance with People's Republic of China law (the "Applicable Law"). China law also applies to the formation of the Contract including the inclusion of this T&C. Any reference to the Applicable Law shall include a reference to International Regulations and to International Conventions having force of law in China.

23. 司法管辖&仲裁地点/Place of Jurisdiction & Arbitration

- 23.1 若卖方主要营业地址在中国大陆地区：

凡因本订单引起的或与本订单有关的任何争议，双方应通过友好协商解决。如果协商不能解决，应提交杭州市仲裁委员会在杭州进行仲裁。仲裁裁决是终局的，对双方都有约束力。仲裁费用由败诉方承担。



For Vendors with their main place of business in the mainland China: 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; the case shall then be submitted for arbitration to Hangzhou arbitration commission with venue in Hangzhou. The arbitral award is final and binding upon both parties. Arbitration fee shall be borne by the losing party.

23.2 若卖方主要营业地址在中国大陆之外的地区:

凡因本订单引起的或与本订单有关的任何争议，双方应通过友好协商解决。如果协商不能解决，则任何一方可以将争议提交给中国国际经济贸易仲裁委员会根据该会有效的仲裁规则，由指定的3名仲裁员最终裁决。仲裁地为中国杭州，仲裁语言为中文。诉讼裁决是终局的，对双方都有约束力。仲裁费用由败诉方承担。

For Vendors with their main place of business outside of the mainland China: 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, either Party may submit the dispute to China International Economic and Trade Arbitration Commission for final arbitration according to its effective rules by three arbitrators appointed in accordance with said Rules. Venue of Arbitration shall be Hangzhou, China. Language shall be Chinese. The arbitral award is final and binding upon both parties. Arbitration fee shall be borne by the losing party.