

销售及交货通用条款 General Terms and conditions of Sale and Delivery		文件编号	MD-BUS-01
		版 本	A
		修 改 次	0
编 制		审 核	

文件修订记录表

版本	修改次	修改页	修订内容说明	变更日期
A	第0次	新增	新增文件。	2016-11-24

页 次	1	2	3	4	5	6	7	8	9	10
修 改 次	0	0	0	0	0	0	0	0	0	0
页 次	11	12	13	14	15	16	17	18	19	20
修 改 次	0	0	0	0	0	0	0	0	0	

公司文控中心印章

公司质量/环境管理体系文件 — 经授权认可的文件是公司有效文件。盖有蓝色“受控副本”印章的相关文件不允许再复印分发。

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>1. 总则</p> <p>1. General</p> <p>1.1 在通用条款中，下列术语和表述的含义如下：</p> <p>1.1 The following capitalised terms and expressions in these general conditions shall have the following meaning:</p> <p>买方：产品的买方 Buyer: Buyer of the Products</p> <p>卖方：衍光科技有限公司 Seller: Diffractive Optics Ltd.</p> <p>产品：在订单中提到的产品 Product: Product mentioned on the order form</p> <p>规格：书面的样品确认书上注明的尺寸，性能等</p> <p>Specification: Dimension, Characteristic etc described in written 《Sample Approval Form》</p> <p>《客户退货确认报告书》 RMA: Returned Material Agreement</p> <p>保密性协议 NDA: Mutual Non-Disclosure Agreement</p> <p>《员工工作契约书》 Appendix to labor contract</p> <p>1.2 通用条款必须适用于卖方和买方之间所存在的与产品销售或预计销售有关的各种法律关系。</p> <p>1.2 The general conditions shall be applicable to all legal relations, which may exist, between Seller and Buyer with respect to or in relation to a sale or intended sale of Products.</p> <p>1.3 任何买方的通用条款明确规定不适用。</p> <p>1.3 Applicability of any general conditions of Buyer is expressly rejected.</p> <p>1.4 买方任何与卖方员工发生的违反卖方《员工工作契约书》或其它利益冲突政策相关内容的行为都将可能导致与卖方业务的中断或中止，并将导致买方由于订单产生的有关权利立即失效。</p> <p>1.4 Any violation of Appendix to labor contract or other conflict of interest policy of seller between buyer and seller's employees may result in the suspension or termination of business with seller and the buyer's right arising from the orders shall immediately lapse.</p> <p>1.5 买方应签署卖方发出的 NDA 并将正本回传给卖方。</p> <p>1.5 Buyer shall sign the NDA issued by seller and return one original to seller.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>2. 报价单、订单和确认</p> <p>2. Quotations, Orders and Confirmation</p> <p>2.1 所有的报价单都不附带任何义务。</p> <p>2.1 All quotations are without obligation.</p> <p>2.2 买方的订单必须以卖方的书面形式接受或者开始履行为准。</p> <p>2.2 Buyer's orders shall be subject to written acceptance or start of performance by Seller.</p> <p>2.3 提供给客户的样品仅仅出于信息告知的目的，其不包含任何明示或默示的条件或担保，包括质量、规格、商业适用性，并且买方应被视为在订购之前已经知晓此类事宜。</p> <p>2.3 Any samples supplied to buyer are supplied solely for information purposes and in no way imply any express or implied conditions or warranties of any kind, including as to quality, description, merchantability, and buyer shall be deemed to have satisfied itself as to such matters prior to ordering the products.</p> <p>2.4 每次交付应视为一次独立的交易并且任何一次交付失败不影响其它交付。</p> <p>2.4 Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries</p> <p>3. 价格</p> <p>3. Prices</p> <p>3.1 卖方如无特别说明，卖方所提出的报价是以出厂交货（EXW）为基础的，包括出厂前的标准包装(参见报价单)但不包含增值税（内销）、关税（外销/转厂）及其他任何政府部门规定强制征收的税收。</p> <p>3.1 Prices for the Products quoted by Seller are based on delivery EXW (ex works) unless expressly stated by seller, include standard package (refer to Quotation) before delivery, do not include VAT(domestic sales), custom duties (export sales/interplant transfer) and other taxes to be imposed as stipulated by the authorities.</p>		

销售及交货通用条款 General Terms and conditions of Sale and Delivery	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>3.2 除非卖方书面明确表示价格固定，若决定成本价格的因素发生增长，卖方有权对尚未交付的货物予以提价。以上因素包括但不限于原料和辅料、能源、卖方从第三方获得的产品、工资、社保基金、政府赋税、货运成本和保险费。卖方应将上述事宜通知买方。</p> <p>3.2 Unless the prices have been indicated as firm by seller in written statement, seller is entitled to increase the price of the products still to be delivered, if the cost price determining factors, have been subject of an increase. These factors include but are not limited to: raw and auxiliary material, energy, products obtained by seller from third parties, wages, salaries, social security contribution, governmental charges, freight costs and insurance premium. Seller shall notify buyer of such increase.</p>		
<p>4. 发票和付款</p> <p>4. Invoice and Payment</p>		
<p>4.1 计算发票金额所依据的产品数量必须经供应该产品的卖方工厂的发货部门确定。</p> <p>4.1 The quantity of the Products on which the invoiced amount is to be calculated shall be ascertained in the dispatch department of Seller's plant from which the Products are supplied.</p>		
<p>4.2 买方必须按照发票上规定的方式，支付货款。</p> <p>4.2 Payments for the Products shall be made by Buyer in the way indicated on the invoice.</p>		
<p>4.3 在款项进入卖方的任一账号之前，不得视作付款已经完成。</p> <p>4.3 Payment shall not be deemed to have been effected until the amount has been cleared into one of Seller's accounts.</p>		
<p>4.4 因为买方付款而对卖方产生的银行费用全部由买方承担。</p> <p>4.4 All bank charges incurred by Seller as a result of any payment of Buyer shall be for Buyer's account.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>4.5 应货物价格的付款而言，时间是关键。卖方在不放弃其它权利的前提下，可以对任何逾期付款征收以每月按 1%的利息或适用的达到法定月利率 1.5 倍的利息（以较高者为 准），但最高不得超过法律允许的利率，并且卖方有权先停止后续订单交货而不用承担本 条款第 5 条及其它与交货有关的任何责任。以上的逾期利息应自到期日起按日计算至所 有未付款项付清之前之日。卖方因追讨逾期付款而产生的所有成本和费用（包括但不限 于律师费用、专家费用、法院费用和其它诉讼费用）应由买方承担。</p> <p>4.5 With regard to payment of the price for products, time is of essence. Seller may, without prejudice to any other rights of seller, charge of interest on any overdue payment at the higher rate of either one percent (1%) per month or one and a half times the prevailing rate under applicable law per month, but not to exceed the maximum interest rate permitted under applicable law and Seller is entitled to suspend all the following delivery and in no event shall seller be liable for any kind of obligation caused by delivery concerned and the 5th clause under this condition, from the due date computed on a day basis until all amounts outstanding are paid in full. All costs and expenses incurred by seller with respect to collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of litigation) shall be for buyer's account.</p> <p>4.6 如果卖方有理由怀疑买方的偿付能力或者信用度，卖方可以要求买方以卖方能够接受的 方式为其履行义务，特别是支付约定的货款而预付现金、提供保证金或者补充保证金。 如果无法满足卖方提出的上述书面请求，卖方就有权要求立即全额支付约定的货款，或 者通过书面声明解除本合同，而且不要求司法介入，也不影响卖方要求赔偿的权利。如 果买方在 14 天内，没有满足上述的要求，那么，其债务就成为立即到期的应付款。</p> <p>4.6 Where Seller has reason to doubt Buyer's solvency or creditworthiness, Seller may require that advance cash payment, security or additional security be provided by Buyer in a way acceptable for Seller for the implementation of his obligations, in particular payment of the price agreed upon. Non-compliance with a written request to that effect from Seller shall entitle Seller to demand full and immediate payment of the price agreed upon, or dissolve the agreement by means of a written statement without judicial intervention being required, without prejudice to Seller's right to compensation. If Buyer has not, within 14 days, complied with a request as referred to above, his obligations are immediately due and payable.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>4.7 任何与发票有关的异议，买方必须在发票上记载的日期起的 8 天内通知卖方，否则视为买方接受该发票。</p> <p>4.7 Any complaint with respect to the invoice must be notified to seller within 8 days after the date of invoice. Thereafter buyer shall be deemed to have approved the invoice.</p> <p>5. 交货</p> <p>5. Delivery</p> <p>5.1 卖方如无特别说明，交货都必须是出厂交货（EXW）。</p> <p>5.1 Delivery shall be EXW (ex works) unless expressly stated by seller.</p> <p>5.2 卖方必须尽最大努力以便及早完成交货。卖方提出的交货时间或者日期必须尽可能准确，但不具有约束力。买方有权分批交付并且分别开具发票。卖方对于任何货物的延迟交付所造成的间接损失不承担任何责任。任何货物的延迟交付不应免除买方接受货物或履行卖方索赔的义务。货物交付数量与订单上约定数量的差异不赋予买方拒绝接受货物的权利。买方有义务按按照订单上约定数量的比率支付货款。</p> <p>5.2 Seller shall make every effort to affect delivery as early as possible. Any term or date of delivery quoted by Seller will be quoted as accurately as possible, but will have no binding effect. Seller is entitled to deliver the products as stated in seller's confirmation in parts and to invoice separately. In no event shall seller be liable for any kind of indirect or consequential damages caused by any delay in delivery. Delay in delivery of any products shall not relieve buyer of its obligation to accept delivery or fulfill claim by seller thereof. Deviations in quantity of products delivered from that stated in seller's confirmation shall not give buyer the right not to accept the products. Buyer shall be obliged to pay the rate specified in seller's confirmation for the quantity of products delivered.</p> <p>5.3 如果卖方无法在合理的时间期限内交货，那么卖方必须将上述事宜尽快通知买方。</p> <p>5.3 If Seller cannot deliver within a reasonable period of time, Seller shall inform Buyer thereof as soon as possible.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>5.4 若应买方要求或因买方原因造成卖方无法正常按时交货，则由此产生的所有费用，包括但不限于仓储费，产品维护及搬运费用由买方承担。</p> <p>5.4 If the Seller cannot execute delivery in time due to the requirements or other influences caused by the Buyer, all costs are for the Buyer's account, including but not limited to the charges of storage, preservation and carrying.</p> <p>5.5 卖方只接受按订单上约定的数量交货，对任何形式要求的备件不负有交货的责任。</p> <p>5.5 Seller only accepts the quantity expressly stated on orders and In no event shall seller be liable for any kind of spare parts delivery required by buyer.</p>		
<p>6. 保留所有权</p> <p>6. Retention of Title</p> <p>6.1 在买方严格按照交易双方签字盖章确认的报价单/订单上规定的支付条款履行支付货款的义务的情况下，所有权和灭失风险应在交付地点转移给买方。</p> <p>6.1 Under the circumstance that the Buyer firmly fulfills the payment obligation according to the payment terms stipulated in the Quotation / order confirmed by both parties with signatures and seals, the ownership and risk of losses or damages is transferred to the Buyer at the place of delivery.</p> <p>6.2 在买方完全履行其在产品销售的部分或者所有合同中的全部义务，或者提供与产品相关的服务或者劳动的义务，并且解决所有因买方违反合同义务而产生的索赔之前，产品的所有权不得转让给买方。但是，即使所有权仍归卖方所有，买方从提货时起应当对货物的任何损坏或灭失承担全额赔偿责任。同时，卖方在行使所保留的所有权后，仍可以追究买方的违约赔偿责任，包括但不限于取回货物所支出的费用、市场风险损失等。</p> <p>6.2 Title to the Products shall not pass to Buyer until he has fulfilled all of its obligations under any and all contracts of sale of the Products or for the performance of services or labor in connection with the Products, and has settled all claims arising from the breach by Buyer of its obligations under such contracts. However, even the property belonging to seller, the Buyer is fully liable for any damages or losses of the products since taking delivery. Meanwhile, seller is entitled to claim against the Buyer for these damages, including but not limited to the charges for fetching the products, market risks etc.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>6.3 如果买方违反其对卖方的义务，卖方有权在不延期和不取消合同的情况下，要求归还其仍然保有所有权的产品。对归还产品的验收不构成合同的取消，除非，买方以书面方式对此加以明确声明。如果卖方取消合同，其有权为允许买方使用该物件一段时间而要求相应的赔偿。</p> <p>6.3 If Buyer defaults on his obligations to Seller, Seller shall have the right, without granting a respite and without canceling the contract, to demand the return of the Products to which he retains title. Acceptance of the returned Products shall not constitute cancellation of the contract unless Seller has expressly declared this in writing. If Seller cancels the contract, he shall have the right to demand appropriate compensation for having permitted Buyer to use the item for a certain period.</p> <p>6.4 如果卖方仍然保有所有权的产品被加工成新的产品，那么就应当视作是买方代表卖方实施了上述加工过程，而且不得因此而向卖方提出索赔。卖方的所有权随之延伸到加工而成的产品上。如果卖方仍然保有所有权的产品与第三方保有所有权的其他产品一起、混合在一起、或者添加在一起进行加工，那么，卖方应当获得加工而成产品的共同所有权，其比例按照卖方原来所有的产品发票金额以及上述第三方拥有的产品发票金额来确定。如果经过上述混合或者添加之后，产品成为买方某个主要物件中的一部分，那么，通过接受这些通用条款，买方应事先将新物件的所有权转让给卖方。</p> <p>6.4 If Products to which Seller retains title are processed into new products, Buyer shall be deemed to be effecting such processing on behalf of Seller without thereby acquiring any claims on Seller. Seller's title shall thus extend to the products resulting from the processing. If Products to which title is retained by Seller are processed together with, mixed with or attached to Products to which title is retained by third parties, Seller shall acquire co-ownership of the resulting products in the ratio of the invoice value of the Products owned by him to the invoice value of the Products owned by those third parties. If the Products, as a result of such mixing or attaching, become part of a principal matter of Buyer, Buyer, by accepting these general conditions, assigns in advance his title to the new item to Seller.</p>		

销售及交货通用条款 General Terms and conditions of Sale and Delivery	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>6.5 买方有义务代表卖方为卖方仍然保有所有权的物件提供适当的存储条件，维护和修理该物件，并由买方自行承担费用，同时运用审慎的商业态度确保该物件不会遗失和损坏，并承担相关费用。通过接受上述通用条款，买方事先将根据该保单其可获得的索赔权利转让给卖方。</p> <p>6.5 Buyer shall be under obligation to provide, on behalf of Seller, adequate storage of the item to which Seller retains title, to service and repair this item at his expense and to insure the same at his expense against loss and damage up to an extent which may reasonably be expected of a prudent businessman. By accepting these general conditions Buyer assigns in advance to Seller any claims which may accrue to him under the insurance policies.</p> <p>6.6 只要买方恰当地履行其对卖方的责任，其便有权以标准的商业程式，按照其意愿来处置卖方仍然保有所有权的产品。但是，如果其以及其客户已经签订有一份协议，根据此协议买方不得将其索赔权转让给第三方的话，这条则不适用。买方不得冻结、抵押或者另行限制卖方保留所有权的产品。在转售产品时，买方必须在其客户全额支付后，才能转让所有权。</p> <p>6.6 As long as Buyer duly meets his liabilities to Seller, he shall have the right, in the normal course of business, to do as he wishes with the Products to which Seller retains title. This shall not apply, however, if he and his customers have concluded an agreement according to which Buyer must not assign his claims on them to third parties. Buyer shall not have the right to pledge, mortgage or otherwise encumber the Products to which Seller retains title. When reselling the Products, Buyer shall make the passing of the title subject to full payment of the Products by his customers.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>6.7 买方将转售卖方保留所有权的产品而可能产生的索赔权利，以及随附的各种权利和保证金利息，包括交换票据和支票都事先转让给卖方，以便向卖方就商业交往中可能产生的卖方对买方的各种索赔提供担保。如果卖方保留所有权的产品与其他产品一起按同一个价格进行销售，那么，该转让必须限制在卖方保留所有权的产品所占的发票金额的范围之内。如果卖方出售 6.3 款中所述的卖方共同拥有的产品，那么该转让必须限制在与卖方的共同所有权向对应的发票金额。如果买方使用卖方保留所有权的产品，以合同的方式，加工第三方的产品，通过接受上述通用条款，卖方应当将其对第三方的合同索赔权转让给卖方，以便向卖方提供索赔担保。只要买方恰当地履行其对卖方的各项义务，那么，其也可以从转售或者成包加工中收取 索赔权利。但其不得作为担保来转让或者抵押这些索赔权利。</p> <p>6.7 Buyer assigns in advance to Seller any claims which may arise from a resale of the Products to which Seller retains title, together with any incidental rights and security interests including bills of exchange and checks, so as to provide Seller with security for all claims he has on Buyer as result of the business connection. If Products to which Seller retains title are sold together with other Products at a single price, the assignment shall be limited to the portion of the invoice value which covers the Products to which Seller retains title. If Buyer sells Products of which Seller has co-ownership pursuant to clause 6.3, the assignment shall be limited to the portion of the invoice value which corresponds to Seller's co-ownership. If Buyer uses Products to which Seller retains title for processing a third party's product on a contract basis, in accepting these general conditions he assigns in advance his contractual claim on the third party to Seller in order to provide him with security for his claim. As long as Buyer duly meets his liabilities to Seller, he may collect claims from a resale or from contract processing himself. He shall not have the right to assign or pledge such claims as security.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>6.8 如果卖方认为其索赔权有风险，买方应当应卖方的请求，告知其客户买方已经将索赔权转让给卖方，并向卖方提供所有必要的资料 and 文件。对任何第三方企图没收卖方保留所有权的产品的行为或者挪用转让给卖方的索赔权的行为，买方都应当立即告知卖方。</p> <p>6.8 If Seller believes his claims to be at risk, Buyer shall, at Seller's request, inform his customers of the assignment of his claims to Seller and supply Seller with all necessary information and documents. Any acts of third parties aimed at seizing Products to which Seller retains title or at appropriating claims assigned to him shall be brought to Seller's attention by Buyer immediately.</p> <p>6.9 如果提供给卖方的保证金价值超过所担保的索赔价值达到 20% 以上，那么，卖方应当（应买方的要求）自行决定解除相应的保证金。</p> <p>6.9 If the value of the security provided to Seller exceeds the value of the claims to be safeguarded by more than 20 percent, Seller shall, at Buyer's request, release security of his own choice accordingly.</p> <p>7. 缺陷通知</p> <p>7. Notification of Defects</p> <p>7.1 只有在以书面形式提出，并附有证明材料、样品和装箱单，说明发票编号和日期以及包装唛头的情况下，由卖方确认后发出 RMA 后缺陷通知才能得到认可。</p> <p>7.1 Notification of defects shall only be recognized if filed in writing, together with supporting evidence, samples and packing slips, stating the invoice number and date, and the markings on the packaging, and approved via RMA by seller.</p> <p>7.2 买方必须在交货时按双方认可签署的相关质量协议或卖方的产品规格检验产品。必须立即将缺陷告知卖方，但不得迟于收到产品后的 2 周，一旦超时，索赔权将立即失效。</p> <p>7.2 Buyer shall inspect the Products upon delivery based on relevant quality agreement signed by buyer and seller or product specification from seller. Defects must be notified to Seller immediately, but not later than within two weeks of receipt of the Products, failing which the claim shall immediately lapse.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>7.3 隐藏的缺陷一旦发现，必须立即通知卖方，但不得迟于收到产品后的 5 个月，至少是在发现后的合理时间内，一旦超过，索赔权立即失效。买方必须对该缺陷是隐藏缺陷承担举证责任。</p> <p>7.3 Hidden defects must be notified to Seller immediately upon discovery, but not later than five months after receipt of the Products, at any rate after discovery was reasonably possible, failing which the claim shall immediately lapse. The burden of proving that a defect is a hidden defect shall rest with Buyer.</p> <p>7.4 组成投诉标的的产品不得退还给卖方，除非买方收到卖方明确表示同意退回的《客户退货确认报告书》。</p> <p>7.4 Products forming the subject of a complaint shall not be returned to the Seller except with Seller's express consent via written RMA.</p> <p>8. 缺陷情况下买方的权利</p> <p>8. Buyer's Rights in the event of Defects</p> <p>8.1 买方的质保索赔只提供部件更换。如果卖方提供的更换部件仍然是有缺陷的，买方可以降低采购价格或者选择取消合同。如果因为后来物件被运送到下订单一方的场地以外的其他场所，而造成费用增加的话，那么，买方因返工造成的费用而提出的索赔，尤其是运输、差旅、劳务和材料费用，必须排出在外，除非该产品是根据其预定用途而被供应到该场所。</p> <p>8.1 Warranty claims made by Buyer shall only entitle Buyer to be supplied with replacement. If the replacement provided by Seller is also defective, Buyer may reduce the purchase price or opt to cancel the contract. Claims made by Buyer due to expenses incurred as a result of reworking, in particular transport, travel, labor and material costs, shall be excluded where such expenses have been increased by the fact that the item was subsequently transported to a location other than the premises of the party placing the order, unless the Products were supplied to this location in line with their intended use.</p>		

销售及交货通用条款 General Terms and conditions of Sale and Delivery	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>9. 责任限制</p> <p>9. Limitation of Liability</p> <p>9.1 在任何情况下，对因生产或者业务中断或者停止而造成的间接损失，包括且不仅限于损失的利润、产生的损失、损失的储蓄、营业额或者指令、损失，卖方不承担任何责任。</p> <p>9.1 Under no circumstances shall Seller be liable for consequential damages, including but not limited to lost profits, incurred loss, lost savings, turnover or instructions, damages as a consequence of production- or business interruption or discontinuation.</p> <p>9.2 在各种情况下，卖方的所有责任必须限制在相关事项中卖方责任保险所付出的金额范围之内。如果，无论什么原因，保险公司对上述保险不予支付，那么，所有责任必须限制在相关发货的发票金额的范围之内。</p> <p>9.2 The total collective liability of Seller shall in all circumstances be limited to the amount that is paid out under Seller's liability policies in the matter concerned. If, for whatever reason, the insurer makes no payment under the above insurance policy, any liability shall be limited to the invoice value of the consignment concerned.</p> <p>9.3 卖方仅保证货物于交付时是符合规格的。若货物不符合上述保证的，卖方可在合理时间内选择免费对货物进行修理或调换，或者在原发票金额中予以相应减少。卖方的义务仅限于对货物的修理、调换或相应减少货物的金额。卖方的修理、调换或减价的义务仅在收到客户及时的关于货物不符合规格的通知时发生（按本条款第七条的规定）</p> <p>9.3 Seller solely warrants that on the date of delivery the products shall conform to the specifications. If and to the extent products fail to meet such warranty, seller may at its own option within a reasonable time either repair or replace the products at no charge to buyer, or issue a credit for any such products in the amount of the original invoice price. Accordingly, seller's obligation shall be limited solely to repair or replacement of the products or for credit of the products. However, seller's obligation to repair, replace, or credit shall be contingent upon receipt by seller of timely notice of any alleged non-conformance of products and, if applicable, the return of the products, in accordance with paragraph 7 of these conditions.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>9.4 卖方对买方因为使用不当或未按产品的正常使用范围、地区、国家等使用产品(包括有害物质含量要求等)而产生的任何问题不承担任何责任。</p> <p>9.4 In no event shall seller be liable for any kind of obligation caused by buyer' inappropriate use of the products or use of the products in normal area, region, country (including the restriction of certain hazardous substance) etc.</p> <p>10 订单取消</p> <p>10. Orders cancellation</p> <p>10.1 应买方不正当的不接受货物、拒收货物、取消或否定卖方确认书的行为，除了因上述行为给卖方造成的其它任何损失之外，卖方还有权要求买方补偿上述货物的价值，并且视为买方放弃对相关订单支付的订金，定金等预付款主张的任何权利。</p> <p>10.1 Buyer's wrong non-acceptance or rejection of products or cancellation or repudiation of seller's confirmation shall entitle seller to recover, in addition to any other damages caused by such action.</p> <p>11. 不可抗力</p> <p>11. Force Majeure</p> <p>11.1 除了这里所规定的情况以外，如果因为不可抗力（按照这里的定义）的影响，一方在履行上述通用条款的过程中发生合理的违约或者延误，那么，任何一方都不对此承担任何责任。</p> <p>11.1 Except as hereinafter provided, no party shall be liable for any reasonable default or delay in the performance of the terms of these general conditions where such failure is due to force majeure (as hereinafter defined) affecting that party.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>11.2 术语“不可抗力”应当指因不在主张不可抗力的一方合理控制范围之内的原因造成的情况，并影响该方履行通用条款，包括且不仅限于，不可预见的生产、交通或者运输干扰、火灾、洪水、不可预见的劳力、设施或者原料和物料的短缺、罢工、停工或者行业争议或者干扰、民众骚乱、与产品的提取、生产、供应与/或产品原料和辅料的进口有关的限制或阻碍、政府行为、没有能力获取或者保持必要的授权、许可、通行权或者其他权利，以及有履行义务的那方控制之外的，并使得产品的生产、运输、验收或者使用受到减少、延误或者阻碍，或者使其成为一项不合理的任务的其他障碍。</p> <p>11.2 The term "force majeure" shall mean any circumstances the cause of which is not reasonably within the control of the party claiming force majeure and which affect the performance by it under these general conditions, including, without limitation, unforeseeable production, traffic or shipping disturbances, fire, floods, unforeseeable shortages of labor, utilities or raw materials and supplies, strikes, lockouts or industrial disputes or disturbances, civil disturbances, restrictions or obstructions in respect of the extraction, production, supply and/or importation of raw and auxiliary materials for the Product, acts of government, the inability to obtain or retain necessary authorizations, permits, easements or rights of away, and any other hindrances beyond the control of the party obliged to perform which diminish, delay or prevent production, shipment, acceptance or use of the Products, or make it an unreasonable proposition.</p> <p>11.3 如果妨碍的结果是使得供货/验收延误超过 8 周，那么任何一方都有权取消合同。如果卖方得供应商无法向其提供全部或者部分供货，那么卖方没有义务从其他渠道采购。在上述情况下，卖方在考虑到约束要求的同时，有权从在其客户的现有存货中进行分配。</p> <p>11.3 If, as a result of the hindrance, supply and/or acceptance is delayed by more than eight weeks, either party shall have the right to cancel the contract. Should Seller's suppliers fail to supply him in whole or in part, Seller shall not be under obligation to purchase from other sources. In such cases, Seller shall have the right to distribute the available quantities among his customers while at the same time taking into account his captive requirements.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>12. 货物的属性、技术支持、使用和加工</p> <p>12. Properties of Goods, Technical support, Use and Processing</p> <p>12.1 一般来说，产品的属性只包括卖方的产品说明、规格书和标签中所规定的那些属性。公开说明、索赔或者广告不得作为关于销售物件属性的资料。</p> <p>12.1 The properties of the Products shall as a general rule only include the properties as stated in the product descriptions, specifications and labeling of Seller. Public statements, claims or advertising shall not be classed as information on the properties of the item for sale.</p> <p>12.2 卖方口头、书面或者在试用中所提供的技术建议都是真诚的，但不得作为质量保证，而且在涉及到第三方专属权利的情况下也不适用。卖方的技术建议并不解除买方对卖方所提供的产品进行测试，以确定其是否适合预定流程和用途的义务。产品的使用、应用和加工都不在卖方的控制之内，因此完全都由买方承担责任。</p> <p>12.2 Technical advice provided by Seller verbally, in writing or by way of trials is given in good faith but without warranty, and this shall also apply where proprietary rights of third parties are involved. The Seller's technical advice shall not release Buyer from the obligation to test the products supplied by Seller as to their suitability for the intended processes and uses. The application, use and processing of the products are beyond Sellers control and therefore entirely Buyer's responsibility.</p> <p>13. 知识产权</p> <p>13. Intellectual Property Rights</p> <p>13.1 在供应或者提供替代产品，或者在价格清单或者类似业务交往中，买方无权引用卖方的产品，无权使用“替代”这个词来和卖方受保护或者不受保护的产品名称发生联系，或者，无权将上述名称与替代产品的名称列在一起。</p> <p>13.1 Buyer shall not have the right to refer to Seller's products when offering or supplying substitute products or, in price lists or similar business communications, to use the word "substitute" in conjunction with Seller's protected or unprotected product designations or list these designations together with any designations for substitute products.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>13.2 在使用卖方产品进行生产的时候，或者将其加工成新产品的时候，在事先未获得卖方同意的情况下，在加工成的产品商，或者产品包装商，或者任何相关的印刷品或者广告资料上，特别是提到卖方产品作为其自身产品的组成部分时，买方无权使用卖方的产品名称，尤其是商标。</p> <p>13.2 When using Seller's products for manufacturing purposes or when processing them into new products, Buyer shall not have the right, without Sellers prior consent, to use Seller's product designations, especially his trademarks, on the resulting products or on the packaging therefor or in any relevant printed matter or advertising literature, particularly by mentioning Seller's products as components of his own products. The supply of Products under a trademark shall not be deemed agreement to the use of this trademark for the products manufactured therefrom.</p> <p>13.3 卖方拥用产品（包括订单生产之前的首板和任何时候提供给买方的付费或免费样板）所有光学设计及制造过程的知识产权，模具，治具及夹具等商业秘密的知识产权的所有权也归卖方所有,未经卖方书面同意，禁止向任何第三方公开。卖方有权在产品上标识卖方的网址，徽标，产品型号等。</p> <p>13.3 Seller owns all intellectual properties of products (including samples and prototypes delivered before order confirmation, paid or free samples provided to buyer at any time) of optical design and manufacturing process. The mould, fixture and jig etc contain the proprietary trade secrets wholly owned by seller and shall not be disclosed and transferred to the third parties without the written consent of seller. Seller shall have the right to mark seller's website, LOGO, Part Number etc on products.</p> <p>13.4 货物的出售不表示对于货物或其成分的构成和/或应用有关的商标及专利等知识产权给予许可，并且买方承担由于货物进口、货物使用（无论单独或也其它材料结合或在工艺操作中）而侵犯任何知识产权的风险。</p> <p>13.4 The sale of products shall not, by implication or otherwise, convey any license under any intellectual property rights relating to the compositions and/or applications of the products, and buyer expressly assumes all risks of any intellectual property infringement by reason of its importation, use of the products, whether singly or in combination with other materials or in any processing operation.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版本	A
	修改次	0
<p>13.5 就货物的销售和/或交付而言，就可能存在的侵犯第三方知识产权的情况卖方不予确认且无任何义务检查及验证任何第三方的任何权利。在侵权发生的情况下，卖方不承担由此产生的任何损失或损害。</p> <p>13.5 Seller has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/or delivery of the products and can not be held liable for any loss or damages in that respect.</p>		
<p>14. 抵消</p> <p>14. Set off</p> <p>14.1 根据上述通用条款下或者以其他依据为基础，任何一方都可以在任何时候针对对方的索赔，无论是何种币种或者是否到期且应付，来抵消上述通用条款中其对对方的债务，无论这些债务是何种币种、是否到期和应付。</p> <p>14.1 Each party may at any time set off its obligations towards the other party under these general conditions, in whatever currency and whether or not due and payable, against any claims which it may have against another party, in whatever currency and whether or not due and payable, under these general conditions or on any other ground.</p> <p>14.2 本条款中任何一方的权利是其可能拥有的其他权利或者补救的补充，而且也不排除任何其他权利或者补救。</p> <p>14.2 The rights of each party under this article are in addition to and not exclusive of any other rights or remedies which that party may have.</p>		
<p>15. 适用法律，遵守法律</p> <p>15. Governing law and compliance law</p> <p>15.1 除非卖方书面明确表示，卖方不承诺也不申明货物应符合任何法律、法令、政令、法规、法典等。买方确认，货物使用可以符合法律和标准的限制和要求。买方应排他性地负责：(i)保证其货物的使用的意图符合所有法律和法规；(ii)为上述使用获得所有必要的批准、许可和放行通知。</p> <p>15.1 Seller makes no promise or representation that the products shall conform to any law, statute ordinance, regulation, code, unless expressly stated by seller. Buyer acknowledges that the use of the products may be subject to requirements or limitations under laws and standards. Buyer shall exclusively responsible for (i) ensuring compliance with all laws and standards associated with its intended use of the products; (ii)obtaining all necessary approvals, permits or clearances for such use.</p>		

<p>销售及交货通用条款</p> <p>General Terms and conditions of Sale and Delivery</p>	文件编号	MD-BUS-01
	版 本	A
	修 改 次	0
<p>15.2 由卖方确认书和/或本条款产生的任何权利和义务应受卖方所在地法律的管辖并依其解释和执行，但其冲突法规则除外。</p> <p>15.2 The parties' right and obligations arising out of or in connection with seller's confirmation and/or these conditions shall be governed, construed, interpreted and enforced, excluding principles of conflict of laws.</p> <p>16. 司法管辖权</p> <p>16. Jurisdiction</p> <p>16.1 对上述通用条款的所有争议都必须提交给卖方公司注册所在地有管辖权的法院排他管辖，但是并不影响卖方将相关案件提交给可能拥有管辖权的其它法院。双方认可该等法院的司法管辖权，并放弃其现在或今后可能享有的对于诉讼管辖地的异议。</p> <p>16.1 All disputes arising from these general conditions shall be submitted to the exclusive jurisdiction of the competent court in registration location of seller without prejudice to seller's right to submit the relevant case to the court which would have jurisdiction, and the parties do hereby consent to the jurisdiction of those courts and waive any objection which they may have, now or hereafter, to venue of those suits, action or proceedings.</p> <p>17. 个别条款的失效 如果上述通用条款中的任何条款部分或者全部无效，那么这不得影响其他条款或者该条款剩余部分的有效性。当事双方必须确定新的规定来取代无效的规定，同时必须尽可能合法地体现原规定的意图。</p> <p>17. Should any clause in these general conditions of sale and delivery be or become invalid in full or in part, this shall not affect the validity of the remaining clauses or remaining parts of the clause concerned. The parties shall determine new provisions to replace any invalid provision, which shall embody the purpose of the original provision in as far as legally possible.</p>		