

**奥钢联伯乐焊接产品贸易 (上海) 有限公司 通用销售条款与条件****L. Welding Products 焊接产品****1. Scope 范围**

(1) The following Terms and Conditions apply to all business relationships with customers, unless otherwise expressly stipulated in writing. The version valid at the time of concluding the contract applies.

除非以书面形式另行明确规定，以下条款与条件适用于所有与客户的商业关系。合同订立之时有效的版本为适用版本。

(2) Differing, conflicting or supplementary General Terms and Conditions shall not form part of the contract, even if they are known, unless their applicability is expressly agreed in writing.

差异性、冲突性或补充性通用条款与条件不应作为合同的一部分，即使这些条款已为人所知，除非其适用性以书面形式另有约定。

**2. Conclusion of the contract 合同订立**

(1) All our offers are non-binding and subject to alteration. Within reasonable limits, we reserve the right to make technical and other alterations. The documents and information belonging to our offers, such as drawings, illustrations and samples as well as weight, measure, performance and consumption information, serve as a mere information and do not represent any special agreed characteristics. We reserve the proprietary rights and copyrights to all documents and information pertaining to our products, such as drawings, illustrations, samples and data; these documents, information and data shall not be made available to third parties or used for their own purposes.

我方所有报价均不具约束力，可变更。在合理范围内，我方保留进行技术或其他变更的权利。我方报价中所含文件与信息，诸如图纸、插图和样品以及重量、检测数据、性能和消耗信息等，仅作为一般信息陈述，不代表对任何特性的特殊约定。我们保留与我们的产品有关的所有文档和信息的专有权和版权，例如图纸、插图、样品和数据；这些文件、信息和数据不得提供给第三方或私自使用。

(2) The customer's order shall be deemed to be his binding acceptance of the offer. In cases of goods being ordered electronically, we shall confirm receipt of the order within three days. The confirmation of receipt does not constitute an acceptance of an order.

客户的订单应视为其接受报价，对其具有约束力。对于以电子形式订购的货物，我方会在三日内确认收到订单。订单接收确认不构成对订单的接受。

(3) Our order confirmation constitutes the only binding acceptance of an order.

我方的订单确认构成对订单唯一的有约束力的承诺。

(4) We are entitled to refuse acceptance of an order e.g. after reviewing the creditworthiness of the customer.

在对客户的信誉进行审核后，我方有权拒绝接受订单。

(5) If the consumer orders the goods electronically, the legally effective GTCs shall be sent to the customer by e-mail.

如果客户以电子形式订购货物，具有法律效力的GTC（通用条款与条件）应以电子邮件的形式发送给客户。

(6) Oral agreements are not binding. Written counter-confirmations by the customer only become binding by means of our written order confirmation.

口头协议不具约束力。客户的书面反向确认只有经过我方书面订单确认后才有约束力。

(7) Under no circumstances shall silence be considered as consent. Changes or amendments to the contract, or order cancellations, or suspensions are only binding with the written agreement of both parties. Any expenses or disadvantages resulting thereof shall be for the exclusive account of the customer, unless otherwise agreed.

在任何情况下，沉默都不视为默认。合同的变更或修改、订单的取消或中止只有经双方书面同意后才有约束力。除非另有约定，由此所产生的任何费用或损失应由客户全部承担。

(8) We reserve the right to make changes to the chemical composition of our products within the framework of legal standards and/or applicable product standards, as well as other product modifications that the customer can reasonably accept.

我方有权在合法标准和/或适用产品标准框架之内，对我方产品的化学构成进行变更，以及进行其他客户能够合理接受的产品改进。

**3. Payment & payment terms 支付与支付条款**

(1) The offered prices are daily rates and apply until revoked. Price indications are non-binding. The prices do not include the applicable VAT. Regarding small quantities (<100kg), we reserve the right to refer customers to a distributor, or to apply a surcharge of up to EUR 300 for minimum order quantities.

报价价格为当日价格，废止之前适用。指示性价格不具约束力，价格不包含适用VAT（增值税）。对于小批量订货（不满100公斤），我方有权将客户转给分销商，或就最小订购量订货额外收取不超过300欧元的附加费。

(2) Unless otherwise stated, all offers and prices are submitted on an FCA basis, Incoterms 2010®, excluding packaging, insurance and transportation.

除非另有说明，所有报价和价格均基于Incoterms 2010®（2010年国际贸易术语解释通则）中的FCA条款，不包含包装、保险和运输费。

(3) Any applicable alloy surcharge at the time of delivery, as well as surcharges relating to a change in price of input materials and raw materials, and changes relating to additional or increased official charges shall be applied in full.

交货时适用的任何合金附加费，以及因进口材料或原材料价格的变化，以及与额外或增加的官方费用相关的变化所导致的附加费，均应全部适用。

(4) Unless otherwise agreed, the type of packaging shall be determined by us. Increases in freight charges occurring between the date of the order confirmation and the actual shipment shall be charged separately to the customer.

除非另有约定，包装方式应由我方决定。订单确认之日至实际发货之日期间产生的运费的增加，应单独向客户收取。

(5) The customer undertakes to transfer the invoiced amount to our business account after receipt of the total or partial delivery within 30 days from the date of the invoice. We reserve the right to cancel the terms of payment. Nevertheless, we are entitled, without giving any explanation, to make deliveries conditional upon advance payment or the presentation of collateral.

客户全部或部分收到货物后，应于发票日期30日内将发票金额汇至我方对公账户。我方保留取消支付条款的权利。尽管如此，我方有权在不做解释的条件下要求先支付预付款或提供担保后再进行发货。

(6) We only accept letters of exchange and cheques when this has been explicitly agreed, in written, and only as payment for outstanding amounts. All discounting and collection charges are for the customer's account.

只有在书面明确约定的条件下，我方才接受汇票和支票，且仅限于未付金额支付。所有贴现费和代收票费均由客户承担。

(7) In cases of default, we shall charge interest on default of 0.05% per day or the maximum rate permitted by applicable law, whichever is lower. In cases of default, the customer commits himself to paying all expenses related to the dunning process, the collection, and the pursuit of legal remedies, as well as the court fees. The customer is entitled to offset amounts only when his counterclaims have been legally established or recognized by us. The customer is not entitled to withhold any payments.

一旦出现逾期付款违约行为，我方将按照每天0.05%或适用法律所允许的最大利率（两者取其低），收取违约利息。出现违约时，客户有义务承担与催款流程、清收、法律救济、以及仲裁费相关的所有费用。只有当其反诉依法成立或经我方认可之后，客户才有权利抵消欠款。客户无权扣留任何应付账款。

(8) If the customer does not comply fully or in part with his payment obligations, or a letter of exchange or a cheque is dishonoured, or if we receive information that makes his creditworthiness questionable, or if an application for the initiation of insolvency proceedings is filed, or the customer proposes terms of a voluntary arrangement to his creditors, we shall be entitled to demand immediate payment of all unpaid, as well as not yet due or deferred invoices, and to demand advance payment, or the presentation of securities for all outstanding deliveries. In addition, we are entitled to demand that the re-sale and processing of delivered goods be terminated immediately. In the event of the customer not reacting to our request for advance payment, for securities or to our dunning letter within a reasonable period, we shall be entitled to withdraw from the contract, or to repossess the goods, and to invoice the customer for all costs and expenses, including lost profit, that have accumulated up to that time.

如客户拒绝全部或部分履行其支付义务，或拒绝兑付汇票或者支票，或我方收到可质疑其信誉的信息，或对方已提交申请启动破产保护程序，或客户向其债权人提出自愿偿债条款，则我方有权要求立即付清所有未付、及未到期或延期的发票，并要求提前支付所有未发货物的款项或提供担保。此外，我方有权要求立即停止已交付货物的二次销售与加工。如果客户在合理期限内未对我方的预付款、担保或催债函做出回应，我方有权终止合同，或收回货物，并向客户开票索取截止当时所累积的所有成本与费用，包含利润损失。

**4. Transfer of risk 风险转移**

(1) The customer bears the risk of the loss, damage and/or destruction of the goods from the moment of the handover of the goods, in accordance with the agreed Incoterms 2010.

按照双方同意的Incoterms 2010（2010年国际贸易术语解释通则），自货物移交之时起，客户承担货物的损失、损坏和/或破坏的风险。

**5. Storage instructions for products 产品存储说明**

(1) The customer is aware of the requirement to store our products properly and is conversant with our product storage conditions. Improper storage results in our warranties and liabilities becoming null and void. The storage conditions can be found on our website under 'Storage Conditions'.

客户应知晓我方产品的存储要求，并熟悉我方产品的存储条件。不当存储会导致我方质保和责任失效。存储条件可在我方网站“Storage Conditions”（存储条件）项下获取。

**6. Use of products 产品的使用**

(1) The customer is aware of the proper use of our products. Improper use leads to exclusion of any liability and warranty. When using the products supplied by us, the customer is obliged to comply with all regulations, technical regulations, operating and user instructions that protect against dangers.

客户应知道如何正确使用我们的产品。不当使用会导致我方免除任何责任和保证义务。当使用我们提供的产品时，客户必须遵守所有法规、技术规范、操作和用户说明，以防范危险。

**7. Obligation to accept, storage period and storage costs 接受义务、存储时期与存储费用**

(1) The customer commits himself to accepting the delivered products at the contractually agreed delivery terms and conditions within 14 calendar days, otherwise the customer is in default of acceptance.

客户承诺在14个日历日内按合同约定的交货条款和条件接受所交付货物，否则视为客户未履行接受义务。

(2) In the event that the customer unjustifiably refuses the acceptance of the goods, he must pay all transport and storage costs, notwithstanding his payment obligations. The goods are deemed accepted three months after our notice of readiness to despatch, and the total purchase price becomes due at this point. Storage costs and any additional costs shall be charged to the customer from the 14th day after the goods were declared ready for dispatch, but were not delivered to or collected by the customer.

如客户无正当理由拒绝接受货物，则其必须支付所有运输与存储费用，无论其是否履行支付义务。我方发出发货准备通知3个月后，货物即视为已被接受，此时全部购货款即到期。自货物宣告可发货，但未交付，或客户未提货后第14日起，存储费用和其他任何附加费用应由客户承担。

**8. Long-term and call-off contracts 长期合同与分订单合同**

(1) All open-ended contracts can be terminated by either party with a notice period of 3 months.

任何一方均有权终止所有开放式合同，但须提前3个月通知另一方。

(2) In the event that, in connection with long-term contracts (contracts with a duration of more than 4 months and generally open-ended contracts), there is a change in the cost of labour, material or energy, each contract partner is entitled to demand negotiations for a reasonable price adjustment, taking into account the aforementioned factors.

对于长期合同（合同期超过4个月且通常为开放式合同），如果发生劳动力、原材料或能源成本发生变化，合同双方均有权要求就上述因素开展合理价格调整协商。

(3) In connection with call-off orders, the customer must inform us, in written, of the definitive quantity at least 2 months prior to the delivery date, unless otherwise agreed. Additional charges caused by the customer, relating to a delayed call-off or a later change of the call-off destination or quantity shall be borne by him and be based on our calculations. The customer shall be obliged to accept the goods on the day when the validity period expires and the agreed purchase price becomes due.

对于随需分批交货订单合同，除非另有约定，客户必须于发货前至少2个月以书面形式将明确数量通知我方。因客户随需分批订单发布延迟，或后期更改目的地或数量等原因所造成的额外费用应由客户承担，且金额以我方计算为准。客户应于有效期限届满及约定采购金额到期之日接受货物。

(4) In the case of call-off orders, all as yet undelivered quantities of products ordered by the customer shall be delivered, at the latest, on the day when the validity period of the order confirmation expires.

对于随需分批交货订单，客户所订产品中所有未交付产品数量最迟应在订单确认有效期到期之日予以交付。

(5) The customer must bear the risk of any foreign exchange devaluation against the RMB (Euro or USD, as the case may be) until the date of payment, and in such a case, the purchase price shall be adjusted accordingly.

客户必须承担付款前任何外汇对人民币（欧元或美元，视具体情形而定）贬值的风险。如出现这种情形，采购价格相应调整。

**9. Delivery Periods 交货期限**

(1) We are entitled to effect partial deliveries. The contracting parties agree that partial deliveries of goods or services are deemed the subject of an independent contract separate from the order confirmation, and that they are subject to these General Terms and Conditions of Sale.

我方有权实行部分交货。缔约双方同意货物或服务部分交货视为独立于订单确认的独立合同的标的物，且受本通用销售条款与条件约束。

(2) Production-related deviations from the total order quantity of plus or minus 10% are permissible. The purchase price shall change according to the actual volume.

允许因生产关系造成的总订货量正负10%的误差。采购价格应按照实际数量相应调整。

(3) Our liability for goods not delivered on time is explicitly limited to those cases in which we have confirmed the shipping date in written. Unless otherwise agreed, the delivery periods shall be calculated from the date of the order confirmation, and they are subject to the timely receipt of the input goods required by us. The delivery period shall be deemed fulfilled when the goods are shipped prior to the deadline, or the customer has been notified of the readiness of the goods for collection.

我方仅就书面确认送货日期但未能及时交付货物的情形承担责任。除非另有约定，交货期限应自订单确认之日起计算，交货期限受我方所需进口货物能否及时收到的影响。货物于截止日期前发货，或客户收到准备提货通知，即视为已履行交货期限。

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(4) The customer is only entitled to withdraw from the contract when the delay in the delivery date is attributable to gross negligence on our side, and he has conceded us, but unsuccessfully, a reasonable period of grace for the delivery. The withdrawal from the contract must be notified by registered letter. 只有当交货日期延迟由我方重大疏忽造成,且已给予我方合理宽限期但无果时,客户有权终止合同。终止合同必须采用挂号信方式进行通知。

**10. Retention of Title 所有权保留**

(1) We retain title to the goods until full payment of the purchase price has been made. The customer must immediately notify us in writing of any seizure of the goods by third parties, in particular of enforcement measures, damage to, or destruction of the goods. We are entitled to withdraw from the contract and to demand handover of the goods in cases of breach of contract, in particular in the event of a delay in payment. The customer is entitled to resell the goods in the course of his ordinary business. The customer henceforth assigns to us all receivables to the full invoice amount, which are due him by the resale of the goods to third parties, and he undertakes to make a corresponding remark in his books or invoices. We herewith accept this assignment. Following this assignment, the customer is entitled to collect the amounts due him. We reserve the right to collect the receivables ourselves if the third party is in default of payment.

购货款全部付清之前,我方保留货物的所有权。如发生第三方扣押货物,尤其是遇到强制执行措施或货物出现损坏或灭失时,客户必须立即以书面形式通知我方。如出现违约行为,尤其是出现支付延迟时,我方有权终止合同,并要求移交货物。客户在其正常商业活动中,有权对货物进行再销售。客户将货物再次销售给第三方后,应将全部发票对应的应付款项转让给第三方,且客户应在其账本或发票中做相应标记。我们在此接受此类转让。转让之后,客户有权收取他应得的金额。如果第三方未履行付款义务,我们保留自己收取应收账款的权利。

(2) If the goods are processed by the customer, we acquire co-ownership of the new item proportionally to the value of the goods delivered by us. The same shall apply if the goods are processed or mixed with other objects which do not belong to us.

如果货物已经被客户加工处理,我方将按照我方所交付货物的价格的新产品中的占比,要求对该产品的共同所有权。相同原则适用于当货物与其他不属于我方的物品共同或混合加工的情形。

**11. Warranty 质量保证**

(1) In cases of defective goods, we shall provide warranty for the defect, at our choice, by way of improvement or ex-change. If an improvement or exchange is not possible, or has failed, the customer shall be entitled to demand a price reduction or, when it is not a minor defect, to rescind the contract.

如出现瑕疵货物,我方将自行决定,通过改进或调换的方式为该瑕疵提供质保。如果改进或调换不可行或失败,客户有权要求降低价格,或者,货物出现重大瑕疵时,客户有权解除合同。

Minor deviations from quality, form, colour, weight or design, or that are technically unavoidable, or are in line with commercial practice, are not deemed defects and may not be claimed against. The same applies to deliveries based on samples and specimens. Damaged packaging falls under minor defects and does not convey the right to refuse acceptance.

质量、外形、颜色、重量或设计的微小偏差,因技术原因无法避免或符合商业惯例的偏差,不应视为瑕疵,可能无法要求索赔。相同原则适用于基于样品交付的货物。包装损坏属于微小瑕疵,客户不得以此作为拒收货物的权利。

(2) In cases in which the buyer is entitled to issue notices of defects, such notices must be given, in writing, within 14 days after the delivery of the goods; otherwise the assertion of a warranty claim is excluded. Hidden defects must be reported, in writing, immediately upon discovery and any processing must be terminated. The notice of defects must be specified exactly.

如果买方有权发送瑕疵通知,则该通知必须于货物交付后14日内以书面形式发送,否则质保申请无效。隐性瑕疵必须于发现之时立即以书面形式报告,且所有相关加工必须终止。瑕疵通知必须精确明了。

(3) The warranty period for the goods is 12 months from the date when the risk has transferred to the customer. This period also applies to hidden defects. Assumption of defectiveness at the time of delivery shall be explicitly excluded.

货物的质保期为自该货物风险转移至客户之日起12个月。该期限适用于隐性瑕疵。交货时应明确排除瑕疵假设。

(4) In the event of hidden defects that were notified in time, the customer shall be obliged to give us an opportunity to review the delivery in question within a reasonable period of time.

对于及时通报的隐性瑕疵,客户有义务给予我方在合理期限内查验该批交货的机会。

(5) We offer no guarantees to customers as defined in law. Unless otherwise contractually agreed, we do not warrant or accept any liability for the characteristics or the usability of the goods for a specific purpose, other than those explicitly agreed to by us.

我方不对客户提供任何法定保证。除非另有约定,我方不对货物的特性或特定用途作保证或承担任何责任,经我方明确同意的除外。

**12. Liability 责任**

(1) Other than in those cases provided for by the Product Quality Law of P.R. China or Tort Liability Law of P.R. China, our liability is limited to intent and gross negligence. The liability for slight negligence are excluded.

除《中华人民共和国产品质量法》或《中华人民共和国侵权责任法》规定的责任以外,我方责任仅限于故意或重大过失范围内。因轻微过失导致的责任,我方不予负责。

(2) The above limitations of liability do not apply to injury to body or health, or loss of the customer's life.

上述责任限制不适用于人身或健康损害或客户身亡的情形。

(3) The customer's exclusive remedy and our maximum liability shall not in any case exceed the purchase price for relevant goods and services giving rise to the claim, regardless of whether the claim is based on contract, breach of warranty, negligence (including gross negligence), strict liability, statutory violation, or otherwise, notwithstanding any failure of essential purpose or of any limited remedy. Under no circumstances AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN SHALL WE BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, LOSS OF PROFIT, OR INTERRUPTION OF BUSINESS LOSSES, COSTS, OR EXPENSES OF ANY KIND, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The parties expressly agree that the above limitation on damages is an allocation of risk constituting in part the consideration for these Terms and Conditions.

在任何情况下,客户的全部救济以及我方的最大责任都不得超过导致索赔发生的相关货物或服务的采购价格,无论索赔是基于违约、违反保证义务、过失(含重大过失)、严格责任、法定违约或其他情形,即使其导致合同根本目的或有限救济无法实现。在任何情况下,且即使导致本通用条款和条件项下任何救济的根本目的无法实现,我方均不对任何间接的、偶然的、特殊的、惩罚性的、或者惩戒性的赔偿金、利润损失或因业务中断产生的任何形式的损失,成本或支出承担任何责任,即使是我方已经被告知此类赔偿金产生的可能性。双方明确约定上述赔偿金限制是部分构成本条款和条件对价的一部分的一种风险分配。

(4) To the extent permissible by law, except that actions of claims for compensation for damage caused by a defect in a product shall be brought within 24 months calculated from the date on which the injured party become aware or ought to be aware that his rights and interests had been infringed, all rights to claim for compensation caused by any breach of these Terms and Conditions herein shall cease 36 months after the injured party become aware or ought to be aware of the damage.

在法律允许的范围内,除因产品瑕疵所引起的赔偿金索赔行为应在受害一方发现或应当发现其权利和利益受到侵害之日起24个月之内提出之外,其他任何因违反本条款与条件的行为所引起的索赔在受害一方发现或应当发现损害之后36个月后将无法获得支持。

(5) Technical consultations and information about processing and possible uses of our goods that we provide free of charge are deemed a service without commitment, and for which we assume no liability.

我方免费提供的关于我方货物的技术咨询与加工及可能用途的信息,应视为非承诺性服务,对此我方不承担任何责任。

(6) We are only liable for our own content on the company's website. In the event that we provide links to other website, we are not liable for the third party content included in such websites. In the event that we obtain knowledge of illegal content on external websites, we shall immediately block access to such sites.

我方仅对公司网站上自己的信息内容负责。如果我方提供了其他网站的连接,我方对这些网站上的第三方信息内容不承担责任。如我方获悉此类外部网站存在非法内容,我方将立即阻止这类网站的链接。

**13. Intellectual Property and Indemnification 知识产权和赔偿**

(1) The sale of our goods and services furnished hereunder does not convey any license by implication, or otherwise under any copyright, patent right or other Intellectual Property Rights (as defined below) of us covering the goods and services. Unless otherwise agreed to in writing, we retain all title and all rights to Intellectual Property Rights relating to the goods and services. Except as specifically provided herein, the sale of goods and services conveys no license to the customer under any Intellectual Property Rights of us and/or the entities that control, are controlled by, or are under common control with us (such entities, "Affiliates").

本通用条款和条件项下货物和服务的销售并不通过默示的方式或以其他形式构成我方对货物和服务相关的版权、专利权、或其他知识产权(定义见下文)下的任何许可的让渡。除另有书面形式约定外,我方保留货物和服务所有权利和一切与货物和服务有关的知识产权。除非本通用条款和条件有明确约定,货物和服务的销售不会将任何我方和其他控制我方、或在我方控制下、或与我方共同控制的实体(这类实体称为关联方)所享有的知识产权下的许可与客户。

(2) We shall not be responsible to the customer, and the customer waives any claim against us, for any alleged infringement of Intellectual Property Rights, in connection with the goods and services.

在货物和服务被声称侵犯知识产权的指控,我方无须对客户承担责任,而客户亦放弃就该等侵权向我方的索赔。

(3) The customer shall defend, indemnify and hold us and our Affiliates, and its and their directors, officers, employees, successors and assignees harmless from and against any such alleged infringement on the Intellectual Property Rights arising out of or relating to any instruction given by the customer to us regarding the patent, utility model, design, trademark, copyright, pattern and specifications for the goods and services.

如因客户向我方发出与货物和服务的专利、实用新型、外观设计、商标、版权、样式及规格有关的指示所引起的,或与之相关的侵犯知识产权的指控,客户应为我方及我方关联方、及其董事、高级管理人员、员工、继受者与受让人进行抗辩、赔偿,并使上述各方免受任何损害和损失。

(4) For purposes hereof, the term "Intellectual Property Rights" mean, collectively, copyright rights (including, without limitation, the exclusive right to use, reproduce, modify, distribute, publicly display and publicly perform the copyrighted work), trademark rights (including, without limitation, the exclusive right to make, use and sell), trade secrets, moral rights, right of publicity, authors' rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the laws of P.R.China, or any other state, country or jurisdiction.

为本通用条款和条件之目的,“知识产权”这一术语指现有的以及/或随后产生的版权(包括但不限于使用、复制、更改、分销、公开演绎受版权保护的作品的专有权利)、商标权(包括但不限于商号、商标及服务商标)、专利权(包括但不限于制造、使用和销售专利的专有权利)、商业秘密、精神权利、公开权、作者权利、商誉以及其他一切知识产权,以及上述权利的一切续期或延展,无论该等权利根据中华人民共和国法律或其他州、国家或司法管辖区的法律产生。

**14. Nondisclosure 保密**

The customer shall exclusively use all documents and knowledge that we declare as confidential and in whose confidentiality we are obviously interested, which he obtains in the course of our business relationship, for the jointly pursued purposes and treat them with the same care towards third parties that he would use in the treatment of his own documents and knowledge.

为了双方共同追求的目的,客户应排他性使用其在我方商业合作过程中所获取的我方宣布为机密的、以及我方对其机密性表示关注的所有资料和信息,并以其对待自己的资料和信息的方式一样对待该等资料和信息。

**15. Data protection 数据保护**

To comply with the data protection obligations, we refer to our privacy policy, available at <https://www.voestalpine.com/welding/Data-Privacy> in the currently valid version.

为了遵守数据保护义务,我们遵照我们的隐私政策,以当前有效版本

<https://www.voestalpine.com/welding/Data-Privacy> 为准。

**16. Force majeure 不可抗力**

In the event that circumstances change under which the contract has been concluded, or events of force majeure occur that include, without limitation, natural catastrophes, non-delivery of input material, breakdown of machinery, interruption of operations of any kind, strike, lockout in our own company or in companies related to the fulfillment of the performance, or hindrances due to official directives, or sanctions by international authorities, as well as any causes that would make the delivery unreasonably difficult or impossible, relieve us of our duty to perform for the duration and the scope of the impact of such disturbances, or entitle us to withdraw from the contract entirely or from that part that has not yet been fulfilled, without the customer having the right to raise legal claims against us.

如遇到合同达成时的情形发生改变,或者不可抗力事件(包括但不限于自然灾害、进口材料未交货、机器故障、任何形式的运营中断、罢工、我方自己工厂内或与履约相关的其他公司内所发生的停工、因官方指令造成的阻挠、国际机构施加的制裁,以及任何造成交货异常困难或不可能的事由)的情形,将免除我方在此类干扰期间及其影响范围内的履约义务,或者赋予我方有权完全或自未履约部分开始起终止合同(且客户无权就此向我方提出合法索赔)。

**17. Export controls 出口管控**

(1) Our goods and services are supplied with the provision that their delivery is not impeded by national or international regulations, especially export control regulations such as embargos or other sanctions.

我方供应货物与服务的前提条件是其交付不受某国或国际性法规,尤其是出口管控法规(如贸易禁令或其他制裁措施)的妨碍。

(2) The customer commits to not selling the products to third parties of whom he has reason to assume will disregard such regulations or circumvent them. Upon request, the customer must provide us, without delay, all required information, especially as regards the final recipient, final destination and end-use of the goods or services.

客户承诺不向其有充分理由认为可能会不遵守或规避这些法规的第三方销售产品。应我方要求,客户必须立即向我方提供所有必要信息,尤其是有关货物或服务的最终收货人、最终目的地和终端用途等信息。

**奥钢联伯乐焊接产品贸易(上海)有限公司 通用销售条款与条件**

(3) The customer (ordering party, consignee) commits to not using the goods, neither directly nor indirectly, in any way in connection with the development, production, handling, operation, maintenance, supply, detection, identification or dissemination of chemical, biological, or nuclear weapons, or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons, unless he holds the required official licenses for these purposes.

客户(订购方,收货人)承诺不以任何形式直接或间接利用本货物从事化学、生物或核武器,或其他核爆炸装置的开发、生产、搬运、操作、维护、供应、侦察、识别或扩散;或从事具备此类武器发射能力的导弹的开发、生产、维护或存储,除非其持有用于这些用途的官方许可。

(4) The customer (purchaser, consignee) shall comply with all applicable export control laws and commit to neither directly nor indirectly selling, exporting, re-exporting, supplying, transferring or making the supplied goods otherwise accessible to persons, companies, institutions, or organisations, or in countries when this would contravene Chinese, to the extent applicable, European, UN-, or, U.S. (re-)export control regulations. The customer shall indemnify and hold us harmless for any and all claims, demand, cost, fines, penalties, fees, expenses, or losses arising from the customer's failure, intentional or unintentional, to comply with the foregoing paragraph.

客户(采购方,收货人)应遵守所有适用的出口管控法律,并承诺,如果该行为可能违反中国(如适用)、欧洲、联合国或美国的出口(再出口)管控法规,则不直接或间接向个人、公司、机构或组织,或在特定国家内销售、出口、再出口、供应、转让,或促使其能够以其他方式获取所提供的货物。客户应赔偿并免除我方因客户有意或无意未能遵守上述条款而造成的任何声誉、要求、成本、罚款、惩罚、费用、开支或损失的责任。

(5) In the case of re-selling/transfer of the supplied goods, the customer (purchaser, consignee) commits to making his customer aware of all export-related regulations and to passing on all obligations resulting therefrom.

出现再次销售或转让所提供货物的情况时,客户(采购方,收货人)承诺使其客户知悉所有出口相关法规,并转移因此而产生的所有义务。

(6) On request, the customer commits to issuing an end-use certificate and to sending the original to us, in order to enable us to prove the end-use and intended purpose.

如我方要求,客户承诺出具一份终端用途证明,并将原件寄送我方,便于我方能够核实终端用途及使用目的。

(7) The customer (purchaser, consignee) shall be liable to the fullest extent for any damages resulting to us from any culpable non-compliance with the Chinese, European, Austrian or U.S. (re-)export regulations by the customer (purchaser, consignee) and release us from any liability towards third parties.

客户(采购方,收货人)应对任何因客户(采购方,收货人)未能遵守中国、欧洲、澳大利亚或美国的出口(再出口)相关法规而造成的对我方的损害负全部责任,并免除任何我方对第三方的责任。

(8) Our offers, order confirmations, and the contract, as well as the fulfilment thereof, are subject to us obtaining all required export or transfer licenses, or any other permits in connection with export regulations or releases from the relevant authorities, and to there not being other legal obstacles in connection with export regulations that we, as exporters or shipper, or any of our suppliers, must adhere to.

我方的报价、报价确认和本条款及条件及其履行以我方能够获得所有出口或转让执照,或任何其他与出口法规相关的许可,或相关权威部门的放行,以及不存在其他我方作为出口商或发货人,或者我方供应商必须遵守的与出口法规相关的法律障碍为条件。

**18. Compliance 合规**

The principles and guidelines for a sustainable ethically, morally, and legally unobjectionable behaviour in business, as defined in the latest version of the 'Code of Conduct of voestalpine AG' and the related 'Code of Conduct for voestalpine Business Partners' are available under <http://www.voestalpine.com/group/en/group/compliance/> and are explicitly deemed accepted by the customer, who supports their underlying principles and regulations. In individual cases, when patently clear and severe breaches of the underlying principles and regulations by the customer become evident, and which make a continuation of the business relationship untenable, we are entitled to terminate the contractual relationship for good reason and, therefore, with immediate effect. The customer commits to holding us harmless of any damages and disadvantages resulting therefrom.

为商业活动建立可持续发展的伦理、道德和法律的为行为的原则和指导方针已在最新版奥钢联行为准则以及相关的奥钢联合作伙伴行为准则中予以定义,并可通过网址 <http://www.voestalpine.com/group/de/konzern/compliance/> 获取,并应明确地视为已被支持其中的根本原则和规章的客户所接受。如发现客户有明显且严重违反此根本原则和规章,且造成双方商务合作难以继续的个别情况,我方有权以充分理由即刻终止合同。客户承诺使我方免受由此所发生的任何损害及不利情形。

**19. Place of jurisdiction and applicable law 管辖地及适用法律**

(1) Any claim, dispute, or controversy arising from or related to the goods and services purchased by the customer from us, the interpretation of these Terms and Conditions or any quotation, order confirmation or order entered into in connection herewith, or the breach, termination or validity of these Terms and Conditions of any such quotation, order confirmation or order will be resolved exclusively and finally by the Shanghai International Economic and Trade Arbitration Commission (SHIAC) for arbitration in Shanghai under its then valid arbitration procedures and rules. The arbitration award shall be final and binding upon both parties.

任何因客户从我方购买的货物和服务,因本条款和条件的解释或根据本条款和条件发生的报价、订单确认及签署的订单,或因任何报价、订单确认或订单的条款和条件的违约、终止或有效性而产生或与之相关的索赔、争议或分歧,最终均应由上海国际经济贸易仲裁委员会(SHIAC)根据其届时有效的仲裁程序和规则进行独家仲裁。仲裁裁决为终局裁决,对双方均具约束力。

(2) These Terms and Conditions shall be governed and interpreted in accordance with the laws of the P.R.China (without reference to principles of choice and conflicts of laws), and also prevailing international conventions (i.e. Incoterms 2010® and the United Nations Convention on Contracts for the International Sale of Goods(1980)) and business practices to the extent PRC laws allow or remain silent.

本条款与条件应适用中华人民共和国法律(不包括法律选择原则和冲突规则)和现行国际条约(即《2010年国际贸易术语解释通则》和《1980年联合国国际货物销售合同公约》)并依其解释,且在中华人民共和国的法律允许或不作规定的情况下,也可适用现行的商业惯例。

(3) If one or more of the provisions become ineffective, the other provisions remain binding.

如果一项或多项条款失效,其他条款仍具约束力。

**20. Languages 语言**

These Terms and Conditions of Sale have been written in both English and Chinese with both versions having the same effect. In case of any conflict/discrepancy between the English version and the Chinese version, the English version shall prevail.

本条款和条件以英、中两种语言书就,两种语言版本具有同等法律效力。若两种语言版本有任何冲突/不一致,应以英文版本为准。

**II. Special terms and conditions of sale for welding machines (19) 焊接设备的特殊销售条款与条件**

(1) For deliveries and other services in connection with welding machines, the provisions of the General Terms and Conditions of Sale (I) shall apply, if the following provisions for welding machines do not deviate.

对于焊接设备的交付和其他服务,如果以下条款未偏离,则适用《销售一般条款和条件》(I)的规定。

**Warranty for welding machines (20) 焊接设备保修**

(1) The warranty period for welding machines is 12 months. 焊接设备的保修期为12个月。

**Guarantee for welding machines (21) 焊接设备保证**

(1) If the customers registers the serial number of the welding machine and the address of the customer at <https://www.voestalpine.com/welding/Brands/Boehler-Welding/Equipment/Warranty>, we grant the customer a manufacturer's guarantee of up to 5 years for welding machines in accordance with the guarantee conditions for welding machines available after registration on the above website. This guarantee period already includes the warranty period for welding machines mentioned in section (20).

如果客户在下面的网站上登记设备的序列号以及其地址 <https://www.voestalpine.com/welding/Brands/Boehler-Welding/Equipment/Warranty>,我们会按照网站注册后显示的保证条款,向客户提供长达5年的焊接设备保证。此保证期间已包括第(20)节中提到的焊接设备的保修期。

**Provision of spare parts and replacement material for welding machines (22) 焊接设备的配件及更换材料的提供**

(1) We guarantee a supply of spare parts and other replacement material of our welding machines for 9 years from the date of order confirmation by us.

我们保证从订单确认之日起9年内供应焊接机器的备件和其他更换材料。

**CE conformity of welding machines (23) 焊接设备遵守CE**

(1) We declare that our welding machines are CE compliant and labeled accordingly.

我们申明我们的焊接设备遵守CE并已相应标识。

**Software of welding machines (24) 焊接设备的软件**

(1) We reserve all intellectual property rights, such as copyrights, trademarks, design rights, patent rights, utility model rights, know-how, and non-proprietary inventions, commercial experience, company secrets, etc., regardless of when they are disclosed to the client.

我们保留所有的知识产权,如版权、商标、设计权、专利权、实用新型权利、专有技术、非专有发明、商业秘密、公司秘密等,无论何时其被披露给客户。

**III. Special terms and conditions of sale for welding accessories (25) 焊接配件的特殊销售条款和条件**

(1) For deliveries and other services in connection with welding accessories, the provisions of the General Terms and Conditions of Sale (I) shall apply, if the following special provisions for welding accessories do not deviate.

对于焊接配件的交付和其他服务,如果以下条款未偏离,则适用《销售一般条款和条件》(I)的规定。

**Warranty for welding accessories (26) 焊接配件保修**

(1) The warranty period for welding accessories is 26 months from the date when the risk has transferred to the customer. This period also applies to hidden defects.

焊接配件的保修期为风险转移至客户之日起26个月。此期限也适用于隐蔽缺陷。

**CE conformity of welding accessories (27) 焊接配件遵守CE**

(1) We declare that our welding accessories are CE compliant and labeled accordingly.

我们申明我们的焊接配件遵守CE并已相应标识。