

**General Conditions of Purchase of Deutsche Bahn AG and its affiliated companies
(hereinafter: "the client")**

**- General Conditions of Purchase as at June 03, 2019 -
Deutsche Bahn AG及其關聯公司（以下簡稱“客戶”）
之採購通用條款
2019年6月3日版**

**1 General Provisions and Integrity Clause
一般規定及廉潔條款**

- 1.1 These General Conditions of Purchase of the client shall apply exclusively. They are a component part of this contract and of any amendments. Any contradictory, supplementary or divergent conditions specified by the contractor shall form a part of the contract only if expressly accepted in writing by the client. This shall also apply to any terms and conditions stipulated in any order confirmation note or other confirmation issued by the contractor. The receipt of goods or services shall not constitute acceptance of the terms and conditions of the contractor. The conditions of purchase of the client shall also apply if the contract with the contractor is executed without reservation, despite knowledge of contradictory or supplementary conditions or conditions which diverge from the conditions of purchase of the client.

本採購通用條款應作為合約以及其任何補充協議的組成部分予以排他性適用。未經客戶明確書面同意，任何承包商提出的相反、補充或不同的條件，包括承包商所簽發的任何訂單確認書或其他書面確認中所提及的任何條款條件，均不得適用。客戶接受貨物或服務均不構成對承包商條款條件之接受。儘管承包商知曉與本採購通用條款相反、補充或不同的條件，但若承包商無條件地履行合約，則本採購通用條款應予以完全適用。

This contract consists of a purchase order and these General Conditions of Purchase, including any tender specification or other documents expressly stated in this contract. If there is any conflict between different provisions in the contract, the following rules must be applied:

本合約由採購訂單以及本採購通用條款包括本合約明確規定的任何招標技術規範或其他文件組成。如果本合約不同條款之間存在衝突，應當遵循以下規則：

- (a) **the provisions set out in the purchase order take precedence over those set out in these General Conditions of Purchase;**
採購訂單的規定優於本採購通用條款的規定；
- (b) **the provisions set out in these General Conditions of Purchase take precedence over those set out in the tender specifications;**
本採購通用條款中的規定優於招標技術規範中的規定；
- (c) **the provisions set out in the tender specifications take precedence over those set out in other documents.**
招標技術規範中的規定優於其他文件的規定。

- 1.2 Within the framework of the contractual relationship, the contracting parties undertake to take all necessary measures to prevent corruption, other criminal offences, and other forms of gross misconduct. They undertake, in particular, to take all necessary precautionary measures to avoid gross misconduct in Germany and abroad. Irrespective of the form of participation in committing, inciting or aiding and abetting an offense, gross misconduct includes
- 在合約框架內，雙方承諾其應採取一切必要的措施以防止腐敗、其他刑事犯罪，以及其他形式的嚴重不當行為。雙方特別承諾其應當採取一切必要的預防措施，以避免在德國和德國國外發生嚴重不當行為。不論參與、煽動、協助或教唆犯罪的形式為何，嚴重不當行為包括：

- (a) serious offenses that have been committed in the course of business dealings. These include criminal offenses that involve, in particular, fraud, a breach of trust, document forgery or similar offences,
在商業交易過程中犯下的嚴重的罪行，包括刑事犯罪，尤其包括欺詐、失信、偽造文件或其他類似的罪行；
- (b) offering, promising or conferring undue benefits to any civil servant, official or other person specifically bound to carry out public service duties (bribery or the conferring of benefits), or members of the board, managing directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct),
向公職人員、官員或其他有明確履行公共服務職責義務的人員提供、承諾或授予不當利益（賄賂或行賄）或向Deutsche Bahn AG或其集團公司的董事會成員、常務董事或其他員工提供、承諾或授予不當利益（商業賄賂）；
- (c) offering, promising or conferring undue benefits to any person engaged in a freelance capacity by Deutsche Bahn AG or its Group companies who is active in the award or execution of a contract, e.g. planners, consultants, and project managers,
向Deutsche Bahn AG或其集團公司所僱傭的主動參與授予或履行合約的任何從事自由職業的人員，例如：計劃人員、顧問或項目經理，提供、承諾或授予不當利益；
- (d) in connection with the activity of the contractor for Deutsche Bahn AG or its Group companies. Offering, promising or conferring undue benefits to any other German or foreign civil servant, official or other person specifically bound to carry out public service duties or to any employees or appointee of any other businesses in relation to the initiation, award or execution of a contract by third parties,
向任何與Deutsche Bahn AG或其集團公司承包商的活動有關的德國或外國公職人員、官員或有明確履行公共服務職責義務的人員提供、承諾或授予不當利益，或向任何與第三方訂立、授予或履行合約有關的其他企業的雇員或被任命的人員提供、承諾或授予不當利益；
- (e) any unauthorized procurement, securing, use or communication of commercial or business secrets for competitive purposes, for personal gain, for the benefit of a third party, or with the intention of inflicting damage or loss on the business owner, or any unauthorized use or communication, for competitive purposes or for personal gain, of documents or technical instructions entrusted in the course of business dealings, and any unauthorized use or transmission, for competitive purposes or for personal gain, of documents, technical instructions or commercial information entrusted in the course of business dealings, including any such material supplied on data storage medium,
任何出於競爭目的、為個人利益、第三方利益、或試圖對企業所有者造成損失或損害的未經授權的採購、保護、使用或交換商業秘密；或任何出於競爭目的或為個人利益而未經授權使用或交換在商業交易過程中取得的委託文件或技術說明；以及任何出於競爭目的或為個人利益未經授權使用或交換在商業交易過程中取得的委託文件、技術說明或商業資訊，包括在資料存儲介質上提供的該等材料；
- (f) any infringement of provisions designed to protect unimpeded competition, in particular, violations of hardcore antitrust restrictions in accordance with Art. 101 TFEU, section 1 ARC (price, tender, quantity, quota, territorial and customer agreements),
任何違反旨在保護自由競爭規定的行為，尤其是違反《歐盟運作條約》（Treaty on the Functioning of the European Union）第101條，《德國反限制競爭法》（German Act

against Restraints of Competition) 第1條的核心反托拉斯限制(價格、招標、數量、配額、地區和客戶協議)；

- (g) any infringement of economic sanctions or the circumvention of European-Union sanctions, especially an infringement of European Council Regulation No. 2580/2001 or European Council Regulation No. 881/2002 and 753/2011 (anti-terror regulations) or of other applicable national, European, and international embargo or trade-control regulations, and 任何違反或規避經濟制裁或歐盟制裁的行為，尤其是違反歐洲理事會第2580/2001號法規或歐洲理事會第881/2002及第753/2011號法規(反恐法規)或其他任何適用的國內、歐洲和國際的禁運或貿易管制條例；以及
- (h) other serious offenses or gross misconduct. These include criminal acts, in particular, terrorist offenses, involvement in a criminal organization, money laundering and the financing of terrorism, child labor, and other forms of human trafficking or similar offenses. 其他嚴重罪行或嚴重不當行為，包括犯罪行為，尤其是恐怖主義罪行，參與集團犯罪、洗錢和資助恐怖主義、童工以及其他形式的販運人口或類似的罪行。

Gross misconduct in the aforementioned sense shall also be deemed to have been committed if persons who are associated with the employees, managing directors or board members of the DB Group are offered, promised or granted undue benefits and if specific planning and tendering assistance is provided in order to subvert competition.

若任何與DB集團的雇員、常務董事或董事會成員相關之人員被提供、承諾或授予不當利益，且提供了專門的計劃和招標協助以破壞競爭，則應當被視為已實施前述條款意義上的嚴重不當行為。

- 1.3 If the contractor or a person mandated by the contractor or acting on behalf of the contractor has demonstrably come to an agreement on occasion of the award that constitutes an illegal restraint of competition the contractor shall be liable to pay damages of 15 % of the net contract value. This does not apply if the contractor is not responsible for the violation. The right to prove and claim damages of different value remains unaffected. Further, any other contractual or statutory rights of the client remain unaffected.

若承包商或承包商授權之人員或代表承包商行事的任何人員在授標時已明確達成協議，構成非法限制競爭，則承包商應承擔合約總金額的15%作為賠償金。若承包商對該違規行為無需承擔責任，則賠償金不予適用。客戶證明並主張因價格差異而導致損害賠償的權利不應受到影響，此外，客戶的任何基於合約或法定之權利均不應受到任何影響。

- 1.4 If in connection with the execution of the award or the provision of goods or services, gross misconduct within the meaning of section 1.2 is committed to the detriment of the client by an employee, an executive director or a member of the board of the contractor or of any sub-contractor working under the direction of the contractor, the contractor shall pay the client a contractual penalty. This, however, does not apply if the contractor is not responsible for the violation. The penalty amounts to

若承包商或其分包商的任何雇員、執行董事或董事會成員就有關授標後合約履行或提供貨物或服務實施了上述第1.2條所述的嚴重不當行為損害客戶利益，則承包商應支付客戶合約罰金。若承包商對該違規行為無需承擔責任，則合約罰金不予適用。合約罰金金額為：

- (a) 7% of the net contract value if the gross misconduct is committed by an executive director or member of the board of the contractor, or 若承包商的執行董事或董事會成員實施了嚴重不當行為，合約罰金為合約總金額的7%；

- (b) 5% of the net contract value if the gross misconduct is committed by an authorized signatory or authorized representative, or
若承包商的授權簽字人或授權代表實施了嚴重不當行為，合約罰金為合約總金額的5%；
- (c) 2% of the net contract value if the gross misconduct is committed by other employees of the contractor or by sub-contractors,
若承包商的其他雇員或承包商之分包商實施了嚴重不當行為，合約罰金為合約總金額的2%；

but the contractual penalty shall at least amount to €5000. This contractual penalty shall not affect the rights of the client to claim damages for misconduct. However in this case the contractual penalty shall be set off against any such claims for damages.

但合約罰金最低不應少於5,000歐元。合約罰金不應影響客戶就該等不當行為主張損害賠償的權利。但是，該等情況下，相應的損害賠償金中可以扣除合約罰金。

The contractual penalty in accordance with the provisions of this section shall be inapplicable if an act of gross misconduct within the meaning of section 1.2 is committed by a subcontractor of the contractor, and the choice of this subcontractor was made obligatory by the client and/or the contractor or his employees, board members, executive directors or other third parties working under his instruction did not participate in committing this act of gross misconduct.

若承包商之分包商實施了第1.2條所述的嚴重不當行為，但承包商對分包商的選擇系客戶和/或承包商或其雇員、董事會成員、執行董事或其他依據承包商指示但未參與實施該嚴重不當行為的其他第三方所指定，則本條款所述之合約罰金不予適用。

Cases of illegal restraints of competition according to section 1.3 and violations according to section 1.2 conducted in coincidence or joinder of offences shall not be subject to the contractual penalty under section 1.4. Section 1.3 shall be exclusive insofar.

若承包商實施第1.3條所述之非法限制競爭行為的同時亦違反了第1.2條之規定，則第1.4條合約罰金不予適用，上述第1.3條應予以排他性適用。

- 1.5 If a verifiable act of gross misconduct within the meaning of section 1.2 is committed by an employee, managing director or member of the board of the contractor,
若第1.2條所述之嚴重不當行為可被證實系由承包商之員工、執行董事或董事會成員所實施：
- (a) the client shall be entitled to invoke an extraordinary termination of the contract without notice,
客戶有權要求不經事先通知立即終止合約；
 - (b) the contractor shall be debarred from competing for orders awarded by Deutsche Bahn AG and its Group companies for a period of up to five years, unless otherwise specified by law. If the contractor can provide evidence of appropriate and sufficient “self-cleaning” measures, the ban may not be implemented. The severity and the circumstances of the misconduct shall be taken into account.
除法律另有規定，承包商不得在最長五（5）年時限內參與競爭任何Deutsche Bahn AG及其集團公司發起的招投標項目。若承包商可以提供適當且充分的“自我清理”措施的證據，則該禁令可以不予以執行。不當行為的嚴重性和具體情況都應被考慮在內。

- 1.6 The contractor undertakes to actively contribute towards preventing gross misconduct within the meaning of section 1.2 and investigating suspected misconduct as well as to cooperate with the client in this respect.

承包商承諾其應當為防止第1.2條規定的嚴重不當行為做出積極貢獻，調查可疑的不當行為，並就此與客戶展開合作。

The contractor gains knowledge of facts that constitute a suspicion of gross misconduct within the meaning of section 1.2 and impact on the client, the contractor is obliged to immediately notify the client of such in writing. Furthermore, if such gross misconduct lies within the sphere of the contractor, the contractor is obliged to investigate the circumstances of the case. If the suspicion is confirmed, the contractor is obliged to take appropriate specific technical, organizational, and personnel measures to terminate misconduct without delay and, if this has not already been done, to take action to prevent such misconduct in the future. The contractor shall promptly inform the client in writing on the progress and outcome of the investigation of the circumstances of the case and on any measures taken.

如果承包商知道或瞭解任何涉嫌構成第1.2條所述嚴重不當行為且影響客戶的事實，承包商有義務立即以書面形式通知客戶。此外，若該等嚴重不當行為在承包商管轄範圍之內，承包商有義務調查案件情況。若懷疑得到證實，則承包商有義務立即採取特定技術、組織以及人員等適當的措施及時終止該不當行為，若不當行為目前尚未實施，則應採取此類措施以防止將來的不當行為。承包商應將案件進展、調查情況以及所採取的措施（如有）以書面形式告知客戶。

- 1.7 To make it possible to establish and organize legally-compliant business relations, the client and the contractor shall each give their consent to the other party for regular mutual checks of their information against the latest versions of the sanctions lists based on European Council Regulations No. 2580/2001, 881/2002, and 753/2011 (anti-terror regulations) and other national European, and international embargo and trade-control regulations. When doing so, they will observe all relevant provisions based on data-protection law, especially with regard to data economy and data security.

為了建立和組織符合法律規定的業務關係，客戶及承包商在此同意對方依據歐洲理事會第2580/2001號法規及第881/2002及753/2011（反恐法規）或其他國內、歐洲和國際的禁運或貿易管制條例所規定的制裁清單最新版本對其資訊進行定期的雙向檢查，但檢查時應當遵守基於資料保護法的所有相關規定，特別是關於數據經濟性和數據安全性的規定。

The contractor declares that his company and employees are not included on any of the aforementioned sanctions lists. The contractor agrees to use appropriate measures to ensure that the anti-terror regulations and other national, European, and international embargo and trade-control regulations are implemented in its company's business operations. The contractor also agrees to immediately notify the client in writing of any matches found during checks against the aforementioned sanctions lists.

承包商聲明其公司和雇員均未列入任何制裁清單。承包商同意採取適當的措施，以確保公司業務活動中實施反恐法規以及國內、歐洲和國際禁運或貿易管制條例。承包商進一步同意，若在上述檢查中發現承包商符合任何上述制裁清單所列任何一項，承包商應當立即書面通知客戶。

The assertion of claims for damages of any type (in particular due to default or non-performance) and the assertion of other rights by the contractor are excluded if these are associated with compliance with applicable national, European, and international embargo and trade-control regulations. This does not apply in the event that the client is accused of

intent or gross negligence. The client is entitled to invoke an extraordinary termination of the contract if any matches are found during the aforementioned checks.

承包商對於與遵守適用的國內、歐洲和國際禁運或貿易關制條例有關的任何類型的損害賠償（尤其是違約或未履行合約所引起的）以及其他權利的主張都應被排除在外，除非客戶存在故意或重大過失。若客戶在前述檢查中發現承包商符合任何上述制裁清單所列任何一項，客戶有權立即終止合約。

2 Implementation Documents

執行文件

- 2.1 The documents supplied to the contractor shall not be disclosed to third parties without the consent of the client, nor copied, nor used for any other than the agreed purpose. They shall be returned to the client on demand.

未經客戶同意，承包商不得將客戶提供給承包商的文件披露、複製或為約定目的以外的任何目的披露給第三方。若客戶要求，該等文件應當退還給客戶。

- 2.2 The client shall be entitled to keep any documents supplied to him by the contractor. The client shall be entitled to use the documents for training and maintenance purposes and in individual cases, by prior agreement, to copy such documents and use them for other purposes.

客戶有權保留承包商提供的任何文件。客戶有權出於培訓或維護之目的使用該等文件，且個別情況下，經事先同意，複製該等文件並將其用於其他目的。

- 2.3 In the event that the contract documents contain both the client's and the contractor's drawing numbers and both the client's and the contractor's reference numbers, only the client's numbers shall be binding.

若合約文件同時包含客戶及承包商之圖紙編號以及參考編號，則僅客戶之編號具有約束力。

3 Execution, Provision of Materials

履行、提供材料

- 3.1 The client shall be entitled to satisfy himself during business or operating hours that goods are supplied and services rendered in compliance with the contract. Upon request, he shall be provided with the documents relating to the contract which are required to obtain such information. Due attention must be paid to the contractor's legitimate confidentiality interests.

客戶有權在營業時間內依據本合約使用承包商所提供的貨物和服務。若客戶要求，承包商應當提供與合約相關的文件及資訊。客戶將適當注意保護承包商合法的保密利益。

- 3.2 The contractor may assign the supply of goods or the rendering of services or essential parts thereof to third parties only with the prior written consent of the client. The client shall not refuse such consent without good cause.

承包商僅在取得客戶事先書面同意的情况下，才可將貨物的供應或服務的提供或其必要的部分轉讓給第三方。客戶無合理理由不得無故拒絕給予該等同意。

- 3.3 The contractor shall ensure that all materials used which fall under the EU chemicals regulation REACH are registered and allowed in accordance with this regulation and having taken into consideration to the use of the materials by the contractor according to the subject of the agreement. This also shall also apply to contractors outside of the European Union.

Upon request by the client, the contractor shall provide suitable proof of the fulfilment of this requirement.

承包商應保證其所使用的材料均已依據歐盟化學品法規REACH予以註冊並且承包商依據本合約之目的對該等材料的使用應被准許。本條亦適用於歐盟以外的承包商。若客戶要求，承包商應當提供適當的證據以證明其符合上述要求。

- 3.4 All materials provided by the client shall remain the property of the client and must be stored, labelled and managed separately and free of charge. They may be used only for the purpose specified in the contract.

客戶所提供的材料均應歸客戶所有，且應分別予以免費儲存、標記及管理。該等材料僅限用於本合約指定之目的。

4 Notification of Reservations, Obstructions, Force Majeure 保留通知、阻礙、不可抗力

- 4.1 The contractor shall notify the client in writing immediately of any reservations he may have about supplying goods or services in the manner requested by the client, or if he believes he is being obstructed by a third party or by the client in supplying goods or services.

若承包商在提供貨物或服務時有任何保留，或承包商相信其在提供貨物或服務時會被第三方或客戶所阻礙，承包商應依據客戶要求的方式立即通知客戶。

- 4.2 If, as a result of force majeure, the provision of goods or services is delayed, the client shall be entitled to demand the supply of goods or services from the contractor at a later date on the same conditions or, on expiry of a reasonable extension, to withdraw from or terminate the contract in full or in part.

若由於不可抗力而導致承包商延期提供貨物或服務，客戶有權要求承包商之後以相同條件提供貨物或服務，或在合理的延期期滿後，全部或部分地撤銷或終止本合約。

5 Default 違約

- 5.1 The period specified in the contract for the supply of goods or services is binding. The contractor shall notify the client in writing immediately of any circumstances that have occurred or become apparent and that will prevent compliance with the specified time limit for the supply of goods or services.

本合約所約定的提供貨物或服務的期限具有約束力。承包商應當將其已經或明顯即將無法依據約定期限提供貨物或服務的情況立即書面通知客戶。

- 5.2 In the event of default on the part of the contractor, the client shall be entitled to his full statutory rights. In case of default on the part of the contractor, the client shall be entitled to impose a penalty amounting to 0.3 % of the contractual value of those goods and services that are in default per day, but not exceeding 10 % thereof. The penalty shall be set off against the total amount of the claim for damage caused by default. The client reserves the right to enforce the penalty up to the time of final payment.

若承包商存在違約行為，客戶有權享有全部法定權利。若承包商存在部分違約，客戶有權就違約的貨物或服務每日向承包商收取該等貨物或服務的合約價格的0.3%作為罰金，但不應超過該等貨物或服務的合約價格的10%。該罰金可以在違約所造成的相應損害賠償中予以抵扣。客戶保留在最終付款之前執行罰金的權利。

6 Place of Performance, Transport, Packaging

履約地點、運輸、包裝

- 6.1 Place of performance shall be the place of receipt specified by the client in the contract.
履約地點應為客戶在合約中規定的收貨地點。
- 6.2 The costs of transport and packaging shall be included in the fixed price. If requested by the client, the contractor shall collect the packaging materials from the place of receipt and dispose of them at his own expense.
運輸和包裝費用應當含在固定價格之內。若客戶要求，承包商應當自收貨地點收集並自負費用處置該等包裝材料。
- 6.3 Insofar as economically reasonable for the contractor, he shall use railbound means of transport for the logistic services and freight transport required for the supply of goods and services. The choice of transport company shall be at the contractor's discretion. Prior to placing the order, however, he shall request an offer from at least one transport company within the DB Group.
在對承包商而言經濟合理的範圍內，承包商應當使用鐵路運輸工具提供貨物和服務所需的物流及貨運服務。承包商應當自行選擇運輸公司，但在下單之前，承包商應至少要求一家DB集團內的運輸公司提供報價。

7 Notice of Termination or Withdrawal for Compelling Reasons 有原因的終止、撤銷通知

The right to termination without notice for cause remains unaffected. Cause shall be deemed present, in particular, if a party to the contract breaches the contract to such an extent that the other contract party can no longer be reasonably expected to continue cooperation, such as with a material breach of the principles and requirements stated in the agreed Code of Conduct for Business Partners, if multiple single breaches of contract exceed the limit of acceptability, or if the contractor has suspended his payments not only temporarily, but the right to manage and dispose of his assets has been transferred to a preliminary insolvency administrator, the contractor's assets are subject to insolvency proceedings, or an application to commence insolvency proceedings has been rejected for lack of sufficient assets. A termination without notice generally requires a previous unsuccessful written warning.

未經通知因故終止合約的權利不受影響。以下情況應被視為可以未經通知終止合約的原因，尤其是一方違反合約且導致另一方無法合理預期該方會繼續合作，包括但不限於嚴重違反約定的《商業夥伴行為準則》中所述的原則和要求，一方多次違反合約約定且超出另一方可接受的範圍，或承包商不僅暫時中止付款且將其資產的管理和處置權轉移至破產管理人，承包商的資產需經破產程序予以處置，或由於缺乏足夠資產而導致啟動破產程序的申請被拒絕等情形。未經通知的因故終止合約通常要求先行就違約方的違約事項發出書面警告。

8 Acceptance, Time Limit for Complaints, Passing of Risk, Transfer of Title 交付、訴訟時效、風險及所有權轉移

- 8.1 All goods delivered and all services rendered by the contractor shall be transferred to the client at the client's place of receipt. The client shall issue a confirmation note acknowledging receipt, unless a separate agreement has been reached on the acceptance procedure for the supply of goods or services. Any quality inspection, technical acceptance, or official acceptance procedures (e.g. by the Federal Railway Office) shall not replace the confirmed transfer or the agreed acceptance procedure mentioned above.

承包商提供的所有貨物和服務均應在客戶指定的收貨地點交付並轉讓給客戶。除非雙方對提供貨物或服務的交付程序另有單獨協議予以約定，客戶應當簽發確認書或確認收據。任何品質檢驗，技術驗收或官方驗收程序（比如聯邦鐵路局採取的官方驗收程序）均不能代替上述確認或依據約定的交付程序進行的交付和轉讓。

- 8.2 The client shall check the goods and services supplied for any defects within a reasonable period. The delivery of an incorrect item or an insufficient quantity shall be considered to be defects. Notification of defects shall be deemed punctual if submitted within two weeks. In the case of obvious deviations in quality and quantity, the notification period shall commence on the date of transfer of goods and services at the place of receipt. In the case of hidden deviations in quality and quantity, the notification period shall commence on the date of their discovery.

客戶應在合理期限內檢查承包商所提供的貨物和服務是否存在任何瑕疵。承包商交付的貨物不正確或數量不足均應被視為履行瑕疵。履行瑕疵通知應當在兩周內提交。若品質和數量存在明顯差異，上述通知期限應自貨物和服務在收貨地點交付和轉讓之日起算。若品質和數量存在隱性瑕疵，上述通知期限應自客戶發現之日起算。

- 8.3 Risk shall pass to the client at the time of the confirmed transfer or the agreed acceptance procedure.

客戶確認或依據約定交付的程序交付和轉讓之時，風險轉移至客戶。

- 8.4 Title shall pass to the client at the time of the confirmed transfer or the agreed acceptance procedure.

客戶確認或依據約定交付的程序交付和轉讓之時，所有權轉移至客戶。

- 8.5 If the goods and services that were supplied under contract or parts thereof are rejected after the confirmed transfer or during the agreed acceptance procedure owing to a failure to comply with the contract, the contractor shall be obliged to take back the goods and services supplied under contract or parts thereof immediately and at his own expense. If a reasonable period for collection has expired, the client shall be entitled to return the goods and services supplied under contract or parts thereof to the contractor at the latter's expense. In the above cases, risk shall not pass to the client prior to renewed confirmation of transfer or the renewed agreed acceptance procedure.

若在交付和轉讓的確認期間或依據約定交付程序交付期間，因承包商不符合合約約定導致合約項下全部或部分的貨物和服務被拒收，承包商應當立即自負費用收回合約項下全部或部分的貨物和服務。若承包商未能在合理的收回期限收回上述貨物和服務，客戶有權返還承包商合約項下全部或部分的貨物和服務，相應費用均由承包商予以承擔。在上述情況下，在重新確認轉讓或重新進行約定的交付程序之前，風險不應轉移至客戶。

- 8.6 The contractor shall be obliged at his own expense and own risk to redeliver those goods and services that were supplied under contract or parts thereof or any replacement items to the client's place of receipt against issue of a confirmation note or subject to a renewed agreed acceptance procedure.

承包商應當自負費用且自擔風險在客戶指定收貨地點向客戶重新交付合約項下應當提供的全部或部分貨物和服務或任何替代的貨物和服務，以便客戶簽發確認書或依據約定的交付程序進行交付。

9. Claims Arising from Defects, Liability of Contractor 瑕疵履行索賠、承包商責任

9.1 Any claims arising from defects asserted by the client shall be governed by statutory regulations subject to the following conditions:

客戶因主張履行瑕疵而引起的任何索賠應受到法律法規之約束，且應滿足如下條件：

(a) The contractor shall remain fully responsible for the faultless supply of goods and services even in the event that the client has signed, approved, stamped or marked “Seen” etc. any plans, drawings, calculations or other implementation documents submitted to him by the contractor.

即使客戶在承包商提交的任何計劃、圖紙、計算或其他執行文件上簽名、批准、蓋章或標記“已閱”，承包商仍應為其提供完善的貨物和服務承擔全部責任；

(b) In cases of particular urgency and/or imminent danger, the client shall be entitled to remedy the defects himself and demand reimbursement of the necessary expenses if he cannot reasonably be expected to grant the contractor an extension for performance. The client shall notify the contractor immediately of any such claims arising from defects and of the nature and scope of the emergency measures taken.

在緊急情況下，若客戶無法合理預期承包商延期履行的時間，客戶有權自行糾正瑕疵並要求承包商償還必要的費用。客戶應當立即通知承包商由履行瑕疵引起的任何索賠以及所採取的應急措施的性質和範圍。

(c) The client shall be entitled to grant the contractor a reasonable period in which to remove a defective item. On expiry of that period, the client shall be entitled to realise the goods and services supplied under contract, e.g. by way of sale, at the contractor’s expense and paying due attention to the contractor’s business interests.

客戶有權提供承包商合理期限以彌補其履行合約之瑕疵。該等合理期限期滿後，客戶有權依據合約取得提供的貨物和服務，例如：通過購買取得相應貨物和服務，但相應費用應在適當注意承包商的商業利益的情況下由承包商予以承擔。

(d) The period in which claims arising from defects may be asserted shall be two years from the date of acceptance or the date of issue of a transfer confirmation note, unless a longer period has been agreed in individual cases or a longer period is prescribed by law. This period shall be extended by the duration of the period in which the defective goods and services cannot be used for their intended purpose.

由履行瑕疵引起的索賠主張期限為自接收之日或簽發轉讓確認書之日起兩年，除非雙方在個別情況下約定更長期限或法律規定更長期限。該期限應依據因瑕疵貨物和服務無法用於特地目的的期限予以延長。

(e) The period in which claims arising from defects may be asserted shall be suspended if the contractor himself is examining the existence of a defect. Suspension of this limitation period shall be lifted only when the contractor notifies the client in writing that negotiations have been concluded or the results of the examination are sent to the client, or the contractor sends a written refusal to continue rectification of the defect. In the event of recommencement of negotiations, examination or rectification of the defect, the period of limitation shall again be suspended.

若承包商自行檢驗是否存在瑕疵，則上述因履行瑕疵引起的索賠主張期限的計算應予以中止。當承包商書面通知客戶談判結束或將檢驗結果提交客戶或承包商書面拒絕繼續糾正該瑕疵時，該等中止之期限應繼續計算。若雙方重新開始談判、檢驗或糾正瑕疵，則上述期限的計算仍應被中止。

9.2 The contractor shall be liable in accordance with the statutory regulations.

承包商應依據法律法規規定承擔責任。

10 Secrecy 保密

The contractor shall be entitled to inform outside parties of (partial) order values or (partial) prices only in circumstances compulsorily prescribed by statute. Press releases and other publications relating to orders placed shall be permissible only with the consent of the client. This shall also apply to any disclosure of rounded or approximate values and to percentage values for the purpose of comparison with previous orders.

承包商僅在法律法規強制規定的情況下才有權將全部或部分訂單價格或價格告知任何第三方。當且僅當取得客戶書面同意後，承包商才允許發佈與訂單有關的新聞稿或其他出版物。本條款也適用於訂單價格任何四捨五入或近似值的披露或與先前訂單比較之目的而披露的百分比值。

11 Industrial Property Rights

工業產權

In the event that any claims are filed against the client by a third party for alleged infringement of industrial property rights, the contractor shall be obliged to indemnify the client from such third-party claims upon the first written demand by the client, unless the infringement is beyond the control of the contractor. This indemnity obligation shall cover all expenses sustained by the client in connection with the claims filed by third parties.

若任何第三方因涉嫌侵犯工業產權而向客戶提出任何索賠，則承包商有義務在客戶首次提出書面要求下就客戶因該第三方索賠所受的損失做出補償，除非該侵權超出承包商之控制範圍。補償範圍應當包括承包商與該第三方索賠相關所承擔的全部費用。

The right of indemnity shall be limited to a period of two years from the date at which the circumstances establishing this right become known to the client or which would have become known to him had he not acted in a grossly negligent manner. Otherwise, the right of indemnity shall lapse after a period of ten years from the date of establishment of this right irrespective of the client's knowledge or grossly negligent ignorance.

客戶主張補償的期限為兩年，自客戶知曉其該權利或在客戶未基於重大過失且應當知曉該權利之日起計算。此外，該補償責任自該權利確立之日起十年後終止，不論客戶知曉或基於重大過失未能知曉該權利。

12 Invoices, Prices, Supplements

發票、價格、補充協議

12.1 The accounts for each contract (including any supplements) shall be settled with an invoice. Instalment invoices, partial invoices, partial final invoices and final invoices must be indicated as such and consecutively numbered. Invoices not expressly marked otherwise shall be treated as final invoices.

每個合約（包括任何補充協議）的帳目均應以發票結算。分期發票、部分發票、部分最終發票和最終發票都必須注明且連續編號。未能明確注明的發票視為最終發票。

12.2 Subject to value added tax (VAT) regulations, invoices must specify the ordering party, the date and reference number of the contract, the contract number, the contractor's tax number given by the tax office or his VAT identity number, the forwarding station, the place of receipt, the order item number in ascending order and the material number. Already the delivery or performance documents that are to be handed over to the place of receipt must include the contract number and the order item number in ascending order.

依據增值稅（VAT）相關規定，發票必須注明客戶、合約日期和參考編號、合約號、稅務局提供的承包商的稅號或承包商的增值稅號、轉運站、收貨地點、以升序排列的訂單

項目編號和物料編號。收貨地點交付或履行的文件必須包含合約編號和以升序排列的訂單項目編號。

- 12.3 The price specified in the contract is a fixed price that excludes any subsequent demands. The fixed price does not include the contractor's statutory VAT. Payment of the VAT presupposes that the contractor is entitled and obliged pursuant to the relevant legal regulations to charge the tax separately and that the tax is indicated separately in the invoice.

本合約約定之價格為固定價格，且不含任何後續費用。該固定價格不包含承包商的法定增值稅。客戶繳納增值稅的前提是承包商依據相關法律法規有權且有義務分別收取稅費且該等稅費在發票中單獨予以注明。

- 12.4 Payment shall be made for any additions and/or modifications to the supply of goods and services only if the parties have entered into a written supplementary agreement prior to the provision of these additional or modified goods or services.

當且僅當雙方就貨物和服務的增加和/或修改達成書面補充協議後，該等增加或修改的貨物或服務才予以提供並付款。

13 Payment, Discounts **付款、折扣**

- 13.1 Payments shall be remitted by transfer to the contractor's bank account stated on the invoice. 款項應通過轉帳方式匯至發票上注明的承包商的銀行帳戶。

- 13.2 The payment period shall be 21 days subject to a 3 % discount, or 30 days net. 付款期限為21日（可享受發票金額3%的折扣），或30日。

- 13.3 The payment period shall commence on receipt of a verifiable final invoice, within the meaning of 12.2. at the address stated in the contract, but not before the date of acceptance of contractual performance or the date of issue of a transfer confirmation note.

付款期限自收到符合本合約第12.2條約定的可驗證的最終發票起算，但不應在合約履行的接收之日或簽發轉讓確認書之日前。

- 13.4 If the parties have agreed for payment to be made in instalments, the payment period shall commence on the date of receipt of a verifiable instalment invoice, but not before the provision of any agreed securities.

若雙方同意分期付款，付款期限應自收到可驗證的分期發票之日起算，但不得在提供任何擔保之前。

- 13.5 Compliance with the payment period by the client shall be determined by the date on which the transfer order is submitted to the bank. Section 286, subsection 3 German Civil Code (BGB) shall not apply.

客戶是否符合上述付款期限應依據其向銀行提交轉帳單的日期予以確定。德國民法典（BGB）第286條第3款不再適用。

14 Assignment of Claims, Retention Rights, Set-Off **債權轉讓、權利保留、抵扣**

- 14.1 The contractor shall not be permitted to assign his claims against the client to a third party. Any rights under section 354a German Commercial Code (HGB) shall remain unaffected.

承包商不得將其對客戶的債權轉讓給任何第三方。德國商法典（HGB）第354a條項下的權利不應受到任何影響。

14.2 The contractor shall not be entitled to exercise any lien or other right of retention if this is based on counterclaims from other legal transactions with the client.

若承包商就其與客戶任何其他合法交易提出反訴，承包商無權行使任何留置權或其他保留之權利。

14.3 The contractor shall be entitled to offset only with claims (including claims arising from other legal relationships) if that are undisputed or that have been established as final and absolute by a court of law.

承包商僅有權將無爭議的或由法院最終判定的（包括由於其他法律關係引起的）的索賠進行抵銷。

14.4 The client shall be entitled to full rights of retention and set-off.

客戶有權享有保留以及抵銷的所有權利。

15 Legal Venue, Applicable Law, Written Form

管轄地、適用法律、書面形式

15.1 Legal venue, where legally permissible, shall be the place at which the client or an affiliated company of the client as the ordering party has its registered office. In the case of framework agreements, this shall also apply to any disputes in connection with individual call orders, irrespective of the registered office of the party calling for delivery. The client shall, however, also be entitled to invoke the courts at the place where the contractor has its registered office.

若法律允許，本合約的管轄地為客戶或作為訂購方的客戶關聯公司註冊登記的所在地。就框架協議而言，上述管轄約定也應適用於與單個訂單有關的任何糾紛，與訂購方的註冊所在地無關。但是，客戶有權在承包商登記註冊所載地的法院提起訴訟。

15.2 The legal relationship between the parties shall be governed solely by the laws of Kong Kong, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

雙方之法律關係應僅受香港法律管轄，但應排除適用《聯合國國際貨物銷售公約》。

15.3 Any amendment to the contract must be made in writing for the preservation of evidence.

本合約的任何修改都應以書面形式進行，以資證明。

15.4 This Contract is written in both Chinese and English, in case of any conflict, inconsistency, or discrepancy between the languages, the English shall prevail.

本合約以中英文書就，若兩種語言存在任何衝突、不一致或差異，應當以英文為準。