

**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及其关联公司（以下简称“客户”）
之采购通用条款
2019年6月3日版**

1 General Provisions and Integrity Clause

一般规定及廉洁条款

- 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.

本采购通用条款应作为合同以及其任何补充协议的组成部分予以排他性适用。未经客户明确书面同意，任何承包商提出的相反、补充或不同的条件，包括承包商所签发的任何订单确认书或其他书面确认中所提及的任何条款条件，均不得适用。客户接受货物或服务均不构成对承包商条款条件之接受。尽管承包商知晓与本采购通用条款相反、补充或不同的条件，但若承包商无条件地履行合同，则本采购通用条款应予以完全适用。

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:

本合同由采购订单以及本采购通用条款包括本合同明确规定的任何招标技术规范或其他文件组成。如果本合同不同条款之间存在冲突，应当遵循以下规则：

- (a) the provisions set out in the purchase order take precedence over those set out in these General Conditions of Purchase;**
采购订单的规定优于本采购通用条款的规定；
- (b) the provisions set out in these General Conditions of Purchase take precedence over those set out in the tender specifications;**
本采购通用条款中的规定优于招标技术规范中的规定；
- (c) the provisions set out in the tender specifications take precedence over those set out in other documents.**
招标技术规范中的规定优于其他文件的规定。

- 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

在合同框架内，双方承诺其应采取一切必要的措施以防止腐败、其他刑事犯罪，以及其他形式的严重不当行为。双方特别承诺其应当采取一切必要的预防措施，以避免在德国和德国国外发生严重不当行为。不论参与、煽动、协助或教唆犯罪的形式为何，严重不当行为包括：

- (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,
在商业交易过程中犯下的严重的罪行，包括刑事犯罪，尤其包括欺诈、失信、伪造文件或其他类似的罪行；
- (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),
向公职人员、官员或其他有明确履行公共服务职责义务的人员提供、承诺或授予不当利益（贿赂或行贿）或向Deutsche Bahn AG或其集团公司的董事会成员、常务董事或其他员工提供、承诺或授予不当利益（商业贿赂）；
- (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或其集团公司所雇佣的主动参与授予或履行合同的任何从事自由职业的人员，例如：计划人员、顾问或项目经理，提供、承诺或授予不当利益；
- (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,
向任何与Deutsche Bahn AG或其集团公司承包商的活动有关的德国或外国公职人员、官员或有明确履行公共服务职责义务的人员提供、承诺或授予不当利益，或向任何与第三方订立、授予或履行合同有关的其他企业的雇员或被任命的人员提供、承诺或授予不当利益；
- (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,
任何出于竞争目的、为个人利益、第三方利益、或试图对企业所有者造成损失或损害的未经授权的采购、保护、使用或交换商业秘密；或任何出于竞争目的或为个人利益而未经授权使用或交换在商业交易过程中取得的委托文件或技术说明；以及任何出于竞争目的或为个人利益未经授权使用或交换在商业交易过程中取得的委托文件、技术说明或商业信息，包括在数据存储介质上提供的该等材料；
- (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),
任何违反旨在保护自由竞争规定的行为，尤其是违反《欧盟运作条约》（Treaty on the Functioning of the European Union）第101条，《德国反限制竞争法》（German Act

against Restraints of Competition) 第1条的核心反托拉斯限制(价格、招标、数量、配额、地区和客户协议);

- (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 任何违反或规避经济制裁或欧盟制裁的行为, 尤其是违反欧洲理事会第2580/2001号法规或欧洲理事会第881/2002及第753/2011号法规(反恐法规)或其他任何适用的国内、欧洲和国际贸易管制条例; 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. 其他严重罪行或严重不当行为, 包括犯罪行为, 尤其是恐怖主义罪行, 参与集团犯罪、洗钱和资助恐怖主义、童工以及其他形式的贩运人口或类似的罪行。

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.

若任何与DB集团的雇员、常务董事或董事会成员相关之人员被提供、承诺或授予不当利益, 且提供了专门的计划和招标协助以破坏竞争, 则应当被视为已实施前述条款意义上的严重不当行为。

- 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权之人员或代表承包商行事的任何人员在授标时已明确达成协议, 构成非法限制竞争, 则承包商应承担合同总金额的15%作为赔偿金。若承包商对该违规行为无需承担责任, 则赔偿金不予适用。客户证明并主张因价格差异而导致损害赔偿的权利不应受到影响, 此外, 客户的任何基于合同或法定之权利均不应受到任何影响。

- 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员、执行董事或董事会成员就有关授标后合同履行或提供货物或服务实施了上述第1.2条所述的严重不当行为损害客户利益, 则承包商应支付客户合同罚金。若承包商对该违规行为无需承担责任, 则合同罚金不予适用。合同罚金金额为:

- (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 若承包商的执行董事或董事会成员实施了严重不当行为, 合同罚金为合同总金额的7%;

- (b) 5% of the net contract value if the gross misconduct is committed by an authorized signatory or authorized representative, or
若承包商的授权签字人或授权代表实施了严重不当行为，合同罚金为合同总金额的5%；
- (c) 2% of the net contract value if the gross misconduct is committed by other employees of the contractor or by sub-contractors,
若承包商的其他雇员或承包商之分包商实施了严重不当行为，合同罚金为合同总金额的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.

但合同罚金最低不应少于5,000欧元。合同罚金不应影响客户就该等不当行为主张损害赔偿的权利。但是，该等情况下，相应的损害赔偿金中可以扣除合同罚金。

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.

若承包商之分包商实施了第1.2条所述的严重不当行为，但承包商对分包商的选择系客户和/或承包商或其雇员、董事会成员、执行董事或其他根据承包商指示但未参与实施该严重不当行为的其他第三方所指定，则本条款所述之合同罚金不予适用。

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.

若承包商实施第1.3条所述之非法限制竞争行为的同时亦违反了第1.2条之规定，则第1.4条合同罚金不予适用，上述第1.3条应予以排他性适用。

- 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条所述之严重不当行为可被证实系由承包商之员工、执行董事或董事会成员所实施：

- (a) the client shall be entitled to invoke an extraordinary termination of the contract without notice,
客户有权要求不经事先通知立即终止合同；
- (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.
除非法律另有规定，承包商不得在最长五（5）年时限内参与竞争任何Deutsche Bahn AG及其集团公司发起的招投标项目。若承包商可以提供适当且充分的“自我清理”措施的证据，则该禁令可以不予以执行。不当行为的严重性和具体情况都应被考虑在内。

- 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.

承包商承诺其应当为防止第1.2条规定的严重不当行为做出积极贡献，调查可疑的不当行为，并就此与客户展开合作。

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.

如果承包商知道或了解任何涉嫌构成第1.2条所述严重不当行为且影响客户的事实，承包商有义务立即以书面形式通知客户。此外，若该等严重不当行为在承包商管辖范围之内，承包商有义务调查案件情况。若怀疑得到证实，则承包商有义务立即采取特定技术、组织以及人员等适当的措施及时终止该不当行为，若不当行为目前尚未实施，则应采取此类措施以防止将来的不当行为。承包商应将案件进展、调查情况以及所采取的措施（如有）以书面形式告知客户。

- 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.

为了建立和组织符合法律规定的业务关系，客户及承包商在此同意对方根据欧洲理事会第2580/2001号法规及第881/2002及753/2011（反恐法规）或其他国内、欧洲和国家的禁运或贸易管制条例所规定的制裁清单最新版本对其信息进行定期的双向检查，但检查时应当遵守基于数据保护法的所有相关规定，特别是关于数据经济性和数据安全性的规定。

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.

承包商声明其公司和雇员均未列入任何制裁清单。承包商同意采取适当的措施，以确保公司业务活动中实施反恐法规以及国内、欧洲和国际禁运或贸易管制条例。承包商进一步同意，若在上述检查中发现承包商符合任何上述制裁清单所列任何一项，承包商应当立即书面通知客户。

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.

承包商对于与遵守适用的国内、欧洲和国际禁运或贸易管制条例有关的任何类型的损害赔偿（尤其是违约或未履行合同所引起的）以及其他权利的主张都应被排除在外，除非客户存在故意或重大过失。若客户在前述检查中发现承包商符合任何上述制裁清单所列任何一项，客户有权立即终止合同。

2 Implementation Documents

执行文件

- 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.

未经客户同意，承包商不得将客户提供给承包商的文件披露、复制或为约定目的以外的任何目的披露给第三方。若客户要求，该等文件应当退还给客户。

- 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.

客户有权保留承包商提供的任何文件。客户有权出于培训或维护之目的使用该等文件，且个别情况下，经事先同意，复制该等文件并将其用于其他目的。

- 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.

若合同文件同时包含客户及承包商之图纸编号以及参考编号，则仅客户之编号具有约束力。

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.

客户有权在营业时间内根据本合同使用承包商所提供的货物和服务。若客户要求，承包商应当提供与合同相关的文件及信息。客户将适当注意保护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.

承包商仅在取得客户事先书面同意的情况下，才可将货物的供应或服务的提供或其必要的部分转让给第三方。客户无合理理由不得无故拒绝给予该等同意。

- 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.

承包商应保证其所使用的材料均已根据欧盟化学品法规REACH予以注册并且承包商根据本合同之目的对该等材料的使用应被准许。本条亦适用于欧盟以外的承包商。若客户要求，承包商应当提供适当的证据以证明其符合上述要求。

- 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.

客户所提供的材料均应归客户所有，且应分别予以免费储存、标记及管理。该等材料仅限用于本合同指定之目的。

4 Notification of Reservations, Obstructions, Force Majeure **保留通知、阻碍、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.

若承包商在提供货物或服务时有任何保留，或承包商相信其在提供货物或服务时会被第三方或客户所阻碍，承包商应根据客户要求的方式立即通知客户。

- 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.

若由于不可抗力而导致承包商延期提供货物或服务，客户有权要求承包商之后以相同条件提供货物或服务，或在合理的延期期满后，全部或部分地撤销或终止本合同。

5 Default **违约**

- 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.

本合同所约定的提供货物或服务的期限具有约束力。承包商应当将其已经或明显即将无法根据约定期限提供货物或服务的情况立即书面通知客户。

- 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.

若承包商存在违约行为，客户有权享有全部法定权利。若承包商存在部分违约，客户有权就违约的货物或服务每日向承包商收取该等货物或服务的合同价格的0.3%作为罚金，但不应超过该等货物或服务的合同价格的10%。该罚金可以在违约所造成的相应损害赔偿中予以抵扣。客户保留在最终付款之前执行罚金的权利。

6 Place of Performance, Transport, Packaging

履约地点、运输、包装

- 6.1 Place of performance shall be the place of receipt specified by the client in the contract.
履约地点应为客户在合同中规定的收货地点。
- 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.
运输和包装费用应当含在固定价格之内。若客户要求，承包商应当自收货地点收集并自负费用处置该等包装材料。
- 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.
在对承包商而言经济合理的范围内，承包商应当使用铁路运输工具提供货物和服务所需的物流及货运服务。承包商应当自行选择运输公司，但在下单之前，承包商应至少要求一家DB集团内的运输公司提供报价。

7 Notice of Termination or Withdrawal for Compelling Reasons 有原因的终止、撤销通知

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.

未经通知因故终止合同的权利不受影响。以下情况应被视为可以未经通知终止合同的原因，尤其是一方违反合同且导致另一方无法合理预期该方会继续合作，包括但不限于严重违反约定的《商业伙伴行为准则》中所述的原则和要求，一方多次违反合同约定且超出另一方可接受的范围，或承包商不仅暂时中止付款且将其资产的管理和处置权转移至破产管理人，承包商的资产需经破产程序予以处置，或由于缺乏足够资产而导致启动破产程序的申请被拒绝等情形。未经通知的因故终止合同通常要求先行就违约方的违约事项发出书面警告。

8 Acceptance, Time Limit for Complaints, Passing of Risk, Transfer of Title 交付、诉讼时效、风险及所有权转移

- 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.

承包商提供的所有货物和服务均应在客户指定的收货地点交付并转让给客户。除非双方对提供货物或服务的交付程序另有单独协议予以约定，客户应当签发确认书或确认收据。任何质量检验，技术验收或官方验收程序（比如联邦铁路局采取的官方验收程序）均不能代替上述确认或根据约定的交付程序进行的交付和转让。

- 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.

客户应在合理期限内检查承包商所提供的货物和服务是否存在任何瑕疵。承包商交付的货物不正确或数量不足均应被视为履行瑕疵。履行瑕疵通知应当在两周内提交。若质量和数量存在明显差异，上述通知期限应自货物和服务在收货地点交付和转让之日起算。若质量和数量存在隐性瑕疵，上述通知期限应自客户发现之日起算。

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

客户确认或根据约定交付的程序交付和转让之时，风险转移至客户。

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

客户确认或根据约定交付的程序交付和转让之时，所有权转移至客户。

- 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.

若在交付和转让的确认期间或根据约定交付程序交付期间，因承包商不符合合同约定导致合同项下全部或部分的货物和服务被拒收，承包商应当立即自负费用收回合同项下全部或部分的货物和服务。若承包商未能在合理的收回期限收回上述货物和服务，客户有权返还承包商合同项下全部或部分的货物和服务，相应费用均由承包商予以承担。在上述情况下，在重新确认转让或重新进行约定的交付程序之前，风险不应转移至客户。

- 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.

承包商应当自负费用且自担风险在客户指定收货地点向客户重新交付合同项下应当提供的全部或部分货物和服务或任何替代的货物和服务，以便客户签发确认书或根据约定的交付程序进行交付。

9. Claims Arising from Defects, Liability of Contractor

瑕疵履行索赔、承包商责任

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

客户因主张履行瑕疵而引起的任何索赔应受到法律法规之约束，且应满足如下条件：

(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.

即使客户在承包商提交的任何计划、图纸、计算或其他执行文件上签名、批准、盖章或标记“已阅”，承包商仍应为其提供完善的货物和服务承担全部责任；

(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.

在紧急情况下，若客户无法合理预期承包商延期履行的时间，客户有权自行纠正瑕疵并要求承包商偿还必要的费用。客户应当立即通知承包商由履行瑕疵引起的任何索赔以及所采取的应急措施的性质和范围。

(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.

客户有权提供承包商合理期限以弥补其履行合同之瑕疵。该等合理期限期满后，客户有权根据合同取得提供的货物和服务，例如：通过购买取得相应货物和服务，但相应费用应在适当注意承包商的商业利益的情况下由承包商予以承担。

(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赔主张期限为自接收之日或签发转让确认书之日起两年，除非双方在个别情况下约定更长期限或法律规定更长期限。该期限应根据因瑕疵货物和服务无法用于特地目的的期限予以延长。

(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.

若承包商自行检验是否存在瑕疵，则上述因履行瑕疵引起的索赔主张期限的计算应予以中止。当承包商书面通知客户谈判结束或将检验结果提交客户或承包商书面拒绝继续纠正该瑕疵时，该等中止之期限应继续计算。若双方重新开始谈判、检验或纠正瑕疵，则上述期限的计算仍应被中止。

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

承包商应根据法律法规规定承担责任。

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.

承包商仅在法律法规强制规定的情况下才有权将全部或部分订单价格或价格告知任何第三方。当且仅当取得客户书面同意后，承包商才允许发布与订单有关的新闻稿或其他出版物。本条款也适用于订单价格任何四舍五入或近似值的披露或与先前订单比较之目的而披露的百分比值。

11 Industrial Property Rights **工业产权**

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业产权而向客户提出任何索赔，则承包商有义务在客户首次提出书面要求下就客户因该第三方索赔所受的损失做出补偿，除非该侵权超出承包商之控制范围。补偿范围应当包括承包商与该第三方索赔相关所承担的全部费用。

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.

客户主张补偿的期限为两年，自客户知晓其该权利或在客户未基于重大过失且应当知晓该权利之日起计算。此外，该补偿责任自该权利确立之日起十年后终止，不论客户知晓或基于重大过失未能知晓该权利。

12 Invoices, Prices, Supplements **发票、价格、补充协议**

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.

每个合同（包括任何补充协议）的账目均应以发票结算。分期发票、部分发票、部分最终发票和最终发票都必须注明且连续编号。未能明确注明的发票视为最终发票。

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.

根据增值税（VAT）相关规定，发票必须注明客户、合同日期和参考编号、合同号、税务局提供的承包商的税号或承包商的增值税号、转运站、收货地点、以升序排列的订单

项目编号和物料编号。收货地点交付或履行的文件必须包含合同编号和以升序排列的订单项目编号。

- 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.

本合同约定之价格为固定价格，且不含任何后续费用。该固定价格不包含承包商的法定增值税。客户缴纳增值税的前提是承包商根据相关法律法规有权且有义务分别收取税费且该等税费在发票中单独予以注明。

- 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.

当且仅当双方就货物和服务的增加和/或修改达成书面补充协议后，该等增加或修改的货物或服务才予以提供并付款。

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. 款项应通过转账方式汇至发票上注明的承包商的银行帐户。

- 13.2 The payment period shall be 21 days subject to a 3 % discount, or 30 days net. 付款期限为21日（可享受发票金额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同第12.2条约定的可验证的最终发票起算，但不应在合同履行的接收之日或签发转让确认书之日前。

- 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.

若双方同意分期付款，付款期限应自收到可验证的分期发票之日起算，但不得在提供任何担保之前。

- 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.

客户是否符合上述付款期限应根据其向银行提交转账单的日期予以确定。德国民法典（BGB）第286条第3款不再适用。

14 Assignment of Claims, Retention Rights, Set-Off **债权转让、权利保留、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.

承包商不得将其对客户的债权转让给任何第三方。德国商法典（HGB）第354a条项下的权利不应受到任何影响。

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.

若承包商就其与客户任何其他合法交易提出反诉，承包商无权行使任何留置权或其他保留之权利。

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.

承包商仅有权将无争议的或由法院最终判定的（包括由于其他法律关系引起的）的索赔进行抵销。

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

客户有权享有保留以及抵销的所有权利。

15 Legal Venue, Applicable Law, Written Form

管辖地、适用法律、书面形式

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. 若法律允许，本合同的管辖地为客户或作为订购方的客户关联公司注册登记的所在地。就框架协议而言，上述管辖约定也应适用于与单个订单有关的任何纠纷，与订购方的注册所在地无关。但是，客户有权在承包商登记注册所载地的法院提起诉讼。

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

双方之法律关系应仅受中华人民共和国法律管辖，但应排除适用《联合国国际货物销售公约》。

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

本合同的任何修改都应以书面形式进行，以资证明。

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.

本合同以中英文书就，若两种语言存在任何冲突、不一致或差异，应当以英文为准。