

## CHINA - GENERAL TERMS AND CONDITIONS OF PURCHASE OF RAW MATERIAL

### 中国 – 原材料采购一般条款与条件

#### SEMPERIT (SHANGHAI) MANAGEMENT CO., LTD.

#### 森佩理特（上海）管理有限公司

#### **Conclusion of a transaction/达成交易**

Unless otherwise agreed all deliveries and services ordered by us shall be subject to these General Terms and Conditions of Purchase ("GTCP"). Terms and conditions of delivery or other contract form sheets of the supplier shall not be applicable even if we do not expressly object thereto.

除非另有约定，我方订购的所有货物和服务均应符合这些一般采购条款与条件（“GTCP”）。供应商的交付条件与条款或其他合同格式文件的条款与条件，即使我方未明确反对，也不应适用。

Purchase orders shall be acknowledged by means of Signature and/or stamp of the supplier.

采购订单应由供应商通过签字和/或盖章确认。

All agreements and all our statements shall require written form in order to be valid. This requirement shall not refer to purchase orders placed only orally or by fax that include a purchase order number and are subsequently acknowledged in writing; such oral / faxed orders shall take effect as of receipt of the order acknowledgement.

所有的约定和我方所有的声明均应采取书面形式才能生效。此要求不应针对仅以口头方式或传真方式下达的包含采购订单编号的、并随后被书面确认的采购订单；该等口头/传真订单应在收到订单确认后生效。

#### **Type and period of delivery 交付类型与期限**

Deliveries shall be handled according to our instructions. Goods shall be packed properly. Deliveries shall be in compliance with the regulations on safety, packaging and dangerous goods applicable in China; the related papers (e.g. safety data sheets and test certificates) shall be enclosed. With respect to utilisation and disposal of means of packaging our directives and rules shall be observed and coordinated with us, if necessary. Unless otherwise agreed in writing between us and the supplier, the supplier shall deliver the goods at our disposal and cleared for import at the agreed place of destination. The supplier shall make the goods ready for unloading at the agreed place of destination. The supplier bears all costs and risks involved in bringing the goods to the place of destination and has the obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.

应按照我方的指示办理交付。货物应适当包装。交付应遵守在中国适用的安全、包装及危险货物法规；相关文件（例如，安全数据表、检测报告）应随货附寄。关于包装方式的使用和处理，应遵守我方的指示和规定，并在必要时与我方进行协调。除非我方与供应商之间另有书面约定，供应商应在约定的目的地办理货物进口清关手续后，将货物交给我方处置。供应商应使货物作好准备，可在约定的目的地卸货。供应商承担货物运至目的地过程中发生的所有成本和风险，且有义务办理货物的出口及进口清关手续，缴纳任何出口及进口税，办理所有海关手续。

Insurance of the goods against transport damage or other damage shall be taken out by the Supplier. This can be at our cost only if expressly agreed.

供应商应就运输损害或其他损害对货物购买保险。仅在明确约定的情况下，保险费才由我方承担。

Partial deliveries may only be made with our consent.

只有经我方同意，才可进行部分交付。

Delivery periods shall commence on the date of our purchase order.

交付期限应从我方采购订单的日期开始计算。

### **Payment/付款**

All prices shall be fixed prices unless deviating provisions have been agreed.

所有价格均应为固定价格，除非已另作约定。

Payments shall be deemed neither an acknowledgement of proper delivery nor a waiver of any rights whatsoever.

付款行为既不应视为对适当交付的确认，也不应视为对任何权利的放弃。

### **Untimely delivery/不及时交付**

If the delivery date is not observed, the supplier shall pay a contractual penalty in the amount of 0.5% of the total price for each commenced week of delay but not more than 2 % of the total price, irrespective of fault.

如果供应商未遵守交付日期，无论是否存在过错，供应商每延迟交付一周应支付相当于总价款 0.5% 的违约金，但违约金不应超过总价款的 2%。

If the supplier is in default, then 14 days after default started we shall be entitled to cancel the contract with immediate effect and without having to announce our cancellation of the contract and without having to grant a period of grace

如果供应商违约，那么违约达 14 日后，我方应有权解除合同，合同解除立即生效，无须声明我方解除合同的决定，也无须给予一定的宽限期。

If the contract is terminated due to the default of the supplier or if the supplier is no longer able to render performance of the contract, a contractual penalty of 2 % of the total price shall be paid in any case.

如果合同因为供应商违约而解除，或者如果供应商不再能够履行合同，在任何情况下，供应商应支付相当于总价款 2% 的合同违约金。

### **Defective delivery/不合规定的交付**

Unless expressly agreed in writing all goods delivered shall be new (brand-new) and of top quality (1A goods or agreed type of goods), state-of-the-art and suitable for their designated purpose.

除非书面约定，所有交付的货物均应为新的（崭新的）、最优质的（1A 货物或约定类型的货物）、达到最新技术发展水平的、适合它们指定目的的货物。

A period of time for inspections is not stipulated. If we at the acceptance test or other inspections have determined values regarding the supply quantity, measurements, weights and quality, such values shall be relevant unless the supplier proves them to be incorrect. Our right to claim for defects or to raise any other claims at a later point in time shall not be excluded by the acceptance test (or any other inspection).

未规定检验期限。如果我方在验收试验或其他检验时获得了关于供应数量、尺寸、重量和质量的数值，这些数值应为相关数值，除非供应商证明它们为错误数值。验收试验（或任何其他检验）不应排除我方在晚些时候对瑕疵提出权利主张或提起任何其他权利主张的权利。

The supplier shall be responsible for the constant quality of the goods delivered on the basis of his quality assurance system maintained according to these GTCP. That means that as soon as the supplier has been admitted as a supplier of us, we will, in principle, no longer inspect the incoming goods. Defectiveness of the goods delivered may be claimed notwithstanding that they have been stored, used or been processed. The warranty claims shall be deemed to have been asserted in time if we have dispatched a written notice of defects within the warranty period. If defective goods have been delivered, we shall have the option to demand a price reduction or that non-defective goods be delivered. Improvement or substitute delivery shall be effected immediately and at the supplier's cost. In urgent cases we shall be entitled at the supplier's cost to substitute delivery from a third supplier.

供应商应基于其根据 GTCP 执行的质量保证体系，负责保证交付货物的品质一致性。这意味着，一旦供应商被我方接纳，我方将原则上不再检验新进货物。如果交付的货物有瑕疵，即使它们已经被储存、使

用或加工，也可对瑕疵提出权利主张。如果我方在质保期内就瑕疵发出书面通知，质保索赔应被视为已经及时提出。如果瑕疵产品已经被交付，我方应有权选择要求减价，或者要求交付合格产品。改进措施或替代交付应立即进行，由供应商承担费用。在紧急情形下，我方应有权由供应商承担费用从第三方供应商获取替代交付。

### **Business secret/商业秘密**

Our purchase orders and all related commercial details and technical details shall be treated by the supplier as a business secret. The supplier may only refer to the existence of business relations with us if we have agreed thereto.

供应商应将我方的采购订单及所有相关的商业信息和技术信息，作为商业秘密对待。供应商仅可在我方同意的条件下，提及双方业务关系的存在。

### **Safety provisions and other provisions/安全规定与其他规定**

The goods must be produced in the premises of supplier and must not be produced at another premises.

货物应在供应商的处所生产，不得在其他处所生产。

In case of any intended changes concerning the goods (e.g. change of manufacturing process or raw material) supplier will inform us in good time and get our acknowledgement of the intended change in writing.

如果要关于货物做任何变化（例如，改变制造工艺或原材料），供应商应及时通知我方，获得我方对预期变化的书面认可。

The goods delivered shall be in compliance with all statutory provisions (laws, regulations, standards, etc.) applicable in China and at the place of delivery and at the place where the goods delivered will be used.

交付的货物应符合所有的在中国、交付地及交付货物的将来使用地适用的法律规定（法律、法规、标准等）。

If insolvency proceedings of any kind are opened in respect of the supplier after the contract has been concluded, we shall be entitled to rescind the contract immediately.

如果在合同签订后，针对供应商启动了任何资不抵债程序，我方应有权立即解除合同。

The supplier shall be liable for the fact that the goods delivered are not encumbered with rights of third parties and that no patents, proprietary rights or other rights of third parties are violated in China or abroad by delivery or use of the goods. The supplier shall indemnify and hold us harmless from and against all claims of third parties arising out of a violation of this obligation.

供应商应负责保证，交付的货物不存在第三方的权利负担，对货物的交付或使用在中国境内外不侵犯第三方的专利权、专有或其他权利。如果因为对该义务的违反造成任何第三方的索赔，供应商应使我方免受损害并赔偿所有损失。

The supplier shall not be free to have contractual services for us provided by third parties in whole or in part unless we expressly agree thereto (no subcontracting).

供应商不应自行安排第三方完成针对我方的全部或部分合同服务，除非经我方明确同意（禁止分包）。

An assignment of claims of the supplier under this contract shall require the written consent of us (non-assignment clause).

供应商对其在本合同下的权利主张的任何转让，均应获得我方的书面许可（禁止转让条款）。

The supplier undertakes that the goods will be produced and delivered within the scope of a quality assurance system. The supplier shall provide us with evidence of the continuing existence of such a quality assurance system upon request.

供应商承诺，货物将在一项质量保证体系的范围内生产和交付。一经要求，供应商应向我方提供证明，证实该项质量保证体系的持续存在性。

If any provision of these GTCP or any contractual agreement between us and the supplier is held by any court or other competent authority to be void, illegal or unenforceable in whole or part, the other

provisions of these GTCP or the affected Agreement as well as the remainder of the affected provisions shall continue to be valid, in force and binding. The void, illegal or unenforceable provision shall be automatically deemed replaced by such valid, legal and enforceable provision that comes closest to the business purpose of the replaced provision.

如果这些 GTCP 的任何规定或我方与供应商之间的任何合同约定，被任何法院或其他主管机关判定为全部或部分无效、违法或不可执行，这些 GTCP 或受影响协议的其他规定，以及受影响规定的剩余内容，应继续有效，具有约束力。无效、违法或不可执行的规定应自动视为被最接近于被替代规定的商业目的的有效、合法和可执行的规定替代。

**Place of jurisdiction, place of performance, applicable law/管辖地、履行地、适用法律**

The laws of the People's Republic of China shall apply to the legal relations in connection with this agreement.

中华人民共和国法律适用于本协议相关的法律关系。

The parties shall attempt in good faith to resolve any dispute promptly by negotiation. If the matter has not been resolved within sixty (60) days after a party's request for negotiation, either party may initiate arbitration as provided herein. Any dispute, which has not been resolved as provided above, shall, at the request of either party, be finally settled by arbitration under one arbitrator of the China International Economic & Trade Arbitration Commission in Beijing in accordance with its arbitration rules in effect on the date that such notice is given. The arbitrator shall be selected by the Chairman of the China International Economic and Trade Arbitration Commission (CIETAC) from the panel list of foreign arbitrators. The venue of arbitration shall be Beijing. The language of arbitration shall be English. Any arbitration award shall be final and binding on the parties. Each party shall bear the costs of preparing and presenting its case and share the cost of arbitration, including the fees and expenses of the arbitrator, or as the award otherwise provides.

双方应及时协商善意解决任何争议。如果一方提出协商请求后六十（60）日内争议未解决，任一方可根据本文件规定提起仲裁。按照上述方式未被解决的任何争议，根据任一方的请求，可由位于北京的中国国际经济贸易仲裁委员会（CIETAC）的一名仲裁员，按照 CIETAC 于通知日期有效的仲裁规则，通过仲裁解决。仲裁员由 CIETAC 主任从外国仲裁员全体名单中选定。仲裁地为北京。仲裁语言为英语。任何仲裁裁决应为终局裁决，对双方具有约束力。各方应承担案件准备和申诉的费用，分担仲裁费用，包括仲裁员费用，或者按照裁决进行承担。

Validity date of GTCP from April 15<sup>th</sup>, 2014

GTCP 自 2014 年 4 月 15 日生效。