

GENERAL TERMS AND CONDITIONS OF PURCHASE OF GOODS

货物采购一般条款

pdf1. AGREEMENT, CHANGES OR AMENDMENTS

协议、变更或修改

The Agreement (which definition shall include without limitation these General Terms and Conditions, any purchase order or any outline agreement to which these General Terms and Conditions are appended, and any other attachment specifically referenced as a part of the Agreement) constitutes the entire understanding between the parties with respect to the agreement to purchase the goods described ("Product") and supersedes all prior agreements, negotiations and discussions, either oral or written, between the parties relating thereto. It is expressly understood that Seller's acceptance of the Agreement, by execution, delivery of product, or other performance is subject to these terms and conditions, and any additional or different terms and conditions proposed or expressed by the Seller are null and void unless specifically agreed to in writing by Buyer.

协议 (该定义应包括但不限于本一般条款、任何采购订单或附带本一般条款的任何框架协议、以及特别说明属于协议组成部分的其他附件) 构成双方间就所描述货物 ("产品") 的采购所达成的全部协议, 并取代双方之前就此达成或进行的口头或书面的协议、磋商和讨论。卖方通过签署、交付产品或其他履行方式接受协议系以接受本一般条款为明确条件; 除非买方书面明确同意, 卖方建议或表示的任何额外或不同条款均无效。

2. QUALITY, SUBSTITUTION AND DELIVERY

质量、替代和交付

Seller warrants that all Product will conform to the description(s) and quality specified in the Agreement, will be merchantable and free from defects of material and workmanship, and will be fit for the purpose intended by the Buyer. All Product that does not conform to the Agreement, specification or supplied in excess of the quantity ordered may at Buyer's option be returned at Seller's expense without prejudice to any other rights or remedies available to Buyer.

卖方保证所有产品符合协议中规定的描述和质量, 可以销售且无原料和工艺上的瑕疵, 且将符合买方预定的用途。不符合协议、规格或供应超过订单数量的所有产品, 在不影响买方任何其他权利或救济的情况下, 可由买方选择退回, 由卖方承担费用。

3. TERMINATION

终止

If either party commits a material breach of the Agreement and fails to remedy that breach within thirty (30) days of having received from the non-defaulting party a written notice specifying the breach and requiring it to be remedied, then the non-defaulting party will be entitled to terminate the Agreement immediately by giving written notice. In addition, either party may terminate the Agreement immediately by notice in writing if the other party becomes or is declared insolvent. Termination will be without prejudice to any other rights or remedies available.

如果任何一方严重违反协议, 且未在收到守约方指明违约并要求其补救的书面通知后三十(30)日内就该违约进行补救, 守约方有权在发出书面通知后立刻终止协议。另外, 如果对方破产或被宣布破产, 任何一方可以在发出书面通知后立刻终止协议。终止将无损于任何其他权利或救济。

4. ASSIGNMENT

转让

Neither party can assign or transfer its rights and obligations under the Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld, except that Buyer may assign any or all of its rights or transfer any or all of its obligations to an Affiliate or to a successor or other transferee in business without consent. For the purpose of the Agreement, an "Affiliate" of Buyer means any member of the Infineum group of companies (in addition to the contracting Infineum entity) having common ultimate parent entities each owning or controlling, directly or indirectly, fifty percent (50%) of the shares, voting powers or other evidence of ownership.

未经对方事先书面同意 (不得无理无故不予同意), 任何一方不得转让或转移其在协议下的权利和义务。但是买方无须获得同意, 可以将任何或所有权利或义务转让给或转移给关联方或继任者或其他业务受让人。在协议中, 买方的"关联方"指具有共同的最终母公司实体, 并且每一该共同最终母公司实体直接或间接拥有或控制其百分之五十(50%) 股权、表决权或其他所有权凭证的润英联集团的任何公司成员(签约的润英联实体除外)。

5. TITLE AND RISK OF LOSS

货权和损失风险

Title and risk of loss and damage shall pass from Seller to Buyer upon delivery and acceptance of Product by Buyer or Buyer's representative at the designated destination. Seller warrants title to the Product free of all encumbrances.

货权和损失和损坏的风险在指定地点交付且经买方或买方代表验收产品后从卖方转移至买方。卖方保证产品的货权不带任何权利负担或瑕疵。

6. DELAYS, TERMINATION AND FORCE MAJEURE

延迟、终止和不可抗力

Seller will notify Buyer promptly of any matter that could delay the timely performance of the Agreement. If Seller fails to make deliveries within the time specified in the Agreement, Buyer may terminate the Agreement or such part(s) of the Agreement as to which there has been a delay without liability to the Seller. Whether or not Buyer so terminates the Agreement, Seller will pay for any costs arising out of such failure. Neither party will incur any liability whatsoever, however arising, as a result of its failure to perform its obligations under the Agreement to the extent that it is prevented from such performance by circumstances which it cannot foresee, avoid and overcome, provided that it gives notice of such circumstances as soon as possible together with sufficient details of the problem, its likely end date and corrective action plans.

卖方将及时通知买方可能延迟协议履行的任何事项。如果卖方未按照协议规定的时间交付, 买方可以就延迟终止协议或协议的有关部分, 无需对卖方承担责任。无论买方是否终止协议, 卖方将支付此类违约产生的任何费用。如果任何一方未履行其协议下的义务是由于其不能预见、不能避免且不能克服的情况, 则不承担任何责任, 但是其应尽快发出该情况的通知, 连同问题的具体详情, 可能的结束日期和纠正行动计划。

7. GOVERNING LAW AND COMPLIANCE

适用法律和合规

Any dispute arising out of or relating to the Agreement, including the validity and interpretation of the Agreement and non-contractual disputes and claims, is governed by and enforced in accordance with the laws of the People's Republic of China. The parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts which have jurisdiction in the incorporation place of the Buyer. Seller will comply with and will secure agreement by its subcontractors to comply with all applicable laws and regulations in the performance of its obligations under the Agreement.

因协议产生或与协议有关的任何争议, 包括协议的合法性和解释问题及非合同纠纷和索赔, 适用中华人民共和国法律并按照中华人民共和国法律执行。双方在此不可撤销地接受买方注册地有管辖权法院的非专属性管辖。在履行协议下其义务时, 卖方将遵守并确保其分包商订立协议遵守所有法律和法规。

If any portion of the Agreement is held invalid, illegal or unenforceable by a court, tribunal or other authority of competent jurisdiction, the remaining portions will continue to be valid and enforceable unless enforcement of the remaining portions significantly alters the economic and legal substance of the transactions governed by the Agreement.

如果协议的任何部分被有管辖权的法院、仲裁庭或其他机构认定为无效、非法或不可强制执行, 其余部分将继续有效且可强制执行, 除非执行其余部分实质性改变了协议下的交易的经济和法律意图。

8. INSPECTION AND WAIVER

验收和弃权

All Product covered by the Agreement will be subject to final acceptance and, at Buyer's discretion, inspection, at its destination, notwithstanding any prior payment or inspection. Acceptance or inspection of all or any part of Product will not be deemed to be a waiver of Buyer's rights under the Agreement. The failure of a party to enforce or otherwise exercise any right under the Agreement will not be deemed to be a waiver of that right nor operate to bar the enforcement or other exercise of such right at any time or times thereafter.

尽管有任何预付和检验, 协议下所有产品可由买方决定在目的地进行检验, 最终验收。接受或检验所有或部分产品不得被视为放弃买方在协议下的权利。一方未执行或行使协议下任何权利不得被视为放弃该权利, 不妨碍在其后任何时候执行或行使该权利。

9. USE OF BUYER'S NAME; BUSINESS ETHICS; AUDIT

买方名称的使用; 商业道德; 检查

Seller agrees that it will not use the name or any trademark of Buyer or any of Buyer's Affiliates in promotional material without Buyer's prior written consent. Seller will ensure that invoices and accounts are full and accurate, payments from Buyer are received exclusively on Seller's own account and no part of them are transferred or promised to any official, employee, representative or agent of any government or political party. Seller will not offer, solicit, accept or pay a bribe, kickback, facilitation payment or other improper payment ("Bribe") directly or indirectly (such as by using an agent or third party) in any form for any reason in connection with the Agreement or any dealings with or on behalf of Buyer or its Affiliates. Charitable donations must not be used as a cover or substitute for a Bribe. The above applies equally to transactions involving foreign or domestic government officials or employees (including those of state owned enterprises) and to transactions involving persons representing public or private companies, whether in the conduct of domestic or international business. Seller will establish precautions to prevent its employees, agents, representatives and sub-contractors ("Agents") from offering, soliciting, accepting or paying any Bribe in connection with the Agreement or any dealings with or on behalf of Buyer or its Affiliates. Seller will not offer, solicit, accept or make any substantial gifts, extravagant entertainment or any payment or benefits to or from Buyer's or its Affiliates' employees, their families or third parties concerned with the Agreement. Further, Seller will establish precautions to prevent its Agents from making or offering gifts, and/or providing entertainment, payments, loans, or other consideration, for the purpose of influencing any act or decision. Seller will notify Infineum promptly upon discovery of any instance where Seller fails to comply with this clause. Buyer may audit Seller's compliance with the terms of the Agreement upon prior written notice and during normal working hours.

卖方同意未经买方事先书面同意, 其不会在其促销材料中使用买方或其任何关联方的名称或任何商标。卖方将确保发票和账目完整和准确、买方的付款全部由卖方自己接收, 没有任何部分被转给或承诺转给任何政府或政党的任何官员、员工、代表或代理。卖方不会直接或间接 (如使用代理或第三方) 因协议或其与买方或其关联方或其代表的任何交易, 以任何形式提供、索取、接受或支付贿赂、回扣、疏通费或支付其他不当款项 ("贿赂")。慈善捐款不得用于掩饰或变相贿赂。以上条款同等地适用于涉及国外或国内政府官员或员工 (包括国有企业) 的交易和涉及代表上市或私人公司的人员的交易, 无论国内或国际业务。卖方将建立预防措施防止其员工、代理、代表和分包商 ("代理人") 因协议或其与买方或其关联方或其代表的任何交易而提供、索取、接受或支付任何贿赂。卖方不会向买方或其关联方的员工、其家人或与协议有关的第三方提供、索取、接受或给予任何贵重礼物、奢侈娱乐或任何款项或利益。另外, 卖方将建立预防措施防止其代理人为影响任何行为或决定之目的给予或提供礼物、和/或提供娱乐、付款、贷款或其他对价。一经发现卖方未遵守本条款的任何情况, 卖方将立刻通知润英联。经事先书面通知, 在正常工作时间内, 买方可以检查卖方遵守协议条款的情况。

10. INDEMNIFICATION

赔偿

Seller agrees to defend, indemnify, and hold Buyer harmless from all claims for injury or damage to persons or property arising out of Seller's negligence or willful misconduct in the performance of its obligations under the Agreement.

对于因卖方履行其在协议下义务时的疏忽或故意不当而造成的人员或财产的伤害或损害的所有索赔, 卖方同意为买方抗辩、赔偿买方并使其免受伤害。

11. SET-OFF PROVISION

抵销条款

In the event Seller shall fail in any way to perform under the Agreement, Buyer may offset, as appropriate, any performance or payment due by Buyer under the Agreement or any other agreement between the parties.

如果**卖方**以任何形式未履行**协议**，**买方**可以以此抵销（若适用）其在**协议**或双方间任何其他协议下的任何履约义务或应付款项。

12. INDEPENDENT CONTRACTOR: ACTIVITY AT BUYER'S PREMISES

独立承包商：在买方场所的活动

Seller will transact all business pursuant to the Agreement as an independent contractor on its own behalf and for its own account. All persons who enter onto Buyer's property on Seller's behalf shall observe Buyer's safety, health, security, and traffic regulations.

卖方将以其自己名义并代表其自己以独立合同方身份进行**协议**下所有交易。代表**卖方**进入**买方**场所的所有人员应遵守**买方**的安全、健康、保安和交通规则。

13. PRICE AND PAYMENT

价格和付款方式

Except as otherwise provided expressly herein, the price for the Product is inclusive of all taxes, duties, freight, packaging and insurance charges. Product will not be invoiced earlier than the date of dispatch, and, absent agreement to the contrary, a separate invoice will be forwarded to Buyer in respect of each separate delivery of Product purchased from Seller.

除非在此另行明确规定，**产品**的价格包括所有税费、关税、运费、包装费和保险费。发货日之前，不出具**产品**的发票；且只要没有相反的约定，就向**卖方**购买的每批单独交付的**产品**，将向**买方**发出单独的发票。

14. INFRINGEMENT OF PATENTS, COPYRIGHTS, AND TRADEMARKS

侵犯专利、版权和商标

Seller warrants that: (a) neither the Product supplied under the Agreement, nor any device or process embodied in it constitutes or involves an infringement of any patents, trade marks, copyright or other intellectual property rights existing at the time the Product is to be supplied; (b) the Product will be delivered free of the rightful claim of any party by way of infringement of any such intellectual property rights; and (c) the Product may be used or sold free of any rightful claim of any party by way of intellectual property right infringement or the like but only insofar as Seller was aware at the time of delivery of the use Buyer intended to make of the Product. Seller will defend, indemnify, and hold harmless Buyer, and its successors and assigns, against any and all claims, demands, losses, costs or liability arising out of or resulting from Seller's breach of the above warranty.

卖方保证：(a)**协议**下供应的**产品**，或其所包含的任何设备或工艺，均不构成或涉及侵犯**产品**供应时所存在的任何专利、商标、版权或其他知识产权；(b)就**产品**交付，无任何一方以侵犯上述任何知识产权为由而提起的合法索偿；及(c)就**产品**的使用和销售，无任何一方以侵犯任何知识产权或类似情况为由提起的合法索偿，但以**卖方**在交付时所知道的**买方**购买**产品**的预定用途为限。对于因**卖方**违反上述保证而产生的任何和所有索偿、主张、损失、费用或责任，**卖方**将为**买方**及其继任者和受让人抗辩、对其予以赔偿并使其免受伤害。

15. CONFIDENTIALITY

保密

Seller agrees that it will at all times during the term of the Agreement and for a period of three (3) years after its termination keep confidential, and will not without the prior written consent of Buyer disclose to any third party, any confidential information disclosed by or on behalf of Buyer, unless such information: (a) was public knowledge or already known to the Seller at the time of disclosure; (b) subsequently becomes public knowledge other than by breach of the Agreement or any other confidentiality obligation; or (c) subsequently comes lawfully into the possession of the Seller from a third party. On termination, all documents and other records (in whatever form) containing confidential information supplied to or acquired by Seller from Buyer will be returned promptly to Buyer or destroyed by Seller on Buyer's instructions.

卖方同意其在**协议**期限内及终止后三(3)年内的任何时候，对**买方**或代表**买方**所披露的保密信息予以保密，未经**买方**事先书面同意，不向任何第三方披露，除非该信息：(a)在披露时已为公众所知或为**卖方**所知；(b)其后非因违反**协议**或任何其他保密义务而为公众所知；或(c)其后**卖方**从第三方处合法取得。当终止时，**买方**提供给**卖方**或**卖方**从**买方**获得的包含保密信息的所有文件和其他记录（无论何种形式），**卖方**应按**买方**指示立刻退还**买方**或予以销毁。

16. HEALTH

健康

Seller will ensure that adequate information is conveyed to Buyer on or before the first delivery of Product as to any conditions necessary to ensure that the Product is safe and without risks to health when properly used.

卖方确保在**产品**的首批交付时或之前将有关必要条件的足够信息传达给**买方**，以确保在正确使用情况下**产品**安全且不会危害健康。

17. THIRD PARTY RIGHTS

第三方权利

Unless expressly provided otherwise, nothing in the Agreement expressed or implied is intended or can be construed to confer upon or give to any third party any rights (including without limitation enforcement rights), remedies, benefits or basis for reliance upon, under or by reason of the Agreement. For the present purposes, "third party" does not include the parties to the Agreement, their respective successors or their permitted assigns."

除非另行明确规定，**协议**未明示或暗示其有意或可以被解释为赋予或给予任何第三方于**协议**下的任何权利（包括但不限于强制执行权）、救济、权益或信赖利益。此处“第三方”不包括**协议**当事方、其各自的继任者或其受许可的受让人。

18. LANGUAGE

语言

These General Terms and Conditions are written in both English and Chinese. In the event of any inconsistency, the English shall prevail.

本一般条款以中英文书就。若有不一致，以英文本为准。