

一般采购条件

一、 释义

本条件所指之下列表述，除非上下文另有所指，均作如下释义：

“本条件”指本文件中规定的一般条件；除非上下文另有所指，亦包括供应商与劳易测之间书面约定的任何特别条款和条件；

“合同”指经确认的货物和/或服务采购订单，无论订单之确认是否另行签署文件；

“订单”：依个案不同，指货物和/或服务采购订单；

“货物”指按照本条件向劳易测提供的货物（包括分期交付之任意一批，或货物之任何部分）；

“中国”指中华人民共和国。为本条件之经济目的，特指其除香港特别行政区、澳门特别行政区、台湾地区以外的领域；

“服务”指按照本条件向劳易测提供的服务；

“供应商”指同意向劳易测提供货物和/或服务的一方；

“劳易测”指德国 Leuze Electronic Internationale Beteiligungen GmbH（参考译名：德国劳易测电子国际投资有限公司）在中国境内投资设立的子公司（含子公司设立的分支机构及再投资企业）。该等劳易测中国子公司或分支机构，单独或共同称“劳易测中国实体”，具体适用主体以相应订单所示为准。任一家劳易测中国实体为履行合同之目的，依法、依约将合同权利或义务转让予其他劳易测中国实体或者向其转包的，本条件一并适用于其他劳易测中国实体。于本条件生效之时，本定义下的劳易测中国实体包括：（一）劳易测电子装配（深圳）有限公司；（二）劳易测电子贸易（深圳）有限公司及其分公司。

二、 本条件的适用

- (1) 本条件适用于任何下述合同与订单，即作为向劳易测发出报价、或供应商确认接受或表示将予接受订单之依据的合同与订单；
- (2) 非经劳易测与供应商授权代表书面约定，任何其他条款和条件或者与本条件不一致的约定均不具约束力。与本条件不一致的约定仅对针对其作出该等约定的个别交易适用。

三、 订单

- (1) 劳易测提交订单的，供应商应就订单中所列物项作出回应；若订单所列物项存在任何偏差，供应商应明示指出。
- (2) 订单在供应商确认接受之前，劳易测可以随时撤回，订单中就此作出特别规定者除外。供应商向劳易测发出的要约持续有效。
- (3) 订单仅以书面形式发出方为有效。口头或电话订单须在收到书面确认后方可生效。
- (4) 确认接受订单之前，供应商须指出订单（包括随附的订货文件）中的明显错误（例如拼写和计算错误）和任何不完整之处，以便更正或补充完整。
- (5) 供应商应以书面形式确认接受订单。经劳易测发出并经供应商原样确认接受的订单内容或约定与本条件不一致的，以订单为准。双方另行达成与订单所载条款不一致的约定的，该等另行达成的约定须以书面形式订立，经双方签署，与订单附在一起作为合同。
- (6) 就订单或合同所作之任何通信往来，均应以供应商的雇员以及劳易测发出相关订单的部门的雇员（“劳易测相关雇员”）为发（收）件人。供应商知悉，劳易测一方的雇员、代理人或代表，若非劳易测相关雇员，亦非劳易测法定代表人或总经理明确授权的董事、高级管理人员或雇员的，均并无授权修改订单或变更合同。
- (7) 确认接受订单或履行合同即视为认可本条件并接受其约束力。

四、 规格

- (1) 货物和服务的数量、质量和描述，除本条件规定外，依合同之规定。
- (2) 就货物的制造、包装、运输包装和交付，供应商应遵守所有适用规定或其他法定或技术要求。货物包装须注明原产地，以及与货物相关的必要的警告文字。
- (3) 劳易测要求在货物交运前的制造、加工、仓储过程中在供应商或其他第三方场地上对货物进行检测的，供应商不得拒绝，且应劳易测进行检测的合理需要为其提供便利条件。
- (4) 供应商应采取保障供应链，以使制造、储存并向劳易测运输的货物——
 - (a) 于安全的作业场所及装运地点进行制造、储存、处理、装载；
 - (b) 在制造、储存、处理、装载和运输过程中获得安全保管，不受无授权人士接触，且制造、储存、处理、装载、运输和移交均由可靠人员办理。

供应商应确保所有参与供应链各环节、直至向劳易测交付货物为止的所有单位在相同程度内对供应链作出保障。

五、 货物和服务价格

- (1) 货物和服务价格均依合同约定；非经另行说明，均包括包装费、运输包装及装运费用、保险费和直至指定地址的货物运送费用，以及所有税费、关税、行政收费、银行收费，下示第五条第（2）项所述者除外。
- (2) 货物和服务价格不含适用的增值税或其他因销售货物或提供服务而产生的、依相关税法规定须由劳易测另行缴纳的税负。
- (3) 非经劳易测事先书面同意，不得提高价格（无论系以材料价格、人工或运输成本提高、汇率波动或其他任何理由）。

六、 支付条件

- (1) 供应商在交付货物（提供服务）同时或交付（提供）完成后可以随时向劳易测发出书面付款通知，并附上发票。就中国供应商而言，该等发票是指正式的增值税专用发票。
- (2) 劳易测收到有效发票后 30 天内，就发票所对应的货物价款和/或服务费进行支付。
- (3) 双方同意，劳易测以银行转账方式支付的，劳易测一经收到其汇款银行出具的汇款回单，即视为已经完成支付。劳易测不对支付交易中银行方面的延误承担责任。
- (4) 供应商对劳易测有到期未付账款或其他类型的到期未偿付债务的，劳易测有权以货款（服务费）抵销。该等抵销经劳易测向供应商就此发出通知生效。
- (5) 任何法域的税务机关依法就相关交易要求劳易测从支付供应商款项中代扣代缴税款的，劳易测有权从支付款项中进行代扣。
- (6) 劳易测发生任何支付迟延的，并无义务支付利息。

七、 交付/履行期

- (1) 货物交付或服务履行的地点依合同约定，于合同约定日期或在合同约定期限内完成。
- (2) 货物交付或服务履行的时间对合同具有基础意义。供应商在此认可并确认，交付或履行的迟延，除其他后果外，还会令劳易测对其客户承担责任；因此，因货物交付或服务履行迟延而给劳易测造成

的损失，还可能会特别包括但不仅限于由此而给劳易测的下游客户或用户造成的损害及该等客户或用户因此提出的索赔请求。

- (3) 供应商一旦知晓货物交付或服务履行会迟延，则应立即告知劳易测，说明原因及预期迟延期间，而无论供应商是否须对延迟承担责任。
- (4) 货物分批交付的，则合同即视为每批交付即对应一份单独的合同。
- (5) 货物交付或服务履行迟延的，劳易测有权要求供应商支付违约金，其金额的计算方式为：受影响的货物（或服务）每迟延一周（不足一周的视为一周），则应付相当于该货物价款（服务费）的1%（百分之一）。
- (6) 劳易测保留证明其实际遭受损害超过违约金的权利。在该等情形下，劳易测还有权就超出违约金以外的损害进行索赔。
- (7) 货物交付或服务履行迟延的，劳易测有权（但并无义务）给予供应商延期待遇，但劳易测因该等迟延而享有的违约金请求权不受影响。供应商未在合同规定日期或经延长的交付日期（依个案而定）之前交付货物或履行服务的，劳易测进而有权解除整个合同并且/或者就供应商不履行主张损害赔偿。以上规定的损害赔偿之支付，在任何情形下均予适用。
- (8) 货物交付或服务履行迟延情形下的供应商责任不设限制，亦不得有任何免除。
- (9) 货物交付不符合合同约定的，劳易测有权拒收。劳易测得以在货物交付后的合理期间，或者在较晚时间、货物隐蔽瑕疵可见后的合理期间内对其进行检验的，方视为接受货物。
- (10) 供应商负责以合适方式谨慎地包装、运送货物；非经另行约定，其费用由供应商自行承担。在货物的运送过程中，供应商应遵守各种文件要求或劳易测的指示。劳易测有权（但并无义务）向供应商返还包装材料。

八、 发运及包装

- (1) 每批交付的货物应附有两份交付证书，注明劳易测订单号、订货项目、货物编码。在使用敞开式包装的情形下，订单号和订货项目应在发运文件中注明。图纸的编号及版本说明应在交付货物和交付文件中注明，以便查验。
- (2) 货运单据、包裹地址和其他所有交付文件均须注明劳易测的地址、订单号和货物编码。
- (3) 供应商交付货物而无交付通知的，劳易测有权退回交付货物，其退回费用由供应商承担。

- (4) 货物应付价款包括包装费用。若劳易测因相关技术或法律要求须自行提供包装或改变包装，则劳易测有权就其产生的该等包装费用向供应商索偿。

九、 所有权和风险

- (1) 货物所有权于交付之时转移至劳易测；货物价款于交付之前支付的，货物所有权于货款支付时转移至劳易测。
- (2) 供应商保证，货物所有权清晰，其上未设置任何留置、抵押或其他权利负担，亦无任何其他保全措施或其他限制。
- (3) 无论所有权归属为何，亦无论本条件中是否有其他相反约定，供应商在由其照看、保管、控制货物期间，应承担货物灭失和损毁风险，并为其自身和劳易测之利益（以自身或劳易测为受益人）为货物投保，投保范围包括免费提供给供应商、用于投入货物生产或与之相关目的的材料，或者归属于劳易测、或于依合同规定交付给劳易测之时成为劳易测财产的制造辅助用具。

十、 保证

- (1) 供应商向劳易测保证，货物在交付给劳易测时，以及在质量保证期（见以下第十条第（2）项）内：
 - (a) 符合合同规定的质量要求，适用于供应商说明或其于合同订立时以书面形式从劳易测知悉的全部目的；
 - (b) 设计、材料及做工无瑕疵；
 - (c) 符合全部相关规格或样品；
 - (d) 符合合同约定；
 - (e) 其上无第三方权利（包括但不限于知识产权）；
 - (f) 符合与货物销售相关的所有强制性要求和规定。
- (2) 非经另行书面约定，质量保证期为如下期间：
 - (a) （1）自货物交付给劳易测之日起，或者（2）货物风险转移给劳易测之日起；以二者较早者为准；
 - (b) 自劳易测首次使用交付货物之日起 24 个月届满为止，但最长不超过质量保证期起始日起 30 个月。

- (3) 供应商向劳易测保证，其将派遣具备熟练技能的适当人选，秉持勤勉义务，及时、专业地履行所有服务。
- (4) 供应商保证、陈述并承诺，货物的制造、销售、经销和使用均不会直接或间接侵犯任何有效专利权、著作权、商业秘密、商标权、企业字号或其他知识产权。供应商同意，若因被指侵犯专利权、著作权、商业秘密、商标权、企业字号或其他知识产权，或确实存在该等侵权，或者因制造、销售、经销或使用货物而被主张或确实存在其他请求权、要求或被实施任何举措，则供应商将使劳易测免于承担由此产生的任何费用（包括律师费和法院费用）、支出、罚款、罚金、损失、损害赔偿和其他债务，并为其进行抗辩，提供保护，对其进行赔偿，不得令劳易测因此受到损害，劳易测也有权自行进行抗辩或进一步处理此类事项，供应商应无条件予以协助，由此产生的一切费用及损失、法律责任均由供应商承担，包括但不限于赔偿费用、诉讼或仲裁费用、律师费、调查费、差旅费等等。
- (5) 若劳易测认为存在违反本第十条规定的情形，则劳易测应将该等违约通知供应商，适用第十四条规定；在此情形下，供应商应毫不迟延地对交付的货物和/或履行的服务进行检验，供应商应采取所有合理措施改正该等违约行为。为避免误解起见，供应商经检验认定实际并无违反第十条规定的情形发生的，全部检验费用仍由供应商承担。

十一、 制造辅助用具

由劳易测出借，供供应商履行合同而使用的各种制造辅助用具，包括设计、图纸、模型、样本、工具、测量和检验设备、交付和测试说明等，均持续为劳易测财产。为履行合同目的，由劳易测承担费用、由供应商制作的制造辅助用具，自开始制造之时成为劳易测财产，由供应商为劳易测保管，直到交付。上述制造辅助用具以及利用该等制造辅助用具制作的物项，不得用作其他目的，不得复制或交予第三方；供应商须保护其不受未经授权的验看或使用。该等物项，一旦不再使用，供应商即应返还给劳易测而无须后者就此提出要求。

十二、 保密

所有由劳易测以任何形式或方式向供应商提供、展示或披露，或者是由供应商为劳易测生产或创造的信息数据、设计、图纸、规格说明、通信往来，无论是书面、口头、电子、可视、图画、照片、观察记录或其他形式（“信息”），均为劳易测专属之秘密，供应商仅得将其用以合同目的。供应商须以严格保密方式处理、保护该等信息，非经劳易测事先书面同意，不得向第三方披露。

十三、 分包商

非经与劳易测事先书面约定，供应商不得将其任何权利或义务转让、分包或转移给其他方，包括任何分包商。

十四、 劳易测要求违约补救的权利

(1) 货物交付或服务履行不符合合同约定的，劳易测享有下述权利，该等权利不影响劳易测的其他要求补救的权利：

- (a) 要求供应商依合同约定在 7 天之内修理或更换货物或在 7 天之内重新履行服务；
- (b) 无论劳易测此前是否曾经要求供应商修理或更换货物或者重新履行服务，劳易测均有权自行或委托第三方修理货物或重新提供服务。在该情形下，修理货物或重新提供服务的费用，劳易测有权向供应商索偿；
- (c) 无论劳易测此前是否曾经要求供应商修理或更换货物或者重新履行服务，劳易测有权以供应商违约为由立即向供应商发出解除合同通知，并要求供应商返还劳易测已经支付的全部合同款项以及支付违约行为所对应合同或订单的金额 50% 作为违约金。为本条规定之目的，双方完全理解并同意，鉴于劳易测的经营性质以及其对客户或用户承担的责任，凡出现货物未交付或服务不履行，或者虽交付或履行但不符合合同约定的情形，均视为导致不能实现合同目的的严重违约。

为避免歧义起见，若为实现货物既定用途的理由，该等货物已被安装在或附着于其他物上，则重新履行服务一并包括移除瑕疵货物和重新安装货物。

(2) 因与下述任一情形相关或由其产生任何裁决，要求劳易测承担责任或作出支付的（亦包括因此须由劳易测向其客户或用户承担的责任或作出的支付），则供应商须就全部该等责任、损失、损害、成本、费用（包括法律服务费用）向劳易测作出足额赔偿：

- (a) 供应商违反其就货物或服务作出的保证；
- (b) 供应商未按约定日期交付货物或提供服务的任何情形；
- (c) 供应商交付货物或提供服务存在瑕疵或不符合规定（约定）的任何情形；
- (d) 供应商的过失（无论是作为还是不作为；包括尝试为之或尝试不作为）或故意不当行为；
- (e) 发生任何就货物或其销售、进口、使用或转售侵犯他人专利权、著作权、商业秘密、商标、企业字号或其他知识产权提起损害赔偿的情形。

十五、通用条件

- (1) 供应商在本条件下的任何权利和义务，非经劳易测事先书面同意，均不得转让和/或移交给他人。
- (2) 供应商违反本条件或合同的任何规定而劳易测未追究责任的，不得视为是劳易测放弃对供应商后续违反该等或任何其他规定追究责任的权利。
- (3) 本条件或合同的任何规定被有权部门、法院或仲裁机构认定为全部或部分无效或不具执行性的，其余部分规定，包括被认为不当的规定的其余部分的有效性均不受影响。
- (4) 本条件、订单及合同以及有关其订立、履行、效力和解释的所有事项均适用中国法。《联合国国际货物销售合同公约》不予适用。
- (5) 凡因本条件或者订单或合同引起的或与之相关的任何争议，均应提交深圳市南山区人民法院诉讼解决。全部诉讼费用由诉讼请求不获支持的一方承担，且该方还须承担对方为解决争议而产生的全部费用，包括诉讼费用等、律师费等等。
- (6) 本条件、订单或合同若同时存在或签署中文本和其他语言文本，则中文本效力优先。
- (7) 经供应商单独签署本条件，或依本条件第三条第（7）项之规定确认接受订单或与劳易测订立合同的，即视为供应商已就本条件之适用与约束力进行审慎考察，认可本条件具有商业合理性、公平性，并接受其全部适用。

GENERAL PURCHASE CONDITIONS

1. Interpretation

In these Conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

“**Conditions**” means the general conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Supplier and Leuze;

“**Contract**” means any accepted Order for the purchase of the Goods and/or the supply of Services, whether or not a separate document is executed upon the acceptance of the Order;

“**Order**” means an order for the purchase of the Goods and/or the supply of Services, as the case may be;

“**Goods**” means the goods (including any instalment of the Goods or any parts for them) to be supplied to Leuze in accordance with these Conditions;

“**PRC**” means the People’s Republic of China and, for the economic purpose of these Conditions, shall specifically mean its territory excluding the Special Administrative Region of Hong Kong, the Special Administrative of Macau and the region of Taiwan.

“**Services**” means the services to be supplied to Leuze in accordance with these Conditions;

“**Supplier**” means the party who has agreed to supply Goods and/or Services, to Leuze;

“**Leuze**” means subsidiaries invested by and established by Leuze Electronic Internationale Beteiligungen GmbH, Germany in PRC, including branches and re-invested enterprises incorporated by such Leuze PRC subsidiaries (such Leuze subsidiaries or branches in PRC shall each be referred to as a “Leuze PRC Entity”, or collectively as “Leuze PRC Entities”). The Leuze PRC Entity applicable in each case shall be determined in accordance with the corresponding Order.

For the purpose of performance of a Contract, where a Leuze PRC Entity transfers its contractual rights or obligations to or (sub-)contracts another Leuze PRC Entity in accordance with provisions by law or the Contract, the Conditions shall also apply for such other Leuze PRC Entity. As of the effectiveness of the Conditions, Leuze within the meaning of this definition shall include (i.) 劳易测电子装配（深圳）有限公司 (Leuze electronic Assembly (Shenzhen) Co., Ltd.); (ii.) 劳易测电子贸易（深圳）有限公司及其分公司 (Leuze Electronic Trading (Shenzhen) Co., Ltd., and its branches).

2. Applicability of these Conditions

- (1) These Conditions shall apply to any Contract and Order on which any quotation has been given to Leuze or subject to which the Order is accepted or purported to be accepted by the Supplier.
- (2) No other terms or conditions or variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of Leuze and the Supplier. Such variations shall apply only to the transaction for which they were made.

3. Orders

- (1) Where Leuze has submitted an Order, the Supplier shall respond in relation to the items set out in the Order, and shall make express reference if there is any departure from the specific items set out in the Order.
- (2) Leuze may withdraw any Orders at any time prior to their acceptance by the Supplier, unless this is otherwise specifically set out in the Order. The Supplier's offers to Leuze shall always be binding.
- (3) Orders shall only be valid if they have been submitted in written form. Orders given verbally or on the telephone shall not be valid until the confirmation in written form has been received.
- (4) Before accepting any Order, the Supplier must point out obvious mistakes (e.g. misspellings and calculation errors) and any incompleteness in the Order including the appended order documents for the purposes of correction or completion.
- (5) The Supplier shall accept Orders in written form quoting Leuze's order data. Where the Order placed by Leuze and so accepted by the Supplier provides a different content or agreement than those under these Conditions, the Order shall prevail. In the event there is any agreement between the Parties which deviates from the terms set out in the Order, this agreement shall be set out in writing and shall be signed by both Parties, and attached to the Order to form the Contract.
- (6) Any correspondence in relation to the Order or the Contract shall be between the Supplier's employees and employees from the Leuze department which placed the relevant Order ("**Relevant Leuze Employees**"). The Supplier acknowledges that employees, agents or representatives from Leuze which are not Relevant Leuze Employees or who are not a director, senior officer or employee expressly authorized by Leuze's legal representative or general manager have no authority to change orders or amend agreements.
- (7) The acceptance of any Order or the execution of any Contract shall be regarded as acknowledgement and acceptance of the binding effect of these Conditions.

4. Specifications

- (1) The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as set out in the Contract.
- (2) The Supplier shall comply with all applicable regulations or other legal or technical requirements concerning the manufacture, packaging, packing and delivery of the Goods. The country of origin and any warnings necessary in relation to the Goods must be stipulated on the packaging of the Goods.
- (3) The Supplier shall not unreasonably refuse any request by Leuze to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide Leuze with all facilities reasonably required for inspection and testing.
- (4) The Supplier shall take measures to secure the supply chain, so that Goods which are manufactured, stored, transported to Leuze are:
 - (a) manufactured, stored, processed and loaded at safe workplaces and shipment locations; and

- (b) kept safe from unauthorized access during manufacturing, storage, processing, loading and transport and that the personnel involved in manufacturing, storage, processing, loading, transport and takeover are reliable. The Supplier shall ensure that all entities which are involved at any stage of the supply chain up until the Goods are delivered to Leuze also secure the supply chain to the same extent.

5. Price of the Goods and Services

- (1) The price of the Goods and the Services shall be as stated in the Contract and, unless otherwise so stated, shall be inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the address specified and any taxes, duties, imposts or levies or bank charges, except as set out in Clause 5(2) below.
- (2) The price of the Goods and the Services is exclusive of any applicable value added tax or other taxes from the sale or provision thereof, which Leuze shall be additionally liable according to applicable tax laws.
- (3) No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of Leuze in writing.

6. Terms of payment

- (1) The Supplier shall be entitled to issue a written payment request, together with an invoice to Leuze on or at any time after delivery of the Goods or after the Services have been performed. For PRC Suppliers, such invoice shall mean official VAT particular invoices.
- (2) Leuze shall make payment of the price for the Goods and/or Services which are the subject of the invoice within 30 days after the receipt by Leuze of a valid invoice.
- (3) The Parties agree that Leuze shall be regarded to have made payment, in case of bank transfer, once Leuze receives a remittance confirmation from its remitting bank. Leuze shall not be responsible for delays by the banks involved in the payment transaction.
- (4) Leuze shall be entitled to set off against the price any due and outstanding payables or other types of liability owed to Leuze by the Supplier. Such set off shall become effective when Leuze serves the Supplier a notice thereof.
- (5) Leuze may withhold from payments to be made to the Supplier amounts legally required to be withheld from such payments and remitted to the taxing authority of any jurisdiction relevant to the transaction.
- (6) No interest shall be payable by Leuze in the event that any payment is late.

7. Delivery/Performance Period

- (1) The Goods shall be delivered to or the Services performed at the place specified in the Contract on the date or within the period specified in the Contract.

- (2) The time of delivery of the Goods and of performance of the Services is of the essence of the Contract. The Supplier hereby recognises and acknowledges that any delay in delivery or performance may lead, inter alia, to Leuze being exposed to liability to its customers and, therefore, losses caused to Leuze due to a delay in delivery of the Goods or performance of the Services may include in particular but not limited to consequential damages caused to and compensation claims by Leuze's downstream customers or users.
- (3) In the event the Supplier is aware that the delivery of the Goods or the performance of the Services will be delayed, the Supplier shall inform Leuze immediately specifying the reasons and the expected duration of such delay, regardless of whether the Supplier is responsible for the delay.
- (4) If the Goods are to be delivered by instalments, the Contract will be treated as a separate contracts for each delivery of Goods.
- (5) Should there be any delay in the delivery of Goods or in the performance of Services, Leuze shall be entitled to charge liquidated damages of 1 % (one per cent) of the total amount payable for the affected Goods or Services for each week or part thereof of the delay, subject to a limit of 5 % (five per cent) of the total contractual amount (the "**Liquidated Damages**").
- (6) Leuze reserves the right to prove that it has suffered damages beyond the value of the Liquidated Damages, and in such a case, Leuze shall also be entitled to claim for such damages in addition to the Liquidated Damages.
- (7) Should there be any delay in the delivery of Goods or in the performance of Services, Leuze may (but shall not be obliged to) grant an extension to the Supplier without prejudice to its rights to claim for Liquidated Damages in respect of the delay. Should the Supplier fail to deliver the Goods or perform the Services by the date set out in the Contract or the extended delivery date as the case may be, Leuze shall further be entitled to terminate the Contract entirely and/or claim damages for non-performance. In any case, the damages shall be payable in the manner set out above.
- (8) The Supplier shall not be entitled to any limitation of or release from liability in case of delayed delivery of Goods or delayed performance of Services.
- (9) Leuze shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until Leuze has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
- (10) The Supplier is responsible for properly and carefully packing and shipping the Goods, at its expense unless otherwise specified, and shall comply with any documentary requirements or instructions of Leuze in the shipment process. Leuze shall be entitled but not obliged to return any packaging materials to the Supplier.

8. Dispatch & Packaging

- (1) Each delivery shall have two delivery certificates attached stating Leuze's order number, order position and matter number. In the case of open dispatches, the order number and order position shall be noted

on the dispatch papers. In the case of drawings, the drawing number with the revision status shall be stated on the deliverables and the delivery papers for control purposes.

- (2) Leuze's address, order number and matter number must be stated in freight letters, parcel addresses and all other delivery documents.
- (3) If no delivery note is attached to the delivery by the Supplier, Leuze shall be entitled to return the deliverables at the cost of the Supplier.
- (4) The price payable for the Goods includes the price of packaging. In the event that Leuze is required to provide its own packaging or modify the packaging to comply with applicable technical or legal requirements, Leuze shall have a claim against the Supplier for the cost it incurs in respect of such packaging.

9. Title and Risk

- (1) Title in the Goods shall pass to Leuze upon delivery, unless payment for the Goods is made prior to delivery, in which case it shall pass to Leuze once payment has been made.
- (2) The Supplier warrants free and clear title to the Goods, free and clear from any and all liens, mortgage or other encumbrances or any other reservations or other restrictions.
- (3) Irrespective of vesting of title and any other provision herein to the contrary, the Supplier shall bear the risk of loss and damage, and shall insure or self-insure for the benefit of the Supplier and Leuze the Goods in its care, custody and control, including free issue material supplied to the Supplier for incorporation into, or work in conjunction with, the Goods, or manufacturing aids which are or become the property of Leuze until the same are delivered to Leuze in accordance with the provisions of the Contract.

10. Warranties

- (1) The Supplier warrants to Leuze that the Goods, when delivered to Leuze and during the Warranty Period (which is set out in Clause 10(2) below):
 - (a) will be of good quality in accordance with the Contract and fit for any purpose held out by the Supplier or made known to the Supplier by Leuze in writing at the time the Contract was entered into;
 - (b) will be free from defects in design, material and workmanship;
 - (c) will correspond with any relevant specification or sample;
 - (d) will correspond with the Contract;
 - (e) will be free of any third party rights (including but not limited to any intellectual property rights); and
 - (f) will comply with all statutory requirements and regulations relating to the sale of Goods.
- (2) Unless otherwise agreed in writing, the Warranty Period shall be the period:

- (a) Commencing from the earlier of: (i) the date the Goods are delivered to Leuze; or (ii) the date the risk in the Goods passes to Leuze; and
 - (b) Ending on: the date which is 24 months from the date that Leuze first uses the Goods supplied, subject to a limit of a maximum of 30 months from the commencement of the Warranty Period.
- (3) The Supplier warrants to Leuze that all Services performed will be performed with due care and diligence in a timely and professional manner by properly skilled personnel.
- (4) The Supplier warrants, represents and covenants that the manufacture, sale, distribution and use of the Goods do not infringe directly or indirectly any valid patent, copyright, trade secret, trademark, trade name, or other intellectual property right, and the Supplier agrees to release, defend, protect, indemnify and hold Leuze harmless from and against any and all costs (including attorney fees and court costs), expenses, fines, penalties, losses, damages, and liabilities arising out of any alleged or actual patent, copyright, trade secret, trademark, trade name, or other intellectual property right infringement or other claim, demand or action resulting from the manufacture, sale, distribution or use of the Goods. Leuze also have the right to defend ourselves or deal with such matters further, and the Suppliers should provide assistance unconditionally. All costs, losses and legal liabilities arising therefrom shall be borne by the Suppliers, including but not limited to compensation costs, litigation or arbitration costs, lawyers Fees, survey fees, travel expenses, etc.
- (5) In the event Leuze deems that there has been a breach of this Clause 10, Leuze shall inform the Supplier of such breach and Clause 14 shall apply. In such an event, the Supplier shall inspect the Goods delivered and/or Services performed without delay, and the Supplier shall take all necessary steps to rectify any such breach. For the avoidance of doubt, in the event that upon the Supplier's inspection, it turns out that there was actually no breach of Clause 10, the Supplier shall bear all expenses incurred in respect of such inspection.

11. Manufacturing Aids

All manufacturing aids including designs, drawings, models, samples, tools, measuring and testing equipment, delivery and testing instructions, lent by Leuze to the Supplier for the execution of the Contract, shall remain the property of Leuze. The manufacturing aids made by the Supplier for the execution of the Contract at Leuze's expense shall become the property of Leuze from the time of manufacture. They shall be kept for Leuze by the Supplier until delivery. The above-mentioned manufacturing aids and the objects manufactured therewith shall not be used for other purposes, duplicated or passed on third parties. They shall be secured against unauthorized inspection and use. They shall be returned to Leuze by the Supplier without demand when they are no longer required.

12. Confidentiality

All information data, designs, drawings, specifications, communications, whether written, oral, electronic, visual, graphic, photographic, observational, or otherwise, and documents supplied, revealed or disclosed in any form or manner to the Supplier by Leuze, or produced or created by the Supplier for Leuze ("**Information**") are proprietary and confidential to Leuze and shall be used solely by the Supplier for purposes of the Contract. All such Information shall be treated and protected by the

Supplier as strictly confidential, and shall not be disclosed to any third party without the prior written consent of Leuze.

13. Sub-Contractors

The Supplier shall not transfer, sub-contract or assign any of its rights or obligations to any party, including any sub-contractor without the prior written agreement of Leuze.

14. Leuze's remedies

- (1) Without prejudice to any other remedy, if any Goods are not supplied or any Services not performed in accordance with the Contract, then Leuze shall be entitled:
 - (a) to require the Supplier to repair the Goods or to supply replacement Goods in accordance with the Contract within 7 days or re-perform the Services within 7 days; or
 - (b) at Leuze's sole option, and whether or not Leuze has previously required the Supplier to repair the Goods or to supply replacement Goods or re-perform the Services, to either by itself or by engaging a third party to repair the Goods or re-perform the Services. In such an event, Leuze shall have a claim against the Supplier for the cost of repairing the Goods or re-performing the Services; or
 - (c) at Leuze's sole option, and whether or not Leuze has previously required the Supplier to repair the Goods or to supply replacement Goods or re-perform the Services, to terminate the Contract by serving a notice with immediate effect for cause of the Supplier's breach and require the repayment of all the price which has been paid. At the same time, Leuze have the right to require the Suppliers to pay 50% of the amount of the contract which was breached as liquidated damages. For the purpose of this provision, both Parties agree herewith that, due to the nature of Leuze's business and its liability against customers or users, any failure to supply (or performance) or conformity of the Goods supplied (or of the Services performed) with the Contract shall be deemed as a serious breach of contract that causes a failure of the Contract to meet its purpose.

For the avoidance of doubt, re-performance of Services may include removal of defective Goods and the reinstallation of Goods, if the Goods have been installed in in another object or attached to another object in accordance with its intended use.

- (2) The Supplier shall indemnify Leuze in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by Leuze (including any liability incurred by Leuze to any of its customers or users) as a result of or in connection with:
 - (a) breach of any warranty given by the Supplier in relation to the Goods or the Services;
 - (b) any failure by the Supplier to deliver the Goods or perform the Services by the respective due dates;
 - (c) any defect or non-conformance in the Goods delivered or Services performed by the Supplier;

- (d) negligence (whether by act or omission) (including attempted act) or willful misconduct of the Supplier;
- (e) any claim that the Goods infringe, or their sale or import, use or resale, infringes, the patent, copyright, trade secret, trademark, trade name or other intellectual property rights of any other person.

15. General Conditions

- (1) The Supplier shall not assign and/or transfer any of its rights and obligations under these Conditions without Leuze's prior written consent.
- (2) No waiver by Leuze of any breach of these Conditions or the Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- (3) If any provision of the Contract or these Conditions is held by any competent authority, court or arbitral body to be invalid or unenforceable in whole or in part the validity of other provisions and the remainder of the provision in question shall not be affected thereby.
- (4) These Conditions, the Order and the Contract and all questions concerning its construction, performance, validity and interpretation shall be governed by the laws of PRC. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- (5) Any dispute arising from or in connection with these Conditions or the Orders or the Contract shall be submitted to the people's Court of Nanshan District, Shenzhen for dispute resolution. The party whose claim is not supported shall be liable for all fees and costs and shall furthermore bear all costs occurring to the other party for solving the dispute, including legal fees, lawyer's fee, etc.
- (6) If, in addition to the Chinese version of these Conditions, the Order or the Contract, either the same is also made or signed in another language version, the Chinese version shall prevail.
- (7) A separate signing of these Conditions by the Supplier, or its acceptance of an Order by or conclusion of a Contract with Leuze in accordance with provisions under Clause 3, Sub-clause (7) hereof, shall be deemed that the Supplier has conducted with due diligence a review of the applicability and binding effect of these Conditions, holds these Conditions to be commercially reasonable, fair and therefore accepts their entire applicability.