

Conditions of Purchase

Status: August 03, 2023

1. Order and Confirmation of Order

- 1.1 The Customer may cancel the order if the supplier has not confirmed acceptance of the order (confirmation) in writing within two weeks of receipt.
- 1.2 Any alterations, amendments or additions to the order shall only become a part of the contract if the Customer accepts such in writing. In particular, the Customer is bound by the general terms and conditions of the Supplier only to the extent that such are in accordance with these Conditions of Purchase or if the Customer agrees to such in writing. The acceptance of deliveries or services as well as payments does not constitute such agreement.
- 1.3 Any provisions in other documents provided by the Supplier (such as but not limited to specifications, data sheets, technical documentation, advertising materials, order confirmation and/or shipping documents) regarding legal terms, liability, restriction of use, restriction of application and/or restriction of suitability, or any other provision that changes the provisions of these Conditions of Purchase shall not be applicable.

2. Rights of Use

- 2.1 The Supplier hereby grants the Customer the following non-exclusive, transferable, worldwide and perpetual rights:
 - 2.1.1 to use the deliveries and services including related documentation, to integrate them into other products and to distribute them;
 - 2.1.2 to install, launch, test and operate software and its related documentation (hereinafter collectively referred to as "Software");
 - 2.1.3 to sublicense the right of use under section 2.1.2 above to affiliates (as defined by § 15 of the German Companies Act (Aktiengesetz), hereinafter referred to as "Affiliates"), to contracted third parties, to distributors and to end customers;
 - 2.1.4 to license to Affiliates and other distributors the right to sublicense the right of use under section 2.1.2 above to end customers;
 - 2.1.5 to use the Software for integration into other products and to copy the Software, or to allow Affiliates, contracted third parties or distributors to use and copy the Software;
 - 2.1.6 to distribute, sell, hire out, lease, make ready for download or make publicly available the Software, e.g. in the context of application service providing or in other contexts, and to copy the Software to the extent required, always provided that the number of licenses being used at any one time does not exceed the number of licenses purchased;
 - 2.1.7 to sublicense the right of use under section 2.1.6 above to Affiliates, contracted third parties and distributors.
- 2.2 In addition to the rights granted in section 2.1 above, the Customer, Affiliates and distributors are authorized to allow end customers to transfer the respective licenses.
- 2.3 All sublicenses granted by the Customer must contain appropriate protection for the intellectual property rights of the Supplier in the Software. All sublicenses must contain any contractual provisions used by the Customer to protect its own intellectual property rights.
- 2.4 The Supplier shall inform the Customer - at the latest at the time the order is confirmed - whether the products and services to be delivered contain open source components.

In the context of this provision "open source components" means any software, hardware or other information that is provided royalty-free by the respective licensor to any user on the basis of a license with the right to modify and/or to distribute (e.g. GNU General Public License (GPL), the GNU Lesser GPL (LGPL), or the MIT License). Should the products and services delivered by the Supplier contain open source components, the Supplier shall comply with all applicable open source license terms and shall grant all those rights to the Customer and provide all information which the Customer needs in order to comply himself with the applicable license terms. In particular, the Supplier must deliver to the Customer promptly after the order is confirmed the following:

 - A schedule of all open source components used, indicating the relevant license, its version and including a copy of the complete text of such license and including a reference to copyright and/or authorship. Such schedule must have an understandable structure and contain a table of contents.
 - The complete source code of the relevant open source software, including scripts and information regarding its generating environment

采购通用条款

状态: 2023年8月03日

1. 订单和订单确认

- 1.1 如果供应商在收到订单后两周内未以书面形式确认接受订单(订单确认书), 客户可以取消订单。
- 1.2 对订单的任何更改、修订或补充只有在客户书面接受后才能成为合同的一部分。尤其是, 供应商的一般条款和条件仅在与本采购条款相符或客户予以书面同意的情况下才对客户有约束力。接收交付物或服务以及付款均不构成此种同意。
- 1.3 供应商提供的其他文件(例如但不限于规格书、数据表、技术文件、广告材料、订单确认书和/或运输文件)中有关法律条款、责任、使用限制、应用限制和/或适用性限制的任何规定, 或改变本采购条款之规定的任何其他规定, 均不适用。

2. 使用权

- 2.1 供应商在此向客户授予以下非排他性、可转让、全球性和永久性权利:
 - 2.1.1 使用交付物和服务(包括相关文件), 将其集成到其他产品中并进行分销;
 - 2.1.2 安装、启动、测试和操作软件及其相关文档(以下统称“软件”);
 - 2.1.3 将上述第 2.1.2 条下的使用权转授给附属公司(德国公司法(Aktiengesetz)第 15 条中定义的附属公司, 以下简称“附属公司”)、签约的第三方、分销商和最终客户;
 - 2.1.4 向附属公司和其他分销商授予转授权, 允许其将上述第 2.1.2 条中规定的使用权转授给最终客户;
 - 2.1.5 将软件集成到其他产品中或拷贝软件, 或允许附属公司、签约的第三方或经销商使用和拷贝软件;
 - 2.1.6 分销、销售、出租、租赁、提供下载或公开提供软件(例如: 在提供应用服务的情况下或在其他情况下), 以及在需要的情况下拷贝软件, 前提是什么时候使用的许可数量均不超过购买的许可数量;
 - 2.1.7 根据上面第 2.1.6 条向附属公司、签约的第三方和经销商转授使用权。
- 2.2 除上面 2.1 条中授予的权利, 客户、附属公司和经销商还被授权允许最终客户转让各自的许可。
- 2.3 客户授予的所有分许可必须包含适当的保护条款, 对软件中供应商的知识产权给予保护。所有分许可必须包含客户为保护其自己的知识产权而使用的任何合同条款。
- 2.4 供应商应在确认订单时或之前通知客户所交付的产品和服务是否包含开源组件。

本条款中, "开源组件"是指各许可方基于有修改权和/或分发权的许可向任何用户免费(免版税)提供的任何软件、硬件或其他信息(如: GNU 通用公共许可证(GPL)、GNU 较宽松公共许可证(LGPL)或 MIT 许可证)。若供应商交付的产品和服务中包含开源组件, 供应商应遵守所有适用的开源许可协议条款, 并将所有这些权利授予客户, 并提供客户为遵守适用的许可条款所需的所有信息。特别是, 供应商必须在订单确认后立即向客户提供以下信息:

 - 所使用的所有开源组件的清单, 注明相关许可证、其版本, 并附上一份该许可证的完整文本, 包括版权和/或著作权信息。该清单必须结构清晰且含有目录。
 - 相关开源软件的完整源代码, 包括脚本和有关其生成环境的信息, 只要适用的开源条款要求如此。

- insofar as the applicable open source conditions require this.
- 2.5 The Supplier shall by the time of order confirmation at the latest inform the Customer in writing whether any open source licenses used by the Supplier might be subject to a Copyleft Effect which could affect the products of the Customer. In the context of this provision, "Copyleft Effect" means that the provisions of the open source license require that certain of the Supplier's products, as well as any products derived from such products, may only be redistributed in accordance with the terms of the open source license, e.g. only if the source code is disclosed. In case any open source licenses used by the Supplier are subject to a "Copyleft Effect" as defined above, then the Customer is entitled to cancel the order within two weeks of receipt of this information.
- 3. Term and Penalty for Breach**
- 3.1 For the purposes of establishing the timeliness of delivery, the relevant point in time is the date of receipt at the place of destination/delivery according to Incoterms ® 2020 designated by the Customer, and for deliveries involving installation, commissioning or rectification services, the relevant point in time shall be the date of acceptance by the Customer.
- 3.2 If any delay in delivery or performance or rectification is anticipated, the Customer shall be notified immediately and its decision sought.
- 3.3 If – in the event of delay – the Supplier cannot prove that it is not responsible for the delay, the Customer may charge a penalty in respect of each commenced working day of delay amounting to 0.3 % (zero point three percent) but not exceeding a total of 5 % (five percent) of the total value of the contract.
In the event that the appropriate reservation of rights is not made at the time of acceptance of delivery, services or rectification, this penalty may still be claimed if the reservation of rights is made no later than the date of final payment.
- 3.4 Additional or other statutory rights are not affected hereby.
- 4. Transfer of Risk, Dispatch and Place of Performance, Transfer of Title**
- 4.1 For deliveries involving installation, commissioning or services, the transfer of risk occurs on acceptance and for deliveries not involving installation or commissioning, the transfer of risk shall be upon receipt by the Customer at the named place of destination/delivery according to Incoterms ® 2020. Unless agreed otherwise, DDP (named place of destination) Incoterms ® 2020 shall apply, if (a) the seat of the Supplier and the named place of destination are within the same country or if (b) the seat of the Supplier and the named place of destination are both within China.
- 4.2 Unless otherwise agreed, the costs of adequate packaging shall be borne by the Supplier. In case transportation costs are borne by the Customer, notice of readiness for dispatch shall be given together with the information set out in section 4.3 hereunder. On the Customer's request a Trench routing order tool must be used by the Supplier. Transport shall be arranged by the Supplier at the lowest possible cost, insofar as the Customer has not requested a particular method of delivery or the conclusion of the contract for carriage by the Customer. Any supplementary costs arising from non-conformity with the transport requirements including costs arising from the non-application of the Trench routing order tool shall be borne by the Supplier. In case DAP/DDP (named place of destination) Incoterms ® 2020 is agreed, the Customer may also determine the method of transportation. Any supplementary costs arising from the need to meet the delivery deadline by way of expedited delivery shall be borne by the Supplier.
- 4.3 Each delivery shall include a packing note or delivery note with details of the contents as well as the complete order number.
- 4.4 As far as the Customer and the Supplier agree that the Supplier orders the transport of deliveries containing dangerous goods for account of the Customer, the Supplier is responsible to transfer the necessary legally required dangerous goods data to the freight forwarder nominated by the Customer when placing the transport order. The Supplier is in these cases also responsible for packing, marking, labelling, etc. in compliance with the regulation relevant to the mode(s) of transport used.
- 4.5 If the Customer informs the Supplier that following the initial transport another transport with a different mode of transport is scheduled, the Supplier will also follow the relevant legal requirements concerning dangerous goods with regard to such on-going transport.
- 4.6 Transfer of title shall be upon delivery or acceptance by the Customer, as the case may be.
- 2.5 供应商应最迟在订单确认时以书面形式通知客户，供应商使用的任何开源许可证是否可能受到可能会对客户的产品产生影响的“Copyleft Effect”的约束。在本条款的背景下，“Copyleft Effect”是指根据开源许可证的规定，要求供应商的某些产品以及这些产品衍生的任何产品只能按照开源许可证的条款进行再分发，例如：只能在源代码被披露的情况下进行再分发。如果供应商使用的任何开源许可证受到上述定义的“Copyleft Effect”的约束，则客户有权在收到此信息后两周内取消订单。
- 3. 期限和违约金**
- 3.1 为确定交货的及时性，相关时间点为根据客户指定的 Incoterms®2020 版《国际贸易术语解释通则》在目的地/交货地点收货的日期，而对于涉及安装、调试或纠正的交货，相关时间点应为客户确认收货之日。
- 3.2 如果预期交付或履行或纠正会延迟，应立即通知客户并征求其决定。
- 3.3 如果在发生延迟的情况下-供应商不能证明它不对延迟负有责任，则每延迟一个工作日，客户可收取 0.3%（百分之零点三）的违约金，但最高不超过合同总价值的 5%（百分之五）。
如果在接受交付、服务或纠正时未进行适当的权利保留，但只要是在最后付款日之前保留权利，则仍可要求支付违约金。
- 3.4 附加的或其他法定权利不受此影响。
- 4. 风险转移、发货和履行地点、所有权转移**
- 4.1 对于需要安装、调试或服务的交付，风险在验收时完成转移；对于不需要安装或调试的交付，风险应在客户按照 Incoterms®2020 版《国际贸易术语解释通则》在指定的目的地/交货地点收到货时完成转移。除非另有约定，否则，如果(a)供应商所在地和指定的目的地处于同一国家/地区，或者(b)供应商所在地和指定的目的地均在中国，则 Incoterms®2020 版《国际贸易术语解释通则》的 DDP 规则（指定目的地）应适用。
- 4.2 除非另有约定，否则适当包装的费用应由供应商承担。如果运输费用由客户承担，则应将待运通知与本协议第 4.3 条中规定的信息一起发出。如果客户要求，则供应商必须使用传奇的运输路线订单工具。只要客户没要求特定的交货方式或未要求由客户来签订运输合同，则应由供应商以尽可能低的成本安排运输。由于不符合运输要求而产生的任何额外费用（包括因未使用传奇的运输路线订购工具而产生的费用）应由供应商承担。如果商定 Incoterms®2020 版《国际贸易术语解释通则》的 DAP/DDP（指定目的地）规则，也可以由客户确定运输方式。因需要以加急交货的方式来满足交货期限而产生的任何额外费用应由供应商承担。
- 4.3 交付的每批货都应附上一份装箱单或交货单，详细列出货物内容以及完整的订单号。
- 4.4 如果客户和供应商同意由供应商代客户对所要交付的包含危险品的货物订购运输（费用由客户承担），供应商有责任在下运输订单时，将法律规定必须提供的危险品数据传给客户指定的货运代理。在这种情况下，供应商还负责按照与所采用的运输方式相关的规定进行包装、标记和贴标签等。
- 4.5 如果客户通知供应商，在前段运输后又安排了另一个不同方式的后续运输，供应商也将遵守有关危险品运输的相关法律要求。
- 4.6 所有权自货物交付或客户验收后（视情况而定）完成转移。

5. Payment, Invoices

- 5.1 Unless otherwise agreed, payments shall be due and payable at the end of the calendar month falling one hundred and twenty (120) days from the date of the receipt of the invoice by Trench.
- 5.2 The order number as well as the number of each individual item shall be detailed in invoices. Insofar as any such details are omitted, invoices shall not be payable. Copies of invoices shall be marked as duplicates.
- 5.3 Insofar as the Supplier is required to provide material testing, test records or quality control documents or any other documentation, such shall be a part of the requirements of the completeness of the delivery or performance. A discount shall also be allowed if the Customer sets off or withholds any payments to a reasonable extent on account of any deficiency.
- 5.4 Payment does not constitute an acknowledgement that the corresponding delivery or services were provided in accordance with the contract.

6. Inspection upon receipt

- 6.1 The Customer shall immediately upon receipt at the named place of destination examine whether a delivery corresponds to the quantity and type of products ordered and whether there are any external recognizable transportation damage or other obvious deficiencies.
- 6.2 Should the Customer discover any deficiency in the course of these inspections or at any later stage, it shall inform the Supplier of such deficiency.
- 6.3 Complaints may be raised within one month of delivery of a product or performance, and insofar as deficiencies are not discovered until commissioning, processing or first use, within one month of detection.
- 6.4 In this regard the Customer shall have no other duties to the Supplier other than the duties of inspection and notification above.

7. Warranty

- 7.1 If deficiencies are identified before or during the transfer of risk or during the warranty period provided for in section 7.8 or 7.9, the Supplier must at its own expense and at the discretion of the Customer either repair the deficiency or provide re-performance of services or replacement of deliveries (= rectification). This provision also applies to deliveries subject to inspection by sample tests. The discretion of the Customer shall be exercised fairly and reasonably.
- 7.2 Should the Supplier fail to rectify (i.e. repair or replacement) any deficiency within a reasonable time period set by the Customer, the Customer is entitled to:
- 7.2.1 cancel the contract in whole or in part without being subject to any liability for damages; or
- 7.2.2 demand a reduction in price; or
- 7.2.3 undertake itself any repair at the expense of the Supplier or re-performance of services or replacement of deliveries or arrange for such to be done; and
- 7.2.4 claim damages in lieu of performance.
- For the purposes of establishing the timeliness of rectification, the relevant point in time is the date of receipt at the place of destination.
- 7.3 The rights according to section 7.2 may be exercised without further deadline if the Customer has a strong particular interest in immediate rectification in order to avoid any liability of its own for delay or for other reasons of urgency and it is not reasonable for the Customer to request the Supplier to rectify the deficiency within a reasonable time period. The legal provisions on the dispensability of setting a deadline remain unaffected hereby.
- 7.4 The above-mentioned rights shall expire one year from the date of notification of the deficiency but in no instance before the expiry of the warranty periods set out in this section.
- 7.5 Additional or other statutory rights are not affected hereby.
- 7.6 If the Supplier provides subsequent performance or repairs, the warranty periods set out in section 7.8 and 7.9 shall begin to run once again.
- 7.7 Notwithstanding the transfer of risk regarding delivery, the Supplier shall bear the costs and risk related to the rectification (e. g. return costs, costs of transport, costs of de- and re-installation).
- 7.8 The warranty period for deficiencies of material is three years, insofar as no statutory provisions provide longer periods.

5. 支付、发票

- 5.1 除非另有约定，否则应在传奇收到发票之日起第 120 天的日历月月末支付发票金额。
- 5.2 发票中应详细注明订单号以及每个单独项目的号码。如果发票上缺少此类详细信息，发票将不予支付。发票的复印件应标明是副本。
- 5.3 如果供应商被要求提供材料测试、测试记录或质量控制文件或其他文档，则这些文件应为交付或履约完整性要求的一部分。如果客户因任何缺陷而抵销或扣留任何货款，只要是在合理范围内，也应允许打个折扣。
- 5.4 付款并不构成确认相应的交付或服务是根据合同提供的。

6. 交货时检验

- 6.1 客户应在指定的目的地收到货物后立即检查所交付的货物数量和类型是否与订购的产品一致，以及是否有任何外部可识别的运输损坏或其他明显缺陷。
- 6.2 如果客户在这些检验过程中或在任何后续阶段发现任何缺陷，应将此类缺陷情况通知供应商。
- 6.3 对产品缺陷或履约缺陷的投诉，可自交货之日起一个月内或在发现缺陷之日起一个月内提出，只要这些缺陷不是在调试、加工或首次使用前发现的。
- 6.4 就此，客户对供应商的义务不超过上述检验和通知义务。

7. 质量保证

- 7.1 如果在风险转移前、转移期间或第 7.8 条和 7.9 条中规定的质保期内发现缺陷，供应商必须对缺陷进行修复或是重新提供服务或是更换新的交付物(=纠正)，具体由客户酌定，费用由供应商承担。本条款也适用于采用抽样检查的交付物。客户应公平合理地行使其自由裁量权。
- 7.2 如果供应商未能在客户设定的合理时间内完成纠正（即修复或更换），客户有权：
- 7.2.1 全部或部分取消合同而不承担任何损害赔偿赔偿责任；或
- 7.2.2 要求降低价格；或
- 7.2.3 自行进行修复，或要求重新提供服务或更换交付物或安排他人来完成纠正，费用由供应商承担；及
- 7.2.4 要求以损害赔偿代替履约。
- 为确定纠正的及时性，相关时间点为目的地收货之日。
- 7.3 如果客户为避免自己负延迟责任或由于其他紧急原因而迫切需要立即纠正，并且客户要求供应商在合理时间内纠正缺陷是不合理的，则可在不设定最后期限的情况下行使第 7.2 条中规定的权利。本条不影响有关不必设定最后期限的法律规定的适用。
- 7.4 上述权利应自通知缺陷之日起一年后失效，但无论如何不得早于本条规定的质保期满。
- 7.5 附加的或其他法定权利不受此影响。
- 7.6 如果供应商提供后续履约或维修，第 7.8 条和第 7.9 条中规定的质保期将重新开始计算。
- 7.7 尽管交付的风险已经转移，但与纠正相关的费用和 risk（例如退货费用、运输费用、拆装费用）应由供应商承担。
- 7.8 材料缺陷的质保期为 3 年。若法定规定有更长质保期，则从其规定。

- 7.9 The warranty period for deficiencies in title is five years, insofar as no statutory provisions provide longer periods.
- 7.10 For deliveries not involving installation or commissioning, the warranty period begins to run with receipt at the place of destination named by the Customer. For deliveries involving installation, commissioning or services, the warranty period begins to run with acceptance by the Customer. Upon delivery to locations where the Customer is operating outside its premises, the warranty period begins with the acceptance by the end customer, in no case later than one year after transfer of risk.
- 8. Supplier's Duty to Verify and to Inform**
- 8.1 The Supplier is obliged to examine components such as, e.g. raw material, provided by the Customer or provided by the Supplier's suppliers, manufacturers or other third parties at the time of receipt of such components as to whether these components show any obvious or hidden defects. In case any defects are discovered in the course of such inspections, the Supplier shall immediately inform its suppliers or – in the case the components are provided by the Customer – inform the Customer.
- 8.2 It is essential that the products are delivered free of any third-party rights. Thus the Supplier is under a duty to verify title and inform the Customer of any possible conflicting industrial and intellectual property rights. Any breach of such duty is subject to the normal statutory limitation period.
- 9. Quality Management, Subcontracting to Third Parties**
- 9.1 The Supplier shall maintain a quality management system (e.g. according to DIN EN ISO 9001).
- 9.2 Subcontracting to third parties shall not take place without the prior written consent of the Customer and entitles the Customer to cancel the contract in whole or in part and claim damages.
- 10. Provided Material, Information**
- 10.1 Material and information provided by the Customer remains the property of the Customer and are to be stored, labeled as property of the Customer and administered separately at no cost to the Customer. Their use is limited to the orders of the Customer only. The Supplier shall supply replacements in the event of reduction of value or loss, for which the Supplier is responsible, even in the event of simple negligence. This also applies to the transfer of allocated material.
- 10.2 Any processing or transformation of the material and information shall take place for the Customer. The Customer shall immediately become owner of the new or transformed product. Should this be impossible for legal reasons, the Customer and the Supplier hereby agree that the Customer shall be the owner of the new product at all times during the processing or transformation. The Supplier shall keep the new product safe for the Customer at no extra cost and in so doing exercise the duty of care of a merchant.
- 11. Tools, Patterns, Samples, Confidentiality**
- 11.1 Any tools, patterns, samples, models, profiles, drawings, standard specification sheets, printing templates and materials provided by the Customer or made for the Customer, as well as any materials derived therefrom, shall not be made available to any third party nor used for any other purpose than those contractually agreed except with the prior written consent of the Customer. Such materials shall be protected against unauthorized access or use. Subject to any further rights the Customer may demand that such materials be returned if the Supplier breaches these duties.
- 11.2 The Supplier shall treat as confidential the knowledge and findings, documents, terms of reference, business processes or other information that it receives from or about the Customer in the context of performing the deliveries and services, as well as the conclusion of the contract and any results, with regard to third parties - and shall keep the same confidential beyond the term of the contract – for as long as and insofar as such information has not become publicly known by legal means or the Customer has not consented in writing to its transfer in the individual case. The Supplier shall make confidential information available only to those employees who need the information for the fulfillment of their duties and shall ensure that such employees are also subject to a duty to treat such information as confidential. The Supplier shall use this information exclusively for the purpose of performing the deliveries and services. Insofar as the Customer agrees to any subcontracting to a third party, such third party shall agree to such terms in writing.
- 7.9 所有权缺陷的质保期为 5 年。若法定规定有更长质保期, 则从其规定。
- 7.10 对于不涉及安装或调试的交付, 质保期自在客户指定的收货地收货之日起算。对于涉及安装、调试或服务的交付, 质保期从客户验收之日起算。对于交付至客户经营场所以外的地点, 质保期从最终客户验收之日起算, 但在任何情况下, 最迟都不超过风险转移后一年。
- 8. 供应商的查验和告知义务**
- 8.1 供应商有义务在收到客户或供应商的供应商、制造商或其他第三方提供的组件(如: 原材料)时, 检查这些组件是否存在任何明显或隐藏的缺陷。如果在此类检查中发现任何缺陷, 供应商应立即通知其供应商, 或者如果组件是由客户提供的, 则立即通知客户。
- 8.2 交付的产品必须无任何第三方权利。因此, 供应商有责任对产品的所有权进行核实, 并将任何可能发生冲突的工业和知识产权告知客户。若违反此类义务, 则适用正常的法定时效。
- 9. 质量管理和分包给第三方**
- 9.1 供应商应维护质量管理体系(例如: 符合 DIN EN ISO 9001)。
- 9.2 未经客户事先书面同意, 不得将工作分包给第三方, 否则将使客户有权部分或全部取消合同并要求赔偿。
- 10. 提供的材料、信息**
- 10.1 客户提供的材料和信息仍属客户所有, 将被单独存储、标记为客户的财产并加以管理, 客户无需支付任何费用。仅允许为客户的订单才使用这些材料和信息。如果发生价值减少或损失的情况, 并且供应商应为此负责, 即使只是单纯的过失, 供应商也应向客户提供替代品。这也适用于所分配材料的转移。
- 10.2 对材料和信息的任何加工或转换都应是客户进行的。客户应立即成为新产品或转换的所有者。如果由于法律原因无法做到这一点, 客户和供应商特此同意, 在加工或转换过程中, 客户始终是新产品的所有者。供应商应免费为客户保管新产品, 并在此过程中恪尽商家的注意义务。
- 11. 工具、图案、样品、保密性**
- 11.1 客户提供的或为客户制作的任何工具、图案、样品、模型、配置文件、图纸、标准规格表、印刷模板和材料, 以及从中衍生的任何材料, 未经客户事先书面同意, 不得向任何第三方提供或用于合同约定之外的任何其他目的。此类材料应受到保护, 防止未经授权的访问或使用。根据进一步请求权的规定, 如果供应商违反这些义务, 客户可以要求返还此类材料。
- 11.2 供应商应将其在履行交付和服务的过程中从客户那里收到的或与客户有关的知识发现和文件、职权范围、业务流程或其他信息, 以及合同的订立和任何结果, 按机密信息处理, 对第三方保密, 并在合同期满后仍无限期按机密信息处理, 只要这些信息尚未通过合法手段公开, 或者客户尚未以书面形式同意在个别情况下转让。供应商只能将机密信息提供给需要这些信息来履行其职责的员工, 并且还应确保这些员工也负有对这些信息保密的义务。供应商应仅为履行交付和服务的目的才使用这些信息。如果客户同意将工作分包给第三方, 该第三方应以书面形式同意这些条款。

12. Assignment of Claims

Any assignment of any claim is only allowed with the prior written approval of the Customer.

13. Right to Terminate and Cancel

13.1 In addition to any rights provided by law to withdraw from or cancel a contract, the Customer may cancel the contract in whole or in part in case (a) the Supplier is in delay with its delivery or service and such delay – despite a corresponding reminder by the Customer - persists for more than two weeks after receipt of such reminder or in case (b) that adherence to the contract by the Customer cannot reasonably be expected from the Customer because of a reason attributable to the Supplier and taking into consideration the circumstances of the case and both parties' interests. This might, in particular, apply in case of an actual or possible deterioration of the Supplier's financial situation thus threatening the due fulfillment of the Supplier's obligations under the contract.

13.2 The Customer may also terminate the contract in case insolvency proceedings or similar proceedings in relation to the assets of the Supplier are applied for or commenced.

13.3 In case of a termination by the Customer the Customer may continue to utilize existing facilities, deliveries or services already performed by the Supplier in exchange for reasonable payment.

14. Code of Conduct for Trench Suppliers, Security in the Supply Chain

14.1 The Supplier is obliged to comply with the laws of the applicable legal system(s). In particular, the Supplier will not engage, actively or passively, nor directly or indirectly in any form of bribery, in any violation of basic human rights of employees or any child labor and the Supplier shall observe the stipulations of international proclaimed on Corporate Due Diligence Obligations in Supply Chains (Lieferkettensorgfaltspflicht, LkSG). Moreover, the Supplier will take responsibility for the health and safety of its employees and shall fulfill the applicable minimum wage requirements. By acting in accordance with the applicable environmental laws, the supplier shall take adequate measures to avoid the deployment of so-called conflict minerals and shall create transparency over the origin of raw materials. The Supplier shall provide a protected grievance mechanism for its own employees to report possible violations of this Code of Conduct and will use reasonable efforts to promote this Code of Conduct among its subcontractors.

The Supplier shall provide a protected grievance mechanism for its own employees to report possible violations of this Code of Conduct and will use reasonable efforts to promote this Code of Conduct among its subcontractors. Supplier shall be obliged to duly document its compliance with the Code of Conduct. Customer and its representatives or a third party appointed by the Customer and reasonably acceptable to Supplier shall be entitled (but not obliged) to conduct – also at Supplier's premises – inspections in order to verify Supplier's compliance with the contractual obligations, in particular with the Code of Conduct. Any such inspection may only be conducted in accordance with the applicable data protection law and shall neither unreasonably interfere with Suppliers' business activities nor violate any of Suppliers' confidentiality agreements with third parties. Supplier shall reasonably cooperate in any inspection to be conducted. Supplier shall immediately initiate any remedial actions if it detects any violation of the Code of Conduct by itself or its subcontractors and shall promptly inform Customer of any such violation and the remedial action if and to the extent such breach affects the contract.

14.2 The Supplier shall provide the necessary organizational instructions and take measures, particularly with regard to the following security: premises security, packaging and transport, business partner, personnel and information - in order to guarantee the security in the supply chain according to the requirements of respective internationally recognized initiatives based on the WCO SAFE Framework of Standards (e.g. AEO, C-TPAT). The Supplier shall protect the goods and services provided to the Customer or provided to third parties designated by the Customer against unauthorized access and manipulation. The Supplier shall only deploy reliable personnel for those goods and services and shall obligate any sub-suppliers to take equivalent security measures.

14.3 In addition to other rights and remedies the Customer may have, the Customer may terminate the contract in case of breach of the obligations under section 14 by the Supplier. However, provided that the

12. 债权转让

未经客户事先书面批准，不得转让任何债权。

13. 终止和解除合同的权利

13.1 除法律规定的撤销或解除合同的权利外，在以下情况下，在考虑当时具体的情况和双方利益后，客户可以部分或全部解除合同：(a) 供应商延迟交付或延迟提供服务，并在收到客户发出的相应催告后仍继续延迟超过两周；或(b)因供应商的原因，客户不能合理地预期自己会继续遵守合同。这尤其适用于供应商财务状况实际或可能恶化的情况，从而威胁供应商履行其在本合同下的义务。

13.2 如果供应商的资产被申请或已开始破产程序或类似程序，客户也可以终止合同。

13.3 如果是客户终止合同的，客户可以在支付合理费用的前提下，继续使用供应商已提供的现有设施、交付物或服务。

14. 传奇《供应商行为守则》、供应链安全

14.1 供应商有义务遵守适用法律体系的法律。特别是，供应商不会主动或被动地直接或间接地参与任何形式的贿赂，不会侵犯员工的基本人权或使用任何童工，并且供应商应遵守国际公认的企业供应链尽职调查义务(Lieferkettensorgfaltspflicht, LkSG)的规定。此外，供应商将对其员工的健康与安全负责，并应满足适用的最低工资要求。供应商应根据适用的环境法采取行动，采取适当措施避免使用所谓的冲突矿产，并对原材料的原产地透明化。供应商应为其自己的员工提供受保护的申诉机制，以报告可能违反本行为准则的行为，并尽合理努力在其分包商中推广本行为准则。

供应商应为其自己的员工提供受保护的申诉机制，以报告可能违反本行为准则的行为，并尽合理努力在其分包商中推广本行为准则。供应商有义务妥善记录其遵守行为准则的情况。客户及其代表或客户指定并经供应商合理接受的第三方有权(但无义务)在供应商处进行现场检查，以核实供应商是否遵守合同义务，特别是遵守行为准则。此类检查只能在适用的数据保护法律允许的范围内进行，不得无理干扰供应商的业务活动，也不得违反供应商与第三方的任何保密协议。供应商应当合理配合任何检查。如果提供供应商发现其自己或其分包商有任何违反行为准则的行为，应立即采取补救措施，并且在此违反行为影响了合同履行时，应及时将违反行为及补救措施通知给客户。

14.2 供应商应提供必要的组织指示并采取保护措施，特别是在以下安全方面：场所安全、包装和运输、业务伙伴、人员和信息，以便按照基于《世界海关组织贸易安全与便利标准框架》的国际公认举措（例如：AEO、C-TPAT）的要求，保证供应链的安全。供应商应保护提供给客户或提供给客户指定的第三方的货物和服务免受未经授权的访问和操作。供应商应只为这些货物和服务部署可靠的人员，并应责成任何次级供应商采取同等的安全措施。

14.3 除客户可能拥有的其他权利和补救措施外，如果供应商违反第 14 条中的义务，客户可以终止合同。然而，如果供应商的违约行为是可以补救的，则客户终止合同的权利以供应商在客户设定的合理宽限期内未能补救其违约行为为前提。

Supplier's breach of contract is capable of remedy, the Customer's right to terminate is subject to the proviso that such breach has not been remedied by the Supplier within a reasonable grace period set by the Customer.

15. Product Conformity, Product Related Environmental Protection including Substance Declaration, Dangerous Goods, Occupational Health and Safety

- 15.1 Should the Supplier deliver products, to which product-related statutory and legal requirements apply in view of their placing on the market and further marketing in the European Economic Area or to which corresponding requirements apply regarding other countries notified by the Customer to the Supplier, then the Supplier must ensure compliance of the products with these requirements at the time of transfer of risk. Furthermore, the Supplier must ensure that all documents and information which are necessary to provide the proof of conformity of products with the respective requirements can be furnished immediately to the Customer upon request.
- 15.2 Should the Supplier deliver products, substances of which are set out in the so-called "List of Declarable Substances" (www.bomcheck.net/suppliers/restricted-and-declarable-substances-list) applicable at the time of the order or which are subject to statutorily imposed substance restrictions and/or information requirements (e.g. REACH, RoHS), the Supplier shall declare such substances and provide information as requested in the web database BOMcheck (www.BOMcheck.net) no later than the date of first delivery of products. With respect to statutorily imposed substance restrictions the foregoing shall only apply to laws which are applicable at the registered seat of the Supplier or the Customer or at the place of destination named by the Customer.
- 15.3 Should the delivery contain goods which – according to international regulations – are classified as dangerous goods, the Supplier will inform the Customer hereof in a form agreed upon between the Supplier and the Customer, but in no case later than the date of order confirmation. The requirements concerning dangerous goods in section 4.4 and 4.5 remain unaffected.
- 15.4 The Supplier is obliged to comply with all legal requirements regarding the health and safety of the personnel employed by the Supplier. It must ensure that the health and safety of its personnel as well as indirect subcontractors employed to perform the deliveries and services is protected.

16. Cybersecurity

- 16.1 The Supplier shall take appropriate organizational and technical measures to ensure the confidentiality, authenticity, integrity and availability of Supplier Operations as well as products and services. These measures shall be consistent with good industry practice and shall include an appropriate information security management system consistent with standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable).
- 16.2 "Supplier Operations" means all assets, processes and systems (including information systems), data (including Customer data), personnel, and sites, used or processed by the Supplier from time to time in the performance of this contract.
- 16.3 Should products or services contain software, firmware, or chipsets:
- 16.3.1 the Supplier shall implement appropriate standards, processes and methods to prevent, identify, evaluate and repair any vulnerabilities, malicious code, and security incidents in products and services which shall be consistent with good industry practice and standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable);
- 16.3.2 the Supplier shall continue to support and provide services to repair, update, upgrade and maintain products and services including the provision of patches to the Customer remedying vulnerabilities for the reasonable lifetime of the products and services;
- 16.3.3 the Supplier shall provide to the Customer a bill of materials identifying all third-party software components contained in the products. Third-party software shall be up-to-date at the time of delivery to the Customer;
- 16.3.4 the Supplier shall grant to the Customer the right, but the Customer shall not be obliged, to test or have tested products for malicious code and vulnerabilities at any time, and shall adequately support the Customer;
- 16.3.5 the Supplier shall provide the Customer a contact for all information

15. 产品符合性、产品相关的环境保护，包括物质声明、危险品、职业健康与安全

- 15.1 如果供应商交付的产品因其要在欧洲经济区上市和进一步营销而适用与产品相关的法律法规要求，或适用客户通知给供应商的其他国家的相应要求，则供应商必须确保这些产品在风险转移时符合这些要求。此外，供应商必须确保在客户要求时可以立即提供所有文件和信息，以证明产品符合各项要求。
- 15.2 如果供应商交付的产品中含有订购时适用的“限用物质清单” (www.bomcheck.net/suppliers/restricted-and-declarable-substances-list) 中所列的物质，或需遵守法定的物质限制和/或信息要求(例如：REACH 标准、RoHS 指令)，则供应商应在首次交付产品之日或之前，在 BOMcheck(www.BOMcheck.net)网上数据库中申报此类物质并提供所要求的信息。关于法定的物质限制，上述规定仅适用于供应商或客户注册地或客户指定的目的地所在国家的法律。
- 15.3 如果交付的货物根据国际法规被归类为危险品，供应商将以供应商和客户之间约定的形式通知客户，但在任何情况下不得迟于订单确认之日。关于第 4.4 条和第 4.5 条中有关危险品的要求仍然有效。
- 15.4 供应商有义务遵守所有有关其雇用人员的健康和安全的法律要求。它必须确保其人员以及受雇执行交付和服务的间接分包商的健康和安全得到保护。

16. 网络安全

- 16.1 供应商应采取适当的组织和技术措施，以确保供应商的运营以及产品和服务的机密性、真实性、完整性和可用性。这些措施应符合行业良好实践，并应包括符合 ISO/IEC 27001 或 IEC 62443 等标准的适当信息安全管理体系(在适用范围内)。
- 16.2 “供应商的运营”是指供应商在履行本合同过程中不时地使用或处理的所有资产、流程和系统(包括信息系统)、数据(包括客户数据)、人员和地点。
- 16.3 如果产品或服务中包含软件、固件或芯片组：
- 16.3.1 供应商应实施适当的标准、流程和方法，以防止、识别、评估和修复产品和服务中的任何漏洞、恶意代码和安全事件，并应符合行业良好实践和标准，例如 ISO/IEC 27001 或 IEC 62443(在适用的范围内)；
- 16.3.2 供应商应继续支持和提供服务来修复、更新、升级和维护产品和服务，包括在产品和服务的合理生命周期内向客户提供修补漏洞的补丁；
- 16.3.3 供应商应向客户提供一份物料清单，用于识别产品中所含的所有第三方软件组件。第三方软件在交付给客户时应是最新版本；
- 16.3.4 供应商应向客户授予测试或委托他人测试产品中的恶意代码和漏洞的权利（但客户没有义务这样做），并应给予客户充分的支持。
- 16.3.5 针对所有与信息相关的问题，供应商应向客户提供一个在工作时间可用的联系人。
- 16.4 对于供应商的任何运营、服务和产品中发生的或怀疑的所有信息安

- security related issues (available during business hours).
- 16.4 The Supplier shall promptly report to the Customer all relevant information security incidents occurred or suspected and vulnerabilities discovered in any Supplier Operations, services and products, if and to the extent the Customer is or is likely to be materially affected.
- 16.5 The Supplier shall take appropriate measures to achieve that its subcontractors and suppliers shall, within a reasonable time, be bound by obligations similar to the provisions of this section 16.
- 16.6 Upon the Customer's request, the Supplier shall provide written evidence of its compliance with this section 16 including generally accepted audit reports (e.g. SSAE-16 SOC 2 Type II).
- 17. Export Control and Foreign Trade Data Regulations**
The Supplier shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations"). In particular, the Supplier represents and warrants that none of its products nor its services provided under the contract contain products and/or services restricted for import under the Foreign Trade Regulations applicable to the Customer, including but not limited to Council Regulations (EU) 833/2014, 692/2014, 2022/263 or 765/2006, each as amended, and import restrictions enforced by the U.S. Customs and Border Protection. The Supplier shall advise the Customer in writing within two weeks of receipt of the order and in case of any changes without undue delay of any information and data required by the Customer to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including without limitation:
- all applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
 - the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
 - the country of origin (non-preferential origin); and
 - upon request of the Customer- the Supplier's declaration of preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers).
 - upon request of Customer: evidence of the country of origin of the iron and steel inputs used for the processing of the products.
- 18. Reservation Clause**
The Customer shall not be obligated to fulfill the contract if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.
- 19. Mention as Reference Customer**
Only upon the Customer's prior written approval, the Supplier shall be allowed to mention the Customer as a reference customer and/or make reference to products or services which the Supplier has developed during the performance of an order for the Customer.
- 20. Supplementary Provisions**
- 20.1 Insofar as the provisions of these Conditions of Purchase do not regulate certain matters, relevant statutory provisions shall apply.
- 20.2 The Supplier shall be liable for any expenses and/or damages incurred by the Customer due to any breach of these conditions, in particular of sections 2, 3, 4, 7, 8, 14, 15, 16 and 17, unless the Supplier is not responsible for such breach.
- 21. Place of Jurisdiction and Applicable Law**
- 21.1 German substantive law shall apply, excluding the provisions of the United Nations Law on the Sale of Goods of 11th of April 1980.
- 21.2 The relevant court of jurisdiction shall be Siegburg.
- 全事件以及发现的漏洞, 如果这些事件和漏洞实际或可能对客户产生重大影响, 供应商应立即向客户报告。
- 16.5 供应商应采取适当措施, 使其分包商和供应商在合理时间内受与本第 16 条之规定类似的义务的约束。
- 16.6 一经客户要求, 供应商应提供书面证据, 证明其遵守本第 16 条之规定, 包括一般公认的审计报告(例如: SSAE-16 SOC 2 Type II)。
- 17. 出口管制和外贸数据法规**
供应商应遵守所有适用的出口管制、海关和外贸法规 (“外贸法规”)。特别是, 供应商声明并保证, 其根据合同提供的任何产品或服务都不含客户适用的外贸法规 (包括但不限于经修订的欧盟理事会第 833/2014 号、692/2014 号、2022/263 号或 765/2006 号条例以及美国海关和边境保护局实施的进口限制) 所限制进口的产品和服务。供应商应在收到订单后两周内以及情况发生任何变化时, 毫无延误地及时将客户在出口、进口和再出口时为符合所有外贸法规而需要的信息和数据以书面形式通知给客户, 包括但不限于:
- 所有适用的出口清单编号, 包括根据美国贸易管制清单(CCL)的出口管制分类编码(ECCN); 和
 - 根据当前对外贸易统计商品分类的统计商品编码以及 HS(协调制度)编码; 和
 - (非优惠)原产地证明; 和
 - 在客户要求的情况下: 供应商的优惠原产地声明 (如果是欧洲供应商) 或优惠证明 (如果是非欧洲供应商)。
 - 在客户要求的情况下: 产品加工中使用的铁矿石和钢材的原产地证明。
- 18. 保留条款**
如果由于国内或国际对外贸易或海关要求或任何禁运或其他制裁而阻碍合同的履行, 则客户没有义务履行合同。
- 19. 作为参考客户提及**
只有在客户事先书面批准的情况下, 供应商才能将客户作为参考客户提及和/或提及供应商在为客户履行订单期间开发的产品或服务。
- 20. 补充条款**
- 20.1 如果某些事项不适用本采购条款, 则适用相关的法律规定。
- 20.2 对于客户因这些条款被违反 (特别是第 2、3、4、7、8、14、15、16 和 17 条) 而产生的任何费用和/或损害, 均由供应商负责, 除非该违约不是供应商的责任。
- 21. 管辖地和适用法律**
- 21.1 适用德国实体法, 不包括 1980 年 4 月 11 日《联合国国际货物销售公约》的规定。
- 21.2 管辖法院为锡格堡。