



**Terms and Conditions of Sale of
Koerber Technologies (Shanghai) Ltd.**
上海柯尔柏工程技术有限公司
销售条款和条件

March 2024

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The contractual relationship between the buyer (hereinafter referred to as "Buyer") and Koerber Technologies (Shanghai) Ltd. (hereinafter referred to as "Seller") with regard to the sale and purchase of the relevant items is subject to the following terms and conditions.

买方（以下简称“买方”）和上海柯尔柏工程技术有限公司（以下简称“卖方”）就相关货物买卖的合同关系受以下条款和条件的约束：

1. Preamble

前言

Agreements between Buyer and Seller shall be exclusively concluded on the following terms and conditions.

买方和卖方之间的协议排他地根据以下条款和条件达成。

Acceptance of an order will not imply acceptance of different contract purchase conditions.

对某个订单的接受并不意味着对不同合同采购条件的接受。

2. Conclusion of contract, export control

合同的订立与出口管制

2.1. Any agreements between Buyer and Seller must be in writing in order to be effective.

买方和卖方之间的任何协议必须是以书面形式订立才是有效的。

2.2. Seller's confirmation of order must be issued in writing. If it contains minor modifications or additions compared to Buyer's order, Buyer will be deemed to be in agreement therewith unless Buyer objects in writing within 4 weeks of receipt.

卖方对订单的确认必须以书面形式作出。若该确认，与买方订单相比，包含较小的修改和添加，除非买方在收到该确认后四个星期内以书面形式表示反对，否则视为买方向

意该修改和添加。

2.3. Information contained in catalogues, circulars, price lists, etc only becomes part of the contract if Seller expressly refers to it in writing.

目录、宣传手册、价格清单等所载信息，仅在卖方以书面形式明确提及时才成为合同的一部分。

2.4. Buyer acknowledges that the supply of the items may be subject to domestic and/or foreign statutory provisions and regulations regarding export control including economic sanctions and embargos (hereinafter collectively referred to as "Export Control Regulations"). These Export Control Regulations may change from time to time and are applicable according to the wording valid at the relevant time. Both Parties will adhere to all such Export Control Regulations and cooperate with the competent authorities accordingly. The Parties shall not take any action which would be in breach of the Export Control Regulations.

买方承认供货须遵守包括经济制裁与禁运在内的有关出口管制的国内和/或国外的法律规定和条例（以下统称“出口管制条例”）。出口管制条例可能会不时更改，并根据相关时间内有效的措辞适用。双方都将遵守出口管制条例并相应地与主管机关合作。双方不得采取可能违反出口管制条例的任何行为。

2.5. Seller's offers are non-binding and subject to an assessment of the final configuration of the items to be delivered with respect to the applicable Export Control Regulations as well as the feasibility of the related banking and financial services.

卖方的报价不具约束力，受限于基于相关出口管制条例及有关银行和金融服务可行性作出的拟交付货物最终配置的评估。

2.6. If applicable, the delivered items may not be sold,

supplied, leased or otherwise transferred nor may these items be used for a purpose other than that agreed upon without a necessary export or re-export permit from the competent authorities. Seller will use Seller's best efforts to receive the required export permits and provide Buyer with a copy of the export permit for Buyer's information on request.

如果适用，在没有主管机关出口许可或再出口许可情况下，交付的货物不得出售、供应、出租或另外转让，也不得被用于双方达成一致的目的之外的用途。卖方将会尽最大的努力获得所需的出口许可并根据买方要求提供一份副本以供参考。

Furthermore, and without limiting the foregoing, any re-exportation to Russia and any re-exportation for use in Russia of the items is prohibited, unless explicitly allowed by Seller in advance in writing. In case of violation of this prohibition, Seller is obliged to report such incident to the competent authorities, in addition to any further rights Seller may have under Clause 2.7.

此外，在不限制上述规定的情况下，除非卖方事先明确书面允许，否则买方禁止向俄罗斯再出口货物或再出口货物以供在俄罗斯使用。在违反此禁止条款的情况下，除了卖方在第2.7条项下可能享有的任何进一步权利外，卖方有义务向主管机关报告此类事件。

2.7. Seller shall have the right at any time to revoke Seller's offers or to withdraw from the contract and exempt from any charges and without incurring any liability for Seller, if

如有下列任何情况，卖方有权在任何时候撤销报价与合同，免除任何费用，并且不承担任何责任。

2.7.1. the required export permits or re-export permits cannot be obtained or cannot be obtained within a reasonable time. or, if once granted, are/is thereafter revoked or modified by the competent authorities;

若所要求的出口许可或者再出口许可不能获得或者不能在合理的时间内获得，或一经批准，其后被主管机关撤销或修改。

2.7.2. Buyer, despite a request, provides either none or insufficient information about the final destination or the end use of the items to be delivered;

即使已经被要求，买方仍然未提供或未充分提供有关拟交付货物最终目的地与最终用途的信息。

2.7.3. Seller obtains knowledge of an unintended end use

or of any previously unknown person involved in the business and thereafter cannot perform the contract due to any Export Control Regulations;

卖方获得任何有关非计划中的最终用途或原先约定之外的人员涉及相关业务的消息，其后根据出口管制条例将无法履行本合同。

2.7.4. a prohibited or possibly illegal or unlicensed export, re-export or infringement of applicable Export Control Regulations occurred or cannot be fully ruled out; or

发生或不能完全排除被禁止或可能非法或未经许可的出口、再出口或违反相关出口管制条例的情形。或者

2.7.5. a fundamental change in the appraisal of the commercial risks attached to the business occurs due to any listing of Buyer, Buyer's affiliates, Buyer's owners or other persons involved on Buyer's part in the business on either the consolidated EU or US screening list.

由于买方、买方的附属公司、买方的所有人或参与买方负责的业务的人员被列入欧盟或美国综合筛选名单而导致对相关业务的商业风险评估发生根本性变化。

If Seller revokes the offers and/or terminates the contract on the basis of the above Seller may also re-evaluate the entire business relationship towards Buyer, which shall include the –Seller's right to revoke any other offer and/or terminate any other contract with Buyer where the underlying cause for the present termination might also be present.

如果卖方根据上述情形撤销报价和/或终止合同，卖方也可重新评估与买方的整个业务关系，其中应包括卖方撤销任何其他报价和/或终止与买方的任何其他合同的权利，并且导致当前终止的根本原因也可能存在其中。

2.8. Buyer shall assure Seller that, prior to conclusion of the contract, Buyer has informed Seller of any and all statutory, official or other requirements which are mandatory for implementation of the contract in Buyer's home country or at the place where the item is to be used or installed.

在合同订立之前，买方应向卖方确认买方已告知卖方在买方所在国或者货物使用地或安装地履行合同时所强制适用的任何和所有的法定的、官方的或者其他的要求。

3. Intellectual property

知识产权

- 3.1. Plans, software and other documents will remain Seller's property. They shall be used only to the extent permitted by Seller and must not be modified, reproduced or made available to third parties.

图纸、软件和其他文件均为卖方的财产，仅可在卖方许可的范围内使用，并且不得修改、复制或者提供给第三方。

The latest version of Seller's 'Terms of Software Use' will also apply.

最新版本的卖方软件使用条款也同样适用。

- 3.2. Where delivered items or parts thereof are protected by industrial property rights or copyrights, Seller shall grant Buyer a non-exclusive and non-transferable right to use the same within Buyer's company in conformity with the contract. Otherwise, the rights of use will remain with Seller and/or the manufacturer. Reproductions or adaptations will require Seller's prior consent in writing.

若交付的货物或者货物零部件受工业产权或著作权保护，卖方应授权买方非独占的和不可转让的权利，使得买方根据本合同在买方公司内部进行使用。否则，使用权为卖方和/或制造商所有。复制或改动应事先取得卖方的书面同意。

- 3.3. Business or brand names and other identifying marks on the items supplied by Seller must not be removed or modified.

商业或者品牌名称和卖方提供的货物上的其他识别标记不得被去除或者更改。

4. Delivery date

交货日期

- 4.1. An agreed delivery period will begin as soon as the contract has been concluded, all official formalities have been completed, all the technical information required to process the order is available, agreed prepayments have been made, and agreed security for payment has been provided. The delivery period shall be deemed met if Buyer receives advice from Seller within that period that Seller is ready to ship.

约定的交货期限应自合同订立、所有官方手续完成、处理订单所需的所有技术信息获得、约定的预付款支付和约定的付款担保提供后立即开始。买方在交货期限内收到卖方备妥待运通知后将视为交货期限满足。

- 4.2. If items to be delivered have to be run in at Seller's works and if Buyer does not make the necessary test

materials available to Seller on schedule and free of charge after Seller has requisitioned them well in advance (unless otherwise agreed in writing – on DAP basis site of Seller in conformity with the latest version of Incoterms), Seller is entitled to purchase the missing test materials himself and to invoice Buyer for them. Any delay which Seller incurs as a result of the failure to provide the test material in time or due to the need to purchase replacement test material shall result in the delivery period being at least extended accordingly. Costs incurred thereby will be borne by Buyer himself. Furthermore Seller reserves the right to charge Buyer for the higher expenditure incurred during commissioning on-site, if necessary.

若将交付的货物需在卖方工厂试运行，卖方提前申请要求必要的测试材料但买方未按时免费向卖方提供（除非另有书面约定 – 基于符合最新版国际贸易术语DAP卖方场所），卖方有权自行购买缺失的测试材料并且向买方出具它们的发票。卖方因买方未及时提供测试材料或者因需要购买替换性的测试材料所遭受的迟延，卖方可至少延长相应的交货期限。由此产生的费用应由买方承担。并且，若必要，卖方保留向买方收取更高的在现场调试期间所产生的费用支出的权利。

- 4.3. Compliance with the delivery period will be dependent on performance of Buyer's contractual obligations, in particular compliance with the terms of payment.

交货期限的遵守取决于买方对合同义务的履行，尤其是对付款条款的遵守。

If modifications to the items to be delivered are agreed at Buyer's request after the contract has been concluded, the delivery period may be extended accordingly.

若合同订立后，如果双方同意应买方要求对还未交付货物作出变更，交货期限可以相应延长。

- 4.4. In the event of delay in delivery Buyer will have the right to withdraw from the contract only if Seller is solely responsible for such delay, if the delay in delivery exceeds the period of 3 months and if Buyer grants Seller a reasonable grace period and expressly states at the same time that Buyer refuses to accept performance of the contract after expiry of that period, and if Seller does not then effect performance within the grace period set.

在迟延交货并且仅卖方单方对该迟延交货负有责任的情

形下，若交货迟延超过3个月的期限，买方给予卖方合理的宽限期并且同时明确表示买方在宽限期结束后将拒绝接受针对该合同的履行，而卖方未在设定的宽限期内完成合同的履行时，买方才有权撤销合同。

4.5. If the delay in delivery in full or in part is Seller's fault, Buyer may demand liquidated damages for the damages demonstrably suffered by Buyer as a result of delayed performance. For each full week of delay these liquidated damages will be 0.2%, up to a maximum of 5%, of the value of that part of the total delivery which cannot be used on time or in conformity with the contract as a result of the delay. There will be no entitlement to liquidated damages for the first 2 weeks of delay.

如果因卖方过错导致全部或者部分迟延交货，买方可要求对能够证明的因该迟延履行所导致的损失支付违约损害赔偿。每迟延一整周，则违约损害赔偿为因该迟延而使全部交货中不能按时使用或者不能依合同要求使用的交货部分的价值的0.2%，违约损害赔偿总额最高为上述价值的5%，但无权对迟延的最开始的2周要求违约损害赔偿。

No further claims for compensation will be allowed on the basis of a delay for which Seller is responsible, subject to Clause 8.2.

受限于第8.2条的规定，对基于卖方应负责的迟延交货不允许提出进一步的损害索赔。

5. Delivery, Passage of Risk and Acceptance

交货、风险转移与验收

Delivery & Passage of Risk

交货与风险转移

5.1. Unless otherwise agreed in the contract the delivery terms will be unpacked Ex Works site of Seller (in conformity with the latest version of Incoterms).

除非合同另有规定，交货条款是未包装工厂交货卖方场所（与最新版本国际贸易术语相符合）。

Partial deliveries will be allowable.

允许部分交货。

If partial deliveries are carried out, or if Seller wholly or partly assumes responsibility for or arranges other services, e.g. transport costs and insurance, or installation, as per Buyer's order, the risk of each partial delivery shall pass to Buyer in accordance with the agreed Incoterms-clause. From this point on, Buyer is therefore obliged to insure the value of each delivery or partial delivery against all risks until the final

acceptance of the delivered items, if this has to be certified, in any case until Seller has received full payment of the value of the contract. Seller reserves the right to request from Buyer appropriate evidence of this insurance.

若部分交付货物，或者若卖方全部或者部分承担义务或者安排其他服务，如运费和保险，或者根据买方订单所要求的装船，每个部分交货的风险将根据约定的国际贸易术语条款转移至买方。从该时刻起直到交付的货物最终验收，买方有义务对每次交货或部分交货的价值进行针对所有风险的投保。若前述事宜需确认，则在任何情形下均为直至卖方收到合同价值的全部付款时。卖方保留向买方索取该保险的适当证明的权利。

Packing shall be provided in accordance with the contractually agreed shipment method and will be separately invoiced by Seller. Packaging is not returnable.

包装应根据合同约定的装运方式提供，卖方另行出具发票。包装无需返还。

5.2. If Buyer does not immediately take over the delivery on the agreed delivery date after Seller has notified Buyer of its readiness to ship, Seller will be entitled to store and insure the items declared ready for delivery at Buyer's risk and expense. Buyer will bear any costs incurred through the delay in taking over the delivery. Not taking over the delivery will not exempt Buyer from Buyer's obligation to pay the purchase price. After expiry of a reasonable time set by Seller, Seller will, in this event, also be entitled to otherwise dispose of the items concerned and then to resupply Buyer within a reasonable period.

若买方在卖方通知买方卖方已备妥待运后未在约定的交货日期立即接收货物，卖方有权对声明备妥待交的货物进行储存和投保，但由买方承担风险和费用。买方应承担任何由于接收货物迟延产生的费用。不接收交付的货物并不能免除买方支付采购价格的义务。当卖方约定的合理时间届满后，卖方在此情形下有权对相关货物进行其他处理，并且在其后合理的期限内对买方再次供货。

5.3. Delivered items are to be received by Buyer, notwithstanding the rights referred to in Clause 7. This will not apply if these items obviously have significant defects. 尽管存在第7条所规定的权利，买方应接受交付的货物。但该规定并不适用于货物明显存在重大缺陷的情形。

5.4. If delivery in full or in part finally becomes impossible for

Seller prior to the passage of risk, Buyer will have the right to rescind the contract. If such impossibility occurs during the delay in Buyer's acceptance, or is Buyer's fault, Buyer will still be bound by his contractual obligations.

若在风险转移之前，卖方全部或者部分交付货物最终不可能，买方将有权解除合同。若该不可能是在买方迟延履行收货的期限内或是由于买方的过错，买方仍然受合同义务的约束。

Acceptance

验收

5.5. The Parties shall together conduct any agreed acceptance testing of the delivered items after completion of the installation in accordance with the acceptance procedure agreed in the contract to determine whether the delivered items comply with the specifications of the contract and the agreed acceptance criteria. If the delivered items meet with the agreed acceptance criteria, the Parties shall sign the acceptance document. Minor defects and shortcomings do not prevent acceptance, but such defects and shortcomings shall be stated in the acceptance document and shall be remedied by Seller in the agreed timeframe. If the delivered items fail to meet the acceptance criteria Seller shall rectify the non-conformance and repeat the acceptance testing.

安装完成后，双方应按照合同约定的验收程序，共同对交付的货物进行约定的验收测试，以确定交付的货物是否符合合同的规格和约定的验收标准。交付的货物符合约定的验收标准的，双方应当签署验收文件。较小的缺陷和缺点不妨碍验收，但这些缺陷和缺点应在验收文件中予以说明，并由卖方在约定的时间范围内进行补救。如果交付的货物不符合验收标准，卖方应纠正不符合项，并重复验收测试。

5.6. Should acceptance not take place for reasons for which Seller is not responsible or should be refused by Buyer without stating substantial reasons, acceptance shall be deemed to have taken place on the date on which Buyer was notified of the completion of installation and the readiness for acceptance, and all due dates for contractual payments shall remain unchanged. In any case the commencement of production or use of the delivered items over a period of 4 weeks shall be deemed to be the acceptance of the delivered items,

irrespective of any formal acceptance procedure.

如果验收由于非卖方负责的原因而未能进行，或买方在未说明实质性理由的情况下拒绝验收，则验收应被视为已在通知买方完成安装和准备验收的日期进行，且合同款项的所有付款到期日应保持不变。在任何情况下，且不予考虑任何正式的验收程序，开始生产或使用交付的货物长达4周应被视为对已交付的货物的验收。

6. Machine and plant safety

机器与设备安全

Machines, plant and the like delivered by Seller will conform to the statutory safety and accident prevention regulations in force in the Federal Republic of Germany and the People's Republic of China unless the Parties have agreed otherwise. Such items shall be installed and operated only by skilled staff in accordance with Seller's documentation.

除非买、卖双方另行同意，卖方交付的机器、设备等符合德意志共和国和中华人民共和国有效的法定安全与事故防范的规定。此类货物应根据卖方文件由熟练的人员进行安装与运行。

7. Warranty

保证

Seller warrants the merchantable quality and title of the delivered items, including any features promised, to the exclusion of further claims, subject to Clause 8.2 as follows:

受限于第8.2条的规定，卖方保证所交付的货物的适销性和所有权，包括任何承诺的特性，但排除进一步的主张。

Defects of quality

质量缺陷

7.1. Seller warrants that the material, construction and design are free from defects.

卖方保证材料、结构和设计均不存在缺陷。

7.2. The warranty period will be 12 months for delivered items utilised one-shift operations and will commence with commissioning, or with Buyer's acceptance of the delivered item where provision is made for this (for spare parts upon delivery). The warranty period will, however, run for a maximum of 18 months after Seller has notified Buyer of his readiness to ship. For multiple-shift operations the warranty period will be reduced accordingly and will in any event be limited to 2,100 hours of operation.

针对所交付的设备进行一班制运行的保证期间是12个月，该期间从调试时开始或者从买方接受所提供的已交付的货物时开始（针对配件是交货时开始）。但保证期间最长为在卖方通知买方其备妥待运后18个月。对于多班制运行，保证期间应相应减少，但在任何情况下运行时间均不能超过2100小时。

7.3. Seller will correct defects which occur and are reported to Seller in writing within the warranty period free of charge, either by making replacement deliveries (on DAP basis in conformity with the latest version of Incoterms) or by duly rectifying the defects at the place of destination, at Seller's discretion.

卖方将对保证期间内发生并向卖方书面报告的缺陷进行免费维修，由卖方决定免费替换交付货物（基于符合最新版本国际贸易术语的DAP）或者按时在目的地对缺陷进行修复。

Defective parts will become Seller's property once they are replaced, and are to be returned to Seller at Seller's request immediately after replacement.

被替换的缺陷零部件为卖方的财产，并应根据卖方的要求在更换后立即返还给卖方。

7.4. The following circumstances will not be covered by Seller's warranty:

以下情形不包括在卖方的保证范围内：

7.4.1. if Buyer fails to notify Seller of the defect immediately in writing or fails to provide Seller with reasonable assistance to enable Seller to correct the defect, or

若买方未立即书面通知卖方缺陷或者未向卖方提供合理的协助以使卖方对该缺陷进行更正，或者

7.4.2. where defects have been caused after the passage of risk due to improper transportation or storage of the delivered items, or

若缺陷是在风险转移后因交付货物的不当运输或者储存所造成的，或者

7.4.3. where defects have been caused by improper operation or treatment of the delivered items, by failure to comply with the operating instructions, operating conditions or service and maintenance intervals, by natural wear and tear (e.g. consumables), or by the use of non-specified materials or replacement materials, or

若缺陷系由于操作或处理交付货物不当造成的，或由于未按照操作指示、操作条件或者服务与维护间

隔造成的，或由自然磨损（例如易损易耗件）或者是使用非特定材料或替换材料造成的，或者

7.4.4. if, without Seller's consent, modifications or repairs are made to the delivered items, or the spares used are not supplied by Seller, or

若在卖方未同意的情况下，对交付货物进行修改或维修，或者使用的零配件不是由卖方所提供的，或者

7.4.5. if the delivered items have not been installed or commissioned by Seller's staff, unless there is a written agreement to the contrary, or the defects are not demonstrably in the material, construction or design.

若交付的货物不是由卖方人员安装与调试，除非双方对此存在相反的书面约定，或缺陷不明确存在于材料、结构或设计之中的。

With the machine and/or certain delivery items Buyer will receive a service logbook to record his compliance with Seller's warranty conditions.

The maintenances shall be carried out and certified by a technician trained/certified by Seller.

伴随着机器和/或其他交付的物件，买方会收到一个服务日志用于记录买方对卖方保证条件的遵守。维护应当由经过卖方培训/认证的技术人员实施和认证。

7.5. If at any time Buyer defaults on performance of his contractual obligations towards Seller, Seller will be entitled to refuse to honour warranty claims. The warranty period stipulated under Clause 7.2 will not be extended for this reason.

若在任何时候，买方未履行对卖方的合同义务，卖方有权拒绝承认保证索赔。第7.2条所规定的保证期间并不因此延长。

7.6. If, despite a reasonable time limit and an additional extension if necessary, Seller culpably fails to meet his obligation to rectify a defect Seller has a duty to correct, Buyer will be entitled to have the defect duly remedied at Seller's expense with all due care after Buyer has notified Seller in writing.

在一个合理的时间限制内和额外延长时限内（若必要），由于可归责于卖方明显的过错未能履行卖方修复缺陷的义务的，买方有权在书面告知卖方后，使得缺陷得到适当修复，费用由卖方承担。

Buyer is always obliged to take all necessary measures

to minimize losses immediately.

买方始终有义务立即采取所有必要措施以减少损失。

7.7. If, in the event of a defective delivery, it proves impossible or economically not viable to rectify such defects, or if repeated attempts to do so should ultimately fail, Buyer will have the right to cancel the contract only where agreement is not reached on a reasonable reduction in the purchase price.

若存在缺陷交付，修复该缺陷被证明是不可能或者在经济上不可行的，或者反复尝试修复该缺陷但最终仍失败，仅在无法一致达成合理降低采购价格的情形下买方才有解除权。

7.8. If the contract is cancelled, all further claims will be excluded, subject to Clause 8.

在遵守第8条规定的情形下，若合同解除，所有进一步的索赔均被排除。

7.9. If the delivered items cannot be used in conformity with the contract and Seller is at fault through having given the wrong advice or having failed to fulfill his secondary obligations, the provisions of this Clause 7 (Defects of quality) will apply accordingly.

若交付货物无法根据合同要求使用，并且卖方由于提供了错误指导或者未履行附属义务而违反合同，则第7条（质量缺陷）的规定应相应适用。

Defects of title

所有权瑕疵

7.10. If use of the delivered items within the periods referred to in Clause 7.2 leads to the infringement of industrial property rights or copyrights in Buyer's home country, Seller will either obtain the right of continued use for Buyer or Seller will modify the delivered items to prevent continued infringement of the industrial property right or copyright, at Seller's discretion.

若在第7.2条规定的期间内使用交付货物导致在买方所在国内侵犯工业产权或者著作权，卖方有权决定为买方获得继续使用权或者对交付货物进行改造，以免除对工业产权或者著作权的继续侵犯。

If this is not possible under economically viable conditions, Seller will take the delivered items back and refund the contract price less an amount to take account of the utilization and the level of preservation of the delivered items.

若在经济上不可行，卖方将收回交付的货物并且基于对交付货物使用和保存考虑后确定的数额后返还合

同价款。

Seller will also indemnify Buyer against claims by the owners of the industrial property rights or copyrights concerned, where such claims are undisputed or upheld in a non-appealable judgement.

对买方因相关工业产权或著作权所有人的索赔而遭受的损失，只要该索赔不存在争议或者已被不可上诉的终局判决所承认，卖方将进行赔偿。

7.11. Subject to Clause 8.2, the above undertakings will be final in the event of industrial property right or copyright infringement.

They will apply only if

- Buyer informs Seller immediately of the industrial property right or copyright infringement claims,

- Buyer provides Seller with reasonable assistance to counter these claims and enables Seller, where appropriate, to make the modifications referred to in Clause 7.10,

- Seller reserves the right to take any action to counter these claims, including the right to settle out of court,

- the delivered items have not been manufactured or modified in accordance with Buyer's instructions, and

- the infringement did not occur because Buyer altered the delivered items independently or used them in violation of the contract.

在遵守第8.2条规定的情形下，上述工业产权或著作权侵权下的义务都是最终的。

该规定仅适用于以下情形，若

- 买方立即通知卖方侵犯工业产权和著作权的主张；

- 买方提供给卖方合理的协助以抗辩这些主张，以使卖方能够根据第7.10条进行适当修改；

- 卖方保留采取任何行为以抗辩此类主张的权利，包括在庭外和解的权利；

- 交付的货物非为按照买方的指示进行生产或者修改；和

- 侵权的发生非由于买方擅自更改已交付货物或者违反合同进行使用。

8. Limitation of liability

责任限制

8.1. Subject to binding statutory requirements, Seller shall be liable for personal injury and damage to property in so far as damages are paid by Seller's liability insurer within the limits of the sums insured and the terms of Seller's insurance policy. Seller shall supply Buyer with evidence of the extent of his liability insurance on

request.

在遵守有约束力的法定要求的前提下，若在卖方保险额度和保险单条款的限度内并由卖方责任保险人支付赔偿的范围内，卖方应对人身伤害和财产损失负责。卖方应根据买方要求向买方提供证明卖方责任保险范围的证据。

8.2. Buyer will not be entitled to make claims other than those referred to in Clauses 4, 5.4, 7 and 8.1, except in cases of willful intent or gross negligence on the part of Seller's company management or one of his senior staff. In the event of gross negligence on the part of Seller's senior staff, Seller's liability will be restricted to a maximum of 10% of the delivery value.

买方无权提出第4、5.4、7和8.1条规定以外的主张，除非卖方公司管理层或者高级职员存在故意或重大过失的情形。在卖方高级职员存在重大过失情形下，卖方责任的最高限额为所交付货物价值的10%。

In particular, Buyer will have no claims for compensation for indirect or consequential damage not caused to the delivered items themselves (e.g. loss of production or loss of profit).

尤其是，买方无权对非由于交付的货物本身产生的间接或者继发性损害要求赔偿，例如生产损失或利润损失。

8.3. Seller will not be liable for the suitability of the premises, building or facilities for the installation and operation of the items supplied.

卖方对供应货物的安装和运行所在的场所、房屋和设施的适当性不承担责任。

9. Prices, taxes 价格与税务

9.1. Seller's prices will apply to delivery unpacked Ex Works. If the place of delivery is within the People's Republic of China value added tax shall be charged at the prevailing statutory rate. This will also apply to agreed advance payments.

卖方的价格适用于未包装的工厂交货。如果交货地点是在中华人民共和国境内，应按现行法定税率收取增值税。该规定也适用于双方约定的预付款。

9.2. If, in exceptional circumstances, the agreed price should be in a foreign currency and the exchange rate should alter, Seller reserves the right to adjust the price up to the time Seller receives the purchase price.

在例外情形下，若约定的价款是外币并且汇率发生变化，在收到付款前卖方保留调整的价格的权利。

9.3. If a price is not agreed for a delivery, Seller shall invoice

Buyer at his list price as valid on the date of delivery.

若未约定交货价格，卖方应依据交货日有效的价格清单向买方出具发票。

9.4. Modifications to the delivered items which are to be undertaken at Buyer's request by Seller following conclusion of the contract shall only be binding on Seller upon prior written agreement. Buyer will bear all the costs incurred thereby.

在合同订立后，买方要求卖方对交付货物进行修改时，仅在达成事先书面一致时，该要求才对卖方具有约束力。买方应当承担由此所产生的所有费用。

9.5. If Buyer withdraws from the contract prior to delivery, Seller's claim for damages shall be determined in accordance with applicable laws using the deduction method, i.e. the agreed purchase price shall be reduced by expenditures saved by Seller.

若买方在交付之前撤销合同，卖方的损害索赔应根据适用法律并采用扣减法确定，如，约定采购价格减去由卖方所节省的支出。

9.6. The cost incurred in payment transactions will be borne by each Party.

基于付款行为所产生的费用由各方自行承担。

9.7. Costs which Seller incurs due to late return of bank guarantee/surety documents will be reimbursed by Buyer.

卖方基于银行保函/担保文件的迟延返还所产生的费用将由买方进行偿还。

9.8. Any additional costs incurred at home and abroad which are not covered by the agreed Incoterm-clause (in conformity with the latest version of Incoterms), such as inspection costs, consulate and certification fees incurred in connection with the delivery are to be borne by Buyer. The same applies to taxes accrued outside the People's Republic of China.

根据约定的国际贸易术语条款（符合最新版本的国际贸易术语）所不包括的但发生的任何国内或者国外的额外费用，例如与交付有关的检验费用、领事认证和证明费用均由买方承担。该规定同样适用于在中华人民共和国境外所收取的税费。

10. Terms of payment 付款条款

10.1. The purchase price and additional costs, e.g. for packing and freight, are payable to Seller without deduction within 14 days of the invoice date. Any

payments, including those involving bills of exchange, will be deemed to have been effected when Seller can dispose of the payments without reservation.

采购价格和额外费用, 如包装和运输费用, 应在发票日起14天内支付给卖方, 不进行扣减。任何付款, 包括与汇票有关的付款, 仅在卖方可无条件处置款项时才被认为是有效的。

10.2. Buyer will have the right to withhold payment or to set payments off against counterclaims only as far as Buyer's counterclaims are undisputed or upheld in a non-appealable judgment.

当且仅当买方反请求不存在争议或者为不可上诉的终局裁决所确认时, 买方有权就反请求主张对付款进行扣留或抵消。

10.3. If Buyer is in default vis-à-vis Seller, Seller will be entitled to defer performance of his own contractual obligations until Seller has received the overdue payments; in particular, Seller will be entitled to retain all or part of the delivered items.

若对于卖方而言买方违反付款义务, 卖方有权推迟履行卖方合同义务直至卖方收到迟延款项; 并且卖方有权保留全部或部分已交付货物的权利。

10.4. Seller will charge interest for overdue payment at 500 basis points per annum above the one-year Loan Prime Rate announced by the National Interbank Funding Center over the same period, beginning with the due date, for failure to observe agreed payment dates.

对于逾期付款, 卖方将按照在逾期付款期间由全国银行间同业拆借中心公布的一年期贷款市场报价利率(LPR)上浮5%收取年利息。

10.5. If Buyer defaults on due payments and fails to make payment even after a grace period has been set, or if Buyer is otherwise in serious breach of contract, Seller shall be entitled to rescind the contract and demand compensation.

若买方不能按时付款并且在设定的宽限期后仍然不能付款的, 或买方在其他方面严重违约的, 则卖方有权解除本合同并要求赔偿。

Buyer will then be obliged to return the delivered items to Seller immediately at Seller's request, free of charge to Seller and at Buyer's risk.

应卖方要求, 买方有义务立即向卖方返还交付的货物, 卖方不承担费用并由买方承担风险。

11. Retention of title

所有权保留

11.1. Any items to be delivered and any delivered items will remain Seller's property until the purchase price and additional costs have been paid in full.

任何将要交付或者已交付的货物仍为卖方财产, 直至采购价格和额外费用已全额支付。

11.2. While the delivered items are subject to retention of title, Buyer must not remove the items from the installation location, sell, hire, lease, lend or pledge them, nor must Buyer transfer ownership for surety or other purposes or otherwise dispose of them to third parties.

交付的货物处于所有权的保留时, 买方不得将货物从安装地移走、出售、租用、出租、出借或者抵押, 也不得基于担保或者其他目的而转移所有权, 或者以其他方式向第三方处理这些货物。

Buyer will assist Seller in measures to safeguard and, where appropriate, assert Seller's right to retention of title. Buyer will inform Seller immediately if third parties assert rights to the items to be delivered or delivered items or dispose of them.

买方应协助卖方采取措施维护和主张(若适当)卖方所有权保留的权利。若第三方对将要交付或者已经交付的货物主张权利或者进行处置时, 买方应立即通知卖方。

11.3. For the duration of Seller's retention of title, Seller shall be entitled to insure the items to be delivered or the delivered items at Buyer's expense against theft, breakage, transit, fire, water or other damage, unless Buyer can provide evidence that Buyer has taken out insurance himself.

在卖方所有权保留期间, 卖方有权在买方承担费用的情况下对将要交付或者已经交付的货物投保有关盗窃、破损、转运、火灾、水灾或者其他损害保险, 除非买方能提供其已自行投保的证明。

11.4. If Buyer defaults on payment or is otherwise in serious breach of contract, Seller shall be entitled to take the delivered items back. If Seller takes the delivered items back and/or seizes them, this will not constitute rescission of the contract.

若买方付款违约或者存在其他严重合同违约, 卖方有权收回交付的货物。卖方收回和/或占有交付货物的行为并不构成对合同的解除。

11.5. The transfer of title will not affect the passage of risk provisions in Clause 5.

所有权的转移不影响第5条约定的风险转移条款。

12. Confidentiality

保密义务

Buyer shall treat all proprietary, non-public information regarding Seller and Seller's business including, without limitation, business information, drawings, designs, technology, know-how, pricing and specifications submitted by Seller (hereinafter referred to as "Confidential Information"), as confidential and shall not disclose them to any third party without Seller's prior written consent or use them for any purpose except where authorized to do so by Seller in writing.

买方应对与卖方及卖方商业有关的所有专有和非公开信息，包括但不限于商业信息、图纸、设计、工艺、技能技巧、卖方提交的价格和规格信息（以下简称“保密信息”）予以保密。未经卖方事先书面同意不得向第三方披露或者以除卖方书面授权以外的任何目的加以利用。

Confidential Information may be disclosed only to Buyer's employees with a "need to know" who are instructed and agree not to disclose or use the Confidential Information for any purpose except as pertaining to the contract.

保密信息仅可被披露给“需要知道”的买方雇员，应被告知并且同意不得为与该合同规定无关的其他目的披露或使用保密信息。

The obligations of confidentiality hereunder shall survive the expiration or any earlier termination of the contract.

本条款条件的保密义务在合同期满或提前终止后仍然有效。

13. Force majeure

不可抗力

13.1. Either Party will be entitled to suspend or refuse to fulfill its contractual obligations including potential warranty obligations, where and for as long as this is prevented or is not economically viable as a result of force majeure circumstances. Force majeure means circumstances beyond the control of the affected Party and which cannot reasonably be foreseen, avoided or surmounted by the affected Party, including without limitation the following events: strikes, lockouts, natural disasters, fire, earthquake, war (declared or undeclared), terroristic or political acts of force, contagious diseases

epidemics/pandemics, mobilisation, revolt, unjustified seizure or distraint, embargo, energy supply restrictions, concrete travel warnings of the competent authorities, i.e. of the Department of Foreign Affairs, to leave countries or regions at the respective place of destination or not to enter these, and faults and delays among sub-suppliers for one of these reasons.

若由于不可抗力情形导致合同义务的履行被阻止或者经济上不可行，各方均有权暂停或拒绝履行各自的合同义务，包括潜在的质保义务。不可抗力情形是指超出受影响一方控制范围并且受影响的一方无法合理地预见、避免或克服的情形，包括但不限于下列事件：罢工、停产、自然灾害、火灾、地震、战争（宣战或者未宣战）、恐怖主义、政变、传染病、流行病/大流行、骚乱、暴动、查封、不正当的扣押或扣留、禁运、能源供应限制、主管机关（例如外交部）发布离开或禁止进入相关目的地国家或地区的旅游警告，和次级供货商因上述原因之一所导致的过错和延误。

13.2. A circumstance referred to in Clause 13.1 and occurring prior to conclusion of the contract will entitle a Party to refuse to perform the contract only (i) if the circumstance has proven repercussions for performance and (ii) if that Party neither knew nor should have known about this circumstance at the time the contract was concluded.

若第13.1条款下所提及的并且在合同订立之前已发生的情形，缔约方仅在以下情况下有权拒绝履行合同。（i）这些情形被证明对合同履行有实际的影响；以及（ii）缔约方在缔结合同时既不知道也不应该知道此情形的发生。

13.3. The Party wishing to invoke force majeure will inform the other Party immediately of the start and end of such force majeure circumstances.

援引不可抗力条款的一方应立即告知另一方此类不可抗力情形发生和结束。

13.4. If a delay in delivery of the items or in Seller's performance is caused by force majeure circumstances, the time for delivery or performance shall be extended by a period which is reasonable having regard to all circumstances of the case, including the time required by Seller for demobilization and remobilization.

若不可抗力情形导致卖方迟延交货或迟延履行义务，在考虑到该情形所有情况的前提下，包括卖方复员和重新活动所需的时间，履行时间应予以延长一段合理的期限。

13.5. If Buyer is hindered by force majeure from performing

the contract, Buyer will indemnify Seller for the costs Seller has incurred in protecting the ordered item.

若不可抗力阻碍买方对合同的履行, 买方应当赔偿卖方因保护订购的货物所发生的费用。

13.6. Each Party will have the right to withdraw from the contract in writing if performance of the contract is prevented for more than 6 months as a result of force majeure under this Clause.

若合同的履行被本条款下所规定的不可抗力阻止超过6个月以上, 各方均有权以书面的形式撤销合同。

14. Right of first refusal and repurchase

优先购买权和回购权

In view of Seller's second-hand machine business the following regulations shall apply:

就卖方二手机器业务, 应适用下列规定:

14.1. Seller, or a company to be designated by Seller, shall have the right of first refusal in respect of machines and sub-assemblies supplied by Seller, except when the resale is within Buyer's Company or Group.

卖方或者卖方指定的公司就卖方供应的机器和组件享有优先购买权, 除非转售发生在买方公司或者买方集团内部。

14.2. Seller shall accordingly have the right of repurchase if Buyer wishes to otherwise transfer the above products to third parties outside Buyer's Company or Group.

若买方拟将上述产品转让给买方公司或者买方集团之外的第三方, 卖方享有相应的回购权利。

14.3. Buyer will inform Seller in good time if Buyer plans a sale or transfer to a third party outside Buyer's Company or Group.

若买方计划向买方公司或者买方集团之外的第三方出售或者转让, 买方应在适宜的时间提前告知卖方。

Seller shall, if second hand machines are required by Buyer, give preference to the repurchase of machines whose service history is documented in a service logbook.

若二手机器是买方所需要的, 卖方将优先回购服务历史记录于服务日志的机器。

14.4. Where applicable, the right of first refusal and right of redemption are to be exercised within 4 weeks after Buyer's information has been received by Seller in accordance with Clause 14.3.

若适用, 优先购买权和回购权应在卖方收到根据第14.3条所规定的买方信息后四个星期内行使。

15. Court of arbitration, applicable law

仲裁庭和适用法律

15.1. Any disputes arising from or in connection with the contractual relationship or the execution thereof shall be settled through friendly negotiations. In the event that no settlement can be reached through negotiations, the disputes shall then be submitted for arbitration to the Shanghai International Economic and Trade Arbitration Commission (SIETAC) and shall be finally settled under the effective rules of the SIETAC arbitration at the time of applying for arbitration by three arbitrators appointed in accordance with the said rules. The arbitration shall take place in Shanghai and the arbitration language shall be Chinese. The decision rendered by the SIETAC shall be final and binding upon both Parties; neither Party shall seek recourse to a court or other authorities for revising the decision. The arbitration fee shall be borne by the losing Party.

任何因合同关系及其执行引起或有关的争议应由双方友好协商解决。如协商不成的, 则该争议应提交到上海国际经济贸易仲裁委员会 (SIETAC) 并根据申请仲裁时有效的SIETAC仲裁规则并通过该规则选定的三名仲裁员作出最终的裁决。仲裁地点为上海, 仲裁语言为中文。SIETAC作出的仲裁裁决为终决的, 对双方均具有约束力, 任何一方不得诉诸法院或其他机关寻求救济以改变该仲裁裁决。仲裁费用由败诉方承担。

15.2. The contract will be subject to the laws of the People's Republic of China, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

本合同适用中华人民共和国法律, 并排除联合国国际货物销售合同公约的适用。

15.3. These Terms and Conditions of Sale are made in English and Chinese. In case of discrepancies between the two language versions, the English version shall prevail.

本销售条款和条件用中文和英文书就, 如果两种语言之间存在冲突, 则以英文文本为准。

Koerber Technologies (Shanghai) Ltd.

上海柯尔柏工程技术有限公司

