

Optimas (Suzhou) Trading Co., Ltd.
安普达(苏州)贸易有限公司
General Conditions of Sale
一般销售条件

The Purchaser's attention is in particular drawn to the provisions of **Condition 11**
请买方尤其关注**第 11 条**

1. DEFINITIONS 定义

"The Company" means Optimas (Suzhou) Trading Co., Ltd. or the Optimas entity otherwise identified on the face of this document.
"公司"指安普达(苏州)贸易有限公司或本文件另行指明的安普达实体。
"The Purchaser" means the person, firm or company to be supplied with the goods and services by the Company.
"买方"指公司向其供应货物和提供服务的人、商行或公司。

"Goods" means the goods, materials and/or other items to be supplied pursuant to the Contract.
"货物"指根据合同供应的货物、材料及/或其他项目。

"Services" means the services to be supplied pursuant to the Contract.
"服务"指根据合同提供的服务。

"The Contract" means the contract for sale and purchase of the Goods and supply of the Services made between the Company and the Purchaser to which these Conditions apply.
"合同"指适用本条件的、公司与买方之间买卖货物和提供服务的合同。

2. SCOPE 范围

These Conditions apply to all sales of Goods and supplies of Services by the Company and shall prevail over any terms or conditions referred to in the Purchaser's order or in correspondence or elsewhere unless specifically agreed to in writing by the Company and expressed to form part of the Contract and any conditions or stipulations to the contrary are hereby excluded or extinguished.
本条件适用于公司的所有货物销售和服务提供,并优先于在买方订单或通信中或别处所述的任何条款或条件,公司特别书面同意并明示构成合同一部分的除外,且任何相反的条件或规定均在此排除或废止。

3. QUOTATION 报价

A quotation by the Company does not constitute an offer and the Company reserves the right to withdraw or amend the same at any time prior to the Company's acceptance of the Purchaser's order.
公司的报价不构成要约,且公司保留在公司接受买方订单前随时撤回或修改报价的权利。

4. PRICES 价格

Unless the prices quoted are stated to be fixed the prices payable for the Goods or Services shall be those charged by the Company at the time of despatch or supply of the Services so that the Company shall have the right at any time to revise quoted prices to take account of increases in cost including (without limitation) costs of raw materials or labour and any variation in exchange rates.
除报价指明为固定价格外,就货物或服务应付的价格应为公司在出货或提供服务时收取的价格,故公司随时有权修改报价以考虑计入成本(包括但不限于)原材料或人工成本的增加及汇率的任何变化。

Quoted prices for the Goods are "ex-works" and exclusive of Value Added Tax and other duty levy or tax assessed against the Goods or Services by any Government or other authority.
货物的报价为工厂交货价,且不含增值税及任何政府或其他机构就货物或服务征收的关税或其他税款。

5. TERMS OF PAYMENT 付款条件

Subject to Condition 5.5 below payment of invoices shall, unless otherwise agreed in writing, be made in full without any deduction or set off within 30 days of the date of invoice.
在遵守下述第 5.5 条的前提下,发票应于开票日期起 30 日内全额支付且不作任何扣减或抵销,另行书面约定的除外。

Any extension of credit allowed to the Purchaser may be changed or withdrawn at any time.
给予买方的任何信用展期可随时变更或撤回。

The Company may claim interest at its discretion at the rate prescribed by Chinese Law.
公司可自行决定按中国法律规定的利率索取利息。

If in the opinion of the Company the creditworthiness of the Purchaser shall have deteriorated prior to the delivery the Company may require full or partial payment of the price prior to delivery or the provision of security for payment by the Purchaser in a form acceptable to the Company.
如果公司认为买方的信誉在交付前会恶化,公司可要求在交付前全部或部分支付价款或由买方以公司接受的形式提供付款保证。

In any case where the Purchaser is resident outside the People's Republic of China (PRC) and unless otherwise agreed the price of the Goods shall be secured by an irrevocable letter of credit satisfactory to the Company established by the Purchaser in favour of the Company immediately upon receipt of the Company's acceptance and confirmed by a bank acceptable to the Company. The letter of credit shall be for the Contract price inclusive of any tax or duty payable by the Purchaser and shall be valid for the period specified by the Company. The Company shall be entitled to payment on presentation to such bank of the documents specified by the Company.
如果买方是中国境外的公司,除另行约定外,货物的价格应以令公司满意的、不可撤销的信用证作担保,信用证由买方在公司接受后立即以公司为受益人开立并由公司接受的银行保兑。信用证金额应为合同价格,包括买方应付的任何税款或关税,并在公司规定的期限内有效。公司有权在向上述银行出示公司规定的单据后获得付款。

6. DELIVERY 交付

Delivery or performance dates mentioned in any quotation or acceptance form or elsewhere are approximate only and shall not be binding on the Company. In the event, the Company shall have a grace period of 10 working days after the abovementioned dates to perform its obligations hereunder.
报价或确认单或别处所述的交付或履行日期仅为大概日期,对公司没有约束力。公司在上述日期后有十个工作日的宽限期履行其在本条件下的义务。

In the event of the Purchaser returning or failing to accept any delivery of the Goods in accordance with the Contract the Company shall be entitled at its option to invoice the Purchaser for such Goods and either to deliver and invoice the Purchaser for the balance of Goods then remaining undelivered or to suspend or cancel further deliveries under the Contract. The Company shall be

entitled to store at the risk of the Purchaser any Goods which the Purchaser refuses or fails to accept and the Purchaser shall in addition to the invoice price pay all costs of such storage and any additional costs or carriage incurred as a result of such refusal or failure. The Company shall be entitled after the expiration of 3 months from the date upon which the price became payable to dispose of the Goods in such manner as the Company may determine.
如果买方退还或未根据合同接受任何交付的货物,公司有权选择就该等货物向买方开具发票,同时交付还未交付的剩余货物并就此向买方开具发票,或者中止或取消合同下的进一步交付。公司有权存储买方拒绝或未接受的任何货物,风险由买方承担,除发票价格外,买方还应支付该等存储的所有费用以及因上述拒绝或未接受而发生的任何额外费用或运费。公司有权在价格到期应付之日起满 3 个月时以公司决定的方式处置货物。

Unless otherwise specified delivery shall be "ex-works" so that the Goods shall be deemed to have been delivered and the risk therein to have passed to the Purchaser upon the Company notifying the Purchaser that the Goods are available for collection.
除另行规定外,交付应为"工厂交货"。公司通知买方可收取货物时,货物应被视为已交付给买方且其风险已转移给买方。

In any case where Goods are sold CIF or FOB or on the basis of any other international trade term the meaning of such terms contained in the latest Incoterms shall apply as if expressly incorporated herein except insofar as any part of the same may be inconsistent with any of the provisions contained in these Conditions.
如果货物按 CIF 或 FOB 或任何其他国际贸易条款销售,则适用最新的国际贸易术语解释通则中所述的含义,如同明示并入本条件,其任何部分与本条件所含的任何规定不符的除外。

Unless otherwise expressly agreed the Company may effect delivery in one or more instalments. Where delivery is effected by instalments each instalment shall be treated as a separate contract.
除另行明确约定外,公司可通过一批或多批进行交付。分批交付的,每期均应视作单独的合同。

If the Contract involves more than one delivery and any default is made in payment the Company shall have the right to suspend all or any further deliveries pending payment or to terminate the Contract in its entirety by notice in writing to the Purchaser.
如果合同涉及一次以上的交付且存在任何不支付的情况,公司有权在付款前中止所有或任何进一步的交付,或者以书面通知买方的方式终止整个合同。

EXPORT 出口

The Purchaser represents and warrants that it will not violate U.S., E.U., or other applicable local country export-related laws with respect to the Goods.
买方陈述并保证,就货物而言,其不会违反美国、欧盟或其他适用的当地国家有关出口的法律。

TITLE 所有权

Title to the Goods shall pass to the Purchaser upon delivery.
货物的所有权应当交付时转移至买方。

VARIATIONS 偏差

The Company shall be deemed to have fulfilled its contractual obligations in respect of any delivery though the quantity may be up to ten per cent more or less than the quantity specified in the Contract and in such event the Purchaser shall pay for the actual quantity delivered.
即使数量可能超出或低于合同规定数量,但只要不超过或低于合同规定数量的百分之十,公司仍应被视为已履行其关于任何交付的合同义务,在此情况下,买方应按实际交付数量付款。

10. SPECIFICATIONS BY THE PURCHASER 买方规格

The Purchaser shall indemnify and keep indemnified the Company against all claims, costs, damages and expenses incurred by the Company or for which the Company may become liable as a direct or indirect result of the carrying out of any work required to be done on or to the Goods in accordance with the requirements of specifications of the Purchaser involving any infringement or claim or infringement of any intellectual property right vested in another person, firm or company.
直接或间接因根据买方规格要求对货物开展的任何工作而涉及任何侵权或索赔或侵犯属于其他人、商行或公司的任何知识产权的,对于公司由此发生或可能承担的所有索赔、费用、损害赔偿和支出,买方应向公司作出补偿并使其持续获得补偿。

11. LIABILITY 责任

The Company shall not be liable for any visible defects or non-conformities and/or for any shortage in the quantity delivered unless a claim in writing shall have been received by the Company from the Purchaser within 7 days of delivery of the Goods. Where liability for any shortage is accepted by the Company, the Company's only obligation shall be to make good such shortage.
公司不对任何可见瑕疵或不符及/或交付数量的任何短缺负责,公司在货物交付后 7 日内收到买方书面索赔的除外。如果公司接受对任何短缺负责,公司仅有的义务是弥补该等短缺。

The Company warrants that (subject to the other provisions of these Conditions), for a period of 12 months (or, in the case of software, 30 days) from delivery, the Goods will be free from material defects in material and workmanship and materially in accordance with the specifications provided by the manufacturer of the Goods.
公司保证(在遵守本条件其他规定的前提下),自交付后的 12 个月(如为软件,30 日)期间,货物在材料和工艺方面没有重大瑕疵,且实质上符合货物制造商提供的规格。

The Company will perform the Services with reasonable skill and care.
公司应以合理的技能和谨慎履行服务。

The Company makes no warranty that software will operate uninterrupted or error-free.
公司不保证软件不间断或无误运作。

The warranties in Condition 11.2 do not cover wear and tear and shall not apply to Goods which have been subjected to misuse or abuse, neglect, accident, damage, improper storage, improper installation or maintenance.
第 11.2 条的保证不涵盖磨损,且不适用于遭到误用或滥用、疏忽、事故、损坏、不当存储、不当安装或维护的货物。

Subject to Conditions 11.4 and 11.5, if the Goods do not comply with the warranties in Condition 11.2 the Company shall at its option replace or repair

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such Goods free of charge or refund the price of such Goods provided that, if the Company so requests, the Purchaser shall, at the Purchaser's expense, return the Goods or the part of such Goods which is defective to the Company. The Purchaser's exclusive remedy for the Company's breach of the warranties under Condition 11.2 will be the Company's obligation to repair, replace or refund (in all cases at the Company's option). Any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period.

在遵守第 11.4 和 11.5 条的前提下, 如果货物不符合第 11.2 条中的保证, 公司应选择免费更换或修理该等货物, 或退还该等货物的价款, 前提是如果公司要求, 买方应向公司退还货物或有瑕疵的部分货物, 费用由买方承担。买方就公司违反第 11.2 条下的保证的唯一救济为公司有义务修理、更换或退还(在所有情况下均由公司选择)。经修理或更换的任何货物应按该等条款在 12 个月保证期中的剩余期限内获得保证。

11.7 Without prejudice to the repair or provision of replacement Goods, the Company's maximum aggregate liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser whether for tort (including negligence or breach of statutory duty), breach of contract (including deliberate, repudiatory breach by the Company), misrepresentation, restitution or otherwise shall in no circumstances exceed 100% of the cost of the relevant Goods or 100% of the cost of the relevant Services which give rise to such liability, as determined by the net price invoiced to the Purchaser.

在不影响修理或提供替换货物的前提下, 不论因侵权(包括过失或违反法定责任)、违约(包括公司故意毁约)、虚假陈述、赔偿或其他原因引起, 公司对买方的累积责任(包括就其雇员、代理人及分包商的行为或不作为承担的任何责任)在任何情况下最高不超过过引该等责任的相关货物费用的 100% 或相关服务费用的 100%, 按开具给买方的发票价格净额确定。

11.8. The Company shall not be liable to the Purchaser for loss of profit, loss of business or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract, whether such loss or claim was foreseeable or in the contemplation of the parties and whether arising in or caused by breach of contract, tort (including negligence and breach of statutory duty), indemnity or otherwise.

公司不就因合同引起或与合同有关的(直接的、间接的或后果性的)利润损失、业务损失或商誉受损, 或任何后果性赔偿索赔(无论如何引起)对买方承担责任, 无论该等损失或索赔是否可预知或在双方的预期之内, 无论是否因违约、侵权(包括过失及违反法定责任)、补偿或其他原因引起。

11.9. Subject to the foregoing the Company excludes all conditions, warranties and stipulations express, implied, statutory, customary otherwise to the fullest extent permitted by Chinese law.

在遵守前述规定的前提下, 公司在中国法律允许的最大范围内排除所有明示、默示、法定、惯例或其他条件、保证和规定。

11.10. Nothing in this Condition 11 or otherwise in the Contract, excludes or limits the liability of the Company for (a) death or personal injury caused by the Company's negligence; or (b) property damage caused by intentional misconduct or gross negligence or (c) any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

本第 11 条的任何内容或合同的其他内容均不排除或限制公司对(a) 因公司过失造成的死亡或人身伤害; 或(b) 因故意不当行为或重大过失导致的财产损害; 或(c) 公司排除或试图排除其责任属于违法的任何事项的责任。

12. LICENCES AND CONSENTS 许可和同意

12.1. The Contract is conditional upon the obtaining of all licences or consents necessary for its performance (other than for the importation of the Goods by the Purchaser) in which connection the Purchaser shall sign all such forms and documents and render such other assistance to the Company as may be necessary.

合同以取得履行(而非买方进口货物)所需的所有许可或同意为条件, 为此, 买方应签署所有必要的表格和文件并向公司提供其他必要的协助。

12.2. The Purchaser shall obtain at its own expense any licence or consent required for the importation of the Goods by the Purchaser and if necessary or so required, shall produce evidence of the same to the Company on demand.

买方应自费取得买方进口货物所需的任何许可或同意, 如果必要或要求, 应在要求时向公司提供相关证据。

13. PURCHASER-OWNED MATERIALS 买方所有材料

Title and risk of loss of Purchaser-owned materials that are in the Company's possession shall remain with the Purchaser. The Company shall not be liable for any loss or damage to Purchaser-owned materials stored by the Company unless caused solely by the Company's negligence. Payment by the Company for such loss or damage shall be limited to the direct manufacturing cost of the Purchaser-owned materials (if it is manufactured by the Purchaser or its affiliates), or the replacement cost (if it was purchased from a third party), in either instance less the salvage value. The Purchaser shall be responsible for insuring its materials against all loss or damage not caused solely by the Company's negligence. The Company assumes no liability for loss or damage to Purchaser-owned materials caused by any force majeure circumstance (as defined in Condition 14.2 below).

在公司占有下、买方所有材料的所有权和灭失风险始终由买方拥有和承担。公司不对公司存储的买方所有材料的任何灭失或损坏负责, 完全因公司过失导致的除外。公司就该等灭失或损坏的付款限于买方所有材料的直接制造成本(如由买方或其关联方制造), 或重置成本(如从第三方购买), 两种情况均应减去残值。买方负责为其材料投保, 防范非完全因公司过失导致的所有灭失或损坏。公司对任何不可抗力情况(见下文第 14.2 条定义)导致的买方所有材料的灭失或损坏不承担任何责任。

14. FORCE MAJEURE 不可抗力

14.1. The Company shall not be liable to the Purchaser for any loss or damage which may be suffered by the Purchaser as a direct or indirect result of the supply of the Goods or Services by the Company being prevented, hindered or delayed by reason of any force majeure circumstances.

公司不就买方直接或因公司提供货物或服务由于任何不可抗力情况而受到阻止、妨碍或延迟而可能遭受的任何损失或损害对买方承担责任。

In this Condition "force majeure circumstances" shall mean any act of God, riot, strike, lock-out, trade dispute or labour disturbances, accident, breakdown of plant or machinery, fire, flood, difficulty in obtaining workmen, material or transport or other circumstances whatsoever outside the control of the Company affecting the provision of the Goods or of raw materials therefor by the Company's usual source of supply or the manufacture of the Goods by the Company's normal means or the delivery of the Goods by the Company's normal route or means of delivery.

在本条中, "不可抗力情况"指影响公司以正常供应来源提供货物或其原材料、或影响公司以正常方式制造货物、或影响公司以正常交付途径或方式交付货物的任何天灾、暴乱、罢工、闭厂、劳资纠纷或劳工争议、意外事故、设备或机械故障、火灾、洪水、难以获得工人、材料或交通或不受公司控制的其他情形。

15. TERMINATION 终止

If the Purchaser enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it passes a resolution or the Court makes an order that the Purchaser be wound up (otherwise than for the purpose of amalgamation or reconstruction) or if a receiver, administrator or administrative receiver is appointed of any of the assets or undertaking of the Purchaser or if circumstances arise which entitle the Court or a creditor to appoint a receiver, manager or administrator or which entitle the Court to make a winding-up order or if the Purchaser takes or suffers any similar action in consequence of debt or commits any breach of any part of this or any other contract between the Company and the Purchaser the Company may stop any Goods in transit and suspend further deliveries and by notice in writing to the Purchaser may immediately terminate the Contract without prejudice to the provisions of Condition 5.3 and to existing claim.

如果买方订立债务和解或破产或与其债权人和解, 或针对其的破产接管令已作出或其(如为公司)通过清算决议或法院命令买方清算(为合并或重组目的的除外), 或买方的任何资产或事业被指定接管人、管理人或行政接管人, 或发生使法院或债权人有权指定破产接管人、经理或管理人或使法院有权作出清算令的情形, 或买方由于债务而采取或遭受任何类似行动或违反公司与买方之间的各种合同的任何部分, 公司可停运任何在途货物并中止进一步的交付, 并可书面通知买方立即终止合同而不影响第 5.3 条的规定和现有权利主张。

16. WAIVER 放弃

The failure on the part of either party to the Contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

合同的任何一方未行使或执行合同授予的任何权利不视为放弃任何该等权利, 亦不构成排除在之后的任何时间行使或执行该等权利。

17. NOTICES 通知

Any notice required to be given hereunder in writing shall be deemed to have been duly given if sent by courier or recorded delivery addressed to the party concerned at its principal place of business or last known address.

本条件下要求书面作出的任何通知如以挂号信件或快递发送至相关方的主营业地或最后所知的地址, 则视为已正式发送。

18. HEADINGS 标题

Headings to any of these Conditions are included to facilitate reference only and shall not affect the construction hereof.

本条件的任何条款的标题仅为便于参考, 不影响本条件的解释。

19. SEVERANCE 分割

If any Condition of the Contract (or part of any Condition) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that Condition or part-Condition shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other Conditions shall not be affected.

如果任何法院或有适当管辖权的其他机构裁定合同的任何条件(或任何条件的一部分)无效、不合法或不可执行, 在规定的范围内, 该等条件或其相关部分应视为不构成合同的一部分, 且其他条件的有效性和可执行性不受影响。

20. GOVERNING LAW 管辖法律

The Contract shall be governed by and construed and interpreted in accordance with the laws of the People's Republic of China and for the purposes of settlement of any disputes arising out of or in connection with the Contract the parties hereby submit themselves to the exclusive jurisdiction of the Courts of Shanghai.

合同受中华人民共和国法律管辖并据其解释, 为解决因合同引起或与合同有关的任何争议, 双方在此同意受上海的法院专属管辖。

21. TYPE OF SALES TRANSACTION 销售交易类型

These General Conditions of Sale do not apply to electronic nor internet transactions. The web-sites used by the Purchaser to enter such electronic orders contain their own specific general terms & conditions.

本一般销售条件不适用于电子或网络交易。买方用于输入该等电子订单的网站含有其自身特定的一般条款及条件。

22. LANGUAGE 语言

These Conditions have been prepared in both Chinese and English. In case of any discrepancy, the Chinese version will prevail.

本条件以中文和英文编制。如有任何不一致, 以中文为准。