



ENGEL MACHINERY (SHANGHAI) CO., LTD. TERMS AND CONDITIONS OF SALE

恩格尔机械（上海）有限公司 销售条款和条件

ORDERS 订单

The quotations issued by ENGEL MACHINERY (SHANGHAI) CO., LTD. (the "Seller") constitute an invitation for an offer by Purchaser, open for a period of thirty (30) days from date of issue (unless otherwise specified Seller in writing), but subject to change by Seller during such period upon notice to the Purchaser. No order shall be binding until accepted and acknowledged by Seller's office. All orders will be accepted by Seller subject to the terms and conditions specified herein. Seller will consider the placing of an order as an acceptance of such terms and conditions by Purchaser and as a waiver of any terms and conditions on Purchaser's order form inconsistent herewith. The Seller's quotation, the Purchaser's offer and/or order (with no effect given to terms or conditions in addition to or inconsistent with the terms and conditions contained herein), and the acceptance by Seller, all in writing, shall constitute the entire agreement (the "Contract") and no employee or agent or representative of either party, or affiliate, except those duly authorized, shall have any authority to vary any term of such Contract or make any understanding or representation not incorporated in such writing.

恩格尔机械（上海）有限公司（“卖方”）出具的报价单构成对买方要约的邀请，有效期为自出具之日起三十（30）天（除非卖方另有书面规定），但卖方可在向买方发送通知之后并在上述期限内修改报价单。在卖方对订单进行承诺和确认之前，任何订单均无约束力。所有订单将由卖方根据销售条款和条件予以承诺。卖方将把买方下达订单的行为视为买方接受销售条款和条件和放弃买方订单中与销售条款和条件不相符的任何条款和条件。卖方的报价单、买方的要约和/或订单（补充或与销售条款和条件不相符的条款或条件均无效）以及卖方的承诺均采用书面形式，应构成完整的协议（“合同”），并且除了正式获授权的人员之外，任何一方的任何员工或代理人或代表人或关联方均无任何权限修改该合同的任何条款或作出未包含在该文书中的任何谅解或陈述。

DELIVERY 交付

Times of delivery of Seller's equipment (the "Equipment") specified are only the Seller's best estimate and are estimated from date of receipt of order together with complete drawings, specifications, and other required information. Seller shall not be liable for any delay caused by fires, accidents, transportation hazards, strikes, labor conditions, material shortages (including delay of material from Seller's sources of supply), governmental legislation and all other causes beyond Seller's control, foreign or domestic.

规定交付卖方设备（“设备”）的时间仅是卖方的最佳预估，从收到订单以及完整的图纸、规格和其他必要信息之日起进行预估。卖方不对因火灾、事故、交通灾害、罢工、劳动状况、材料短缺（包括因卖方的供应来源出现的材料延误）、政府立法和超出卖方控制范围的所有其他国外或国内原因造成的任何延误承担责任。

PAYMENTS 付款

Unless otherwise specified in writing, Seller requires a 30% down payment with receipt of Purchaser's order. Second payment of 60% is required prior to delivery upon notice "ready for shipment" issued from Seller to Buyer. If equipment, ready for shipment on or after the scheduled delivery date cannot be shipped due to Purchaser's request or for any other reason beyond Seller's control, payment shall be made within fourteen (14) days after Seller's notification to Purchaser that Equipment is ready for shipment. Final 10% payment within 1 week after acceptance, but latest 3 months after the shipping date (date, on which Seller delivers the Equipment or any part thereof to the first carrier, regardless that such first carrier is organized by Seller or Buyer). Seller may decline at any time to fill an order until such time that a cash payment or satisfactory security has been made or provided for by Purchaser.

除非另有书面规定，卖方要求在收到买方的订单之时买方需支付合同金额的 30% 作为预付款，合同金额的 60% 作为第二笔款项在卖方向买方开出“待发货”通知时于发货前支付。若准备好在预定交货日期或之后发货的设备由于买方的请求或由于超出卖方控制范围的任何其他原因而无法发货，款项应在卖方通知买方设备已准备发货之后十四（14）天内支付。合同金额的 10% 作为尾款于验收之后 1 周内支付，最迟不晚于发货日起 3 个月内支付（发货日系指卖方将设备或其任何部分交付给第一承运人之日期，而不论该第一承运人系由买方或卖方指定）。卖方有权在任何时候拒绝供应定货，直至买方已付款或提供令人满意的担保。

TITLE 所有权

Title to the Equipment shall remain the property of Seller until the purchase price is paid in full. If the parties agreed on a formal acceptance of the Equipment, Buyer shall not be entitled to use the Equipment before the acceptance protocol is signed, otherwise acceptance shall be deemed to be given without any further formality or action. Buyer shall not be entitled to use the Equipment, if Buyer is in default with any due payment to Seller.

设备的所有权应归卖方所有，直至价款已全额支付。若双方约定对设备进行正式验收，在签署验收协定之前，买方无权使用设备，否则该等验收视为是在未进行任何进一步手续或行动的情况下完成的。若买方向卖方拖欠支付任何到期款项，买方应无权使用

设备。

CHANGES AND CANCELLATIONS 变更和取消

All orders based on this quotation and accepted by Seller shall be firm. However, if Purchaser requests changes in design or specification of Equipment on order (the "change request"), or for any reason stops work in process, Seller's costs of complying with Purchaser's request shall be borne by Purchaser. If any change request is likely to cause an increase or decrease in the Contract price or has an impact on the time of performance, or both, Supplier shall so advise Purchaser within two (2) weeks of receipt of the change request, and an equitable adjustment shall be made in the Contract price or the time schedule or both, and the adjustment shall be mutually agreed between the parties and incorporated in a written change order. Seller may (or may not), upon written request by Purchaser, agree to the cancellation in whole or in part of any order, provided Purchaser shall compensate Seller for its actual costs, commitments to others and normal administrative and overhead costs up to the date that each such request is received, plus reasonable compensation for the lost profit; the total compensation in case of cancellation shall, however, not exceed the actual purchase price.

基于本报价单出具的并经卖方承诺的所有订单应是确定的。但是，若买方在订单中请求对设备的设计或规格进行变更（“变更请求”）或由于任何原因停止生产，卖方为满足买方的请求而产生的费用应由买方承担。若任何变更请求可能会导致增加或减少合同价格，或对履约时间产生影响，或对价格和时间均产生影响，供应商应在收到变更请求之后两（2）个星期内如实告知买方，双方应对合同价格和/或时间安排进行公平的调整，并且该调整应纳入书面的变更单中。经买方书面请求，卖方可能会（或可能不会）同意全部或部分取消任何订单，前提是买方应向卖方补偿其实际发生的成本、对他人承诺以及截至收到各项请求之日产生的正常行政管理成本和间接成本，加上对损失的利润进行的合理补偿；但是，若取消订单，总补偿款不得超过实际买价。

ON-SITE-REQUIREMENTS FOR MACHINE INSTALLATION 机器安装的现场要求

Purchaser shall in good time undertake preparatory work to ensure that the conditions necessary for installation of the machine and for the correct operation of the works are fulfilled. Purchaser shall further ensure that Seller's personnel are able to start work in accordance with the agreed time schedule and to work during normal working hours and Purchaser shall make available to the Seller free of charge at the proper time on the installation site all necessary cranes, lifting equipment and equipment for transport on the Site, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, lighting, etc.), as well as the measuring and testing instruments of Purchaser available on the installation site. Seller will specify the requirements concerning such cranes, lifting equipment, measuring and testing instruments and equipment for transport on the Site in reasonable time before the agreed date for starting the installation work.

买方应及时开展筹备工作，以确保满足机器的安装和工程的正常运行的所需条件。买方应进一步确保卖方的工作人员能够根据约定的时间安排开始工作并能够在正常工作时间内工作，并且买方应在适当时间内，在安装现场免费向卖方提供所有必要的起重机械、起重设备和现场运输设备、辅助工具、机械、材料和用品（包括燃料、石油、油脂和其他材料、燃气、水、电、蒸汽、压缩空气、暖气、照明等）以及在安装现场可用的买方的测量和检测仪器。卖方将在安装工作启动的约定日期之前的合理时间内说明该等起重机械、起重设备、测量和检测仪器以及现场运输设备的相关要求。

SPECIFICATIONS AND DRAWINGS 规格和图纸

The specifications, statements, drawings and descriptions regarding weights and dimensions, rate of speed and/or capacity and other details relating to the Equipment supplied by Seller are approximate, descriptive and not intended as a guarantee. Seller retains the right of ownership and copyright in respect of all drawings or blueprints and ownership of all other intellectual property relating to the Equipment. No drawings or blueprints may be made available to third parties without Seller's written consent thereto.

规格、报表、图纸和关于重量和尺寸的说明、速率和/或生产能力以及与卖方提供的设备有关的其他细节仅是卖方的估算，仅用于说明情况，并非卖方的保证。卖方保留所有图纸或蓝图的所有权和版权以及与设备有关的所有其他知识产权的所有权。未经卖方的书面同意，不得向第三方提供任何图纸或蓝图。

SELLER'S WARRANTY 卖方的保证

Seller will replace or repair (at its option) and free of charge any part of the Equipment that proves to be defective in material or workmanship within twelve (12) months from date of delivery (the "Warranty Period") unless otherwise specified in writing. Seller shall deliver Equipment, which is free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the mailing date of the quotation Seller knew or could not have been unaware. The warranty herein shall not cover Equipment components that are normally consumed in operation, or have a normal life inherently shorter than the Warranty Period (wear and

tear parts). Purchaser must notify Seller of any warranty claim within five (5) business days of the event giving rise to the claim. Seller shall not be obliged to provide any warranty service as provided herein in respect of claims made more than five (5) business days after the event giving rise to the claim, or made after the Warranty Period expires.

自交货日期起十二（12）个月内（“保证期”）卖方将免费更换或修理（由卖方自行选择）能够证明在材料或工艺方面存在缺陷的任何设备部件，除非另有书面规定。卖方交付的设备应不存在第三方基于工业产权或其他知识产权享有的、卖方在报价单的邮寄日期知晓的或不可能不知晓的任何权利或索赔。本文所述的保证不包括在运行过程中正常消耗的设备部件或者所具有的正常寿命本来就短于保证期的设备部件（磨损部件）。买方必须在发生产生索赔的事件之后五（5）个工作日内向卖方告知任何保证的索赔。卖方无义务就买方在发生产生索赔的事件之后超过五（5）个工作日或在保证期届满之后提出的索赔提供本条款规定的任何保证服务。

All other warranties express or implied, arising by operation of law or otherwise, including warranties of fitness for any particular purpose or merchantability, are hereby expressly disclaimed and excluded by this Agreement of the parties.

双方特此明确拒绝承认和排除根据法律或根据其他规定所产生的所有其他明示或默示的保证，包括关于可适用于任何特定用途的或产品适销性的质量保证。

LIMITATION OF LIABILITY 责任限制

In no event shall Seller's liability hereunder exceed the amount actually paid by Purchaser to Seller under the respective Contract for the Equipment. In no event shall Purchaser be entitled to loss of profits, products, material or goodwill, loss resulting from liability to any third party or any incidental, special or consequential damages and losses, direct or indirect, which may result due to performance or non-performance by Seller of its obligations under the respective Contract or otherwise.

卖方在本文项下的责任决不能超过买方根据相关合同为设备实际向卖方支付的金额。买方在任何情况下均无权获得有关利润损失、产品损失、材料损失或商誉损失的补偿，或因对任何第三方承担的责任而产生的损失的补偿，或因卖方履行或不履行其在相关合同项下的或其他文书项下的义务而产生的、不论是直接或间接的任何附带、特殊或间接的损害和损失的补偿。

GOVERNING LAW AND DISPUTE RESOLUTION 适用法律和争议解决

The respective Contract arising out of Seller's acceptance of Purchaser's order shall be governed by and construed according to the laws of the People's Republic of China and the parties hereto agree that any disputes arising out of or in connection with the Equipment or the Contract arising out of Seller's acceptance of Purchaser's order shall be settled through friendly consultations between the Parties. Disputes unable to be solved through negotiation within thirty (30) days after their occurrence, shall finally be submitted to the China International Economic and Trade Arbitration Commission (hereinafter referred to as The "CIETAC") for arbitration, acting on the basis of its arbitration rules in force at that time. The place of arbitration shall be Beijing. There shall be three (3) arbitrators, one (1) of whom shall be appointed by either Party, and one (1) of whom shall be appointed by CIETAC and shall serve as chairman of the tribunal. The arbitration proceedings shall be held in English. The arbitral award is final and binding upon both parties.

因卖方对买方的订单作出承诺而产生的相关合同应适用中华人民共和国的法律并据之进行解释，并且双方同意，因设备或因卖方对买方的订单作出承诺而产生的合同进而产生的或与之相关的任何争议应由双方通过友好协商予以解决。若相关争议发生之后三十（30）天内未能通过协商解决的应交由中国国际经济贸易仲裁委员会（下文简称“贸仲委”）根据当时有效的仲裁规则通过仲裁方式最终解决。仲裁地点应为北京。仲裁员的人数应为三（3）人，各方各指定一（1）名仲裁员，另外一（1）名仲裁员应由贸仲委指定并担任首席仲裁员。仲裁程序应以英语进行。仲裁裁决对双方具有最终约束力。

GENERAL 一般规定

No verbal agreement, representation or warranty respecting said Equipment shall bind Seller or have any force or effect, whatsoever.

关于上述设备的任何口头协议、陈述或保证对卖方均无约束力或无任何效力或影响。Place of performance for any obligation arising out of the sales contract shall be our principal place of business.

销售合同义务的履行地为我们的主营地。

Messages may be transmitted by facsimile or by electronic means. They shall become effective at the point in time when they have reached the recipient or would have reached the said under normal circumstances with the type of transmission chosen. Messages which reach Seller on Saturdays, Sundays or one of its legal public holidays shall become effective only on the next working day.

信息可以通过传真或电子方式传送。信息应在其到达收件人时或者在正常情况下使用所选择的传送类型到达收件人时生效。在星期六、星期天或法定公共假日到达卖方的信息应仅在下一个工作日生效。

The contract concluded subject to these delivery terms shall remain effective, even if one of the clauses is null and void or becomes null and void. In such a case, the void or ineffective clause shall be replaced by such a clause which comes closest in an effective manner to the economic purpose of the ineffective clause. The same applies, by analogy, to any gap in the contract.

根据该等交货条款达成的合同应继续有效，即使其中某项条款无效。在此情况下，无效或失效的条款应使用有效的方式以最接近失效条款经济意图的条款予以取代。相同规定应类推适用于合同的任何空白内容。

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