

一般条款 General Terms

1. 所有权保留 Legal Title of the Goods / Intellectual Property

- 1.1 在买方未全额支付货款之前, 货物的所有权属于卖方。买方应正确使用和存储货物。在买方破产或受到破产威胁的情况下, 买方应立即通知卖方此种情况并告知卖方货物的所在地, 使其重新获得货物的所有权。
Legal title to the Goods shall remain with Seller until full payment has been made. The Buyer shall use and store the Goods properly. In the event the Buyer becomes insolvent or is threatened with insolvency actions, the Buyer shall immediately inform Seller of the relevant circumstances and the whereabouts of the Goods so as to enable re-possession of the Goods by Seller.
- 1.2 卖方拥有所有图片, 核算, 图纸, 草图, 结构图, 工具以及其他文件的所有权, 版权和知识产权。买方仅有权根据合同范围内提到的目的使用货物。除此之外的用途将不被容许, 包括但不限于, 复制, 再销售, 再公开, 移交第三方, 或者其他的商业用途。
Seller shall retain its ownership rights, copyright, and intellectual property rights in all illustrations, calculations, drawings, drafts, designs, tools and other documents. The Buyer shall only be granted the right to use these within the contractually agreed purpose. No further use shall be permitted, including but not limited to reproduction, distribution, publication, transformation, transfer to third parties, or other commercial use.
- 1.3 如果买方提供给卖方任何有关图片, 核算, 草图, 图纸, 结构图, 样品, 或者其他文件, 则买方有义务使卖方避免由于使用上述提到的文件而侵犯知识产权, 包括但不限于, 专利, 版权, 或者任何其他第三方的权利。买方应该保障卖方避免受到来自第三方的有关侵权的指控。
If the Buyer supplies any illustrations, costings, drawings, drafts, designs, samples, prototypes or other documents, the Buyer shall be liable to Seller if the use of such documents infringes any intellectual property rights, including, but not limited to, patents, registered designs, copyright or other rights of third parties. The Buyer indemnifies Seller against claims of third parties in respect of such violations of law.

2. 延迟交付的法律责任 Responsibility for Delay in Delivery

如果由于可以归责于卖方的原因而造成交货延迟, 那么每延迟一周, 买方有权要求获得延迟交货部分的0.3%的赔偿, 该赔偿总额不能超过合同总价的5%。如果延迟交货超过10周, 买方有权终止本合同。此外, 买方不能就延迟交货或因延迟交货导致的合同终止再要求其他赔偿。
In case the delivery (shipment) of the Goods is delayed for reasons for which the Seller is responsible, the Buyer is entitled to claim liquidated damages for every full week of delay in the amount of 0.3% of the value of the late delivery. The total amount of such liquidated damages shall not exceed 5% of the contract price. In case the delay continues for more than 10 weeks, the Buyer is entitled to terminate the contract. Any further compensation claims for delay or for termination due to delay are expressly excluded.

3. 延迟付款的法律责任 Responsibility for Delay in Payment

如果买方没有履行本销售合同第3条中的任何一项付款规定, 则从有关款项到期之日起至实际支付之日止, 每逾期一周需支付逾期款项的0.5%作为逾期违约金。如果买方超过六周没有付款, 卖方有权在任何时候终止合同, 收回货物并且就买方使用货物请求赔偿。
If any payment hereunder is not made in accordance with the payment terms set forth in this clause 3 of this sales contract, Seller will charge a late payment fee amounting 0.5% per week of the overdue amount commencing from the date the amount is due until the date of actual payment. If payment is delayed for six weeks or more, Seller is entitled to terminate the contract at any time, take back the Goods and claim compensation for the use of the Goods by Buyer.

4. 验收 Acceptance

买方应在收到货物后立即按照本合同的规定检查货物的质量, 规格和外观, 并签署收货凭证。买方如果对货物数量或其他方面有任何异议, 应在收到货物后5天内提出。若买方在5天内未就货物提出任何异议, 则视为货物已被买方验收合格。卖方最晚应在收到买方的异议后7天内按照第5条的规定对此作出补救。
Buyer shall, immediately upon its receipt of the Goods, inspect whether the quantity, specification and appearance of Goods comply with the provisions of this contract and sign a certificate of receipt. Buyer shall file any claim in respect of quantity, specifications and appearance of Goods within 5 days upon its receipt of the Goods. If Buyer does not file any claim within these five days, the Goods shall be deemed as accepted by the Buyer. Seller shall provide remedies as laid down in section 5 below for such claims at the latest 7 days upon receipt of Buyer's claim.

5. 保证和有限责任 Warranty and Limited Liability

- 5.1 卖方保证货物为全新的且未被使用过。
Seller warrants that the Goods are new and unused
- 5.2 卖方进一步保证, 货物在原材料和工艺方面没有瑕疵, 并在实质上符合产品规格。
Seller further warrants that the Goods are free of defects in material and workmanship and substantially conform to product specifications.

- 5.3 货物的保修期为货物风险转移之日起一年。
The warranty period for the Goods is one year from the date of transfer of risk.
- 5.4 如果在保修期内任何货物被证明在原材料或工艺上存在瑕疵, 卖方可自主选择以下任一方式进行补救并且该补救构成卖方对此所须承担的全部责任和唯一补偿: a) 维修; b) 更换有瑕疵或不符合规格的货物; 或者c) 如果无法维修或更换, 则卖方将在收到关于瑕疵或不合规格的书面通知且该瑕疵或不合规格的货物被退回给卖方后的合理时间内, 向买方返还该瑕疵或不符规格货物的购买价款。
If any of the Goods are proven to be defective in material or workmanship during the warranty period, Seller's entire liability and exclusive remedy will, at Seller's sole option be either: (a) repair, (b) replacement of the defective or non-conforming Goods, or (c) refund of the purpose price for the defective or non-conforming Goods if repair or replacement cannot be accomplished, within a reasonable time after written notification of the defect or non-conformity and return of the defective or non-conforming Goods to seller.
- 5.5 第5条项下的保证仅适用于货物的正常使用, 如果货物的瑕疵是由于买方的过失、错误使用或事故所造成的, 或者是由于未经授权而对货物进行维修、更改或安装所造成的, 则本保证无效。
The warranties under clause 5 apply only to normal use of the Goods and shall be void if the defects of the Goods were caused by Buyer's negligence, misuse or accident; or by unauthorized repair; alteration or installation of the Goods.
- 5.6 如果由于非卖方的原因导致货物有瑕疵或不符合规格, 应买方的书面请求, 卖方可以在买方付费的情况下维修或更换货物。
In case of any defects of non-conformity of the Goods due to reasons not attributable to Seller, Seller may, upon written request of Buyer, repair or replace such Goods at the cost of the Buyer.
- 5.7 第5条项下的保证取代卖方明示或暗示的全部保证, 包括任何适销性或适合特定目的的保证。
The warranties under this clause 5 are made in lieu of all warranties, expressed or implied, including the implied warranties of merchantability and fitness of purpose.
- 5.8 卖方不承担除了本合同明确提到的其他任何形式的赔偿。在法律允许的任何情况下, 卖方明确对任何形式的间接或继发性的损失(包括利润和使用上的损失, 支付的费用等等)不承担任何责任。
The Seller is not liable for any kind of additional compensation apart from that expressly mentioned in this contract and in any event – as far as legally permissible – every liability of the Seller for all kind of indirect or consequential damages (e.g. loss of profit, loss of use, cover expenses, etc.) is expressly excluded.
- 5.9 卖方依法对人身伤害和财产损失承担责任。对于人身伤害的赔偿责任没有最高限额; 但就财产损失而言, 在法律允许的范围内, 卖方对每次事故的最高责任限额不能超过合同价款, 次数不超过2次。除此之外, 卖方不再承担其他进一步的责任。
The Seller assumes, according to the applicable law, liability for bodily injuries and damages to the property. This liability is unlimited in case of bodily injuries and limited for damages to property to the contract value per event for a maximum of two such events to the exclusion of any further liability, as far as legally permissible

6. 太阳能组件安装系统产品的耐久性保证Extended Durability Guarantee for products in the division of Solar Assembly Systems

在卖方向买方提供的保证范围内, 组件或系统的耐久性的保证适用以下条款:

In so far as Seller grants the Buyer a guarantee as to the durability of constructional components or systems, the following terms shall apply:

- 6.1 除非另有规定, 每个产品质保期限都遵循卖方的产品说明书上的质保期限。保质期始于产品转移给客户那一刻起, 如果特殊零部件一般的或因特定应用而导致使用寿命较短的属性是明确的, 或属于卖方个别编制计划框架范围内且仅安排较短期限内更换的, 则质保期限限于该使用寿命或有效期内。
Unless otherwise agreed, the guarantee period - as defined in Seller's respective product sheet - shall apply. The guarantee period commences with the transfer of risk of the respective component. If, for particular constructional components, generally or for a particular type of use a possible shorter life is expressly indicated or provided for within the framework of Seller's individually-generated plans, an exchange is scheduled within a shorter period, the guarantee period shall be restricted to such life or period.
- 6.2 提供所购产品的耐久性方面的保证, 并且仅限于以下规定的范围内索赔。
The guarantee is granted in respect of the durability of the items purchased and shall lead exclusively to the claims specified below.
- 6.3 如果, 虽正确安装和处理, 在正常使用情况下, 所购买货物仍造成损害, 卖方应在保证期内立即调换有问题的组件。保证限于在保证期限内收到损害通知后, 对有缺陷部件的额外交付和组装。任何法定保证或赔偿责任不受影响。
If, despite proper installation and handling, in the context of normal use, damage is caused to the items purchased, Seller shall immediately exchange the constructional component in question within the guarantee period. The guarantee is limited to additional delivery and assembly of the defective components upon notification of the damage within the guarantee period. Any statutory guarantee or liability claims shall remain unaffected.
- 6.4 如果损害是因为错误安装或错误使用系统或非正常的作用力(如风暴损害, 地壳不稳定的冲击, 特殊的化学或生物影响)相关因素造成的, 则保证索赔将不予受理, 除非被证明损害不是上述因素造成, 而主要因材料或构造错误造成的。关于安装和使用, 应当使用由我们提供的各产品的技术产品说明和安装说明, 同样适用法定的和一般认可的标准和建设建造原则, 以及酌情, 在优先的基础上, 使用我们为买方单独准备的计划、静力学计算书和介绍。
The obligation to fulfill the guarantee shall not apply if the damage has arisen in connection with defective installation or handling of the system or in connection with exceptional stress (e.g. storm damage, impact of instability of the sub-surface, particular chemical or biological effects), unless the damage is documented as not having been caused thereby but essentially due to a material or construction error. With regard to

installation and handling, the technical product descriptions and installation instructions regarding the respective products as supplied by us shall apply, as shall the statutory and generally-recognized standards and principles of building and construction work as well as, as appropriate, on a priority basis, the plans, statics and instructions prepared by us individually for the Buyer.

- 6.5 如果损害已获补偿或通常可以通过风暴或类似灾害保险（自然危险保险）得到补偿，则索赔请求权不成立。
No claims shall exist if the damage is covered or can usually be covered by insurance against storm and similar events (natural-peril insurance).
- 6.6 本保证只受理买方对卖方的索赔，所有保证索赔须经此途径解决。第三方索赔仅在卖方同意的情况下才有可能被受理。
This guarantee shall only establish claims of Seller's Buyer, via which all guarantee claims are to be settled. Assertion by third parties shall only be possible if Seller agrees thereto.

7. 不可抗力 Force Majeure

- 7.1 如果发生不可抗力事件，如战争、洪水、火灾、罢工、台风、暴风雪、地震以及其他受影响的一方无法控制的事件及一般国际性商业惯例中被视为不可抗力事件，卖方不承担延迟交货或未能交货的责任。本合同的履行期限应予延长，延长的期限相当于双方同意的该事件造成影响的期限。
The Seller shall not be held responsible for any delay in delivery or non-delivery of the Goods due to the case of Force Majeure such as war, serious flood, strike, typhoon, storm, earthquake or other occurrences which are beyond the control of the party affected and which will be recognized in accordance with international practice as being cases of Force Majeure, the time for implementing this contract shall be extended by a period equivalent to the effect of those occurrences upon agreement of both parties.
- 7.2 受不可抗力事件影响的一方无需对其因不可抗力事件而延迟或未履行本合同项下的义务承担责任。任何一方均不得对此而遭受的损失要求赔偿。但是，如果不可抗力事件持续超过10周，则买方可以自行决定解除本合同。
The affected party shall not be liable for any delay or failure in performing any of its obligations due to the event of Force Majeure. Neither part shall lodge claims for any losses thus incurred. However, if Force Majeure extends for a period of more than 10 weeks the Buyer may in its discretion cancel this contract.

8. 其它 Miscellaneous

- 8.1 如果一方破产或在债务到期后不能偿还，另一方可以停止履行其义务。
If either party becomes insolvent or unable to pay its debts when they fall due, the other party may cancel its performance.
- 8.2 本合同任何条款如被认为不符合法律或无效，本合同其它条款的效力不受影响。
If any provision of this contract is determined to be illegal or unenforceable, the remainder of this contract shall remain in full force and effect.
- 8.3 本合同构成卖方和买方之间的完整协议，并取代以前双方之间的所有书面或口头交流、陈述或协议。如本合同与订单的规定不一致，以本合同的规定为准。
This contract constitutes the entire agreement between Seller and Buyer, and supersedes all previous communications, representations or agreements between the parties, whether oral or written, regarding the transactions hereunder. In the event of any discrepancy between this contract and a purchase order, this contract shall govern.
- 8.4 除非双方书面同意，所有有关本合同条款的通知均应以书面形式送至本合同中指定的地址。
Unless otherwise agreed by the parties in writing, all notifications relating to terms of this contract shall be made in written form and delivered to the address and contact person specified in the contract.
- 8.5 本合同的构成、其合法性、解释、执行以及争议解决均受中华人民共和国法律的管辖。买方和卖方因执行本合同而产生或与本合同有关的各方之间的争议，应首先努力通过友好协商解决。协商应自一方向另一方发出书面要求后开始。如果在书面要求发出之日起三十天（30）内，争议未能通过友好协商解决，则一方应在通知另一方后将争议递交中国国际经济贸易仲裁委员会上海分会通过仲裁解决，并根据中国国际经济贸易仲裁委员会即时有效的仲裁规则进行。仲裁庭由三名仲裁员组成。仲裁裁决是终局的，对各方均有约束力。仲裁费应由败诉方承担。
The formation of this contract, its validity, interpretation, execution and settlement of the disputes shall be governed by the laws of the People's Republic of China. Any dispute arising from, out of or in connection with this contract between Buyer and Seller shall be settled by friendly consultations between the parties. Consultations shall begin immediately upon one party delivering to the other party by written request for such consultation. If within 30 (Thirty) days following the date on which the request is given, the dispute cannot be settled through consultation, the dispute shall be submitted to China International Economic and Trade Arbitration Committee Shanghai Sub-Commission pursuant to the then effective arbitration rules and under the auspices of the China International Economic and Trade Arbitration Committee (CIETAC) upon the request of any party with notice to the other party. The arbitration shall have three arbitrators. The arbitral award shall be final and binding upon both parties. The costs of the arbitration shall be borne the by the losing party.