

## 购买货物和/或服务的一般条款

### General Terms and Conditions of Purchase of Goods and/or Services

(Released: 2019/07/01)

#### 1. 定义

##### DEFINITIONS

- 1.1. “买方”指发出《框架协议》和/或《框架协议下的具体采购订单》和/或《一次性采购合同》（分别或统一均简称为“采购订单”）的深圳腾势新能源汽车有限公司。  
“Purchaser” shall mean Shenzhen DENZA New Energy Automotive Co. Ltd., issuing the Purchase Contract and / or Release Order and/or Purchase Order (individually or collectively referred to as “Purchase Order”).
- 1.2. “供应商”指向之发出采购订单的个人、企业或公司。买方和供应商，单独成为“一方”，合称为“双方”。  
“Supplier” shall mean the person, firm or company to whom the Purchase Order is issued. The Purchaser and the Supplier, each a “Party” and, collectively, the “Parties”.
- 1.3. “货物”或“服务”一词包括所有采购订单所涉之货物或服务。  
The word “Goods” or “Services” include all goods or services covered by the Purchase Order.
- 1.4. “采购订单”指应适用本一般条款（定义见下文）的买方的采购订单。  
“Purchase Order” shall mean Purchaser’s purchase order, to which these General Terms and Conditions (as defined below) shall apply.
- 1.5. “本合同”指买方和供应商之间的合同，由采购订单、本一般条款（定义见下文）以及双方以书面形式签署的任何其它文件（或该等文件之某些部分）（下称“其他相关合同”）构成。  
“This Contract” shall mean the contract between Purchaser and Supplier consisting of the Purchase Order, these General Terms and Conditions (as defined below) and any other relevant documents (or parts thereof) (“Other Relevant Contracts”) executed by the Parties in writing.
- 1.6. “本一般条款”指本《购买货物和/或服务的一般条款》。  
“General Terms and Conditions” shall mean these General Terms and Conditions of Purchase of Goods and/or Services.

#### 2. 陈述和保证

##### REPRESENTATIONS AND WARRANTIES

供应商在此向买方陈述并保证如下：

The Supplier hereby represents and warrants to the Purchaser that:

- a) 其是一家根据其注册地法律合法成立并有效存续的公司；  
it is a company duly registered and validly existing under the laws of the jurisdiction where it is registered;
- b) 其是一个独立的法人实体，能够提起诉讼、被诉并可与其它任何方建立有约束力的合同关系；  
it is an independent legal entity capable of suing, being sued and entering into contractual relationship binding on itself with any other party;
- c) 其已完成或取得签署和履行本合同所有必要的和适用的公司内部授权程序、政府许可和批准或第三方同意；  
it has taken all corporate actions and has obtained all government consents and approvals or third party consents, to the extent applicable, for its execution and performance of this Contract;

- d) 其签署和履行本合同不违反任何适用的法律、其组织文件或其作为合同一方或受其约束的任何合同；  
its execution and performance of this Contract does not and will not violate any applicable laws, its organizational document, or any agreement to which it is a party or is binding by;
- e) 本一般条款构成对其合法、有效和约束力的义务，并可根据本一般条款的条款和条件对其强制执行；以及  
these General Terms and Conditions constitute its legal, valid and binding obligations, and is enforceable against it in accordance with the terms and conditions hereunder; and
- f) 就货物而言，供应商承诺其是其所提供的货物的唯一合法所有人并拥有处分该等物品的权利。该等货物和物品上不存在抵押、质押或任何其他权利负担；亦不涉及任何争议、仲裁、诉讼或行政程序。  
for purchase of Goods, it is the sole legal owner of the Goods provided by it and have the full disposition right to such Goods; and the Goods is free of any mortgage, pledge or any other encumbrance; and is free of any dispute, arbitration, litigation or administrative procedure.

根据买方要求，供应商应将诸如营业执照、税务登记证以及必要证件在内的所有相关法律文件的复印件提供给买方。Supplier shall handover copies of all relevant legal documents to Purchaser including but not limited to business license, tax registration and necessary certificates, if requested by Purchaser.

### 3. 采购订单·条款和条件的接受

#### PURCHASE ORDERS, ACCEPTANCE OF TERMS AND CONDITIONS

- 3.1. 通过接受采购订单和/或进行其项下的履行，供应商同意完全遵守本一般条款的内容。除非经买方书面同意，否则供应商提议的与本一般条款不一致或在此之外的任何条款和条件均无效。  
By accepting the Purchase Order, and/or performing hereunder, the Supplier agrees to fully comply with these General Terms and Conditions. Any terms and conditions proposed by Supplier which are inconsistent with or in addition to these General Terms and Conditions are void unless otherwise agreed to in writing by Purchaser.
- 3.2. 买方接受本合同项下的货物和/或服务不构成对供应商的条款和条件（如有）的接受或同意。非经买方事先书面同意，供应商在任何时间对本一般条款的任何条款提出的任何保留均无效。  
Acceptance by Purchaser of the Goods and/or Services delivered under this Contract shall not constitute the acceptance or agreement to Supplier's terms and conditions, if any. Without the prior written consent of the Purchaser, any reservation to any provision provided herein proposed by the Supplier at any time is void.

### 4. 交付日期和交付地点

#### DELIVERY DATE AND PLACE

- 4.1. 供应商认识到在履行本合同中，时间是合同的根本条款；供应商应严格按照本合同中规定的时间或时间表交付货物和/或提供服务。  
Supplier acknowledges that time is of the essence in the performance of this Contract, and Supplier shall deliver the Goods and/or Services in strict adherence to the delivery date or schedules set forth in this Contract.
- 4.2. 供应商同意在可行的最短时间内就采购订单交付时间的延迟及其原因通知买方。  
Supplier agrees to advise Purchaser, as soon as practicable, of any delay in meeting the delivery schedules and the reason therefore.
- 4.3. 若供应商未能于交付日期交付货物和/或服务（不可抗力引起的延迟除外），供应商将负责赔偿买方因该等延迟而遭受的损失；并且在该等情况下，买方可以自行决定接受修改的交付时间表，或者因供应商的该等违约取消采购订单。供应商同意在延迟交付货物和/或服务的情况下，每延迟一周（不足一周的以一周计算），向买方交纳

延迟货物价值和/或服务的服务费总额（视情形而定）的百分之一（1%）的违约金，直至全部货物和/或服务交付或提供完毕。

If Supplier fails to deliver the Goods and/or Services on the delivery dates (force majeure delays excluded), Supplier will be liable for any damages caused to Purchaser as a result of such delay; and in that event, Purchaser may, in its sole discretion, either accept a revised delivery schedule, or cancel the Purchase Order for default. Supplier agrees to pay to Purchaser liquidated damages in the amount of one percent (1%) of the delayed Goods' value and/or the total service fees payable for the Services, as the case may be, per week (delay term less than one week shall be deemed as one week) in the event of late delivery of Goods and/or Services until the Goods and/or Services are delivered or provided in its entirety.

- 4.4. 在任何情况下，买方接受没有严格遵守交付时间表的延迟交货不构成买方对其根据本一般条款、本合同和适用的中国法律法规所应享有的任何权利（包括但不限于要求供应商支付违约金的权利）的放弃。

Acceptance of late deliveries not in strict conformance with the delivery schedules shall in no event constitute a waiver of any rights and remedies available to the Purchaser under these General Terms and Conditions, this Contract and applicable PRC laws and regulations (including but not limited to the rights of claiming for liquidated damages) thereof by Purchaser.

- 4.5. 在买方取消了采购订单并自第三方购买替代货品和/或接受第三方提供服务的情形下，供应商应承担因此导致的合理的额外费用，包括价格差异（如有）。

In case the Purchase Order is rescinded by Purchaser who then purchases substitute products and/or services from a third party, Supplier shall bear the reasonable additional costs including the price difference (if any).

- 4.6. 所有货物和/或服务必须在采购订单中确定的交付地点交付。如果错误地交付货物，供应商除应承担本合同项下其应承担的其他义务和责任外，还应承担将货物交付至正确地点所产生的额外费用。

All Goods and/or Services shall be delivered at the place specified in the Purchase Order. If the Goods are not delivered to the provided place, the Supplier shall be responsible for the additional cost of delivering the Goods to the right place in addition to other obligations and liabilities under this Contract.

## 5. 质量 QUALITY

- 5.1. 供应商提供的所有货物应符合采购订单中所述的标准和规格；提供的服务应符合采购订单中所列明的服务的要求和标准。提供的货物和/或服务亦应符合中华人民共和国（“中国”）国家和/或行业标准（如果存在该等标准）。

All Goods supplied shall conform to the standards and specifications described in the Purchase Order, and all Services supplied shall conform to the requirements and standards of the Services described in the Purchase Order. The Goods and/or Services supplied shall also meet the national and/or industry standards of the People's Republic of China if such standards exist.

- 5.2. 买方可以不时在其发出的采购订单中就货物的标准和规格和/或服务的要求和标准提出偏离；如果该等偏离经供应商确认，则对双方均有约束力。

Purchaser may request deviations from the “standards and specifications” of Goods, and/or “requirements, and standards” of Services described in the Purchase Order from time to time; and if such deviations are confirmed by Supplier, the deviations shall be binding on both Parties.

- 5.3. 若供应商提供的货物和/或服务不符合上述标准和/或双方确认的偏离，买方可部分或全部拒绝接收；同时，买方将保留就因该等未能达到合同标准和规格的货物和/或服务而导致的额外费用和损失向供应商求偿的权利。

If the Goods and/or Services fail to reach the above standards and/or the confirmed deviations, Purchaser has the right to reject all or part of such substandard Goods and/or Services; meanwhile, Purchaser shall reserve the rights to claim against Supplier for additional costs and damages caused by such Goods and/or Services not meeting contractual standard and specification.

## 6. 购买货物的具体条款条件

### SPECIFIC TERMS AND CONDITIONS FOR PURCHASE OF GOODS

#### 6.1. 包装和运输

##### Package and transportation

- a) 除非双方另有其他规定，否则运输费用由供应商承担。如果双方约定由买方承担运输费用，供应商应预付该费用并且就此向买方提供单独的发票。

Unless otherwise mutually agreed by the Parties, transportation costs shall be born by the Supplier. In case the Purchaser shall bear the transportation costs, the costs shall be prepaid and separately invoiced to Purchaser by the Supplier.

- b) 双方约定由买方承担运输费用的情况下，除非买方明确要求以某种运输方式运输，否则供应商应以最经济且安全的方式组织运输；并且，非经买方事先书面授权，供应商不应以买方的费用购买保险或附加额外的运输费用。

If the Parties mutually agree that the transportation costs shall be born by the Purchaser, except that the Purchaser explicitly require certain transportation mode, the Supplier should arrange the transportation in the most economic and safe mode; no insurance fee or additional transportation cost shall be spent at the Purchaser's cost unless otherwise authorized by the Purchaser in writing.

- c) 双方约定由买方承担运输费用的情况下，未遵循买方的明确要求或 6.1(b)条的要求而引发的额外费用应由供应商承担。若买方合理预计以最经济且安全的运输方式供应商无法按时将货物交付买方，且该等不能按时交付并非因买方过错导致，则买方可要求供应商以可用的最快方式发运，因此产生的额外运输费用由供应商承担。

Under the circumstance that the Parties mutually agree that the transportation costs shall be born by the Purchaser, the cost caused by the Supplier's failure to comply with the explicit requirement of the Purchaser or the requirements in 6.1(b) shall be born by the Supplier. If the Purchaser reasonably believe that the delivery of Goods will be delayed if the Goods are transported in the most economic and safe mode, and such delay is not due to the Purchaser's fault, then the Purchaser is entitled to require shipment in the fastest means available and the additional cost so incurred shall be born by the Supplier.

- d) 供应商应负责根据适用的法律和良好的商业惯例，将货物妥善打包并放置于适当的集装箱中，以在运输中保护货物。除非另行达成书面协议，否则供应商不得因装箱和包装向买方收取额外费用。供应商应在每件包装上标注相应的采购订单号。供应商应准备一份逐项记载的装箱单，载明采购订单号、对物品的描述、部件号及每件包装发运的数量；供应商应在运输的集装箱内放置一份装箱单副本，并在提供发票时也提供一份装箱单副本。每次发运必须附有与内容相符的发货单、装箱单、质量合格证以及订单要求的其它文件。发货单和装箱单应载明完整的订单参考号，同时供应商应在发运时立即通知买方并将上述信息提供给买方。

Supplier shall be responsible for properly packing and packaging the Goods in suitable containers for protection during shipment in accordance with applicable law and good commercial practice. No additional charges for packing and packaging will be allowed unless specifically agreed in writing. Supplier shall label each package with the corresponding Purchase Order number. Supplier shall prepare an itemized packing list bearing the Purchase Order number, description of items, part number, and quantity shipped for each package. One copy of the packing list shall be placed in the shipping container and one copy shall accompany Supplier's invoice. Each shipment shall contain the dispatch notes, packing slips, quality certificate and other documents required by the Purchase Order. The dispatch notes and the packing slips shall indicate the complete order reference and Supplier shall immediately advise Purchaser of shipment indicating the same data.

#### 6.2. 所有权和风险转移

##### Passing of Property and Risk to Purchaser

- a) 在采购订单中确定的地点交付并向买方转移占有之时，货物的所有权和风险转移给买方；此前，供应商保留货物的所有权并承担风险。

The title and risk in the Goods shall remain in Supplier until they are delivered at the place specified in the Purchase Order and transferred to Purchaser's possession, at which time title and risk of the Goods shall be transferred to Purchaser.

- b) 在提供安装、装配的情况下，所有权和风险在成功完成验收测试并由买方签发确认函时转移给买方。

The title and risk attaching to any supplies including installation or erection shall be transferred to the Purchaser at the time they are successfully tested and confirmation notice is issued by Purchaser.

## 7. 付款

### PAYMENT

- 7.1. 购买货物和/或服务的付款条款与条件应适用采购订单的详细规定。买方将在收到供应商开具的正确有效的发票后通过银行汇款方式付款，但付款的前提是货物已经被全部、正确的交付和/或服务已经被完全适当履行并且买方已经接受货物和/或服务。除非在采购订单中另有规定，否则买方的标准付款期限为收到发票后的 60 天内。

Payment of the purchase price and/or the service fees shall be made in accordance with the Purchase Order. Payment shall be made through bank remittance after the Purchaser has received the correct and valid invoice issued by the Supplier, provided that the Goods have been correctly delivered and/or the Services have been properly performed in their entirety and the Purchaser has accepted them. Unless otherwise stated in the Purchase Order, the standard payment time is within 60 days after the Purchaser's receipt of invoice.

- 7.2. 除非在采购订单另有规定，否则供应商确认的价格和/或服务费为含（所有相关）税价格，并且买方无须支付或者返还该税给供应商。

Unless otherwise stated in the Purchase Order, the purchase price and/or service fee confirmed by Supplier shall be inclusive of any possible taxes and the Purchaser shall have no obligation to pay or reimburse the Supplier for such taxes.

- 7.3. 供应商应及时向买方开具发票，买方不接受除供应商以外的第三方就买方为本合同下的付款出具的任何发票。

The Supplier shall invoice the Purchaser in time. Purchaser will not accept the invoices issued by any third party other than Supplier for payment under this Contract.

- 7.4. 除非双方事先协商一致，否则无需支付定金。应买方要求，供应商应向买方提供由买方可接受的一家银行提供的银行担保。

Down payments shall be made only if it is prior agreed to by the Parties. Upon request of Purchaser, Supplier shall provide a bank guarantee from an accepted Chinese bank to Purchaser.

- 7.5. 买方的任何付款并不代表买方认为供应商的货物和/或服务达到合同要求，也不妨碍买方要求供应商退换货物，重新提供服务或进行维修的权利。

No payment by the Purchaser shall imply the Purchaser's acceptance of any Goods or Services as meeting the contractual requirements, or shall preclude the Purchaser's right to require the return or replacement of Goods and the re-provision of Services or the maintenance.

## 8. 变更

### CHANGES

除非经买方书面指示，供应商不得修改或改变货物和/或服务。除买方根据本一般条款的规定可以进行的其他变更外，买方还有权在本合同期限内的任何时间通过书面通知指示供应商在下述方面进行变更(a)本合同包含的规格、图纸和数据；(b)货物运输或包装的方法；(c)货物交付地点/服务提供地点；以及(d)货物交付时间/服务提供时间。

该等通知到达供应商时即生效，对双方均有约束力。如果任何该等变更引起成本或履行本合同所需时间的增加或减少，双方应对采购价格或交付时间或二者进行公平的调整。如果在供应商收到买方要求进行变更的通知后十（10）个工作日内（或双方可以同意的其它时间内）双方不能就该等价格或时间的调整达成协议，买方可以通过提前五（5）个工作日向供应商发出事先通知解除本合同。

Supplier shall not alter or vary the Goods and/or the Services, except as directed in writing by Purchaser. In addition to other changes the Purchaser may require according to this Contract, the Purchaser shall also have the right at any time during the term of this Contract, by notice in writing, to direct Supplier to make changes in the following:

- (a) specifications, drawings, data incorporated in this Contract;
- (b) methods of shipment or packing for the Goods;
- (c) place of delivery; and
- (d) time of delivery.

Such change will become effective upon the receipt by the Supplier and is binding on the Parties. If any such change causes an increase or decrease in the cost of or the time required for performance of this Contract, an equitable adjustment shall be made in the purchase price or delivery schedule, or both. If the parties cannot agree to such price or time adjustment within ten (10) business days (or such other time as may be then agreeable to by both parties), of Supplier's receipt of Purchaser's request for a change, Purchaser may terminate this Contract upon five (5) business days prior notice to Supplier.

## 9. 交付 DELIVERY

- 9.1. 在货物和/或服务交付之时，双方应共同进行检验，以确定货物和/或服务符合约定的货物的标准和规格，和/或服务的要求和标准。共同检验的通过仅表明买方可以接受货物和/或服务，并不免除供应商应承担的质量保证责任和保修义务，亦不会妨碍买方根据本一般条款、本合同和适用的中国法律法规应享有的权利。

Upon delivery of the Goods and/or Services, the Parties shall conduct a joint inspection in order to make sure they are up to the agreed "standards and specifications" of Goods and/or "requirements and standards" of Services. However, successful passage of the joint specification only indicates the Purchaser's acceptance of the Goods and/or Services, it shall neither exempt Supplier from the quality assurance and warranty obligation nor preclude the Purchaser's rights under these General Terms and Conditions and applicable PRC laws and regulations.

- 9.2. 不得部分交付，除非买方书面同意该等部分交付是合理的。

No partial delivery is permitted unless the Purchaser agrees that such partial delivery is reasonable.

## 10. 质量担保和保修 QUALITY ASSURANCE AND WARRANTY

- 10.1. 供应商担保，所有本合同下提供的货物应当：(a)符合买方的图纸、规格或者其它要求；(b)材料、设计和工艺良好，没有缺陷；(c)是新的（未使用或翻新），适销的并适于拟用于的用途；所有本合同下提供的服务应当完全符合本合同采购订单中的要求和标准。此质量担保应当在检查、接受和付款后继续有效。

Supplier warrants all Goods furnished under this Contract shall (1) conform to Purchaser's drawings, specifications or other descriptions; (2) be of good material, design and workmanship and free of defects; (3) be new (not used or reconditioned), merchantable and suitable for the purpose intended; and all Service furnished shall be fully in compliance with the Purchase Order of this Contract. These assurance and warranties shall survive inspection, acceptance, and payment.

10.2. 在不影响买方可以向供应商主张的任何其它权利的情况下，如果货物和/或服务不符合本合同（包括采购订单）的条款和条件或上述质量担保，买方有权在供应商交付或完成后的合理时间内：

Without prejudice to the Purchaser's other rights against the Supplier, if the Goods or Services do not conform to the terms and conditions of this Contract (including the Purchase Order) or the above quality assurance, the Purchaser is entitled to, within reasonable period after the delivery of the Goods or Services,

(a) 在供应商交付或完成后的十八（18）个月内，对于货物：(i)将货物退回给供应商并且取消采购订单，供应商退还货款；(ii)要求供应商更换货物；(iii)要求供应商修理；对于服务：(x)要求供应商退还服务费；(y)要求供应商重新提供服务；(z)要求供应商对该等不符合要求的服务进行修正，费用由供应商承担。

at the Supplier's cost, at any time within eighteen (18) months after delivery to Purchaser or the completion of the Service, as to the Goods: (i) reject and return the Goods to Supplier and cancel the Purchase Order, and claim for the return of the purchase price, (ii) require the Supplier to replace the Goods, or (iii) require the Supplier to repair the Goods; as to the Services, (x) require the Supplier to return the service fee; (y) require the Supplier to re-provide the Services; or (z) require the Supplier to cure such defect;

(b) 如果买方要求更换、修理货物，或者重新提供服务、进行修正，而供应商未能在合理时间内完成买方要求的工作并达到买方的合理满意，买方可以自行决定：(i)自行或聘请第三方替换、修理不符的货物和/或提供服务、进行修正，由供应商承担费用；(ii)要求降低采购价格或服务费；或者(iii)终止合同，要求供应商退还货款或服务费并不承担任何责任。

If the Purchaser requires to replace, repair the Goods or require to re-provide Services or to cure the relevant defect, while the Supplier fails to finish the work required by the Purchaser to the reasonable satisfaction of the Purchaser, then the Purchaser may decide at its sole discretion to (i) at the Supplier's cost, replace, repair the defective Goods and/or provide the Services or cure the defect by itself or a third party engaged by the Purchaser; (ii) demand a reduction in the purchase price or the service fee; or (iii) terminate this Contract, require the Supplier to return the purchase price or service fee without assuming any liability;

(c) 为避免歧义，买方行使上述(a)、(b)项规定的权利，以及供应商及时完成买方要求的工作并达到买方的合理满意，均不会影响买方要求供应商承担因其未适当履行本合同（包括每一采购订单）而应承担的违约责任（包括但不限于要求其支付违约金）。

To avoid ambiguity, the Purchaser's execution of the rights provided in Section 10.2(a) and 10.2(b) and the Supplier's timely completion of the required work to the reasonable satisfaction of the Purchaser shall not preclude the Purchaser from requiring the Supplier to undertake the liabilities (including but not limited the liquidated damages) for its failure to properly perform its obligations under this Contract (including every Purchase Order).

(d) 修理和替换以及重新提供服务或修正（视情形而定）本身应当在修理、替换、重新提供或修正后，自交付、重新安装或者通过测试（如果有的话），（视情形而定，最终以适用的为准）起十八（18）个月内受上述义务的约束。

Repairs and replacements or re-provision of Services and rectification (as the case may be) shall themselves be subject to the foregoing obligations for a period of eighteen (18) months from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair, replacement, re-provision or rectification (as the case may be).

10.3. 如果立即维修有利于为买方的利益避免违约或者在其他紧急的情形下，买方有权在供应商承担维修费用的前提下，自行维修或请他方维修。缺陷或瑕疵货物的退回应由供应商承担费用和 risk。

Purchaser shall be entitled to carry out repairs or cause them to be carried out by a third party at Supplier's expense if immediate repairs are in Purchaser's interest to avoid defaulting or because of any other urgency. Defective items shall be returned at Supplier's expense and risk.

10.4. 供应商将保证买方免于遭受因货物和/或服务瑕疵而直接或间接引起任何损害、损失、责任、费用和支出（包括合理的律师费支出），为其辩护并使其免受损害。

The Supplier shall indemnify, defend and hold the Purchaser harmless from any damage, loss, liability, cost and expenses (including reasonable attorney fee) caused directly or indirectly by the defective Goods and/or Services.

- 10.5. 上述质量担保是对法律中明示或默示规定的所有其他担保以及供应商向买方作出的额外范围担保的补充。不论上述规定还是本一般条款的任何规定均不应限制或损害买方享有的任何法定权利或其他权利。

The foregoing quality assurance and warranties are in addition to all other quality assurance and warranties expressed or implied by law, or any warranties of additional scope given to Purchaser by Supplier. Neither the foregoing nor anything contained in these General Terms and Conditions shall limit or impair any statutory or any other rights the Purchaser may have.

- 10.6. 买方有权对供应商执行本合同的情况随时进行审计。审计结果如与供应商的服务及报价不符或未专款专用， 买方有权向供应商提出异议，并要求供应商双倍补偿不实部分，并承担审计费用。

Purchaser is entitled to audit Supplier's execution of this Agreement at any time. In case of conflict between the results of audit and Supplier's service and quotations, or in case of Supplier's failure to use the fund according to its dedicated purpose, Purchaser has the right to express disagreement to Supplier and require Supplier to provide compensation at a sum amount of double of the conflicted part and cover the audit cost.

## 11. 最优惠客户待遇

### **MOST FAVORABLE CUSTOMER**

供应商提供给买方的所有价格、质量担保、保修和优惠应与供应商向任何现有客户提供的相应价格、质量担保和优惠相当或更优。若供应商在本合同期限内与任何其它客户达成提供更多优惠或更优惠的条件的安排，则该等优惠或优惠条件自动适用于本合同，除非买方提出异议。

All of the prices, quality assurance, warranties and benefits provided by Supplier are comparable or better than the equivalent terms being offered by Supplier to any present customer. If Supplier shall, during the term of this Contract, enter into arrangements with any other customer providing greater benefits or more favorable terms, then such benefits or more favorable terms will automatically apply to this Contract unless the Purchaser objects.

## 12. 买方的财产和信息

### **PURCHASER'S PROPERTY AND INFORMATION**

为履行采购订单而由买方提供给供应商的买方和其客户的财产和信息，例如图纸、规格、数据和类似财产，应当仍然是买方的财产。供应商所作的或者为生产或提供货物和/或服务而从其他方购买并向买方收费的任何设计、图纸、模具、模型、工具、技术数据/信息、材料、设备等应当自制造或者采购之日立即成为买方的财产且应被视为买方提供的财产。如果可行，所有该等买方财产应当被标记为买方财产、由供应商受托持有并承担风险；供应商仅为履行采购订单的目的使用该等财产或信息，不得复制或披露给他人。在采购订单履行完毕后，所有买方提供的财产应当以接受时同样的状况返还买方，允许合理的磨损；但是该财产已经整合入已交付货物和/或服务中或者在履行采购订单中被消耗掉的除外。

Purchaser's and its customer's property and information, such as drawings, specifications, data and the like, furnished to Supplier for performance of the Purchase Orders shall remain the property of Purchaser. Any designs, drawings, dies, molds, tooling, technical data/information, materials, equipment, etc. that Supplier makes or buys from others for producing or providing the Goods and/or Services and charged to Purchaser's account shall become Purchaser's property immediately upon manufacture or procurement and shall be deemed as the Purchaser furnished property. When practical, all such Purchaser property shall be marked as property of Purchaser, shall be held by Supplier on consignment at Supplier's risk, and



shall be used exclusively to perform the Purchase Orders, and shall not be duplicated or disclosed to others. Upon full performance of the Purchase Orders, all Purchaser furnished property shall be returned to Purchaser in the same condition as received, allowing for reasonable wear and tear, except to the extent that the property has been incorporated into Goods and/or Services delivered or consumed in the performance of the Purchase Orders.

### 13. 知识产权

#### INTELLECTUAL PROPERTY RIGHTS

- 13.1. 所有工作产品，包括但不限于由服务中产生的或与服务相关的供应商制造、构思或开发的设计、艺术品、软件、手册、指南、产品、程序、绘图、记录、文件、信息、材料、发现和发明（合称“**工作产品**”），均应属于买方的财产。供应商在此通过签署本一般条款，无条件地并不可撤销地将该工作产品所有的权利、所有权和利益转移、转让给买方。
- All work products, including, without limitation, designs, artwork, software, brochures, manuals, products, procedures, drawings, notes, documents, information, materials, discoveries and inventions (collectively, the “**Work Products**”) made, conceived or developed by Supplier which result from or relate to the Services, shall be the sole property of Purchaser. Supplier hereby unconditionally and irrevocably transfers and assigns to Purchaser all right, title and interest in or to any Work Product by signing these General Terms and Conditions.
- 13.2. 供应商保证其所提供的货物和/或服务或/或工作产品不侵犯或不构成对任何第三方的知识产权的侵犯或不正当使用。如果任何第三方对货物和/或服务或/或工作产品的权利或利益提出主张，或声称货物和/或服务或/或工作产品侵犯或不正当使用其知识产权而起诉买方，供应商应当就上述主张和诉讼对买方的任何及所有开支、费用和损失进行赔偿、为买方辩护并保证买方不受损害。
- Supplier undertakes that the Goods and/or Services and the Work Products do not infringe, or constitute an infringement or misappropriation of, any third party’s intellectual property rights. If any third party claims any right or interest in any Goods and/or Services or Work Products or brings any action against Purchaser on alleged infringement or misappropriation of third party intellectual property rights by the Goods and/or Services or the Work Products, Supplier shall fully indemnify, defend and hold Purchaser harmless against any and all such claims, actions, costs, expenses and damages which the Purchaser may incur or become liable for such infringement.
- 13.3. 供应商没有被许可或授权使用买方的商标、商号和标志（合称“**标识**”），但该等标识构成与供应商提供的服务相关的工作产品不可分割的一部分的情形除外。如供应商需获得任何标识的全面并正式的许可，应当通过双方另行签订的许可协议进行。
- Supplier is not licensed or otherwise authorized to use the trademarks, trade names and logos (collectively the “**Marks**”) of Purchaser, except where such Marks constitute an inseparable part of any Work Products in connection with the Services to be delivered by Supplier hereunder. The full and formal license of use of any Mark by Supplier, if any, shall be subject to separate license agreements to be entered into by and between the Parties.
- 13.4. 买方应当及时书面通知供应商任何向买方提出的索赔和已经采取或威胁采取的法律行动，并将允许供应商自费用进行任何因此发生的诉讼以及为和解索赔而进行的所有协商。此外，应买方合理要求，供应商应向买方提供所有必要的协助，以帮助买方保护其对货物、服务、工作产品以及工作产品中使用的标识享有的权利和利益以及就上述权利或利益进行辩护。
- Purchaser shall give to Supplier prompt notice in writing of any claim being made or action threatened or brought against Purchaser and will permit Supplier, at Supplier’s own expense, to conduct any litigation that may ensue and all negotiations for a settlement of the claim. At Purchaser’s reasonable request, Supplier shall provide all necessary assistance to Purchaser in Purchaser’s efforts to defend and protect its rights and interest in the Goods, Services, the Work Products or the Marks used in the Work Products.

#### 14. 保密和数据保护

##### CONFIDENTIALITY AND DATA PROTECTION

- 14.1. 双方承认，为促进并配合双方已达成的合同的履行，买方或其关联机构（合称“**披露方**”）可能向供应商披露为披露方所有且对披露方有价值的、形式多样的专有的和机密的信息或商业秘密。为本合同之目的，此等信息或商业秘密（包括所有在本合同签署之日前提供的该等信息，合称“**保密信息**”）可包括但不限于下述：有关披露方或为披露方所掌握并负有保密义务的第三方的过去、现在或将来的研究、开发或经营计划、财务信息、顾客、卖主、业务合作方或涉及雇员的信息、知识产权、经营活动或制度有关的信息（包括但不限于以有形或无形形式表现的研究或报告、软件、备忘录、草图、图样、设计、数据、专有技术及其它信息），而不论其载体为何种形式。上述所有信息不管其在被披露时或被披露后是否被标明为是秘密的，亦不论是以书面（不管以何种格式）或口头形式做出，连同其任何备份、复印件或摘要（不管以何种形式存在及由何人以何种形式制作或编辑），均应视为保密信息。此外，供应商应当将其知道的因其与买方之间的商业往来而产生的一切私人所有的技术，商业和组织信息为保密信息，并且不得在本协议期间或之后利用这些信息或者将这些信息提供给第三方。

The Parties recognize that, in furtherance of or incidental to this Contracts, Purchaser or its affiliates (collectively, the “**Disclosing Group**”) may disclose to Supplier various forms of proprietary and confidential information or trade secrets which pertain to or are valuable to the Disclosing Group. For purposes of this Contract, such information or trade secrets (including any such information provided prior to the date of this Contract, collectively, “**Confidential Information**”) may include but shall not be limited to the following: information, regardless of the form in which it is transmitted, relating to past, present or future research, development or business plans, financial information, customer, vendor, business partner or employee-related information, intellectual property, operations or systems (including, without limitation, studies or reports, software, memoranda, drafts, drawings, designs, data, know-how and other information in either tangible or intangible form) of the Disclosing Group or a third party whose information is in the Disclosing Group’s possession under an obligation of confidentiality. All the information indicated above shall be deemed as Confidential Information, regardless whether or not it is identified or marked as confidential at or after the time of disclosure and whether written (in whatever format) or oral, together with any copies, reproductions or summaries thereof, in whatever format and however or by whomever made or compiled. In addition, Supplier shall treat all private technical, commercial and organizational information of which it becomes aware as a result of its business relationship with Purchaser as confidential, and shall not exploit it or make it available to third parties either during the period of this Agreement or thereafter.

- 14.2. 所有保密信息应继续为披露该信息的披露方所有。供应商应在为履行本协议义务的目的而使用在同买方合作的过程中已经获得或将会获得的的信息与材料，不得为向买方交付货物和/或提供服务以外的目的使用任何保密信息；且供应商应对该等保密信息保密并采取所有合理的预防措施来防止未经授权向第三方或为本合同之目的无需直接接触该等保密信息的雇员披露该等信息。上述条款同样适用于由本协议或其他订单引起的相关结果，数据与知识。

All Confidential Information shall remain the property of the member of the Disclosing Group that provided it. Supplier shall only use the information and materials which have been or will be made available to it in the course of the collaboration with Purchaser for the purpose of carrying out the duties assigned to it. shall not use any Confidential Information of the Disclosing Group for any purpose other than providing Goods and/or Services to Purchaser, and shall hold such Confidential Information in confidence and take all reasonable precautions to prevent its unauthorized disclosure to third parties, or to its employees not having a direct need for access for purposes of those discussions.

The same shall apply in the case of results, data and knowledge arising in connection with this Agreement or any of the Purchase Order.

- 14.3 供应商承诺将使用最新的可获得的技术手段来采取一切可能的措施以保证尽快且有效的来自买方的所有信息和数据不被未获得授权的第三方获得，特别是保证上述信息和数据不被盗用，丢失，操纵，损坏或任何复制。

Using the latest available technology, Supplier undertakes to do everything possible to immediately and effectively protect all information and data received from Purchaser against access by unauthorized third parties, and in particular to secure it against misappropriation, loss, manipulation, damage or any duplication.

- 14.4 如果供应商有理由怀疑未获得授权的第三方获得了信息和数据，供应商应当立即通知买方，并在同买方协商之后采取所有必要的措施来获取事实，在必要的情况下第三阻止方在将来再次获取上述信息。

If Supplier has reason to suspect that unauthorized third parties have obtained knowledge of the information and data, it must inform Purchaser immediately and, in consultation with Purchaser, take all measures necessary to establish the facts and, if necessary, prevent future third-party access.

- 14.5 如果供应商在其运行系统中存储，加工或处理上述信息与数据，供应商应当保证未获得授权的第三方不能接触或使用这些数据。

If Supplier stores, works on or processes the information and data in its data processing systems, Supplier shall ensure that unauthorized third parties cannot access this data.

- 14.6 供应商在履行其保密义务时需尽其勤勉的且应有的适当的注意义务，此处注意义务的标准不得低于其对待自己保密信息时所采用的标准。此外，供应商承担着遵守可能更新的数据保护条款的义务，并将遵守上述条款。

Supplier shall exercise the due care of a diligent businessman in respect of its confidentiality obligation, whereby the standard of care shall not fall below that which it would apply when dealing with its own confidential information. Supplier is under a duty to comply with all data protection provisions as amended from time to time, and will observe these.

- 14.7 供应商仅可向为履行本合同之目的需要接触保密信息的雇员、分包商、代理或专业顾问披露保密信息，并应促使他们遵守与本合同项下供应商所应遵守的相同的保密义务。供应商必须向其所有的工作人员说明相关的信息保护条款并让其工作人员承担同等保密义务。在买方请求的情况下，供应商应当提供上述声明或供买方或其数据保护的工作人员查看。

Supplier may disclose the Confidential Information only to its respective employees, subcontractors, agents or professional consultants who need to have access to such information for the purposes of this Contract and shall cause them to observe the same confidentiality obligations hereunder. Supplier must instruct all of its staffs about the relevant data protection provisions and place them under a duty of confidentiality in this respect. Such declarations must be presented to Purchaser or its data protection officer on request.

- 14.8 在本一般条款终止或期满时，应买方要求，供应商应向买方交还或销毁任何载有保密信息的文件、信息或软件，或从任何有关记忆装置中删除该等保密信息，并应停止继续使用该等保密信息。在买方的请求之下，供应商应当证明所有的材料均被销毁或者返还并应当出具书面证明材料已被销毁或返还。

Upon termination or expiration of these General Terms and Conditions, Supplier shall, at the request of Purchaser, return or destroy any documents, information or software containing any of such Confidential Information, delete any such Confidential Information from any memory devices, and shall cease to use such Confidential Information. At the request of Purchaser, Supplier shall demonstrate that all materials have been destroyed or returned and shall confirm in writing that this has been done.

- 14.9 本保密条款不适用于下述信息：

This confidentiality clause shall not apply to the information which:

- (a) 在披露时已为公众所知悉；

has already become known to the public prior or at the time of the disclosure;

- (b) 在披露后非因供应商的过错为公众所知；

becomes available or known to the public after the disclosure not due to the fault of Supplier;

- (c) 被证明为供应商在披露之前从不负有保密义务的第三方适当地获取；

is proved to be properly obtained by Supplier before the disclosure from a third party which is not subject to a duty of confidentiality with respect to such information; or

(d) 为法律、法院命令、证券交易所或任何政府机关或监管机构要求披露，但在此情况下，供应商应向买方提供该等披露的草稿，并应买方合理要求，在法律许可的范围内做出必要的修改。

is required to be disclosed by law, pursuant to a court order, by any securities exchange or by any governmental or regulatory body, provided, that Supplier shall provide a draft of such disclosure to Purchaser and incorporate any modification reasonably requested by Purchaser to the extent permitted by law.

- 14.10 买方向供应商披露的、与本一般条款相关的任何个人信息数据（“**个人数据**”），供应商应按照适用的隐私法律以及买方的进一步指示对待、存储、处理、转移和修改该等个人数据。

To the extent the Purchaser discloses to the Supplier in connection with this General Terms and Conditions any data related to individual persons ("Personal Data"), the Supplier shall treat, store, handle, transfer and modify such Personal Data in compliance with applicable privacy laws and with additional instructions provided by the Purchaser.

- 14.11 根据买方的要求，供应商应与买方签订一份额外的保密合同。

Upon request of Purchaser, Supplier shall sign an additional Confidentiality Agreement with Purchaser.

- 14.12 如果一份关于数据处理的合同将被签署，则关于 www.mercedes-benz.com.cn 上的标题为“委托数据处理协议”的附件将成为本合同的组成部分。前述附件必须依每一个订单填写，由合同方签字并附加在相应订单后。相应版本的附件将在下订单之时生效。如果上述订单构成一个委托数据处理的订单，但标题为“委托数据处理协议”的附件未附其后，供应商应当立即书面通知买方此情况。

If an agreement concerning data processing has to be signed, the annex on the www.mercedes-benz.com.cn entitled Standard Clauses to ensure “Agreement On Data Processing On Behalf” will become a component part of the Agreement which must be completed for each order, signed by the Contractor and appended to the order concerned. The applicable version of the annex will be that in force at the time the order was placed. If the order constitutes an order for commissioned data processing on behalf but the annex entitled “Agreement on Data Processing On Behalf” is not appended to the order, Supplier must inform Purchaser of this immediately in writing.

- 14.13 如果服务系与软件开发相关，即供应商为买方通过编写代码的方式开发或定制软件的服务，那么 www.mercedes-benz.com.cn 上标题为《对于软件开发的信息安全要求》的附件应当自动成为合同的一部分。供应商应当遵守《对于软件开发的信息安全要求》中的全部要求。

If a service is related to software development, which means the Supplier develops or customizes software for Purchaser with coding, the annex on the www.mercedes-benz.com.cn which is entitled “Information Security Requirements for Software Development” shall automatically become a component part of the Agreement and the Supplier shall comply with all the requirements detailed in this “Information Security Requirements for Software Development”.

- 14.14 如果服务系与系统托管相关，即供应商在买方的数据中心之外为买方托管系统的服务，那么 www.mercedes-benz.com.cn 上标题为《对于系统托管服务的信息安全要求》的附件应当自动成为合同的一部分。供应商应当遵守《对于系统托管服务的信息安全要求》中的全部要求。

If a service is related to system hosting service, which means the Supplier hosts system for Purchaser out of Purchaser's datacenter, the annex on the www.mercedes-benz.com.cn which is entitled “Information Security Requirements for System Hosting Service” shall automatically become a component part of the Agreement and the Supplier shall comply with all the requirements detailed in this “Information Security Requirements for System Hosting Service”.

## 15. 违约和赔偿

### DEFAULT AND INDEMNITY

- 15.1. 除本合同另有规定外，本合同任何一方未履行本合同项下的义务，另一方可以向违约的一方发出书面通知，要求其履行义务或采取适当的补救措施以迅速有效地避免或减小损失或损害，并恢复履行本合同。除此之外，违约的一方还应赔偿因其违约行为给守约方造成的所有直接损失和损害。

Except as otherwise provided herein, where one Party fails to perform its obligations hereunder, the other Party may by written notice to the defaulting Party to request the defaulting Party to perform its obligations or to provide proper remedies to effectively and promptly avoid or minimize the losses and damages, and to resume its performance of this Contract. In addition, the defaulting Party shall indemnify the performing Party for all direct losses and damages incurred as a result of such default.

15.2. 如果双方均违反本合同，则双方应根据各自违约的严重程度确定应向对方支付的赔偿数额。

If both Parties breach this Contract, they shall determine the compensation payable to each other based on the severity of their breach respectively.

## 16. 不可抗力

### FORCE MAJEURE

16.1. 如果本合同任何一方因不可抗力事件（定义如下）的影响迟延履行或不能履行其在本合同项下的义务，则其可免于承担由此产生的本合同项下的任何责任。为本合同之目的，“不可抗力事件”是指不能预见、超出受影响一方控制，且不能通过合理的谨慎操作而避免的任何事件，包括但不限于政府行为、火灾、爆炸、地理变异、洪水、地震、浪袭、雷击、战争、疫情或其他任何不可预见、不可避免及不能克服的事件。然而，任何信用、资本或资金的不足或短缺将不属于超出本合同一方合理控制之外的事件。

If performance of these General Terms and Conditions is delayed or prevented by an Force Majeure Event (as defined below), the Party affected by such Force Majeure Event shall be excused from any liability hereunder. For the purposes of these General Terms and Conditions, an “**Force Majeure Event**” shall mean any event that is unforeseeable, beyond the affected party's reasonable control, and cannot be prevented with reasonable care, which includes but is not limited to the acts of governments, fire, explosion, geographic change, flood, earthquake, tide, lightning, war, epidemic or any other unforeseeable, unavoidable and insurmountable events. However, any shortage of credit, capital or finance shall not be regarded as an event beyond a Party's reasonable control.

16.2. 受到不可抗力事件影响并主张免于承担其在本合同或本合同任何条款项下的义务的一方，应于不可抗力事件发生之日起三（3）日内通知另一方不可抗力事件的发生情况，并采取所有必要的行动和措施以尽量减少和减轻相关损失和损害并在可行的前提下尽早恢复履行其在本合同项下的义务。

The Party affected by an Force Majeure Event who claims to be excused from its obligation to perform these General Terms and Conditions or any article herein shall notify the other Party within three (3) days after the occurrence of the Force Majeure Event and shall take all necessary actions to minimize and mitigate the losses and damages and resume its performance of this Contract as soon as practicable

16.3. 如果因任何不可抗力事件将延长履行合同义务的时间，则双方经协商后应就履行合同的时间进行公平的调整。如果任何经确认的严重阻碍本合同的履行的不可抗力事件或其影响持续三十（30）日，则任何一方均有权以提前书面通知的形式终止本合同。

Should any Force Majeure Event cause an increase in the time required for performance of any part of this Contract, an equitable adjustment shall be made after the Parties consult with each other. And if any proved Force Majeure Event or its effect lasts for thirty (30) days which hinders the performance of this Contract, either Party may terminate this Contract by a prior written notice.

## 17. 适用法律的遵守

### COMPLIANCE WITH APPLICABLE LAWS

供应商自身并代表其关联方，陈述、保证并承诺如下：

Supplier, for itself and on behalf of its Affiliated Persons, represents, warrants and covenants that:

供应商及其关联方已遵守并将继续遵守所有的适用法律，并对遵守所有的适用法律负有独立的责任。且尽其所知，其并未采取并将不会采取或未能采取任何行动，这些作为或不作为可能导致戴姆勒或任何戴姆勒的关联公司根据适用法律承担责任；

Supplier and its Affiliated Persons are solely responsible for complying, have to their best knowledge complied, and will comply, with Applicable Laws and have to their best knowledge not taken and will not take or fail to take any action, which act or omission would subject Daimler or its affiliated companies to liability under Applicable Laws;

尽其所知，其自身或及任何关联方均未已经直接或间接地向任何政府官员或为该等官员的利益提供、支付、给予或贷款，或者已经承诺支付、给予或贷款，或者将提供、支付、给予或贷款，或将承诺给予支付或贷款金钱或任何其它有价值物，以达到下述的贿赂目的：(i)影响该政府官员以其职务身份所作的任何行为或决定；(ii)诱使该等政府官员违反其法定职责作为或不作为；(iii)取得任何不当利益，或者(iv)诱使该等政府官员利用其对政府实体的影响力以影响或改变该政府实体的任何行为或决定，从而为使其自身或买方或任何戴姆勒集团公司成员获取业务；

neither itself nor any of its Affiliated Persons has, to its best knowledge, offered, paid, given or loaned or promised to pay, give or loan, or will offer, pay, give or loan or promise to pay, give or loan, directly or indirectly, money or any other thing of value to or for the benefit of any Government Official, for the purposes of corruptly (i) influencing any act or decision of such Government Official in his official capacity, (ii) inducing such Government Official to do or omit to do any act in violation of his lawful duty, (iii) securing any improper advantage, or (iv) inducing such Government Official to use his influence with a Government Entity to affect or influence any act or decision of that Government Entity, in each instance to direct business to itself or Purchaser or any Daimler Group Company;

- (c) 如果供应商或其任何关联方是或将会是一个政府实体或政府官员，且该政府实体或政府官员的职责包括向其供应商、买方、或任何戴姆勒集团公司获取业务做出决定，或者对能够为供应商、买方、或任何戴姆勒集团公司获取业务的政府官员进行指导、控制或指挥，则供应商及各自的关联方应确保利益冲突将会被排除。供应商应毫不延迟地以书面方式通知买方其采取的、防止利益冲突的措施。

In case Supplier or any of its Affiliated Persons are or will become a Government Entity or a Government Official whose official duties include decisions to direct business to itself, Purchaser, or any Daimler Group Company or to supervise, or otherwise control or direct the actions of Government Officials who are in a position to direct business to itself, Purchaser, or any Daimler Group Company, Supplier and the respective Affiliated Persons have to make sure that conflicts of interest will be excluded. Supplier shall inform Purchaser in writing without undue delay about the measures taken.

供应商应协助并与买方全力合作以遵守适用法律。特别是，供应商应保存完整的账目和记录，并且供应商应立即向戴姆勒报告任何与本协议相关的要求、做出或提供贿赂或不当的付款行为的情况。根据戴姆勒的要求，供应商应当向戴姆勒挑选的负有保密义务的审计员提供可供戴姆勒核实供应商遵守与本协议有关的适用法律情况的相关记录。如果上述审计人员发现供应商任何的违反适用法律的行为，供应商同意审计人员将其违规的相关信息披露给戴姆勒，以及，以有管辖权的法院或政府机构的要求为限，披露给第三方；

Supplier shall assist and cooperate fully with the efforts of Purchaser to comply with all Applicable Laws. In particular, Supplier shall keep accurate books and records and Supplier shall immediately notify Daimler of any information that bribes or other improper payments are being requested, made or offered in connection with this Agreement. Upon request of Daimler, Supplier shall make those records which are necessary for Daimler to verify Supplier's compliance with the Applicable Laws relating to this Agreement available to a sworn auditor who is obligated to observe secrecy and selected by Daimler. If such auditor notices any failure by Supplier to comply with the Applicable Laws supplier agrees that the auditor may disclose information relating to Supplier's failure to Daimler and, to the extent required by a legal

demand by a competent court of law or government body, to third parties;

在任何情况下，买方无义务根据本合同作为或不作为，前提是买方认为该作为或不作为将导致其自身或任何戴姆勒集团公司成员违反适用法律。在任何情况下，任何一方无需为其认为为遵守适用法律所必要的作为或不作为承担责任。

In no event will Purchaser be obligated to Supplier under or in connection with this Contract to act or refrain from acting if Purchaser believes that such act or omission would cause it or any Daimler Group Company to be in violation of the Applicable Laws. In no event will either Party be liable to the other Party for any act or omission which it believes is necessary to comply with the Applicable Laws.

17.1. 如果供应商或其任何关联方违反了本第 17 条项下的陈述、保证与承诺，该等陈述、保证与承诺均应视为重要的且在本合同有效期内持续作出，则除根据本合同享有的其它权利外，

If Supplier or any of its Affiliated Persons breaches any of the representations, warranties or covenants in this Section 17, each of which is deemed to be material and continuously made throughout the term of this Contract, then, in addition to any other rights the other Party may have under this Contract,

(a) 买方可以宣布没收应向供应商支付的任何未付金额，且将有权要求供应商偿还为适用法律所禁止的已向供应商支付的或应付给供应商的任何款项；并且

Purchaser may declare a forfeit of any unpaid amounts owing to Supplier and will be entitled to repayment of any amounts paid or credited to Supplier, in each case, which are prohibited by Applicable Laws; and

(b) 戴姆勒可以立刻终止本协议；并且

Daimler may immediately terminate this Agreement; and

(c) 根据戴姆勒的首次书面要求，供应商应当赔偿戴姆勒并使戴姆勒免受由于供应商违反其在本第 17 条项下的陈述、保证和承诺产生的任何和全部费用或索赔。

Supplier shall, upon first written request by Daimler, indemnify and hold harmless Daimler in regard to any and all cost and claims brought forward against Daimler arising out of any failure of Supplier to comply with its representations, warranties and covenants of this Article

17.2. 为本第 17 条的目的，下述术语的含义如下：

For purposes of this Section 17, the following terms shall have the respective meanings set forth below:

(a) “适用法律”指合同各方、合同各方的关联方、或其股东应遵守的包括中国法律法规在内的有关反腐败的法律法规（包括但不限于《美国反海外腐败法》和/或德国的反腐败法律），以及适用于合同各方或其任何关联方与本合同相关的任何行为，或适用于本合同各方或戴姆勒集团公司另一成员所涉及的其它任何其它业务事项的所有其它法律、法规、规定、命令、法令或具有法律效力的其它指令及对上述规范性文件可能不时作出的修订；

“Applicable Laws” means any laws and regulations (including Chinese laws and regulations) on anticorruption to which each Party, its Affiliated Person, or it’s shareholder(s) is subject (including, without limitation, the Foreign Corrupt Practices Act of the United States and/or the anti-corruption laws of the Federal Republic of Germany), and all other laws, regulations, rules, orders, decrees or other directives carrying the force of law applicable to any activities engaged in by each Party or any of its Affiliated Persons in connection with this Contract or any other business matters involving each Party or another Daimler Group Company, in each case as the same may be amended from time to time;

(b) “关联方”指各方的管理人员、董事或雇员，或代表该方或为该方利益行事的代理、股东、负责人或所有人；

“Affiliated Persons” means each Party’s officers, directors, employees, or agents, or shareholders, principals or owners acting on its behalf or in its interests;

(c) “政府实体”指政府或其政府的任何部门、机构或执行部门（包括由政府控制的任何公司或其它实体）、政党或者政府国际组织；及

“Government Entity” means a government or any department, agency or instrumentality thereof (including any company or other entity controlled by a government), a political party or a public international organization;

(d) “政府官员”指政府实体的任何官员、雇员或其它官员（包括他们的任何直系家庭成员），以职务身份为政府实体行事的任何个人或行政职务的任何候选人。

“Government Official” means any officeholder, employee or other official (including any immediate family member thereof) of a Government Entity, any person acting in an official capacity for a Government Entity or any candidate for political office.

17.3. 应买方要求，供应商将与买方另行签署一份诚信协议。

If requested by Purchaser, Supplier shall sign an additional Letter Agreement Regarding Integrity with Purchaser.

17.4. 供应商应协助并全力配合戴姆勒或任何戴姆勒集团公司遵守适用法律。供应商应当允许戴姆勒及其代表在正常办公时间内检查并复印供应商与在本合同基础上的交易相关的账簿和记录,以证实供应商是否遵守本条款的声明、保证与承诺。

Supplier shall assist and cooperate fully with the efforts of Daimler or any Daimler Group Company to comply with the Applicable Laws. Supplier shall permit Daimler and its representatives during normal office hours to examine and make copies of Supplier's books and records relating to transactions based on this Contract, to verify compliance by Supplier with the representations, warranties and covenants of this clause.

17.5. 供应商应以各种方式协助戴姆勒及其代表执行其任务,特别是以立即执行提供所有信息和资料以及允许不受限制地接触和检查账簿和记录的方式。如果供应商的场地没有复印设施,则戴姆勒及其代表可以将帐簿和记录带离该场所以便进行复印。至于为供应商商业机密, 供应商可以要求,审查由戴姆勒委派的受保密协议约束的注册会计师来执行。

Supplier shall assist Daimler and its representatives in every way to carry out their tasks, in particular by promptly providing all information and materials and by permitting unhindered access and inspection of the books and records. If duplicating facilities are not available on Supplier's premises, Daimler or its representatives may remove the books and records from the premises for purposes of making copies. In so far as required for the protection of Supplier's business secrets, he can demand, that the examination is performed by a certified accountant appointed by Daimler that is bound by a confidentiality agreement.

## 18. Anti-Bribery Clause

### 反腐败条款

18.1 供应商有义务不从事任何会导致刑事责任的欺诈、资金挪用、破产犯罪、违反竞争法、授予非正当利益、贿赂或接受贿赂的犯罪行为, 抵制其他由供应商的雇佣人员或第三方进行的腐败行为。如有违反, 买方将有权立即退出或终止与供应商的正在进行中的交易并有权取消全部协商谈判, 而供应商仍有义务遵循所有适用于其自身及其与买方商业关系的法律法规。

Supplier is obliged to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the supplier or other third parties. In the event of violation of the above, Purchaser has the right to immediately withdraw from or terminate all legal transactions existing with the Supplier and the right to cancel all negotiations. The above notwithstanding, the Supplier is obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with Purchaser.

18.2 供应商保证和承诺其工作人员不得从事下列任何有可能影响公平交易、正当竞争的活动:

Supplier undertakes and covenants that its employees will not engage in any of the following activities, which might influence the fairness of transaction and fair competition:

(a) 向买方工作人员及/或其亲属提供、承诺或给予“酬金”、“回扣”或其他各种形式的现金或有价物品、包括有价证券、股份、礼物、购物卡、健身卡等;

To offer, promise or provide the employees of Purchaser and/or his/her relatives, in the name of “reward”, “commission” or otherwise, any money or anything of value, including, negotiable securities, shares, gifts, purchasing cards, sports cards, etc.;



- (b) 邀请买方工作人员及/或其亲属至任何歌舞厅、夜总会、保龄球馆或其他公共娱乐场所进行消费;  
To invite the employees of Purchaser and/or his/her relatives to any Karaoke, night club, bowling or other public places of entertainment;
- (c) 免费或低价安排买方工作人员及/或其亲属旅游、度假;  
To arrange tourism or vacations for the employees of Purchaser and/or his/her relatives;  
向买方工作人员及/或其亲属提供其他有形或无形的利益。
- 183 供应商及其工作人员向买方工作人员提供价值在 300 元人民币以下的赠品和其他物品时, 如果是自愿提供且不存在影响买方工作人员在履行职责时的判断和行动的可能性, 则可以不被视为对本合同的违反。  
The provisions of promotional material and other items with a value of less than [300 RMB] by Supplier and its employees to the employees of Purchaser, if made voluntarily and there is no reasonable likelihood of influencing the employees' judgment or actions in performing their duties, will not be regarded as a violation of this Contract.
- 184 以上第 18.2 条所述行为可能被视为商业贿赂行为。买方一旦发现供应商或其工作人员参与上述违反本合同的活动, 买方应当有权无条件解除与供应商签订的任何合同, 且不承担任何责任。买方亦可永久性取消供应商作为买方的潜在供货商的资格。  
The activities described in Article 18.2 above may be regarded as commercial bribery. In the event Supplier or its employees engage in such activities in breach of this Contract, Purchaser shall be entitled to terminate any signed contract with Supplier without any condition and any liability. Purchaser may also permanently remove Supplier from consideration as a potential supplier to Purchaser.
- 185 若供应商及其工作人员违反本合同, 供应商应当赔偿买方并使买方免受由于与供应商或其工作人员违约产生的或相关的任何和全部损害、损失、成本和花费(包括但不限于合理的律师费用)。  
If Supplier or its employees breach this Contract, Supplier shall indemnify and hold Purchaser harmless from and in respect of any and all damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees) arising out of or relating to such breach by Supplier or its employees.
- 186 供应商有责任确保任何在戴姆勒的办公场所工作的员工和/或任何有权进入与履行本订单的要求相关的任何 IT 系统的员工都应得到戴姆勒的认可和/或访问戴姆勒的授权。供应商不得使用任何被戴姆勒或任何戴姆勒的关联方已宣布为不被认可和/或禁止访问的人员履行本订单。  
Supplier has a duty to ensure that any employees used on site at Daimler and/or that any employees given access to any IT-systems in connection with fulfilling the requirements of this purchase order must receive an admission and/or access authorization from Daimler. Individuals to whom Daimler or any Daimler affiliate has declared a house ban, an admission ban, and/or an access ban can not be used by the supplier in the fulfilment of this purchase order.

## 19. 期限及终止

### TERM AND TERMINATION

- 19.1. 本合同将自签署之日起生效, 并且除非双方依据本合同有关条款提前终止本合同, 本合同将持续有效直至所有其项下的权利和义务均已被完全行使或履行。  
This Contract shall come into effect as from the signing date and shall remain effective until all the rights and obligations have been fully fulfilled and satisfied unless earlier terminated by the Parties pursuant to the terms of this Contract.
- 19.2. 在本合同届满之日, 双方可以且仅可以以书面形式延长合同期限。  
Upon the expiration of the term, the Parties can extend it by written agreement only.
- 19.3. 当本合同任何一方出现下述情形之一时, 另一方有权通过向对方发出书面通知的形式即刻终止本合同:  
Upon the occurrence of any of the following events to a Party, the other Party may unilaterally terminate this Contract by a written notice to such Party with immediate effect:
- (a) 一方未能履行或遵守本合同项下的义务、条款及条件, 且该等违约行为未能在其收到另一方发出的纠正违约行为通知之日起三十(30)日内予以纠正; 或  
The Party fails to comply with any of the obligations, provisions and conditions of this Contract, and such failure is not cured within thirty (30) days after it has received a written notice from the other Party; or
- (b) 一方变为破产或资不抵债, 或面临清算或解散, 或变为无法清偿到期债务或根据适用法律被解散。  
The Party becomes insolvent or bankrupt, or is the subject of proceedings for liquidation or dissolution, or becomes unable to pay its debts as they become due or is dissolved in accordance with applicable law.

19.4. 买方有权在任何时候，出于任何原因，以提前两（2）个月书面通知的方式终止本合同，而无需告知供应商该等原因。

Further, Purchaser has the right to terminate this Contract any time by giving two (2) months prior written notice to Supplier for any reason and without the need for notifying that reason to Supplier.

19.5. 本合同第 10、13、14、15、19、20、21 条及本第 19.5 条在本合同终止后继续有效。

Sections 10, 13, 14, 15, 19, 20, 21 and this Section 19.5 shall survive after the termination of this Contract.

## 20. 适用法律

### APPLICABLE LAW

本合同应适用中华人民共和国法律并依照该等法律进行解释。若本合同有国际买卖性质，1980 年 4 月 11 日《联合国国际货物买卖合同公约》将不予适用。

This Contract shall be governed by and construed in accordance with the laws of the People's Republic of China. If this Contract has an international sales nature, the application of the United Nations Convention on Contracts for International Sales of Goods of April 11, 1980 shall be excluded.

## 21. 争议解决

### DISPUTE RESOLUTION

21.1. 所有由本合同引起的争议，包括任何有关本合同存在、有效性及终止的问题和争议，应首先由双方通过友好协商解决。如果该等争议无法在自协商开始之日起三十（30）日内解决，则任何一方均有权将相关争议提交中国国际经济贸易仲裁委员会（“仲裁委员会”）按仲裁委员会当时有效的仲裁规则（该等规则应被视为已由双方加入本条款中）进行仲裁。仲裁庭应由三（3）名仲裁员组成，本合同各方各自指定一（1）名仲裁员，第三名仲裁员将由仲裁委员会的主任指定，但该第三名仲裁员不得是中国、美国或德国的公民或居民。仲裁采用英语进行，仲裁地处于北京。仲裁裁决将为终局的，对双方具约束力。败诉方将承担并支付所有的仲裁费用。

Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall first be resolved through friendly consultation. If such dispute can not be resolved within thirty (30) days after the initiation of the consultation, either Party may submit the same to China International Economic and Trade Arbitration Commission (“CIETAC”) for arbitration in accordance with the Arbitration Rules of the CIETAC then being in force which rules are deemed to be incorporated by reference to this clause. The tribunal shall consist of three arbitrators of which each Party shall appoint one arbitrator and the third arbitrator shall be appointed by the Chairman of CIETAC; provided that the third arbitrator shall not be a national or citizen of the People's Republic of China, the United States or the Federal Republic of Germany. The language of the arbitration proceedings shall be English and the arbitration procedure shall be held in Beijing. The arbitration award shall be final and binding on the Parties. The losing Party shall bear all costs and expenses of the arbitration.

21.2. 在争议解决期间，除争议事项外，双方将继续履行其在本合同项下各自的其他义务。

During the period when the dispute is being resolved, except for the matters in dispute, the Parties shall in all other respects continue performing their obligations under this Contract.

## 22. 其它条款

### MISCELLANEOUS

- 22.1. **通知**。任何一方根据本合同规定的要求而发出的通知或其他通讯均应以中、英文书写，并通过专人或国际上认可的专递服务，或通过传真送达或发送至另一方在采购订单中的地址或另一方经过告知对方而不时指定的其它地址。该等通知的有效送达日期将根据以下方式确定：
- Notice.** Notices or other communications required to be given by either Party pursuant to these General Terms and Conditions shall be written in Chinese and English and delivered in person or sent by an internationally recognized courier service or by facsimile to the following address of the other Party or to such other address as may from time to time be designated by the other Party through notification to such Party. The dates on which notices shall be deemed to have been effectively given shall be determined as follows:
- (a) 如果通过专人递送，以专人递送的当日视为送达日期；  
Notices given by personal delivery shall be deemed effectively given on the date of personal delivery;
- (b) 如以国际间认可的专递服务方式发送，应以该等文件交由专递服务公司保管后的第三日为送达日期；以及  
Notices sent by an internationally recognized courier service shall be deemed effectively given on the third day after the date deposited with such courier service;
- (c) 如用传真发出，送达日期为相关传真的发送确认单所示发送日后的第一个工作日。  
Notices given by facsimile shall be deemed effectively given on the first working day following the date of transmission as indicated on the transmission confirmation slip of the document in question.
- 22.2. **全部协议**。本合同构成合同双方就主题事项的全部协议并且明确限于双方所接受的所列明的条款和条件。如果采购订单、本一般条款及其他相关合同之间有任何分歧，则以其他相关合同为准。
- Entire Agreement.** This Contract sets forth the entire agreement of the Parties hereto with respect to the subject matter hereof and expressly limits acceptance to the terms and conditions stated. In the case of any discrepancy between the Purchase Order, these General Terms and Conditions and Other Relevant Contracts, Other Relevant Contracts shall prevail.
- 22.3. **进一步承诺**。本合同每一方均在此同意，为履行本合同项下的条款并实现本合同项下的目的，其将根据合理的需要和具体情形迅速并及时地签署相关文件并采取相关进一步的行动。
- Further Assurances.** Each of the Parties agrees to expeditiously execute such documents and perform such further acts as may be reasonably required or desirable to carry out or to perform the provisions and purposes of this Contract.
- 22.4. **修订**。除非经双方书面同意，否则对本合同的任何修改没有效力。
- Amendment.** No amendment to this Contract shall be of effect unless agreed in writing by the Parties.
- 22.5. **弃权**。除非弃权方以书面形式明确表示放弃行使本合同任何条款项下的权利、权力或救济，并在该书面文件上签名，否则该等弃权将被视为无效。本合同任何一方未行使或延迟行使本合同项下的任何权利、权力或救济不应视为放弃这些权利、权力或救济；任何单独一次或部分放弃行使任何权利、权力或救济亦不应妨碍将来行使这些权利、权力或救济。在不限制前述规定的前提下，如任何一方放弃就另一方违反本合同任何条款的行为追究责任，不应视为其对任何相关后续违约行为或另一方违反本合同其他条款的行为均放弃追究责任。
- Waiver.** No waiver of any provision of this Contract shall be effective unless set forth in a written instrument signed by the Party waiving such provision. No failure or delay by any Party in exercising any right, power or remedy under this Contract shall operate as a waiver thereof, nor shall any single or partial exercise of the same preclude any further exercise thereof or the exercise of any other right, power or remedy. Without limiting the foregoing, no waiver by any Party of any breach by the other Party of any provision hereof shall be deemed to be a waiver of any subsequent breach of that or any other provision hereof.
- 22.6. **可分割性**。本合同的任何条款如被确认或裁决为无效、非法或不可强制执行，则该等条款将自本合同主体中分离，本合同的剩余条款，在法律所能允许的最大限度内，将仍继续保持其有效性和可执行性。
- Severability.** If any provision of this Contract is determined invalid or unlawful or unenforceable to any extent such provision shall be severed from the body of this Contract and the remainder thereof shall continue to be valid and enforceable to the fullest extent permitted by law.

22.7. 转让。未经另一方事先书面同意，任何一方均无权向其关联机构之外的其他任何实体转让其在本合同项下的任何权利和义务。买方同意分包时，供应商应当在签署分包合同之后立即，且分包商开始工作之前将分包合同的复印件提交给买方。分包后，供应商仍对合同相关的所有货物和/或服务承担质量担保和保修等义务。

Assignment. Without the prior written consent of the other Party, neither Party may assign any of its rights or obligations hereunder to any party other than its affiliates. When Purchaser has consented to the placing of subcontracts, copies of each subcontract shall be sent by Supplier to Purchaser immediately upon signing and prior to commencement of work by the subcontractor. The Supplier shall still undertake all obligations such as the quality assurance and warranties in connection with this Contract after the subcontract.

22.8. 第三方费用。在未得到买方书面确认之前发生的与项目相关的第三方费用将得不到买方的认可和付费。第三方费用支付以为项目实际发生额为准，买方保留随时向供应商索要其和第三方之间的合同、发票等相关文件的权力，供应商应无条件地及时提供支持。如第三方费用超过五万元人民币，供应商需向买方出示第三方甄选的相关证据。供应商在必要时需提供第三方名单。买方保留推荐、否决、选定第三方的权利。所有第三方费用已包含在本合同金额内，不单独收取。

3rd Party Cost. Project related third-party costs will be remunerated only in the event that it is agreed and ordered in writing by the Purchaser prior to the performance of the Goods and/or Services.

Payment regarding to 3rd party costs shall be based on the actual outlay. The Purchaser reserves the right to request the contract, invoice or any other documents between the Supplier and its 3rd parties. The Supplier shall support this activity unconditionally and without delay. If 3rd party cost is above 50,000 RMB, then the 3rd party selection evidence should be provided by the Supplier to the Purchaser if necessary or if requested by the Purchaser. The buyer reserves the right to recommend, choose or reject 3rd party. All 3<sup>rd</sup> party cost has been covered in the total contractual value of this contract. In no event shall the Purchaser pay extra money for third parties related cost or expenses.

22.9. 抵销。买方有权在任何时候以买方对供应商的任何索赔或收费抵销在本条款项下应向供应商支付的任何到期款项。Setoff. Purchaser shall have the right at all times to setoff any amount due or payable to Supplier hereunder against any claim or charge Purchaser may have against Supplier.

22.10. 承继人。本合同对双方的承继人均有约束力，且本合同仅为双方、双方各自的承继人及其经允许的受让人的利益而订立。

Successors. This Contract shall be binding upon and shall inure to the benefit of the Parties, their respective successors and permitted assigns.

22.11. 副本。本合同可由双方签署一份或多份副本，每一份副本均将被视为原件，各份副本共同构成一份完整签署的文件。

Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be deemed one single instrument.

22.12. 语言。本合同以中文书写，英文翻译（如适用）仅为参考。若发生歧义，以中文版本为准。

Languages. This Contract is written in Chinese language with an English translation (if applicable) for reference only. In case of any discrepancies between the Chinese language and the English translation, the Chinese version shall prevail.

22.13. 供应商应遵守戴姆勒在MBST36/09条款的当前版本中特别规定的可持续性 with 环境保护相关的标准与要求。该MBST36/09条款可于梅赛德斯-奔驰官方网站（[www.mercedes-benz.com.cn](http://www.mercedes-benz.com.cn)）或以下链接

（[http://www.mercedes-benz.com.cn/content/media\\_library/china/mpc\\_china/mercedes\\_world/General\\_Terms\\_and\\_Conditions/DNEA\\_DPTS\\_\\_MBCL\\_and\\_MBAFC\\_Terms\\_of\\_Sustainability\\_and\\_environment\\_protection.object-Single-MEDIA.tmp/SustainabilityandEnvironmentalProtection.pdf](http://www.mercedes-benz.com.cn/content/media_library/china/mpc_china/mercedes_world/General_Terms_and_Conditions/DNEA_DPTS__MBCL_and_MBAFC_Terms_of_Sustainability_and_environment_protection.object-Single-MEDIA.tmp/SustainabilityandEnvironmentalProtection.pdf)）找到。

The Supplier shall adhere to the standards and requirements of Daimler regarding sustainability and environmental protection as specified in the current version of MBST 36/09. The MBST 36/09 can be found in the Mercedes-Benz website ([www.mercedes-benz.com.cn](http://www.mercedes-benz.com.cn)) or directly by using the following internet address:

[http://www.mercedes-benz.com.cn/content/media\\_library/china/mpc\\_china/mercedes\\_world/General\\_Terms\\_and\\_Conditions/DNEA\\_DPTS\\_\\_MBCL\\_and\\_MBAFC\\_Terms\\_of\\_Sustainability\\_and\\_environment\\_protection.object-Single-MEDIA.tmp/SustainabilityandEnvironmentalProtection.pdf](http://www.mercedes-benz.com.cn/content/media_library/china/mpc_china/mercedes_world/General_Terms_and_Conditions/DNEA_DPTS__MBCL_and_MBAFC_Terms_of_Sustainability_and_environment_protection.object-Single-MEDIA.tmp/SustainabilityandEnvironmentalProtection.pdf)