

## DAVIS-STANDARD (SUZHOU) TERMS AND CONDITIONS

### 戴维斯标准（苏州）销售条款与条件

**1. GENERAL.** Davis-Standard (Suzhou) Machinery Co., Ltd. is hereinafter referred to as "Seller". Items ordered from Seller in whatever form or quantity are referred to as "Equipment". The expression "Buyer" means the person, firm, company or other entity to which Seller undertakes to supply the Equipment herein. All sales by Seller are subject to all of the following Terms and Conditions unless otherwise agreed in writing by an authorized representative of Seller. Any offer, acceptance, order, confirmation or other document from Buyer that contains terms and conditions in addition to or different than those set forth herein are objected to and shall not be binding upon Seller unless acceptance thereof is made in writing by an authorized representative of Seller. Failure of Seller to object to provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these conditions nor an acceptance of any such provisions. Seller reserves the right to correct clerical or stenographic errors at any time. The agreement between Buyer and Seller exclusively includes these Terms and Conditions and the commercial terms and technical specifications attached hereto in Seller's quotation ("Agreement").

**1.一般条款。** 戴维斯标准（苏州）机械有限公司,以下简称“卖方”。从卖方处订购的任何形式或数量的物品均称为“设备”。“买方”一词是指卖方承诺向其提供设备的个人、事务所、公司或其他实体。除非卖方的授权代表另行书面同意,否则卖方的所有销售均受以下所有条款和条件的约束。除非得到卖方授权代表的书面同意,否则买方的任何要约、承诺、订单、确认或其他文件中包含的额外或不同的条款和条件,卖方均不予认可并且对卖方不具有约束力。卖方未能对买方的任何采购订单或其他通信中包含的规定提出异议,不得解释为放弃本条件或接受任何该等规定。卖方保留随时纠正文书或书写错误的权利。买方和卖方之间的协议仅应包括本条款和条件以及卖方报价中所附的商业条款和技术规范(“协议”)。

**2. DELAYS.** While Seller will use commercially reasonable efforts to ship and/or deliver Equipment or complete services by the dates specified, quoted or acknowledged by Seller, all such dates are approximate and not guaranteed. If Buyer is, however, unable to receive delivery of the Equipment or delays its delivery or installation for more than 30 days after the date specified, quoted or acknowledged by Seller, Seller will upon written notice to Buyer put the Equipment into storage at Buyer's expense and the Equipment will thereupon be deemed delivered and any remaining balance of the purchase price will be immediately due and payable. Seller may present a trucking bill of lading/CMR waybill for payment under any Buyer issued letter of credit if Equipment is placed into storage.

In the event of delays in the issuance of a Buyer's letter of credit, delays in Buyer's supply of any technical details required for engineering of Equipment, or any delays caused by either party in any pre or post-delivery activities, including acceptance testing, the shipment and/or delivery date and the letter of credit validity shall be extended. Seller shall advise Buyer of the revised date(s).

Neither party will be liable for delayed delivery, non-delivery, or any other failure to perform hereunder that becomes impractical as result of a failure of a presupposed condition or an extraordinary event or occurrence beyond its control and without its fault or negligence ("Force Majeure Event"). A Force Majeure Event includes but shall not be limited to epidemics, pandemics, mobilizations, war, revolution, terrorism, piracy, serious breakdowns in manufacturing, accidents, labor conflicts, natural catastrophes, interruption of data transfer, lack of power, unavailability of or delay in transportation, delays in or non-delivery by mutually agreed or sole source subcontractors, vendors or suppliers, official actions or omissions by any state authorities or public bodies, trade embargos or export control and sanctions regulations.

**2.延误条款。** 尽管卖方将在商业上尽合理努力使得卖方在前述销售订单确认单中规定的、报价文件中包含的或卖方认可的日期之前运送和/或交付设备或完整服务,但所有该等日期都是大致预估日期,卖方对此不作绝对保证。然而,如果买方超过前述销售订单确认单中规定的、卖方报价文件中提出或卖方认可之日期后 30 天无法接收交付的设备或者推迟其交付或安装,卖方将在书面通知买方后将设备存入仓库,相关费用由买方承担,设备应被视为已交付,并且任何购买价格的余额应立即到期并应付。如果设备存入仓库,卖方可提交货运提单/CMR 货运单根据买方签发的信用证获得付款。

如果买方信用证签发延迟,买方提供设备设计制造所需的任何技术细节延迟,或任何一方在交付前或交付后活动

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(包括验收测试)中造成任何延迟,装运和/或交付日期以及信用证有效期应予延长。卖方应将修改后的日期通知买方。

任何一方均不对因预设条件失效或超出其控制范围且非其过错或疏忽的异常事件(“不可抗力事件”)而导致的延迟交付、未交付或任何其他未能履行本协议的行为承担责任。不可抗力事件包括但不限于流行病、大流行、动员、战争、革命、恐怖主义、海盗、严重制造故障、事故、劳资冲突、自然灾害、数据传输中断、电力不足、运输不可用或延迟、双方商定或唯一来源分包商、卖方或供应商延迟或未交付、任何国家当局或公共机构的官方行为或疏忽、贸易禁运或出口管制和制裁条例。

**3. WARRANTY.** Seller warrants Equipment manufactured by it will be free from defects in workmanship and material under normal use and service. Equipment manufactured or supplied by others is sold exclusively under such warranty as the manufacturer may give to Seller and to the extent enforceable by Seller. Seller does not warrant the amount or quality of production unless expressly stated in this Agreement. Seller warrants that when delivered its Equipment will be designed and manufactured to perform the mechanical functions expressly stated in this Agreement provided the Equipment is maintained and operated under proper conditions by competent trained personnel using such raw materials as may be specified. If any part or component of the Equipment is found and reported during any lab trial, inspection, installation, commissioning, acceptance trial or thereafter within one year from date of delivery (or such earlier date if Buyer refuses to accept or delays delivery) to have been defective prior to or when delivered (any shortcoming which prevents compliance with design or acceptance criteria contained in this Agreement being deemed a defect) and provided immediate notification in writing is given to Seller, Seller will modify, repair or replace such component or part (defects caused by normal wear and tear items, such as screws, barrels, filters, seals, transport chain, rupture discs, die insulation, belts, knives and roll coverings are excluded from warranty replacement). During repair, risk of loss will remain with Buyer. Replacement of parts manufactured or supplied by others is subject to that manufacturer's or supplier's consent and to Buyer's returning that part DAP Seller's plant (Incoterms 2020). No parts or components may be returned without Seller's prior written consent. THE FOREGOING WARRANTY EXTENDS TO BUYER ONLY AND NOT TO BUYER'S CUSTOMERS AND IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES (WHETHER WRITTEN, ORAL OR IMPLIED) INCLUDING THE WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE IN OTHER RESPECTS THAN EXPRESSLY SET FORTH IN THIS AGREEMENT. Remedies of Buyer set forth herein are exclusive. Buyer's sole remedy and Seller's sole liability with respect to the performance or breach of this Agreement in connection with the design, manufacture, sale, delivery, installation, commissioning or repair of the Equipment purchased hereunder, or the technical direction covered by or furnished under this Agreement, is to make within the time period set forth above such modifications as may be necessary to achieve any expressly promised performance contained in this Agreement and to modify, repair or replace defects that have been identified by Buyer. If Seller is unable to modify, repair or replace as provided above to meet its warranty obligations stated above, including compliance with any acceptance criteria contained in this Agreement, Buyer's sole remedy shall be to pay and Seller's sole liability shall be to accept a mutually agreed price reduction reflecting the difference between the value of the Equipment delivered and the value the Equipment would have had if it had been as warranted. Buyer will reimburse Seller for the travel expenses and time of any service technician or engineer who travels to Buyer's plant at Buyer's request to troubleshoot problems and who identifies improper maintenance or improper operation as the sole cause(s). Any modification to Equipment without Seller's prior written approval, improper use of Equipment, whether intentional or unintentional, operation beyond capacity, failure to report to Seller within the warranty period, substitution or addition of parts not approved by Seller, failure or damage due to misapplication, lack of proper maintenance, abuse, improper installation, or abnormal conditions of temperature, moisture, or corrosive matter, or alteration or repair by others in such manner which in Seller's judgment affects the Equipment materially and adversely shall void the foregoing warranty.

**3.保证条款。**卖方保证由其制造的设备在正常使用和服务期间不会出现工艺和材料方面的缺陷。由他人制造或供应的设备仅在制造商向卖方提供的保证范围内销售,并且在卖方可予以执行的范围内销售。除非本协议中明确规定,否则卖方不保证生产的数量或质量。卖方保证在交付时,其设备的设计和制造能够执行本协议中明确规定的机械功能,前提是设备由受过培训的合格人员使用卖方可能指定的原材料在适当的条件下进行维护和操作。如果在任何实验室试验、检查、安装、调试、验收试验期间或在交付之日起一年内(或如果买方拒绝接受或推迟交付,则为更早的日期)发现并报告设备的任何部件或组件在交付之前或交付时有缺陷(任何与本协议中规定的设计或验收标准不一致之处即被视为缺陷)并且在及时书面通知卖方的前提下,卖方将修改、修理或更换该等部件或组件(正常磨损项目,如螺钉、机筒、过滤器、密封垫、传递链、爆破片、模具绝缘、皮带、工具和辊子覆盖物造成的缺陷不在保修范围内)。在维修期间,灭失风险将仍由买方承担。更换由他人制造或供应的零件取决于该制造商或供应商的同意,以及买方按照国际贸易术语解释通则/Incoterms 2020 DAP 卖方工厂条件将该零件退回至卖方。未经卖

方事先书面同意，买方不得退回任何零件或组件。上述保证仅适用于买方而不包括买方客户，并且具有排他性且应取代所有其他保证（无论是书面、口头还是暗示的），包括本协议明确规定以外的任何对适销性的保证以及其他特定用途的适用性保证。本文所述买方的补救措施是排他性的。针对本协议项下购买设备的设计、制造、销售、交付、安装、调试或维修，或本协议涵盖或提供的技术指导方面的履约或违约行为，买方享有的唯一补救措施以及卖方承担的唯一责任应当为在上述时间段内做出必要的修改，以实现本协议包含的任何明确承诺的性能，并修改、维修或更换买方已识别的缺陷。如果卖方无法按照上述规定进行修改、维修或更换，以履行上述保证义务，包括遵守本协议中包含的任何验收标准，买方享有的唯一补救措施应是按照双方同意的降价进行支付，卖方的唯一责任是接受该等降价，该等降价应当反映所交付设备的价值与所保证设备的价值之间的差额。

对于根据买方的要求前往买方工厂进行故障排除，并且由维修技师或工程师确认买方不正确的维护或不正确的操作为故障产生的唯一原因情况下，有关的任何维修技师或工程师的差旅费用和服务时间，买方应向卖方做出补偿。未经卖方事先书面批准对设备进行任何修改、设备使用不当（无论是有意还是无意）、超出容量运行、未在保修期内向卖方报告、替换或增加未经卖方批准的部件、因误用而导致的故障或损坏、缺乏适当的维护、滥用、不正确的安装、或出现温度、湿气或腐蚀性物质等异常情况，或者按照卖方的判断其他人以对设备产生重大不利影响的方式进行改动或修理，均将导致上述卖方保证义务失效。

**4. EXCLUSIVE REMEDIES.** SELLER'S LIABILITIES AND BUYER'S REMEDIES ARE LIMITED TO THOSE CONTAINED IN THIS AGREEMENT. SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OR RELATING TO THIS AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT OR ANY OTHER THEORY OF LAW OR EQUITY. SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, MULTIPLE, OR CONSEQUENTIAL LOSS, DAMAGE, EXPENSE OR INJURY OF ANY KIND WHATSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, LOSS OF PRODUCTION, OPPORTUNITY, FINANCING, GOOD WILL, USE, BUSINESS REPUTATION, COST OF SUBSTITUTE FACILITIES OR SERVICES, DOWNTIME COSTS, DELAYS, DEFECTIVE PRODUCT LOSSES, LABOUR COSTS, DEPRECIATION COSTS, INTEREST COSTS, CLAIMS OF BUYER'S CUSTOMERS OR OTHER THIRD PARTIES, HOWEVER ARISING. THESE LIMITATIONS OF LIABILITY WILL APPLY WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY (IES).

**4.排他性补救措施。** 卖方承担的责任以及买方采取的补救措施应当仅限于本协议中规定的内容。卖方不受因本协议引起的或与本协议有关的任何其他义务或责任的约束，无论基于违反合同、违反保证、侵权或任何其他法律或衡平理论。卖方不对因本协议引起的或与本协议有关的任何特殊的、间接的、偶发的、惩罚性的、多重的或者结果性的损失、损害、费用或伤害承担责任，包括但不限于利润或收入损失，资本成本、生产损失、机会、融资、名誉、使用、商业信誉、替代设施或服务的成本、停机成本、延迟（交付）、缺陷产品损失、劳动力成本、折旧成本、利息成本损失，以及买方客户或其他第三方的索赔，无论其因何而产生。无论卖方是否已被告知该等损害的可能性并且即使任何有限补救措施的基本目的无法实现，该等责任限制都应适用。

**5. ENTIRE AGREEMENT.** This Agreement contains the entire agreement between Buyer and Seller and supersedes and cancels all prior agreements, negotiations, drafts, representations and communications, whether oral or written, with respect to or in connection with the subject matter of this Agreement. This Agreement can be modified or rescinded only by a writing signed by both parties. The parties acknowledge that they have entered in this Agreement in reliance upon their own independent investigation and analysis and neither has been induced to enter into this Agreement by virtue of, and is not relying upon, any representations or warranties not set forth in this Agreement. No waiver of any provisions of this Agreement shall be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted and unless expressly made generally applicable shall only apply to the specific case for which the waiver is given. Failure of either party to insist upon strict performance of this Agreement shall not be construed as a waiver of any terms or conditions thereof.

**5.完整协议。** 本协议包含买方与卖方之间的完整协议，并取代和取消与本协议项下有关主题的所有先前协议、谈判、草案、陈述和通信，无论是口头还是书面形式的。本协议只能通过双方签署的书面形式进行修改或解除。双方承认均依据自身的独立调查和分析签订本协议，并且未受本协议未规定的任何陈述或保证的诱导而签订本协议。除非经做出弃权一方的授权代表签字，否则对本协议任何条款的弃权均不具有约束力，并且除非明确一般适用任何弃权应仅适用于做出弃权的某一特定情况。任何一方未能坚持要求（另一方）严格履行本协议不得被解释为对本协议任何条款或条件的弃权。

**6. CHANGES.** Changes to the specifications or Equipment description shall be valid only if in writing signed by

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authorized representatives of Buyer and Seller. Such changes must provide for any modification in the price or in time of delivery. Minor variations by Seller in the details of design or construction of the Equipment shall not give rise to any claim of defect or default, and the Seller reserves the right to make such minor changes in details of design and construction as shall in its judgment constitute an improvement over those set forth and described.

**6. 变更。** 只有在买方和卖方的授权代表签字的情况下，对规格或设备描述的变更才有效。该等变更必须约定对价格或交付时间的任何修改。卖方在设计或设备构造细节方面的微小差异不应引起任何缺陷或违约索赔，并且如果依照卖方判断构成对所规定或所描述的设计和构造细节的改进，则卖方保留对设计和构造细节做出该等微小变更的权利。

**7. INTELLECTUAL PROPERTY.** Seller warrants that none of the Equipment infringes any Chinese patent trademark or copyright provided that Buyer will (a) forthwith upon receipt forward to Seller any communication charging infringement, (b) forthwith forward to Seller all process, pleadings and other papers served in any action charging infringement, (c) give Seller the sole right to defend any such actions at Seller's expense, and (d) give Seller the option at any time up to or after judgment at Seller's expense to minimize Buyer's damage or liability (i) by altering the Equipment to make it non-infringing, (ii) by exchanging a non-infringing part which will fulfill substantially the same function for the infringing part which in that case becomes the Seller's property, (iii) by obtaining a license permitting Buyer's use of any infringing part, or (iv) by repurchasing the infringing Equipment at Buyer straight line depreciated cost. Seller's maximum liability under this warranty shall be (a) to indemnify Buyer for any money judgment recovered against Buyer in a court of competent jurisdiction plus Buyer's reasonable counsel fees if Seller does not undertake the defense and (b) to repurchase at Buyer's straight line depreciated cost any part held by such a court to be infringing which Buyer cannot use by reason of adverse judgment, all liability of Seller's part hereunder subject to due performance by Buyer of the above conditions and the limitations of paragraph 4 hereof. No warranty is made as to process or product patents unless expressly stated or as to infringement resulting from compliance with specifications supplied by Buyer or from any combination of Equipment with other equipment not supplied by Seller. As to any Equipment furnished by Seller to Buyer, manufactured in accordance with specifications supplied by Buyer, Buyer shall indemnify Seller against all claims, demands and suits brought against Seller for any patent, trademark or copyright infringement.

**7. 知识产权。** 卖方保证任何设备均不侵犯任何中国专利、商标或版权，前提是买方应当：(a) 立即向卖方转交收到的侵权通知，(b) 立即向卖方转交所有文书、诉状以及在侵权诉讼中送达的其他任何文件，(c) 赋予卖方在任何该等诉讼中自费用进行辩护的唯一权利，以及 (d) 在判决之前或之后的任何时间，赋予卖方下列选择权，由卖方自费用尽量降低买方产生的损害或责任：(i) 通过更改设备使其不侵权，(ii) 以履行基本相同功能的非侵权部件替换侵权部件，在这种情况下侵权部件应成为卖方财产，(iii) 通过获得许可，以便允许买方使用任何侵权部件，或 (iv) 按照买方的直线折旧成本回购侵权设备。卖方在此保证下的最大责任应是 (a) 对于有管辖权的法院针对买方做出的任何货币判决以及如果卖方不进行辩护，买方发生的合理律师费，卖方向买方做出赔偿 (b) 按照买方的直线折旧成本回购任何被有管辖权的法院认定为侵权，从而导致买方因上述不利判决而无法使用的部件，卖方在本协议项下的所有责任均以买方适当遵守上述条件为前提并且应受限于本协议第 4 款规定的责任限制条款。除非明确规定，卖方不提供不侵犯 (第三方) 方法或产品专利的承诺保证；此外，卖方不对因遵守买方提供的规格或因将卖方设备与非由卖方提供的其他设备组合而导致的侵权行为作任何不侵犯 (第三方) 方法或产品专利的保证。对于卖方按照买方提供的规格制造并且向买方提供的任何设备，而针对卖方提出的所有专利、商标或版权侵权的索赔、主张和诉讼，买方应向卖方做出赔偿。

**8. PAYMENTS.** Credit terms are as set forth in Seller's quotation. All delinquent sums due and owing to Seller shall bear interest at the rate of one and one-half percent (1.5%) per month.

**8. 付款。** 支付条款如卖方报价中所述。所有到期并且拖欠卖方的款项均按每月 1.5% 的利率计息。

**9. TERMINATION.** Except as provided in Section 6 hereof, this Agreement is not subject to termination or change unless requested by Buyer and accepted in writing by Seller. In the event of any such termination, Buyer shall pay to Seller within 30 days of such termination, the reasonable costs and all other expenses incurred by Seller prior to receipt of the request for termination (including but not limited to engineering, manufacturing expenses and all commitments to its suppliers, subcontractors, and others), plus a reasonable percentage of the total of the foregoing for Seller's overhead and profit.

**9. 终止。** 除本协议第 6 条另有规定外，本协议不得终止或修改，除非买方提出要求并由卖方书面接受。如果根据本条规定发生任何该等终止，买方应在终止后 30 天内向卖方支付卖方在收到终止请求之前产生的合理成本以及所有其他费用 (包括但不限于工程研发、制造费用以及对其供应商、分包商和其他第三方承诺的所有费用)，并支付上述费用总额的合理百分比，作为卖方的日常开支和利润。

**10. EVENTS OF DEFAULT.** Seller reserves the right to suspend its performance, to advise Buyer of the revised shipment and/or delivery dates or any increases in price, to stop delivery of Equipment in transit, to withhold shipments in whole or in part, to suspend its warranty obligations or to cancel this Agreement if Buyer fails to make any payment to Seller when due, delays its issuance of letters of credit, delays Seller's receipt of required technical information, or otherwise delays or fails to perform its obligations hereunder. Buyer shall be deemed to be in default and any delivered Equipment shall be deemed accepted and Seller shall be entitled to recover any unpaid balance of the purchase price together with any incidental damages upon the occurrence of any of the following events, or of any other comparable event (i) Buyer ceases or suspends operation of its manufacturing plant, (ii) Buyer delays or refuses to allow the delivery of the Equipment or the commencement or completion of any installation, startup or acceptance testing and the Buyer refuses to agree to a revised delivery, installation, startup or testing start date within 30 days of such delay or refusal, (iii) Buyer fails to make any payment when due, (iv) insolvency of Buyer, (v) Buyer's filing of a voluntary petition in bankruptcy, (vi) the filing of any involuntary petition to have Buyer declared bankrupt provided it is not vacated within 30 days from the date of filing, (viii) the appointment of a receiver or trustee for Buyer provided such appointment is not vacated within 30 days from the date of such appointment, (viii) the execution by Buyer of an assignment for benefit of creditors.

**10. 违约事件** 如果买方未能向卖方支付任何到期款项, 或买方延迟开立信用证, 或因买方原因导致卖方延迟收到所需的技术信息, 或买方以其他方式延迟或未能履行其在本协议项下的义务, 卖方保留暂停履约、通知买方修改的装运和/或交货日期或任何价格上涨、停止交付运输中的设备、扣留全部或部分(设备)装运、暂停其保修义务或解除本协议的权利。在发生以下任何事件或任何其他类似事件时, 买方应被视为违约, 任何交付的设备应被视为已被买方接受, 卖方有权追索(协议约定的)购买价格的任何未付余额以及任何附带损害赔偿金: (i) 买方停止或暂停其制造工厂的运营, (ii) 买方延迟或拒绝设备交付或买方延迟或拒绝开始或完成任何安装、启动或验收测试, 并且买方拒绝在上述延迟或拒绝后 30 天内同意修改的交付、安装、启动和测试开始日期, (iii) 买方未能支付任何到期款项, (iv) 买方无力偿债, (v) 买方提交自愿破产申请 (vi) (第三方) 提交任何非买方自愿的破产申请, 要求宣布买方破产, 前提是该等申请在提交之日起 30 日内未被撤回, (viii) 为买方任命接管人或受托人, 前提是该等任命在做出任命之日起 30 日未被撤回, (viii) 买方为债权人的利益进行转让。

**11. CHOICE OF LAW.** This Agreement, including its formation, performance, termination or enforcement, and the parties' relationship in connection therewith, together with any related claims whether sounding in contract, tort or otherwise, shall be construed, governed and enforced in all respects in accordance with the laws of the People's Republic of China excluding any conflict of law principles. The parties exclude the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods if it would otherwise be applicable. Except in regard to actions and proceedings referred to in paragraph 15, Shanghai International Arbitration Centre shall have exclusive jurisdiction over all controversies arising out of or in connection with this Agreement. The tribunal shall consist of three arbitrators. The arbitration shall take place in Shanghai, People's Republic of China. The award rendered by arbitrations shall be final and binding upon both the Seller and the Buyer.

**11. 法律的选择。** 本协议, 包括其形成、履行、终止或强制执行, 以及与之相关的当事人关系, 以及任何相关的索赔(无论基于合同、侵权或其他), 均应在各方面根据中华人民共和国法律进行解释、管辖和执行, 不包括任何法律冲突原则。双方排除 1980 年“联合国国际货物销售合同公约”的适用, 如果其本来是适用的。除第 15 段所述的诉讼和程序外, 上海国际仲裁中心对因本协议引起的或与本协议有关的所有争议拥有专属管辖权。仲裁庭应由三名仲裁员组成。仲裁应在中国上海进行。仲裁裁决是终局的, 对卖方和买方都具有约束力。

**12. CONFIDENTIAL INFORMATION; USE OF BUYER'S DATA.** Any and all specifications, quotations, agreements, contracts, information, samples and other materials of whatever description, blueprints, drawings, diagrams or price lists, whether disclosed verbally or in written, graphic, photographic, electronic, recorded, prototype or sample form, that relate to the design, manufacture, sale or production of Equipment or accompanying any quotation are confidential and proprietary and shall remain the property of Seller and subject to recall at any time, and shall not be disclosed to others nor used for the design or manufacture of any equipment. If the Equipment purchased by Buyer includes any software and/or firmware, it is acknowledged that such software and/or firmware, together with all documentation provided by Seller in connection therewith, are proprietary to the Seller, and that the license to use such software and/or firmware is personal to the Buyer. Therefore, Buyer agrees (a) not to reproduce, distribute or disclose to others such software and/or firmware and to maintain same in confidence, (b) to use same only in connection with Buyer's business and not to allow third parties to use it without Seller's prior written consent, and (c) not to make any modifications to the software and/or firmware for any reason whatsoever. Buyer will not allow the design of the Equipment or the Equipment itself or any part of it to be copied, reverse engineered, or otherwise made available to a third party, including any of Seller's competitors.

Pursuant to the services and/or Equipment provided by Seller, certain Buyer data may be collected by Seller. The data shall be used in order for Seller to provide the services. The data shall be made available to Seller using various interfaces as provided as a part of the services. Seller shall use best efforts and industry standard practices to maintain the confidentiality of Buyer's data. Buyer agrees that Seller may use Buyer data in the aggregate for the purposes of improving the services and/or Equipment, anonymous benchmarking and any other service improvement purposes.

**12. 保密信息及买方数据的使用。**与设备的设计、制造、销售或生产或随附的任何报价有关的任何及所有规格、报价、协议、合同、信息、样品和其他任何资料、蓝图、图纸、图表或价目表，无论采用口头或书面、图形、摄影、电子、记录、原型或样品形式，均为卖方保密和专有的信息，并且始终应为卖方的财产，且卖方有权随时召回，且不得向任何第三方披露，也不得用于设计或制造任何设备。如果买方购买的设备包含任何软件和/或固件，则买方承认该等软件和/或固件以及卖方提供的与之相关的所有文件均为卖方专有，并且该等软件和/或固件的使用许可仅适用于买方。因此，买方同意（a）不得复制、分发或向他人披露该等软件和/或固件，并予以保密；（b）仅在与买方业务相关时使用，并且未经卖方事先书面同意不得允许第三方使用，且（c）不以任何理由对软件和/或固件进行任何修改。买方不得允许复制、反向工程或以其他方式向第三方（包括卖方的任何竞争对手）提供设备的设计或设备本身或其任何部分。

根据卖方提供的服务和/或设备，卖方可能会收集某些买方数据。该等买方数据应用于卖方提供服务。数据应通过作为服务一部分提供的各种接口提供给卖方。卖方应尽最大努力和行业标准惯例对买方数据保密。买方同意，卖方可以将买方数据汇总用于改进服务和/或设备、匿名基准测试和任何其他服务改进目的。

**13. ASSIGNMENT.** This Agreement is not assignable by Buyer, except with the written consent of the Seller.

**13. 转让。** 除经卖方书面同意外，本协议不得由买方转让。

**14. RETAINED OWNERSHIP.** Seller reserves the ownership of the Equipment, all additions and accessions thereto and all replacements, products and proceeds thereof to secure payment of the purchase price. Such ownership will be retained until the purchase price is paid in full. Buyer agrees that Seller will have the right to file this contract and other necessary documents for the registration of the retained ownership pursuant to the relevant law to evidence or perfect Seller's ownership of the Equipment. At Seller's request Buyer will join with Seller in executing such necessary documents. Buyer also agrees that Seller will have the right to invoice Buyer and Buyer will pay all fees, taxes and assessments associated with the filing of this contract and such documents for the registration of retained ownership.

**14. 所有权保留。** 卖方保留设备、所有添加物和附属物及其所有替换品、产品的所有权和由此所产生的收益，以确保买方支付采购价款。该等所有权将被保留至买方全额支付采购价款。买方同意卖方有权根据相关法律提交本合同以及其他必要文件进行所有权保留登记，以证明或完善卖方对设备的所有权。根据卖方的要求，买方将与卖方一起签署该等必要文件。买方还同意卖方有权向买方开具发票，买方将支付与提交本合同以及该等必要文件以完成所有权保留登记相关的所有费用、税款和评估支出。

**15. SAFETY.** Buyer will employ and maintain any safety guards, controls, warning signs and other safety devices and features, and provide all warnings and instructions, which may reasonably be required for the safety of persons according to the location and use of the Equipment by the Buyer. Buyer shall use and require its employees to use safe operating procedures in operating the Equipment and shall comply with all applicable laws and regulations of any and all governmental bodies or agencies having jurisdiction, with respect to the installation and use of the Equipment. Buyer will not alter or misuse the Equipment in any manner which may constitute a danger to persons. Buyer shall indemnify and hold harmless Seller from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from its failure to comply with its obligations set forth in this paragraph, regardless of whether plaintiff or any other party alleges that Buyer acted negligently. In addition to contractual indemnification, Seller shall be entitled to seek contribution from Buyer in any action or proceeding brought against Seller for reasons attributable to Buyer's failure to comply with its obligations in this paragraph and in other paragraphs of this Terms and Conditions and Buyer consents to being named as a third-party defendant and to the jurisdiction of the court in which the action or proceeding is pending.

**15. 安全。** 买方将采用并维持任何安全防护装置、控制装置、警告标志以及其他安全装置和功能，并提供所有警告和说明，该等警告和说明是根据设备的位置和买方的使用而对人员安全可能合理需要的。在操作设备时，买方应使用并要求其员工使用安全操作程序，并应遵守任何政府机构或监管机构在设备安装和使用方面的所有适用法律和法规。买方不得以任何可能对人构成危险的方式更改或滥用设备。买方应赔偿并使卖方免受因其未能履行本



段规定的义务而产生或导致的所有索赔、损害、损失以及费用，包括因此而产生的律师费，无论原告或任何其他方是否声称买方疏忽行事。除合同赔偿外，在买方未能履行本段以及本条款和条件的其他段落规定的义务而导致针对卖方提起的任何诉讼或程序中，卖方有权要求买方赔偿，并且买方同意被指定为第三方被告，并同意诉讼或程序正在审理的法院的管辖权。

**16. EXPORT CONTROL.** The Buyer shall not re-export or transfer any Equipment, or authorize or permit any third party to re-export or transfer any Equipment, to a country that is subject to an applicable trade sanction or embargo or to any customer or end-user that is subject to sanctions or other export prohibitions or restrictions under any applicable export regulations, laws or policies. The Buyer guarantees that it has disclosed accurate information about itself and any end user of the Equipment in full compliance with all applicable export controls laws, other laws, regulations or governmental policies of China; that neither it nor any of its affiliates are listed in a Controlled List, List of Unreliable Entities, Sanctioned Party List or any other official list issued by relevant authorities of China; and that any freight forwarder, broker or other third party agency hired by Buyer to provide export services for the shipment of the Equipment shall verify that the Equipment is not subject to licensing or other restrictions under the export control laws, other laws, regulations or governmental policies of China and shall provide written notice to Seller of any issues prior to export. Any breach of this guarantee shall entitle Seller to terminate this Agreement for cause. Buyer agrees to indemnify Seller against any liability, losses and costs caused by Buyer's failure to comply with the foregoing.

**16. 出口管制。** 买方不得再出口或转让任何设备，或授权或允许任何第三方再出口或转让任何设备到受适用贸易制裁或禁运的国家，或根据任何适用出口法规、法律或政策受制裁或受其他出口禁令或限制的任何客户或最终用户。买方保证其已完全遵守中国所有适用的出口管制法律、其他法律、法规或政府政策，并披露了有关其自身和设备任何最终用户的准确信息；保证其或其任何关联公司均未列入中国有关主管部门发布的受控名单、不可靠实体名单、受制裁方名单或任何其他官方名单；并保证买方聘请的为设备运输提供出口服务的任何货运代理、经纪或其他第三方机构应当核实设备不受中国出口管制法律、其他法律、法规或政府政策的许可或其他限制，并应在出口前就任何问题向卖方提供书面通知。任何买方违反本保证条款的行为应赋予卖方因该等买方违约而终止协议的权利，并且买方同意赔偿卖方因买方未能遵守上述规定而产生的任何及所有责任、损失和费用。

**17. CODE OF CONDUCT AND ETHICS.** Davis-Standard, LLC and its affiliates conduct business in an ethical, safe and socially responsible manner, in compliance with applicable laws and regulations. Our Code of Ethics and Conduct found at <https://davis-standard.com/about-us/code-of-ethics-conduct/> sets forth legal and ethical guidelines that support our endeavors to operate and transact business with the highest level of integrity. Buyer agrees to comply with this Code of Ethics and Conduct while engaging in business transactions with Davis-Standard (Suzhou) Machinery Co., Ltd.

**道德和行为准则。** Davis Standard, LLC 及其关联公司按照适用的法律、法规，以道德、安全和对社会负责的方式开展业务。我们的《道德和行为准则》可在 <https://davis-standard.com/about-us/code-of-ethics-conduct/> 查询并获取，其中规定了法律及道德准则，以支持我们努力以最高水平的诚信经营和进行业务交易。买方同意在与戴维斯标准（苏州）机械有限公司进行商业交易时遵守该《道德和行为准则》。

**18. PRICES.** Seller reserves the right to adjust pricing if Buyer's purchase order is received more than ten days after Seller's quotation and also if Buyer's deposit is late. Seller also reserves the right to adjust pricing after receipt of Buyer's purchase order during manufacturing and assembly and, when applicable, during installation for all products and services based on changes in market pricing conditions (e.g. raw material, utility costs, miscellaneous parts, or other external cost impacts etc.). Seller will provide support documentation for any changes upon request.

**18. 价格。** 如果在卖方报价后十天上收到买方的采购订单，或若买方逾期支付定金或预付款，卖方保留调整价格的权利。此外，卖方还保留在收到买方采购订单后根据市场定价条件的变化（如原材料、公用设施费用、杂项零件或其他外部成本影响等）在制造、组装及（适用情况下）安装期间调整所有产品和服务价格的权利。卖方将根据买方要求提供任何变更的支持文件。

**19. LANGUAGES.** This Davis-Standard (Suzhou) Terms and Conditions is provided in both English and Chinese. The English version shall prevail in case of discrepancies between the English and Chinese.

**19. 语言。** 本戴维斯标准（苏州）销售条款与条件以中英文两种文字提供。如中英文不一致，应以英文版本为准。