

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

### 1. Area of Application

#### 适用范围

For all - also future - inquiries, orders, purchases as well as other legal transactions and services of the TGW China Co., Ltd. (hereinafter referred to as "TGW"), the following General Terms and Conditions of Purchase shall be applicable. The contractor shall expressly acknowledge that TGW already now objects to all deviating regulations in a confirmation of order or in any other commercial document of the contractor. Deviating terms and conditions of the contractor and agreements which deviate from the present Terms and Conditions of Purchase shall only become valid upon express written agreement. Acceptance of deliveries and services or their payment does not constitute consent to the contractor's general terms and conditions.

对于特格威贸易（上海）有限公司（以下简称为“特格威”）的全部以及将来会发生的询价、订单、采购以及其它合法交易和服务，应当适用以下特格威的通用采购条款和条件。承包商应当明确承认特格威现在已经拒绝承包商订单确认函或任何其它商务文件中的所有偏离此通用采购条款和条件的约定。除非达成明确的书面协议，否则承包商与当前采购条款和条件有偏差的任何条款、条件和协议均无效。接受交货和服务或进行相关的付款并不构成对承包商通用条款和条件的同意。

The present Terms and Conditions of Purchase shall be applicable as framework agreements also for any further legal transactions with the contractor. In case an e-commerce agreement exists, these General Terms and Conditions of Purchase shall be supplemental to the e-commerce agreement.

当前采购条款和条件应当作为框架性协议也适用于与承包商有关的任何进一步合法交易。如果存在电子商务协议，则上述通用采购条款和条件应当作为该电子商务协议的补充协议。

In the event of conflicts among the contractual basis, the following order shall apply:

如果合同依据之间发生冲突，则应当适用下列优先顺序：

- special agreements (e.g. delivery contract, quality assurance agreement, etc.), provided that they were acknowledged by TGW in writing.  
特殊约定（例如：交货合同、质量保证协议等），但前提条件是特格威已经对上述协议进行了书面确认。
- the present Terms and Conditions of Purchase  
当前采购条款和条件。
- non-mandatory provisions of commercial and civil law  
商法和民法中的非强制性规定。

### 2. Quote, purchase order, contract

#### 报价、采购订单和合同

Quote: The contractor shall exactly adhere in his quote to the details specified in our tender/enquiry in terms of quantity and condition of the goods to be delivered and notify us in writing of possible deviations beforehand. If the contractor fails to provide this written notification, he will not be entitled to claim a higher payment in case of such deviations. The contractor will immediately check invitations to tender and TGW purchase orders for apparent errors, ambiguities, incompleteness as well as inappropriateness of the specifications chosen by TGW for the intended use, and point them out to TGW. All quotes of the contractor shall be binding and free of charge. Compensation for visits and other pre-contractual services shall not be granted, unless a compensation has been agreed in writing or is legally required.

报价：承包商在其报价中应当严格遵守我方招标文件/询价文件中所规定的有关交付货物的数量和状况方面的详细约定，并且应当事先以书面形式就可能的偏差通知我们。如果承包商未能提供该书面通知，则在发生上述偏差的情况下，承包商将无权索要更高的付款金额。承包商应当立即根据招标文件或特格威采购订单检查是否有明显的错误、争议或缺少情况，以及特格威针对预期的用途所选用规格不恰当的情况，并向特格威指出所发现的问题。承包商的所有报价均应当具有约束力且应当免费提供。对于参观访问和其它签订合同前的服务不得提供补偿，除非该补偿已经以书面形式达成一致或者该补偿是法律所要求的。

Purchase order, contract: Only written orders (also including orders via fax and e-mail) or orders effected via the "myTGW" system shall be valid. Agreements made by word of mouth or telephone require written confirmation to be binding for TGW. Deviations from the purchase order in the contractor's confirmation of the order shall not take any effect. Our purchase order shall be binding for two weeks.

采购订单、合同：只有书面订单（也包括通过传真和电子邮件发出的订单）或通过“myTGW”系统发出的订单才有效。以口头或电话形式达成的协议须经特格威的书面确认，才对特格威产生约束力。承包商订单确认函中对采购订单的任何偏差均不生效。我方采购订单的有效期为两周，如果承包商在两周内未能确认，该采购订单失效。

### 2.1. TGW may request reasonable changes in construction and design of the delivery item. The effects regarding possible cost additions or reductions will have to be adequately and mutually settled.

特格威可以要求对交付物的施工和设计进行合理变更。因此而可能引发的成本增减问题应当通过相互之间的充分协商加以解决。

### 2.2. Delivery schedules based on a framework order or delivery planning shall become binding, if the contractor fails to reject to them within two workdays following their receipt, unless otherwise regulated in a possibly concluded e-commerce agreement.

如果承包商在收到框架订单或交货计划后两个工作日之内没有提出异议，则根据框架订单或交货计划制定的交货时间表应当具有约束力，除非在可能达成的电子商务协议中另有约定。

### 3. Contractor obligations

#### 承包商的义务

- Written notification of the contractor's responsible contact persons.

承包商负责联络人的书面通知

- Compliance with the laws and regulations applicable on the respective construction site, in particular with respect to national technical standards, taxes, permits, duties, registrations etc.

遵守各施工现场适用的法律和法规，尤其是与国家技术标准、税费、许可、关税、注册等相关的法律法规。

- Compliance with a professional standard of care, as the contractor's supplies and services are destined to become part of the overall system to be installed by TGW or of an existing system.

遵守专业的审慎标准，因为承包商供应的货物和服务将成为由特格威安装的整体系统或现有系统的一部分。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

- Provision and consideration of any information which determines and may influence the system, environmental and procedural conditions of the contractor's supplies and services, especially with respect to interfaces. An on-site inspection of the respective installation may be carried out after consultation with TGW. The contractor will specify his interfaces in the respective requirements specification.

提供并考量决定且可能影响承包商提供的货物和服务的系统、环境和程序条件，尤其是与界面相关的信息。对各自安装情况的现场检查可能需要与特格威协商后执行。承包商需要在各自的要求规范中详细说明其界面。

- Compliance with the relevant quality management and environmental management standards by presenting current certificates of himself and his subcontractors as proof. TGW reserves the right to audit the quality and environmental management system of the contractor and his subcontractors at agreed dates for conformity to standards and to demand corrective and preventive measures if required.

遵守相关的质量管理和环境管理标准，并提供其本身及其分包商的当前证书用以佐证。为了确保符合标准，特格威保留在约定日期审查承包商及其分包商的质量和环管理系统的权利，并且如有必要，有权要求其采取纠正和预防措施。

- In case the contractor performs his services in countries with minimum wage requirements, he shall be obliged to comply with these requirements. The contractor shall guarantee the continuous and timely payment of the minimum wage. In case the contractor uses a subcontractor to fulfil his contractual obligations, he shall be obliged to pledge the subcontractor to comply with the minimum wage requirements as well. The contractor shall exempt TGW, upon first request, from any claims, monetary fines, penalties and costs which may result from claims being made against TGW with respect to the relevant requirements.

如果承包商提供服务的国家存在最低工资要求，则承包商有义务遵守这些要求。承包商应保证，持续且及时地支付最低工资。如果承包商通过分包商履行合同义务，则承包商应保证分包商遵守最低工资要求。承包商应在特格威第一次提出请求后，使特格威免于承担针对其提出的，与最低工资要求有关而可能产生的任何索赔、罚金、处罚和费用。

#### 4. Prices

##### 价格

The agreed price includes all deliveries, services, documentation and financing costs to be provided in accordance with the agreed conditions etc. These particularly comprise all costs for packaging, customs, insurance and other transportation costs or shipping expenses including the costs for a transport permit. The prices are fixed all-inclusive prices which may not be increased for any reason whatsoever.

约定的价格包括依照约定条件等将要提供的所有交付货物、服务、文件和融资成本，特别是包括所有包装、关税和保险费用以及其它包含运输许可成本在内的运输费用或装运费用。该价格为固定的统包价格，不得因任何理由提高价格。

For approved order extensions and additions the same terms and conditions and price reductions as for the main order will apply. 主订单的条款和条件以及降价同样适用批准续期和增加的订单。

#### 5. Invoicing and payment

##### 发票出具和付款

Invoices must comply with the legal regulations, in particular with the Value Added Tax Act and other separately made agreements; invoices must in any case include the complete purchase order number and the order/contract date. The contractor shall be liable for any additional or consequential costs caused by incorrect or incomplete invoicing.

发票必须符合法律规定，特别是有关增值税的法律以及其它另行签署的协议；在任何情况下，发票必须包括完整的采购单号以及订单/合同日期。承包商应对由不正确或不完整的发票引起的任何额外费用或间接损失承担责任。

The periods allowed for payment shall depend on the respectively agreed payment plan. Payment does not constitute recognition of the orderly performance of the delivery nor a waiver of claims of any kind. The contractor shall not be permitted to assign claims made against TGW to third parties, unless TGW consents to the assignment in writing.

付款期限取决于各自约定的付款计划。付款并不构成对交付是否符合约定的认可，也不构成对任何此类主张的放弃。承包商不得将针对特格威的主张转让给第三方，特格威书面同意的情况除外。

If the contractor fails to perform a delivery or service as provided in the contract, TGW will be entitled to retain the corresponding payment until it has been performed according to contract. TGW shall be entitled to set off due payments against counter claims from the respective business case and from other business cases of TGW.

如果承包商未能按照合同中的约定履行交货或提供服务，特格威将有权扣留相应的付款直至按照合同履行了交付或提供了服务。特格威有权将相关交易或者其它相关的交易中的反索赔请求抵消到期应付款项。

The last payment will not be released until transmission of a total final invoice at the agreed terms and after fulfilment of all agreed conditions.

最后一笔款项将于约定期限提交全部最终发票并且履行所有约定条件之后，进行支付。

#### 6. Change Request procedure

##### 需求变更流程

If services outside the agreed scope of supply and services of the contractor arise during the performance of the contract, the contractor will have to give written notice to TGW in advance of possible additional charges. Any changes and/or events having an influence on the scope of supply and services shall be made known to TGW in good time for a decision to be taken on them listing the causes, the effects and the necessary measures. This means that any changes which may be relevant in terms of costs, the contract and/or the schedule shall in all cases require the written consent of TGW and may only be recognised when these facts are presented.

如果在合同履行过程中出现承包商供应和服务范围之外的服务，承包商必须提前以书面的形式告知特格威可能产生的额外费用。任何影响供货和服务范围的变更和/或事宜应立即通知特格威，以便特格威做出决定，通知中应列明原因、影响以及必要措施。这意味着，与成本、合同和/或计划相关的所有变更，在任何情况下均需获得特格威的书面同意，并且只有在陈述这些事实之后，才会予以确认。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

### 7. Delivery

#### 交付

Any delivery shall be made in accordance with Incoterms® 2010: DDP the place designated by TGW China Co., Ltd. or TGW China Co., Ltd, Room 502—03, Building E, Poly Plaza Building, No 18 Dongfang Road, Pudong District 200120 Shanghai, PRC. The property in the scope of supply and services shall pass to TGW when delivered.

所有交付应依据国际贸易术语解释通则2010：完税后交货（DDP），目的地为特格威贸易（上海）有限公司（中国上海浦东新区东方路18号保利广场E座 502-503室，邮编200120）或者由其指定的地点。交付时，供货和服务范围的所有权转移给特格威。

### 8. Schedule

#### 进度计划

All delivery periods and dates shall be binding according to schedule. Acceptance of delayed deliveries shall always be effected under reserve of all claims of TGW. Partial deliveries or deliveries ahead of schedule require a prior written shipping approval by TGW. Early deliveries shall not oblige to early payments. In the event of early deliveries TGW reserves the contractor's debit including all related costs (warehouse rent etc.). The receipt of the goods at the receiving office or point of use specified by TGW or the timeliness of successful acceptance shall be decisive for the compliance with the date of delivery or the term of delivery. The acceptance of delayed deliveries shall always be made under the reservation of any possible claims. Deadline shifts on the part of TGW shall be free of charge. Furthermore, TGW shall be entitled to interrupt the respective contractual relationship at its sole discretion at any time and without giving reasons. The dates and deadlines shall in such a case be adapted accordingly. The contractor will take any necessary measures which enable resumption of work as fast as possible after it has been released again by TGW. In such a case, the contractor will immediately notify TGW of the corresponding consequences and the resulting direct costs actually incurred by them. The additional direct costs resulting from the suspension will have to be proven by the contractor and be borne by TGW. Claims extending beyond that, on whatever legal ground, shall be excluded.

所有交付期限和日期应当遵守约定的进度计划。只有在特格威保留所有索赔权利的情况下，接受延期交货才有效。提前交付或分期交付需要获得特格威事先书面的装运批准。提前交付货物并不强制要求提前付款。在提前交付货物的情况下，特格威有权留置承包商的款项，包括所有相关的成本（仓库租金等）。遵守交货日期或交货期限的约定也意味着要求把货物及时运至指定的收货地点、或者使用地点，并且货物被成功的验收。只有在保留任何可能的索赔权力的情况下，特格威才接受迟延交付的货物。承包商对由于特格威的原因而导致的截止日期的变更不应当收取费用。另外，特格威有权在任何时间自行决定且无须任何理由中止相关合同关系。在这种情况下，应当对日期和截止日期进行相应的调整。在特格威要求承包商重新开始执行合同之后，承包商应当采取所有必要的措施尽快重新开始复工。在这种情况下，承包商应当就其所遭受的影响和所导致产生的直接费用立即通知特格威。因中止合同所造成的额外直接费用应当由承包商提供相关证明，并由特格威承担。超出此范围的索赔，无论是依据何种法律，均应当排除在外。

The contractor shall only be entitled to plead absence of necessary documents to be provided by TGW, if he demanded their submittal in writing and did not receive them within a reasonable period of time; in this case, any delay in delivery of the contractor will not be regarded as the default of the contractor. The burden of proof

thereof shall rest with the contractor. TGW shall have the right to use the software belonging to the scope of supply of the product, including its documentation, to the legally permitted extent. Furthermore, TGW shall have the right to use such software - including documentation - with the agreed performance characteristics and to the extent required to use the product according to contract. The creation of a back-up copy shall be permitted also without express consent. The same shall apply for the use of industrial property rights existing in connection with the product.

只有当承包商以书面形式要求特格威提供必要文件并且在合理期限内未收到这些文件时，承包商才有权以缺少应当由特格威提供的必要文件为抗辩理由。在这种情况下，由此导致的承包商延迟交货并不视为承包商违约。上述情况的举证责任由承包商承担。特格威有权在法律允许的范围内使用产品供应范围内的软件，包括其文档。此外，特格威有权依据合同在产品使用要求的范围内使用具备约定性能特征的软件，包括文档。允许在未经明确同意的情况下创建备份，这同样适用于对现有的与产品相关的工业产权的使用。

In the event of changes to the agreed delivery dates that are not caused by the contractor, the contractor shall agree to properly store the goods on behalf of TGW for a period of up to three months at the expense and risk of the contractor. The parties may enter into separate arrangements regarding the payment for such goods against a declaration of transfer of ownership and/or bank guarantee etc.

如果约定交付日期发生变更且此变更与承包商无关，则承包商同意代表特格威将货物妥善储存，期限至多为三个月，且相关费用和 risk 由承包商承担。针对上述货物的付款，双方可另行安排所有权转让声明和/或银行担保等方式。

### 9. Liquidated damages

#### 违约金

Unless otherwise agreed to the contrary, all agreed dates and deadlines are subject to the following contractual penalty:  
除非另有相反的规定，所有约定日期和截止期限适用下列违约金：

1% of the order value per week of delay or part thereof, to a maximum of 10% of the order value. TGW shall be entitled to retain an amount corresponding to the contractual penalty of the overall price agreed by contract. Furthermore, TGW shall be at liberty to withdraw from the contract if the contractor is at fault. No rights of any kind shall be due to the contractor against TGW in the event of a such withdrawal of contract. Other claims for compensation of all damages caused by the delay and adverse effects of whatsoever kind that go beyond the contractual penalty shall remain unaffected. 违约金的支付标准为每延迟一周或不足一周，支付订单价值的1%，最高不超过订单价值的10%，不足一周按一周计算。特格威有权保留相当于合同约定的总体价格的违约金金额。此外，特格威有权在承包商违约时解除合同；在该种情况下，承包商对特格威无任何索赔权利。超出违约金金额范围的因延迟交货导致的所有其它损害赔偿以及其它不利影响的索赔权利不受影响。

Contractual penalties for non-fulfilment of assured properties/performance/performance data may be defined in the technical specifications or annexe.

未履行保证的所有权/性能/功能数据的违约金应参考技术规范或附件。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

Reservation of contractual penalty already at the moment of acceptance is not necessary, it may rather be claimed until the final payment is made, in particular the penalty may be deducted from the final invoice. Contractual penalties for intermediate deadlines may be deducted from partial payments.

收货时无需预留合同违约金，可以在最后一次付款时进行索赔，特别是违约金可以从最终发票中扣除。中间截止日期的合同违约金可以从分批付款中扣除。

### 10. Shipping 装运

Every shipment must include a delivery note. The contractor shall be liable for any damage, expenses, demurrage etc. arising from the non-compliance with this provision. The delivery will not be accepted without the corresponding shipping documents, but deferred at the contractor's cost and risk. Shipments have to be packed properly for the means of transportation used, in particular observing TGW's shipping instructions. If the contractor fails to observe these instructions, he shall bear all related costs.

每单装运的货物必须包含一张送货单。因违反此规定而导致的任何损害、开支和滞期费等均由承包商承担。不接受无相应送货单据的交货，且延期产生的费用和 risk 应由承包商承担。每单货物必须根据所采用的运输方式进行适合的包装，尤其应遵守特格威的装运说明。如果承包商未能遵守这些说明，其应当承担所有相关的费用。

Partial deliveries shall only be permitted upon TGW's prior written consent, otherwise TGW shall have the right to refuse acceptance. In any case, partial deliveries shall not be deemed as independent transactions and must be identified as such indicating the total quantity and the quantity of the respective partial delivery.

只有经过特格威的事先书面同意才允许分批交货，否则，特格威有权拒收货物。在任何情况下，分批交货都不应被视为是独立的交易，且必须标明总的数量以及每次分批交货的数量。

### 11. Contract documentation

#### 合同文档

The contractor must not use any of the specifications, drawings and other technical documents, which have been provided by TGW to the contractor for the production of the delivery item or which the contractor has produced according to TGW's special specifications, for any purpose other than the production according to the respective order, nor copy them or make them available to third parties. The above-mentioned documents shall remain the exclusive property of TGW and on request shall be returned to TGW together with any extracts or copies made. The processing of materials and the assembly of parts shall be done for TGW. TGW shall become co-proprietor of the products manufactured by using materials and parts, stored by the contractor in this respect for TGW, at the ratio of the value of the supplies to the value of the total product. If the contractor does not, for whatever reason, get to deliver the goods, he will have to immediately return all documents without being asked to do so, or to archive them ensuring not to use them further inappropriately. The orders and all work relating to them shall be regarded as business secrets and are to be treated with confidentiality. The contractor shall be liable for any damages caused to TGW by an infringement of these obligations. The contractor shall only be allowed to indicate the existing business relationship or refer to it in advertising material and publications of whatsoever kind upon prior written approval by TGW.

承包商不得出于生产相关订单产品之外的目的来使用和拷贝特格威向承包商提供的，用于生产所交付的产品或承包商根据特格威的特殊规

格生产的任何技术规范、图纸以及其它技术文档，亦或是将它们提供给第三方。以上所提及的文档应视为特格威的专有财产，并且应要求应当连同所有相关的摘录或拷贝件一起归还给特格威。承包商应为特格威进行材料的处理和部件的组装。对于通过采用承包商基于此为特格威存放的材料和部件制造的产品，特格威应当按照所供产品的价值与全部产品价值比率成为共同所有人。无论承包商出于何种原因未能交付货物，无需特格威主动要求，必须立即向特格威归还所有文档，或者将文档进行存档确保不再不当使用。订单以及与之相关的所有工作均应视为商业秘密，并且应加以保密。对于因违反这些义务而使特格威遭受的任何损失，承包商均应承担赔偿责任。只有经过特格威的事先书面同意，承包商才能在不同式的广告材料和出版物中指出或引用与特格威的商业关系。

### 12. Liability

#### 责任

The contractor and TGW shall be liable in accordance with the legal requirements; a liability for loss of profit shall however be excluded. 承包商和特格威应当依照法律规定承担责任；但是，利润损失的责任应排除在外。

### 13. Retention money guarantee

#### 预留金保函

Unless otherwise agreed to the contrary for individual projects, payments are subject to retention of 10 % of the total amount (retention with final invoice) and may be covered by an abstract bank guarantee to the amount of 10 % of the total order value plus statutory value added tax with a term of 2 months beyond the warranty period. The retention money will be withheld during the entire warranty period.

除非对单项工程另有相反的规定，付款要预留总金额的10%（根据最终发票的金额预留），并以相当于总订单价值的10%加上法定增值银行的保函形式支付，期限为质保期后的两个月。预留金在整个质保期将予以保留。

### 14. Completeness clause

#### 完整性条款

The contractor's scope of supply and services including documentation comprises all parts and services customary within the industry or belonging to the delivery in the context of the purchase order, even if they are not expressly listed in detail. Completeness in particular includes that the purchased components are suitable for the intended purpose and are fully functional under the conditions and influences that can be reasonably expected at the location of installation and when operated in compliance with the safety instructions, applicable standards and official regulations.

承包商的供应和包括文件材料的服务范围包括采购单规定的交付或行业内通常规定的交付范围的所有零部件和服务，即使前述内容并未详细明确列示。完整性尤其包括：采购的部件符合预期目的并且在安装地点合理预期的条件和影响下按照安全指南、适用标准和官方条例运行时，功能完善。

### 15. Transfer of risk

#### 风险转移

Deviating from possibly used Incoterms® 2010, the transfer of risk to TGW shall be issued upon the acceptance of the system by the end customer.

在最终用户验收系统时，风险转移至特格威，这与可能使用的国际贸易术语解释通则2010有所不同。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

### 16. Documentation

#### 文档

With respect to the purchase order, the documentation includes all written documents, drawings and electronically produced and stored files (incl. source code and production drawings) specified in the order and required for the proper and timely completion of all activities in connection with the installation and operation of a system component.

关于采购单，文档包括订单中规定的以及妥善及时完成所有与系统组件安装和操作有关的活动所需要的所有书面文件、图纸以及电子制作和存储的档案（包括源代码和生产图纸）。

The documentation must be submitted in electronic form and conform to the scope defined in the purchase order documents, including annexes.

文档必须采用电子形式提交，并且与采购单文件中规定范围一致，包括附件。

In the event of changes in the order, all affected technical documents as well as the documentation must immediately be updated accordingly by the contractor, so that a final corrected documentation is guaranteed.

如果订单发生变化，承包商必须相应地更新所有受影响的技术文件以及文档，以保证最终文件材料得以修订。

In case CCC(China Compulsory Certification) marking is required for the deliveries and services, it must clearly and demonstrably comply with all relevant legal requirements (in particular the CCC directive) and all standards in the latest valid version.

如果交付货物和服务需要中国强制认证（CCC）标志，则该标志必须清晰、明确地符合所有相关法律要求（尤其是CCC方针）以及最新有效版本的所有标准。

The contractor must provide any valid preference certificate (certificate of origin etc.) free of charge of the goods in international traffic.

在国际运输中，承包商必须免费提供所有货物的有效优惠权利证书（比如原产地证书等）。

### 17. Acceptance 验收

Acceptance of the services shall be effected in connection with the final acceptance by the end customer. An exact definition of the acceptance procedure will be prepared together in writing during creation of the functional specification based on the product requirements specification. The contractor must in any case prove all data, performance rates and functions specified in the quote and annexes to the contract during the acceptance process, which has to be recorded in an acceptance protocol.

最终用户最后接受服务，则验收生效。在依据产品要求规范制定功能说明的同时，应以书面形式精确定义验收程序。任何情况下，承包商在验收过程中必须证明报价以及合同附件中规定的所有数据、性能比率以及功能，并且将前述内容记录在验收协议中。

Basically, acceptance may only be effected after having fulfilled the following conditions:

通常，只有在符合以下条件的情况下，验收才生效：

- performance of all deliveries and services by the contractor according to the purchase order;  
承包商依据采购单履行所有交付货物和提供所有服务；
- proper and complete delivery of all documents;  
妥善完整地交付所有文件；
- presentation of a protocol signed by both parties, giving proof of a successful completion of trial operation including certificate of performance for the overall system.  
提供由双方签署的一份协议，以证明成功完成试运行，包括总体系统的性能认证证书。

In case defects are detected which do not have an influence on the system's functionality, acceptance may be effected under the reserve of immediate correction of these defects. If the pending points are not fulfilled within the given period of time, the confirmation of acceptance shall be deemed as not given with retroactive effect.

如果发现不影响系统功能的缺陷，则验收可以在保留立即修正缺陷权利的情况下生效。如果在给定时间内未完成未决点，则应视作未发出具有追溯效力的验收确认书。

If during the acceptance the system appears not to have been manufactured according to contract, and/or the required performance has not been achieved, the contractor will have to solicit a repetition of the acceptance procedure within a period of grace to be agreed upon. In case the performance agreed by contract is again not achieved during the repeated acceptance, in particular the guaranteed performance data are not proven, the contract shall be deemed as not fulfilled.

如果在验收过程中发现并未按照合同规定制造系统，和/或未达到所要求的性能，则承包商必须在约定的宽限期内请求重复进行验收程序。如果在重复验收过程中，依然未能达到合同要求的性能，特别是保证的性能数据未得到证实，则合同应视为未履行。

### 18. Warranty

#### 保证

The contractor guarantees that the deliveries/services have been designed/performed fully and in accordance with the order specifications or delivery schedule and that the goods are suitable for the intended use; he also guarantees that the design, suitability, manufacturing methods as well as the guaranteed properties conform to the latest state of the art, have been manufactured in compliance with all applicable regulations and contain only new material of suitable and top-class quality and that the ordered item is free of defects. Furthermore, the contractor guarantees to achieve and reliably meet all performance values agreed by contract. The contractor has to demonstrably advise TGW of all risks which may typically be expected during the use of the product. The contractor shall be liable in a corresponding manner for goods and components that have been delivered but not produced by him and/or for services rendered by him.

承包商确保交付货物/服务完全按照订单说明或交付计划设计/执行，并且货物符合预期目的；承包商还应保证，设计、适用性、制造方法以及担保性能满足最高标准，其生产符合所有适用法规并只使用适合的一流质量的新材料，而且订购货物无瑕疵。此外，承包商保证达到并且确实符合合同规定的所有性能值。承包商必须明确告知特格威产品使用过程中通常会遇到的所有风险。承包商必须以相应的方式，对那些已经交付的但并非由其生产的货物或部件其和/或服务承担责任。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

Unless otherwise agreed to the contrary, the warranty period shall end 24 months after final acceptance of the overall system and correction of all defects, irrespective of the period of operation. Warranty shall include material, personnel and any other costs. In case of a hidden defect the warranty period shall start to be effective at the moment the defect is identifiable objectively. For goods which are usually kept in their packaging until they are used, defects which do not become visible until the goods are retrieved from their packaging shall be considered as hidden defects.

除非另有规定，质保期截止到整体系统最终验收并修正所有缺陷之后的24个月，不考虑运行时间。质量保证包括材料、人员以及任何其他费用。如果存在隐藏缺陷，则质保期从可以明确辨认缺陷时起开始生效。对于通常处于打包状态直至使用时才拆开包装的货物，将货物从其包装中取出发现的缺陷应视为隐藏缺陷。

TGW shall at its own option be entitled to request at short notice from the contractor to remedy all defects detected during the agreed period of warranty at his expense and risk by correction (repair, provision of missing components) and/or replacement, or to claim reduction of price, or demand redhibitory action, or correct the defects and perform not provided or defective services itself or have them corrected and performed by third parties at the expense and risk of the contractor in case of effectless reprimand or imminent danger.

在保证期内，特格威有权自行决定要求承包商自行承担费用和 risk，立即通过修正（修理、提供缺失部件）和/或替换的方式修复在约定保证期发现的所有缺陷，或要求承包商降低价格，或因货物有瑕疵而无法履行合同提出解除合同诉讼，或在斥责未果或即将发生危险的情况下，自行修正缺陷和履行尚未提供的服务或纠正有缺陷的服务，或请第三方修正或履行，但所产生的费用和 risk 由承包商承担。

In the event of a claim being made against the title of warranty, the burden of proof shall rest with the contractor during the entire warranty period, to prove that a defect did not exist at the moment of handover.

如果对质保权利提出主张，则在整个质保期内举证责任应当由承包商来承担，证明在移交时不存在缺陷。

In case of defects of whatsoever kind, TGW shall in any case be entitled to retain the total outstanding purchase price or works compensation until full correction of defects.

不管出现何种缺陷，特格威在任何情况均有权扣留尚未支付的全部采购款项或劳动报酬，直至缺陷被完全修正。

In case of a rectification or replacement of defective parts the warranty period for the respective part shall start again upon successful resumption of operation. Any interruption of operation caused by the contractor within the warranty period will lead to an according extension of time.

如果修正或替换有缺陷的零部件，则相关零部件的保证期应从成功恢复操作后重新开始计算。保证期内因承包商导致的任何操作中断将导致保证期进行相应延长。

### 19. Hold-harmless clause

#### 免责条款

The contractor undertakes to ensure that all insurance and taxation requirements applicable in the state of the construction site as well as all labour law regulations related to the employees working on

the site are met and has to fully hold harmless and indemnify TGW in this respect.

承包商承诺保证满足施工现场所在国适用的所有保险和税收要求以及所有与现场工作人员相关的劳动法律规定，并且应保证特格威在这方面不承担任何损害和赔偿。

### 20. Product liability

#### 产品责任

The contractor has to enclose operating instructions and warning notices written in Chinese and English language in his delivery and, as far as this is possible and reasonable, attach them to the delivered goods himself. If the delivered goods turn out to be defective after acceptance of delivery and/or TGW detects that the properties of the product do no longer conform to the state of the art of science and technology in terms of Article 61 and 62 of Contract Law of PR China, the contractor shall be obliged to take such goods back and refund the complete purchase price.

承包商必须在交付时随附书面的中英文操作说明书和警告说明，若条件允许，应当将它们附在所交付的产品上。如果在交付验收之后所交付的货物出现缺陷和/或特格威发现产品的性能已经不符合中华人民共和国合同第61条和第62条所规定的现有科学和技术状态，则承包商有义务取回这样的货物并退还全部采购款。

If claims are made against TGW due to its product being defective or in particular having violated any official safety regulations, or due to national or foreign product liability provisions, TGW will be entitled to demand compensation for this damage from the contractor, as far as this damage is attributable to the products he delivered. The contractor shall commit to fully exempt TGW from any resulting claims. This damage shall also include costs of replacement as well as costs of a preventive and required product recall.

如果因产品存在缺陷，特别是因违反了任何官方安全法规，或国内外产品责任方面的规定而对特格威提出索赔，特格威将有权要求承包商对其受到的损失进行赔偿，只要该损失是由承包商所交付的产品引起的。承包商应当承诺使特格威免于承担任何因此而产生的任何索赔。上述损失还应当包括更换费用以及要求的预防性产品召回的费用。

If claims are made against TGW due to services performed by the contractor, the contractor shall be obliged to immediately deliver any of the means of evidence requested by TGW at his own cost, such as in particular quality and inspection protocols, certificates and so forth.

如果对特格威的索赔是由于承包商所提供的服务而引起的，则承包商有义务自行承担费用，按照特格威的要求，立即提供任何类型的证据，特别是质量和检验协议以及证书等等。

### 21. Industrial/Intellectual property rights

#### 工业/知识产权

The contractor asserts that his scope of supply and services as well as the documentation and drawings provided by him does not infringe any property rights (patent, trademark or sample rights, copyrights, equipment, product names, know-how, territorial protection and rights of a similar kind, in fact even if their granting has been applied for as needed). The contractor shall be liable for all losses resulting from a breach of this provision as well as fully indemnify and hold TGW harmless from and against all third-party claims.

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

承包商应当确保其提供的货物和服务以及文档和图纸不会侵犯任何第三方的知识产权（专利、商标或样品、版权、设备、产品名称、专有技术，地方保护和类似的权利，事实上即使根据需要已经申请了许可也一样）。承包商应当为所有由于违反本项规定而造成的损失承担责任，以及当就第三方因此而提出的任何索赔对特格威进行赔偿并使特格威免于承担任何责任。

Without prejudice to further rights, TGW shall in such case be entitled to refuse acceptance of the goods, to place already accepted goods at the contractor's disposal again at his own cost and to retain payment of the total purchase price until the entitlement to the claims made has been clarified.

在不损害任何进一步权利的情况下，特格威在此情况下有权拒收货物，将已经验收的货物交由承包商自行承担费用进行处置，并可扣留总采购款直至主张的权利得到澄清。

### 22. Non-solicitation agreement

#### 禁止招揽约定

The contractor shall not be allowed to solicit employees away of TGW, or to offer them a job directly or indirectly without prior written consent (both cases hereinafter referred to as "solicitation").

承包商在未事先获得特格威书面同意的情况下不得招揽其员工，也不得直接或间接为其提供工作（这两种情况，以下均称作“招揽”）。

If the supplier infringes this provision, he will have to pay a penalty which corresponds to the respective annual gross pay the solicited employee received from TGW in the last year of employment; in case of a shorter term of contract, the annual gross pay is projected to a year.

如果供应商违反本条规定，其必须支付相当于被招揽员工在上一个雇佣年份从特格威收到年度工资总额的罚金；如果合同期不满一年，则罚金按一年工资总额计算。

### 23. Insurance

#### 保险

The contractor undertakes to maintain a public liability insurance with sufficient coverage during the order execution including the duration of the warranty periods. The contractor shall provide a corresponding confirmation of insurance coverage to TGW prior to conclusion of the contract without being requested.

承包商承诺在订单履行期间（包括保证期）办理充分涵盖保险责任的公共责任保险。承包商应在签署合同前主动向特格威提供相应的保险范围确认函。

### 24. Force majeure

#### 不可抗力

Force majeure and industrial conflicts shall exempt the contracting parties from the duties to indemnify for the duration of interruption and to the extent of its effect. The contracting parties shall be obliged to immediately provide the required information as far as reasonable, and to adapt their duties to the changed circumstances in good faith. In case a circumstance extends over a period of more than two months, and the parties are not able to reach a mutual solution, both parties shall have the right to withdraw from the contract in full or in part.

因不可抗力和工业冲突而导致的合同中止执行，缔约方对中止期间造成的影响均不承担赔偿责任。缔约方有义务立即提供合理要求的信息，并且应当本着诚信的原则，根据形势变化调整合同义务。如果发生此种情况的时间超过了两个月，并且双方无法达成一致的解决方案，则双方有权全部或部分解除合同。

### 25. Withdrawal from contract

#### 解除合同

If the contractor fails to comply with his contractual obligations in full or in part (e.g. also including delay in intermediate deadlines of the planning and manufacturing process as well as dependant ancillary services), TGW will be entitled to withdraw from the contract in full or in part after having granted a reasonable period of grace without success and independent of a possible divisibility of the service. With regard to possible periods of grace, actually granting such a period, e.g. through repeated reminders to comply with the contract by TGW, shall be sufficient. In particular in the case of non-fulfilment of assured properties TGW will have the right, independent of a divisibility of the services, to fully withdraw from the contract. This shall in equal measure be applicable in case of a considerable aggravation of the contractor's financial status. The amounts already paid for the services affected by the withdrawal from contract plus the financing costs incurred for TGW have to be paid back immediately. No rights of any kind shall be due to the contractor himself against TGW in the event of a such withdrawal of contract. The contractor shall be obliged to immediately report circumstances of this nature to TGW.

如果承包商未能遵守其合同义务的全部或部分（例如：包括未能在中间截止日期前进行规划和制作流程以及提供附带服务而产生的迟延），且在给予的合理宽限期内依旧未能履行合同义务，特格威有权解除合同，并且不受可能的服务分割性的影响。关于可能的宽限期，比如特格威通过重复提醒承包商遵守合同的方式而实际给予的此等宽限期应是充分的。尤其是在不符合保证性能的情况下，特格威有权完全解除合同，不受服务可分割性的影响。即便承包商财务状况急剧恶化，也同等适用。针对受解除合同影响的已支付的服务金额加上特格威发生的融资成本，承包商必须立即归还。承包商无权就解除合同向特格威主张任何权利。承包商有义务立即将这类情况以书面形式报告特格威。

### 26. Cancellation

#### 取消

TGW shall have the right to withdraw from the contract at any time in full or in part, even if the contractor is not at fault.

即使承包商不存在违约行为，特格威也有权在任何时候，全部或部分解除合同。

In such a case, TGW will be obliged to reimburse the contractor for the contract price in proportion to the already provided deliveries or performed services and, in addition, make up for the proved direct costs incurred for deliveries and services which are already in process or for the cancellation of sub-contracts. The contractor shall transfer the property of the respective deliveries/services upon their payment; the burden of proof for the existence of the aforementioned costs shall rest with the contractor. The contractor will make every possible and reasonable effort, upon declaration of cancellation, to keep the direct costs to be made up for by TGW to a minimum.

在这种情况下，特格威有义务补偿承包商已经交付货物或已提供服务的合同价格；此外，还需对证实的在处理交付货物和提供服务过程中或解除分包合同产生的直接费用作出补偿。承包商在收到付款时，应将交付货物/服务的所有权转让给特格威；承包商应举证上述产生的费用。在特格威宣布解除合同时，承包商应尽一切合理努力把特格威负责补偿的直接费用降至最低。

# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

### 27. Amendment to contract

#### 合同的修订

Possible contractual amendments or adjustments shall be made in writing to be valid. The same applies to a possible waiver of the written form requirement.

合同修订或调整应采用书面形式才有效，这同样适用于对书面形式要求的放弃。

### 28. Cessions / sub-contracting

#### 转让/分包

In the event of the existence of material circumstances, such as for example the relocation of the production site, TGW shall be entitled to prohibit the cession of the order with immediate effect and to demand performance according to contract from the contractor.

如果存在重大情况，比如生产场地迁移，特格威有权禁止转让订单，且立即生效，并且要求承包商依据合同规定履约。

### 29. Confidentiality

#### 保密性

The contractor may have access to certain proprietary and confidential information of TGW or its customers. Therefore, the contractor shall agree to treat this information as confidential and use the information in question or disclose it to third parties exclusively for services within the framework of this agreement and not for any other reason. All already existing non-disclosure agreements between TGW and the contractor shall still remain fully valid. The contractor agrees to indemnify TGW for any damages or costs caused by a breach of his duty to maintain confidentiality.

承包商可能会接触到特格威及其客户的某些专有和保密信息。因此，承包商应同意将该信息视为保密信息，不得在履行本协议框架服务之外的任何情况使用所述信息，也不得向第三方披露。特格威和承包商之间已存在的所有保密协议应保持其全部效力。承包商同意赔偿特格威因其违反保密义务而产生的任何损失或费用。

### 30. No-contact provision for directly contacting customers

#### 禁止直接联系客户

The contract shall be obliged not to get into contact with the customer directly during the service life of the respective sites handed over to the customer by TGW regarding business activities in connection with these sites without the written consent of TGW, or to forward any orders of the customer in connection with the sites to TGW and refer the customer to TGW for the award of contracts. This obligation shall be legally binding for all depending companies and companies of the supplier which are connected via majority shareholding.

承包商在特格威向其移交项目现场为客户提供服务期间，未经特格威的书面许可，承包商不得就有关现场的商务活动直接联系特格威的该客户，也不得获取与前述项目现场有关的客户订单并转交给特格威或者为了与该签订客户合同而向客户提及特格威。承包商的所有非独立的分支机构以及与承包商有控股关系的公司均应当遵守此项义务。

The contractor commits to pay a contractual penalty to the amount of 100,000 Euros for every violation of this provision. The contractor shall not be allowed to exempt himself from observing the above provisions by paying this contractual penalty. TGW shall be entitled towards the contractor to claim any damage exceeding the indicated amount of the contractual penalty.

承包商承诺，其应当为每一次违反本项规定支付违约金100,000.00欧元。但支付违约金之后，承包商仍应当遵守此项规定。如果特格威的损失超出前述金额的违约金，则特格威仍有权要求承包商作进一步的赔偿。

### 31. Data protection

#### 数据保护

TGW points out that the contractor's data will be electronically saved and only used for the purpose of the contract.

特格威指出，承包商的数据将以电子方式存储，但仅限于本合同之目的。

### 32. Compliance

#### 合规

The contractor shall commit to comply with the Code of Conduct. This Code of Conduct is an integrative part of the present Terms and Conditions of Purchase, and available on the website under [www.tgw-group.com](http://www.tgw-group.com).

承包商承诺遵守行为准则。本行为准则构成当前采购条件和条款的一部分，且可在[www.tgw-group.com](http://www.tgw-group.com)网站上查阅。

### 33. Customs / export control

#### 海关/出口限制

The contractor shall be obliged to inform TGW about any obligation to obtain a permit in case of re-exports of his goods in accordance with German, European, US exportation and customs regulations as well as the exportation and customs regulations of the country of origin of his goods in his business documents. Therefore, the contractor shall at least provide the necessary information as required according to the relevant customs and export regulations in his quotes, order confirmations and invoices for the affected items. The contractor shall be obliged upon TGW's request to communicate all further foreign trade details on his goods and their components to TGW in writing, and to immediately inform TGW (prior to the delivery of the affected goods) about all changes of the aforementioned details in writing.

依据德国、欧洲、美国出口和海关条例以及承包商贸易文件涉及的货物原产国的出口和海关条例规定，承包商有义务告知特格威，有关其再出口是否需要获取许可。因此，承包商至少应在其报价、订单确认函以及发票中针对受影响的货物注明有关海关和出口条例所要求的必要信息。应特格威要求，承包商有义务以书面形式告知特格威有关其货物及其零部件的所有进一步的外贸交易信息，并且（在交付受影响货物之前）以书面形式告知特格威所有上述细节的变更。

### 34. Spare parts proposal

#### 零部件计划

The contractor shall guarantee spare parts supplies at least for a period of 5 years. The price maintenance period of the spare parts proposal must not be less than 18 months.

承包商应至少保证5年的零部件供应。零部件计划中的价格维持期限不得少于18个月。

### 35. Place of fulfilment, choice of law and jurisdiction

#### 履约地点、适用法律以及管辖权

For all rights and obligations arising from the legal transactions made with TGW, the place of fulfilment for both parties shall be the respective construction site address, or, failing to name an address, the legal address of TGW China Co., Ltd. in Shanghai, PR China.



# TGW's General Terms and Conditions of Purchase

## 特格威通用采购条款和条件

for the purchase of systems, equipment and components

用于系统、设备及部件的采购

Version: 11/2017

版本: 11/2017

因与特格威的合法交易而产生的所有权利和义务，双方的履约地点应为其相应的施工场地，或如果未能指定一个地址，则为特格威贸易（上海）有限公司在中国上海的法定地址。

This agreement shall exclusively be subject to the substantive law of PR China. Conflict of laws of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG) shall expressly be excluded.

本协议仅适用中国实体法。国际私法的冲突法规则与联合国国际货物销售合同公约（GISG）-均不适用。

All disputes arising from or in connection with the agreement concluded by TGW and the contractor or the execution thereof shall be submitted to and finally settled – without recourse to the ordinary courts of law - by the China International Economic and Trade Arbitration Commission for arbitration which shall be conducted in accordance with the Commission's arbitration rules in effect at the time of applying for arbitration. The number of arbitrators shall be three. Each Party appoints one arbitrator. The presiding arbitrator is appointed by the chairman of China International Economic and Trade Arbitration Commission if the Parties cannot reach mutual consent in respect of ap-pointing the presiding arbitrator. The arbitration award shall be final and binding upon all Parties. The arbitration fee shall be borne by the losing party. Place of arbitration shall be Shanghai, the language of the arbitration shall be Chinese.

由特格威和承包商签署的协议或该协议的履行引起的或与之有关的所有纠纷由中国国际经济贸易仲裁委员会依据申请仲裁时有效的委员会仲裁规则进行最终仲裁，不得诉诸法院。仲裁员共三人。双方各方指定一名仲裁员。如果双方对指定首席仲裁员未达成一致意见，则首席仲裁员由中国国际经济贸易仲裁委员会主席指定。仲裁裁决为最终裁决并且对当事人具有约束力。仲裁费用由败诉方承担。仲裁地点为上海，仲裁语言为汉语。

### 36. Severability clause

#### 可分割性条款

In the event that one or several of the provisions contained herein shall be held to be invalid, illegal or unenforceable, the contracting parties shall be obliged to agree another provision that comes as close as possible to the economic intent of the contract which the contracting parties originally wished to pursue with the invalid or unenforceable provision. This shall also apply for possible loopholes of the agreement. The invalidity, illegality or unenforceability of the respective provision(s) shall not affect any other provision of this contract.

如果本协议中的一条或多条规定无效、违法或不可执行，合同各方有义务参照其最初希望通过无效或不可执行条款实现的目的达成最接近其经济目的的其他条款的约定。这也适用于可能存在的协议漏洞。相关条款的无效、违法或不可执行性不得影响本合同的任何其他条款。

### 37. Final provisions

#### 最终条款

The titles of the provisions contained in the present General Terms and Conditions of Purchase shall only serve for better clarity and must not be used for interpretation.

当前通用采购条款和条件中的条款标题仅为清晰起见而设，不得用作对条款的解释。

No business development taking place between the contractor and TGW and no delay or default regarding the exercise of a right, legal

remedy or means granted to TGW according to the present General Terms and Conditions of Purchase shall be deemed as waiver of these rights. Any of the rights and legal means granted in these TGW Terms and Conditions of Purchase or any of the legal remedies granted in these Terms and Conditions of Purchase shall be cumulative and exist coequally and additionally to other legally granted rights, legal remedies and means.

承包商和特格威之间的业务开发以及延迟履行或不履行依据本通用采购条款和条件授予特格威的某项权利、法律补救措施或方法均不得被视为对这些权利的放弃。这些采购条款和条件中授予的任何权利和法律方法或任何法律补救措施均可并列适用，且与法律授予的其他权利、法律补救措施和方法同等且共同存在。

This TGW General Terms and Conditions of Purchase has been furnished in English and Chinese. TGW and the supplier hereby acknowledge that both versions shall be equally binding. In the event of discrepancies between the versions, then the Chinese version shall prevail.

本特格威通用采购条款提供中英文版本。特格威与供应商确定两种版本同等有效。如两种版本有不同之处，以中文版本为准。