



## Standard Terms and Conditions of Sale as of July, 1<sup>st</sup> 2021

## 标准销售条款和条件 (2021年7月1日)

### I. Scope of application

1. The delivery of products by **MD Asia-Pacific (Beijing) ELECTRONICS Co., Ltd.** and **MD (China) ELECTRONICS Co., Ltd.** (hereinafter referred to as "MD") at all locations as well as the performance of any services in connection therewith including, but not limited to, supply, installation and assembly services, is governed exclusively by these Standard Terms and Conditions of Sale. MD does not accept the buyer's standard terms and conditions. The buyer's standard terms and conditions only become an integral part of the contract to the extent that MD has given its express written consent.

2. Agreements made with the buyer on a case-by-case basis (including side letter arrangements and modifications) always prevail over these Standard Terms and Conditions of Sale. In the absence of proof to the contrary, the written contract or our written acknowledgement is authoritative for interpreting the substance and contents of such agreements.

### II. Offers

1. Any offers and quotes submitted by MD are always considered to be of a non-binding nature and subject to confirmation and are only accepted upon written order confirmation or shipment of products. This rule also applies if MD provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, cost estimates, references to DIN standards), other product descriptions or documents - including, but not limited to, information in electronic format; MD retains title and reserves ownership as well as copyright with respect to any such documents.

2. MD reserves the right to assign contractual obligations to subcontractors for the purpose of performance of its obligations.

3. Upon placement of a purchase order, the buyer entered into a commitment to take delivery. Quantity in derogation from the purchase order is subject to MD's prior written consent.

4. Modifications of offers and order confirmations by the buyer are only valid once MD has given its express written consent.

### III. Pricing

### I. 适用范围

1. 迈恩德亚太（北京）电子有限公司和迈恩德（中国）电子有限公司（以下统称“迈恩德”）在所有生产场地交付的产品以及与之有关的任何服务的履行（包括但不限于供应、安装和组装服务）均仅受本标准销售条款和条件的约束。迈恩德不接受买方的标准条款和条件。仅在获得迈恩德明确书面同意的情况下，买方的标准条款和条件的全部或部分才会成为本合约的组成部分。

2. 与买方根据具体情况达成的书面协议（包括通过附加条款进行约定和修改）始终优先于本标准销售条款和条件。在缺乏相反证据的情况下，双方达成的书面合同或迈恩德的书面确认函对于解释该等协议的实质和内容具有权威性。

### II. 要约

1. 迈恩德提交的任何报价均始终被视为不具有约束性且需要确认，并仅在获得书面订单确认或产品发货后才视为该报价作为双方确认的实质要件。如果迈恩德向买方提供目录、技术说明文件（例如图纸、平面图、计算、成本估算和 DIN 标准的参考）、其他产品说明或文件（包括但不限于电子格式的信息），则本规则也适用；迈恩德保留与任何该等文件有关的所有权以及版权。

2. 迈恩德保留为履行其义务而将合同义务转让给分包商的权利。

3. 下达采购订单时，即视为买方已经做出了接受交货的有效承诺。但采购订单中出现数量减损的，须经迈恩德事先书面同意。

4. 仅在获得迈恩德明确书面同意的情况下，买家对要约和订单确认函的修改才能生效。

### III. 定价

1. Unless explicitly stated otherwise on a specific offer or order confirmation, prices are stated and quoted by MD Free Carrier (FCA) from the respective MD site pursuant to Incoterms 2020 plus value-added tax at the statutory rate and excluding appropriate packaging.

2. MD reserves the right to adjust the pricing of its products accordingly in case MD, as a result of changes occurring on the market, cannot avoid having to buy raw materials at prices that exceed raw material prices that prevailed at the time of formation of contract. In case raw materials are temporarily unavailable on the market, delivery periods are extended accordingly.

#### IV. Terms of delivery

1. Delivery is only to be made on condition that the buyer has duly performed the buyer's obligations in due time. MD reserves the right to withhold performance pleading the defence of non-performance of contract by the contracting party (*exceptio non adimpleti contractus*).

2. Unless explicitly stated otherwise on a specific offer or order confirmation, delivery is made Free Carrier (FCA) from the respective MD site pursuant to Incoterms 2020.

3. It is permitted for MD to supply quantities which are 10% in excess or below (+/- 10%) the quantity stated in the purchase order. The actual quantity delivered is charged with the invoice.

4. MD reserves the right to make reasonable delivery by instalments. MD reserves the right to claim partial payment for partial delivery.

5. Any dates referred to in the offer, order confirmation or delivery documents as "scheduled dates" or "requested dates" are to be considered to be dates which are not legally binding to the extent that performance is only to be considered to be due after a specific request has been made to this effect by the buyer and the buyer has sent MD such notice requesting MD to perform within a reasonable new time limit set for MD to perform.

6. In the event that the buyer has failed to provide the whole set of necessary documents, approvals and other services and information in due time, the time allowed for MD to make delivery is extended accordingly without the buyer being entitled to raise any claims as a result.

1. 除非在具体要约或订单确认函中另有明确规定，否则价格由相应迈恩德生产场地的迈恩德货交承运人 (FCA) 根据 2020 版《国际贸易术语解释通则》加上法定税率的增值税提出和报出，但不包括适当的包装费用。

2. 如果由于市场上发生的变化，导致迈恩德无法避免地以超过合同订立时的原材料市场价格的价格购买原材料，则迈恩德保留根据相应情况单方调整其产品定价的权利。如果市场上原材料暂时缺货，经迈恩德提前通知后，则交货期相应延长。

#### IV. 交货条款

1. 仅在买方按时充分履行其义务的情况下交货。在对方提出不履行合同的免责辩护 (*exceptio non adimpleti contractus*) 时，迈恩德保留拒绝履行合同的权力。

2. 除非在具体要约或订单确认函中另有明确规定，否则由相应迈恩德生产场地的迈恩德货交承运人 (FCA) 根据 2020 版《国际贸易术语解释通则》交货。

3. 允许迈恩德供应的数量超过或低于采购订单中规定数量的 10% (±10%)。买方同意按实际交货数量的发票按时支付货款。

4. 迈恩德保留以合理方式分批交货的权利。迈恩德保留要求为部分交货支付部分货款的权利。

5. 要约、订单确认函或交货文件中称为“预定日期”或“要求日期”的任何日期均应被视为不具有法律约束力的日期，除非买方已为此提出具体要求并已向迈恩德发出该等书面通知，要求迈恩德在新规定的合理期限内履约且经迈恩德同意的，则该期限具有约束力。

6. 在买方未能及时提供全套必需文件、批准和其他服务和信息的情况下，则迈恩德可相应延长交货时间，而买方无权就此提出任何索赔。

7. Where MD is unable to adhere to a binding delivery period for reasons for which MD may not be held responsible (non-availability of performance), MD will inform the buyer thereof and at the same time notify the buyer of the likely new delivery period. If the performance is not available within the new delivery period either, MD reserves the right to revoke the contract in part or as a whole; MD will refund any consideration the buyer may already have provided without reproachable delay. Non-availability of performance within the meaning of this term includes, but is not limited to, the absence of timely and/or proper availability of supplies from MD's supplier to the extent MD has entered into a congruent cover purchasing transaction, neither MD nor MD's supplier are at fault and MD, on a case-by-case basis, does not have the obligation to source the material or product concerned.

8. The obligor is deemed in delay with delivery once the conditions specified by law have been satisfied. It is, however, definitely necessary for the buyer to send MD as the obligor a dunning notice/notice of arrears for MD to be in delay with performance. If MD is in delay with delivery, the buyer reserves the right to claim liquidated damages sustained as a result of delay in addition to performance. Liquidated damages are add up to 0.5% of the net price (value of the goods to be delivered) for each clear calendar day of delay up to a maximum total of 5% of the value of the products delivered late. MD reserves the right to furnish evidence of the fact that the buyer has either not sustained any loss, damage or harm at all or that the actual amount of loss, damage or harm incurred, as a matter of fact, is lower than the lump sum specified above.

9. In the event of force majeure, substantial impairment of performance by third-party attacks on MD's IT systems, qualification by foreign trade and investment law, inappropriate or untimely delivery effected by MD's suppliers or comparable events which MD cannot be held responsible for, the delivery period is extended accordingly without the buyer having the right to assert any claims as a result.

10. If the buyer is late in accepting performance (mora creditoris) or has breached its obligations to cooperate in any other negligent or intentional way, MD reserves the right to charge the buyer for the loss or damage suffered by MD as a result, including any additional expenses that may have been incurred. This also includes storage of the affected products which MD may, at its discretion, see to at the expense and risk of the buyer. MD reserves the right to assert additional claims. In case the buyer is late in accepting performance, the risk of accidental loss or destruction

7. 如果因不可归责于迈恩德的原因导致迈恩德未能遵守具有约束力的交货期限（或无法履约的），则迈恩德将会就此情况告知买方，并同时可能的新的交货期限通知买方。如果在新交货期限内仍然无法履约，则迈恩德保留撤销部分或全部合同的权利，在此情况下，迈恩德将向买方退还对应已支付的对价，不得无故拖延。本条款所指的无法履约包括但不限于，迈恩德与其供应商已就相应标的物达成一笔相符的采购交易，但该供应商在迈恩德或其自身均无过错的情况下，没有及时和/或适当供应商品，而迈恩德并无义务采购有关材料或产品（视具体情况而定）。

8. 即使满足法律规定的条件，义务人也不被视为延迟交货，仍需买方有必要向义务人迈恩德发送书面的催货通知/货物拖欠通知，迈恩德收到通知后限期仍未交货的，这样迈恩德才能视为延迟履约。如果迈恩德延迟交货，则除继续履约交货义务以外，买方保留索偿因延迟交货而造成的违约金的权利。延迟交货期内的每个自然日均按上限为净价（延迟交付商品价值）0.5% 的金额计算违约金，该违约金合计上限为延迟交付商品价值的 5%。若义务人迈恩德迟延履行，但对于买方根本并未遭受任何损失、损害或伤害的事实或者买方所遭受损失、损害或伤害的实际金额在事实上低于上述违约金总额的情况，迈恩德保留就此提供证据的权利。

9. 如果发生不可抗力，第三方对迈恩德的 IT 系统的攻击严重损害其履约能力，对外贸易和投资法规定的资质变更或提出新要求，技术管制，由迈恩德的供应商造成的不适当或不及交货或者迈恩德不负有责任的相应延长交货期等情况，买方无权就此提出任何索赔。

10. 如果买方迟延接受履约 (mora creditoris) 或以任何其他疏忽或故意的方式违反其合作义务，则迈恩德保留向买方收取自身所遭受损失或损害（包括可能产生的任何其他费用）的权利。这也包括存储受影响的产品，迈恩德可自行决定处理方式，费用和 risk 由买方承担，迈恩德保留主张额外索赔的权利。买方同意，如果买方迟延接受履约，则在其不接受或做出其他违反合作义务行为的违约时间起，产品的意外损失、损毁或意外变质等全部风险均已转移给买方。

or accidental deterioration of the goods passes to the buyer as of the time of default in acceptance or commission of any other breach of the obligation to cooperate.

11. The buyer has no right to refuse acceptance of delivery for defects or non-conformities that may be detected and remedied with ease and eliminated at low cost (unerhebliche Mängel).

## V. Terms of payment

1. In case the buyer is late with payment, MD reserves the right to charge interest for late payment and withhold any contractual performance that may still be outstanding, if any, until the claim due has been settled.

2. The terms of payment stated in the offer are conditional upon availability of sufficient collateral to secure MD's claims. In case the business credit insurance no longer covers the receivable or subject to the business credit insurance's recommendation, MD reserves the right to reduce the time allowed for payment as it sees fit. If there are legitimate doubts as to the solvency of the buyer (for instance with a view to the buyer being late with payment, the amount covered by the credit insurance and/or reports about the buyer's imminent bankruptcy), MD also reserves the right to make contractual performance still outstanding conditional upon the provision of collateral or making of advance payment.

3. The buyer only has the right to offset claims against claims that have been declared final and absolute or are that not contested or denied. This is without prejudice to the rights the buyer has in case MD has not delivered as owed.

## VI. Retention of title and ownership

1. MD retains title to products sold until the present and future claims of MD which have arisen from the sale and purchase agreement and the ongoing business relationship (the secured claims) have been settled.

2. Should the buyer act in breach of the contract which includes, but is not limited to, failure to pay the purchase price due, MD reserves the right to revoke the contract in line with the provisions of the law and/or request restitution of the products underlying the retention of title. The restitution claim does not automatically include a declaration of revocation of contract; rather, MD reserves the right to merely request restitution of the products and reserves the right to revoke the contract. In the event that the buyer

11. 对于交货中可以轻松发现和修复并以低成本消除的缺陷或不合格 (unerhebliche Mängel), 买方无权拒绝接收。

## V. 支付条款

1. 如果买家延迟付款, 则迈恩德保留就拖欠款项收取利息的权利, 并在应付款项得到解决之前拒绝履行任何尚未履行的合同义务。

2. 迈恩德有权在要约中对所规定的支付条款以买方提供有足够的抵押物为迈恩德的债权做担保为条件。如果商业信用保险范围不再涵盖应收账款, 或受商业信用保险建议的约束, 则迈恩德保留酌情缩短付款时间的权利。如果对买方的偿付能力存有合理怀疑 (例如, 考虑到买方延迟付款、信用保险涵盖的金额、有关买方商业信誉严重下降的报道和/或有关买方即将破产、重组的报告), 迈恩德还保留以提供担保或者提前付款为条件才继续履行合同的权力。

3. 买方仅有权用已被司法机构裁定为最终和绝对的索赔, 或者未被质疑或拒绝的索赔抵消迈恩德的金钱债权。这并不影响买方在迈恩德未交货时所享有的权利。

## VI. 保留所有权

1. 迈恩德保留对所售产品的所有权, 直到迈恩德根据买卖协议和持续的业务关系而提出的现有或将来的货款债权或索赔得到清偿或解决为止。

2. 如果买方出现包括但不限于未能支付到期货款、延迟接受履约等违反合约的行为, 迈恩德保留根据法律规定撤销合同和/或要求归还保留所有权产品的权利。迈恩德提出返还产品的要求并不视为自动撤销合同, 相反, 迈恩德保留仅要求归还产品的权利, 还保留撤销合同的权利。如果买方未能支付到期货款, 则仅在迈恩德已事先为买方设定时限, 要求其在该日期前付款 (但未成功) 或者法律并未规定设定该等时限的情况下, 迈恩德才可以主张该权利。

fails to pay the purchase price due, MD may only assert these rights after MD has, in advance, set the buyer, without success, a time limit requesting that the buyer pay by that date or if it is specified by law that no such time limit has to be set.

3. Until further notice, the buyer is entitled pursuant to lit c) below to process and/or resell the products underlying the retention of title as part of its ordinary business practices. In this case, the following provisions apply in supplement.

a. The retention of title extends to taking property in the full value of products created with the products delivered by MD when something new has been made (specificatio, specification) or the products delivered by MD have been processed, mixed or physically united/added (commixtio et confusio, commixtion and/or confusion) into new products with MD being deemed the manufacturer for this purpose. In case of retention of the ownership right of third parties in property when MD's products are being used for creating new products by processing, commixtion or accession, MD obtains a proportional co-ownership right which is based on the invoice value of the products used for processing, commixtion and/or accession. Otherwise the same rules which apply to the products delivered subject to retention of title applies to the created product.

b. The buyer herewith offers to MD, as security, the claims it may incur vis-à-vis third parties as a result of resale of the products or the created product, in total or in the amount of the proportional co-ownership share of MD, if any, pursuant to the preceding paragraph. MD herewith accepts such offer of assignments of such claims.

c. The buyer as well as MD reserves the right to collect the claims. MD undertakes to refrain from collecting such claim for as long as the buyer meets its payment obligations vis-à-vis MD, its capacity to perform is not impaired and MD has not invoked its retention of title. Should this be the case, however, MD reserves the right to request that the buyer disclose to MD the assigned claims as well as the identity of the obligors owing these amounts (debtors), provide any information that may be required for collecting the claims, hand out the associated documents and notify the debtors (third parties) of the assignment of the claims. MD in this case also reserves the right to revoke the authority granted to the buyer to resell and process the products covered by the retention of title.

d. If the realisable value of the collateral exceeds MD's claims by more than 10%, MD will, at the buyer's request, release collateral of MD's choice.

4. The products delivered subject to retention of title may not be pledged and legal title to the products delivered may not be transferred as security. This also

3. 除非另行通知，否则作为其普通商业惯例的一部分，买方应当根据以下第( c) 项处理和/或转售保留所有权的的产品。在这种情况下，以下其它项规定作为补充适用。

a. 如果已产生新的规格、规范或者迈恩德交付的产品已经过加工、混合或者物理结合/添加 (*commixtio et confusio, commixtion and/or confusion*) 至新产品，而迈恩德被视为该产品的制造商，则所有权的保留范围涵盖由迈恩德交付的产品所创造产品的全部价值。如果将迈恩德的产品用于加工、混合或添加至第三方产品以创造新产品时，第三方仍保留第三方产品的所有权，则迈恩德会根据用于加工、混合和/或添加的该产品的发票价值比例，对新产品拥有共同所有权。除此以外，适用于所交付产品的规则（保留所有权）同样适用于所创造的新产品。

b. 买方在此向迈恩德提供其可能因转售产品或所创造产品而对第三方产生的债权作为担保，债权总额或迈恩德所享有的共同所有权（如有）份额依据前款 a 项规定。迈恩德在此接受该等债权作为担保的提议。

c. 买方和迈恩德保留共同收取买方可能因转售产品或所创造产品而对第三方产生的债权的权利。迈恩德保证，只要买方履行其对迈恩德的付款义务，其履行能力未受损害，而且迈恩德尚未行使其保留所有权，则迈恩德不会收取该等债权。但是，在这种情况下，迈恩德保留以下权利：要求买方向迈恩德披露所转让债权以及欠下此类款项的义务人（欠债人）身份，并提供收取债权可能需要的任何信息，分发相关文件以及就债权转让的事项应迈恩德的要求通知欠债人（第三方）。在这种情况下，对于向买方授予的转售和处理所有权保留范围所涵盖的产品的授权，迈恩德还保留撤销该授权的权利。

d. 如果买方另行提交的抵押物在变现难易程度相等或更为容易的且可变现价值超出迈恩德债权的 10%，则迈恩德将应买方的要求，更换抵押物并解除迈恩德已选择的抵押物上的担保责任。

4. 保留所有权的交付产品不得抵押或质押，且交付产品的合法所有权不得作为担保转让。本条规定也比

applies, mutatis mutandis, with respect to claims assigned pursuant to clause 3b above.

### **VII. Liability for defects concerning the quality and/or characteristics of the goods and/or concerning legal title (Gewährleistung)**

1. The rights of the buyer in case of defects concerning legal title and/or concerning the quality and/or characteristics of the goods (including delivery of goods (Sach- und Rechtsmängel) other than those ordered and short delivery as well as improper assembly or erroneous assembly instructions) is governed by law unless specified otherwise hereinafter. This is without prejudice to special provisions of the law governing final delivery of the unprocessed products to a consumer even if the latter processed them (recourse of the businessperson or entrepreneur pursuant to section 478 of the German Civil Code, BGB). The right to claim from the supplier a refund of expenses incurred in relation to the purchaser (seller's right of recourse) is excluded to the extent that the defective or non-conforming products have been processed by the buyer or another businessperson/entrepreneur, for instance by installation into another product. Claims from the seller's right of recourse may only be asserted to the extent that the buyer has not assumed vis-à-vis the purchaser buying the goods off the buyer any warranties beyond the scope of the statutory claims for defects concerning the quality and/or characteristics of the goods and/or concerning legal title.

2. As far as the quality (Beschaffenheit) of the product is concerned, exclusively the characteristics and features explicitly specified in the respective data sheets and the respective sample inspection documents are relevant. Any characteristics and features not explicitly listed are not deemed to have been agreed upon and warranty therefore is not extended to them. As far as liability for defects concerning the quality and/or characteristics of the goods and/or concerning legal title (Gewährleistung) is concerned, it needs to be taken into account that the characteristics and features of the product may be impaired by certain influencing factors; this includes, but is not limited to, the fact that the product features are the result of a selected combination of the individual features and characteristics of the input stock (including, but not limited to, cable material and connectors) approved by the respective customer, e.g. system supplier or OEM ("user"). These features and characteristics may be impaired by industrial processing (e.g. printing, hot stamping, overmolding), the specific design of the product (e.g. length of cable, fixing of labels, cable ties, mounting devices, installation of ground terminals, ferrite cores), by the

照 (mutatis mutandis) 适用于根据上述第 3b 条转让的债权。

### **VII. 与商品质量和/或特征有关和/或与法定所有权有关的缺陷责任 (Gewährleistung)**

1. 除非下文另有规定，否则如果出现与法定所有权有关的缺陷和/或与商品质量和/或特征有关的缺陷（包括所订购商品以外商品的交付和交货短缺 (Sach- und Rechtsmängel) 以及不正确的组装或错误的组装指示），则买方在该情况下所享有的权利由法律管辖。这不影响将未加工产品最终交付消费者，即使该消费者随后对其予以加工（根据《德国民法典》(BGB) 第 478 条，商人或企业家的追索权）。如果缺陷或不合格的产品已由买方或其他商人/企业家处理（例如安装到其他产品中），则无权要求供应商迈恩德退还与购买者有关费用（卖方的追索权）。对卖方追索权的主张，仅可以在以下情况下提出：对于与商品质量和/或特征有关的缺陷和/或与法定所有权有关的缺陷，买方并未就购买者向买方购买该商品的行为承担任何超出法定索赔范围的保修。

2. 就产品的质量 (Beschaffenheit) 而言，仅在相应的数据表和相应的样品检测文件中明确规定的特征和特点才与之相关。未明确列出的任何特征和特点均不视为双方已达成一致，因此保修范围并未涵盖该等特征和特点。就与商品质量和/或特征有关和/或与法定所有权有关的缺陷责任 (Gewährleistung) 而言，应考虑到产品的特性和特征可能会受到某些影响因素的损害，该等因素包括但不限于，事实上该产品特点是由相应客户（例如系统供应商或 OEM（“用户”））批准的各种输入物料（包括但不限于电缆材料和连接器）的特征和特性组合而成的。此类特征和特点可能会受到以下因素的影响：工业加工（例如印刷、烫印或二次成型），产品的特定设计（例如电缆的长度、标签的固定、电缆扎带、装配元件、接地端子的安装或铁氧体磁芯），处理过程和原材料中通常不可避免的波动（例如散装商品的夹套厚度偏差会改变颗粒的热性能）或者布线系统或车辆的具体组装情况（例如与其他电缆、电池、发动机/引擎等相互作用而成），因此车辆专用产品的适用性需要用户通过整个传递路径进行测试。一般而言，由用鉴定的产品特性应由用户自己再次予以鉴定。对于与商品质量和/或特征有关

usual and unavoidable fluctuations in process and raw materials (e.g. tolerance of jacket thickness of bulk goods varying thermal properties of granulate) or the specific assembly situation in the wiring system or vehicle (e.g. as a result of interaction with other cables, batteries, motors/engines, etc.) which is why suitability of the product for vehicle-specific use needs to be tested by the user throughout the transmission path. Product features qualified by the user are, as a general rule, to be requalified by the user itself. Only the state or condition the products are in at the time of delivery are deemed relevant for the purpose of assumption of liability for defects concerning the quality and/or characteristics of the goods and/or concerning legal title (Gewährleistung).

3. Any products that are defective or non-conforming at the time of passage of risk are at MD's discretion either to be repaired or replaced free of charge. This applies without prejudice to the right of MD to refuse to cure the defect in conformity with the requirements stipulated by law. The buyer is obligated to give MD enough time and opportunity to cure the defect as required and this includes, but not limited to, the duty of the buyer to hand out to MD for test purposes the products that are the subject-matter of the notice of defects or non-conformities. In case of delivery of a replacement, the buyer is obligated to return the defective or non-conforming object as required by law. Curing of defect neither covers removal of the defective or non-conforming object nor reinstallation thereof if MD originally did not have the obligation to install such product. Necessary expenses incurred for curing of defects including, but not limited to, costs of transportation, mileage, labour and material costs as well as explicitly including the costs of installation and removal are only be paid for by MD to the extent this is required by law if a defect or non-conformity actually exists. Otherwise the buyer indemnifies MD against the costs arising from the unjustified request to cure a defect (including, but not limited to, testing and transportation costs) unless it would not have been possible for the buyer to realise that no defect or non-conformity of the goods actually existed. Assertion of claims for defects or non-conformities by the buyer is conditional upon the buyer observing the buyer's statutory duties of inspection and giving of notice of defects and non-conformities (sections 377, 381 of the German Commercial Code, HGB). As far as products intended to be installed or otherwise processed are concerned, inspection has definitely to be performed immediately before processing.

4. MD reserves the right to refuse to cure the defect if curing such defect would be associated with disproportionately high costs. Costs of curing the

和/或与法定所有权有关的缺陷所需承担的责任 (Gewährleistung), 该责任的范围仅限于产品在交付时的状态或状况存在相关缺陷。

3. 在风险转移前, 有缺陷或不合格的任何产品均由迈恩德决定免费予以维修或更换。本条规定在不影响迈恩德按照法律规定的要求拒绝修复缺陷的情况下适用。买方有义务根据需要为迈恩德提供足够的时间和机会来修复缺陷, 其中包括但不限于买方有义务将缺陷或不合格通知中的标的物产品交给迈恩德进行测试。在交付替换品的情况下, 买方有义务按照法律规定退回有缺陷或不合格的对象。如果迈恩德原本并无安装该等产品的义务, 则缺陷的修复范围既不包括移除有缺陷的或不合格的对象, 也不包括重新安装有缺陷或不合格的对象。修复缺陷所需的费用(包括但不限于运输费用, 里程、人工和材料费用以及明确包括安装和拆卸费用), 则仅在确实存在缺陷或不合格的情况下, 由迈恩德支付在法律要求范围内的费用。除非买方不可能意识到商品实际上不存在缺陷或不合格, 否则买方应就不合理要求修复缺陷而产生的费用(包括但不限于检测和运输费用), 向迈恩德作出赔偿。买方为缺陷或不合格品提出索赔的前提是, 买方已遵守对缺陷 and 不合格进行检查并发出通知的买方义务(《德国商法典》(HGB) 第 377 条和第 381 条)。就准备安装或以其他方式加工的产品而言, 在加工前必须立即进行检查。

4. 如果修复该等缺陷会带来不相称的高额费用, 则迈恩德保留拒绝修复缺陷的权利。如果修复缺陷的费

defect are deemed disproportionately high if the costs of curing the defect exceed the value of the defective or non-conforming products.

5. Claims for defects are excluded if it is possible to detect and remedy the defect with ease and it may be eliminated at low cost. When judging the question of whether a visual flaw is deemed a defect that may be detected and remedied with ease and eliminated at low cost, it also needs to be taken into consideration whether the defect in the products delivered by MD will still be visible after installation in the vehicle.

6. MD's liability for defects concerning the quality and/or characteristics of the goods and/or concerning legal title (Gewährleistung) is excluded in particular if the buyer has used the products delivered by MD outside the scope of applications approved by MD or in other environments or subject to other conditions of use and installation than those provided for in the specifications.

7. As a general rule, MD is not liable for defects or non-conformities (Mängel) which the buyer was aware of at the time of formation of contract or which the buyer should have known but failed to notice with gross negligence (section 442 of the German Civil Code, BGB). The buyer's claims for defects are also conditional upon the buyer having performed the buyer's statutory duties of inspection and giving of notice of defect (sections 377, 381 of the German Commercial Code, HGB). As far as products intended to be installed or otherwise processed are concerned, inspection has definitely to be performed immediately before processing. MD has to be notified of the defect or non-conformity in writing without reproachable delay in case the defect is noticed upon delivery, inspection or at any other time. Patent defects or non-conformities have to be disclosed in writing within three (3) business days of delivery and latent defects or non-conformities which may not be detected upon inspection have to be disclosed in writing within three (3) business days of discovery. Should the buyer fail to duly inspect and/or disclose the defect, MD's liability for the defect or non-conformity not disclosed or not disclosed in a timely or appropriate fashion is excluded to the extent permissible by law.

8. Product components that are directed or recommended by the customer, for which the customer has only approved a single supplier or which for other reasons could not be chosen by MD as it sees fit ("customer directed parts") are only installed in line with the requirements stipulated by the component manufacturer. Any additional applicable technical regulations, standards and rules are not verified

用超出有缺陷或不合格产品的价值，则认为修复缺陷的费用过高。

5. 对缺陷的索赔不包括可以轻松发现和修复并以低成本消除的缺陷。对于可见瑕疵是否应被视为可以轻松发现和修复并以低成本消除的缺陷作出判断时，还需要考虑到迈恩德所交付产品中的缺陷在装入车辆后是否仍然可见。

6. 尤其是，如果买方在迈恩德认可的适用范围之外或在其他环境中使用，或者按照说明书规定的条件以外的其他使用和安装条件，使用迈恩德交付的产品，则迈恩德对于商品质量和/或特征有关和/或法定所有权有关的缺陷不承担责任 (Gewährleistung)。

7. 一般而言，对于买方在订立合同时已知悉的缺陷或不合格（即买方应知悉但因重大过失而未注意到的缺陷或不合格），迈恩德不承担责任（《德国民法典》(BGB) 第 442 条）。买方对缺陷提出的索赔，还以买方已履行检查并发出通知的买方义务为前提条件（《德国商法典》(HGB) 第 377 条和第 381 条）。就准备安装或以其他方式加工的产品而言，在加工前必须立即进行检查。如果在交付、检查或在任何其他时候发现缺陷，则必须就该缺陷或不合格的情况书面通知迈恩德，不得有可指责的拖延。专利缺陷或不合格必须在交货后三 (3) 个工作日内以书面形式披露，而在检查时可能无法发现的缺陷或不合格必须在发现或应当发现后三 (3) 个工作日内以书面形式披露。如果买方未能及时检查和/或披露缺陷，则迈恩德对未披露或未及时或适当披露的缺陷或不合格不承担责任。

8. 如果买方客户仅为其指定或推荐的产品组件（“客户指定零件”）批准了一个供应商，或者迈恩德出于其他原因认为客户指定或推荐的产品组件合适，但无法选择，则仅按照该组件制造商规定的要求安装这些组件。任何适用的其他技术规范、标准和规则均未经具体核定的，则仅在图纸上明确约定或明确规定的范围内予以遵守。

specifically and are only observed to the extent explicitly agreed or expressly specified on the drawing.

9. The product is marketable in the European Union or the country in which the buyer is based at the time of delivery. In case of subsequent transportation to a third country, exclusively the exporter concerned is responsible for observing and complying with applicable export and re-export regulations. The same rule applies with respect to the marketability of the product in third countries.

10. The products are exclusively intended to be used in non-security-relevant data transmission, infotainment and communication systems in the interior of vehicles. As far as waterproof connectors are concerned, it is permitted to use them in exposed positions within the scope of the selected protection class.

11. It is not permitted to use the products for military purposes and/or install them in military hardware. This rule also applies to what is referred to as "dual use" goods within the meaning of Annex I to the Dual Use Regulation of the European Union No. 428/2009.

12. MD does definitely not accept claims made by the buyer for the payment of lump-sum damages or lump-sum costs of giving notice of defects.

13. In derogation of section 438 paragraph 1 lit. 3 of the German Civil Code (BGB), the parties agree to have a general limitation period governing claims arising from defects concerning the quality and/or characteristics of the goods and/or concerning legal title of one (1) year from delivery. To the extent it was agreed to perform an acceptance test, the time relevant for calculating the limitation period starts upon acceptance.

#### **VIII. Damages, liability**

1. Unless specified otherwise in these Standard Terms and Conditions of Sale, MD is liable for contractual as well as non-contractual obligations based on the provisions of the law.

2. Whatever the legal basis, MD is liable for damages in the context of fault-based liability in case of intent and gross negligence. In cases of simple negligence, MD is liable only for the following under the provisions of the law (e.g. with respect to the standard of care in one's own affairs) except if a more privileged liability standard applies:

a. With respect to claims arising out of death or personal injury;

9. 该产品可在欧盟或交货时买方所在的国家/地区销售。如果随后运往第三国，则仅由有关出口商负责遵守适用的出口和再出口条例。同样的规则也适用于产品在第三国的可销售性。

10. 这些产品专门用于车辆内部非安全相关的数据传输、信息娱乐和通信系统。就有关防水连接器而言，允许在所选防护等级范围内的裸露位置使用。

11. 不允许将产品用于军事目的和/或将其安装在军事装备中。本规则也适用于欧盟第 428/2009 号两用条例的附件 I 所指的“两用”商品。

12. 迈恩德绝不接受买方在发出缺陷通知时提出的支付一次性损害赔偿或一次性费用的要求。

13. 在《德国民法典》(BGB) 第 438 条第 1 款第 3 项有关减损的规定中，双方同意，对于与商品质量和/或特征有关和/或法定所有权有关缺陷的索赔，其适用的一般时效期限为自交货之日起一 (1) 年。在双方同意进行验收检验的情况下，则时效期限的相关时间从验收时起算。

#### **VIII. 损害赔偿、责任**

1. 除非本标准销售条款和条件另有规定，迈恩德对基于法律规定的法定义务承担责任。

2. 无论出于何种法律依据，如果出现故意和重大过失的情况，则迈恩德均在基于过失的责任范围内对损害承担责任。在简单过失的情况下，除非适用于更高的特许责任标准，否则迈恩德仅对以下事项（例如关于个人事务中的谨慎标准）承担责任：

a. 因产品缺陷致人死亡或人身伤害而提出的相关索赔；

b. 关于就违反重大条款的行为（即主要履行合同义务，该义务是合同的本质，也是当事方签订协议和守



product according to the buyer's specifications or according to mandatory technical specifications ("building to print" services); the buyer agrees to indemnify MD against any and all third-party claims that may arise in these cases.

#### **X. Audit rights**

MD agrees to give the buyer reasonable access to its business premises upon prior arrangement of an appointment and to provide a technically skilled member of staff for support for the duration of such access. It is up to MD to decide which areas, manufacturing processes and/or documents it is willing to allow the buyer to inspect.

#### **XI. Development services and tools**

When MD's scope of services extends to rendering development services for the buyer or if MD buys tools that have to be bought specifically for the job assigned to MD by the buyer, and for which the buyer is generally not charged specifically - unless otherwise agreed upon and subject to specific agreement - the buyer has the obligation to take delivery of the minimum number of units agreed in the supply contract. In the event that the buyer were to buy from MD less than this minimum number of pieces, the buyer has the obligation to pay to MD the gap versus the development and acquisition costs already included in the purchase price. In case MD renders development services to the buyer and the buyer terminates the contract before the development performance has been completed or before the acceptance test for any products based on this development performance has been performed, the buyer has to compensate MD for development costs already incurred. The buyer only becomes the owner of the tools to the extent this has explicitly been agreed in writing between the buyer and MD.

#### **XII. Prototypes**

If the product ordered by the buyer is a prototype or a product produced before start of production (hereinafter collectively referred to as: non-serial product), this means that the product has not been serially produced nor tested and inspected like a serial product. Non-serial products are delivered as a non-serial product at the buyer's explicit request and may only be used at the buyer's risk and peril. It is therefore necessary for the buyer to take the necessary precautions to ensure that non-serial products are not be used in serial production but only in sufficiently screened test environments. MD is only liable for damage, injury or loss caused by non-serial products

#### **X. 审核权利**

迈恩德同意在事先安排预约的情况下，向买方提供合理进入其特定营业场所的权限，并同意在该等进入期间提供一名技术娴熟的工作人员作为支持。由迈恩德决定愿意让买方检查哪些区域、制造工艺和/或文件。

#### **XI. 开发服务和工具**

如果迈恩德的服务范围涵盖为买方提供开发服务，或者迈恩德为买方向其分配的工作而专门购入必要的工具，并且通常并未特定向买方收取开发服务或工具购置费用（除非另有约定或根据具体协议），则买方有义务按供应合同中约定的最小数量接受交货。如果买方向迈恩德购买的产品少于该最小数量，则买方有义务向迈恩德支付已包含在采购价格中的开发费用和购置费用之间的差额。如果迈恩德向买方提供开发服务，而买方在开发履约完成之前或在根据该开发履约对任何产品进行验收检验之前终止合同，则买方必须就已发生的开发费用对迈恩德作出赔偿。仅在买方和迈恩德已明确以书面方式达成一致的情况下，买方才成为该工具的所有者。

#### **XII. 原型**

如果买方订购的产品是原型或在开始生产之前生产的产品（以下统称为：非批量产品），则意味着该产品并未像批量产品一样批量生产或检验。非批量产品应买方的明确要求作为非批量产品交付，并且仅可以在买方承担风险的情况下使用。因此，买方有必要采取必要的预防措施，确保非批量产品不会用于批量生产，而仅在经过充分保护的测试环境中使用。迈恩德仅在因故意或重大过失而造成情况下，或在导致人身伤害或死亡的情况下，对非批量产品造成的损害、伤害或损失负责。

in case this was caused intentionally or with gross negligence or in cases of physical injury or death.

### **XIII. Final provisions**

1. The contractual relations between MD and the buyer are governed by German law or Chinese law. Either party may bring a suit to a competent court with jurisdiction in Germany or China.

2. Should individual terms and conditions of these Standard Terms and Conditions of Sale be invalid, this does not affect the validity of the remaining terms or conditions. In this case, each party reserves the right to demand that a new legally valid provision which most closely reflects the economic purpose of the invalid provision be agreed.

3. The original wording of these Standard Terms and Conditions of Sale was prepared in the English language. Should there be any conflict between the English and Chinese version of this contract, the English version is deemed the only version that is legally valid.

-- End of Standard Terms and Conditions of Sale --

### **XIII. 最终条款**

1. 迈恩德与买方之间的合同关系受德国法律或中国法律管辖。任何一方均可向德国或中国具有管辖权的管辖法院提起诉讼。

2. 如果本标准销售条款和条件的个别条款和条件无效，并不影响其余条款或条件的有效性。在这种情况下，各方均保留要求就新条款达成一致的权利，该新条款的内容须为最密切反映无效条款的经济目的且合法有效。

3. 本标准销售条款和条件的最初内容以英语编写。如果本合同的英文版本与中文版本之间存在任何不一致之处，则英文版本被视为唯一具有法律效力的版本。

--以下无内容--