

## TERMS AND CONDITIONS OF SALE (CHINA)

### 销售条款及条件

**1. DEFINITIONS: “Smiths” shall mean the Smiths Interconnect entity or business, to which Customer has submitted an Order.**

定义：“史密斯”系客户提交订单的 Smiths Interconnect 下的一家公司或业务。

“Customer” shall mean the person(s), company or other entity that purchases Product/Services from Smiths pursuant to the Order.

“客户”指根据订单从史密斯购买产品 / 服务的个人、公司或其他实体。

“Customer Delay” shall mean any delay by the Customer in performing any contractual obligation or any other circumstance for which Customer is responsible, including, without limitation, delays in attending or conducting testing (if applicable), taking delivery or arranging shipment or import clearance, or being available for receipt of Services.

“客户延迟”指任何客户在履行合同义务或其他客户负责情况下的延迟，包括但不限于在参加或进行测试(如适用)、提货或安排装运或进口清关或服务接收等情况下的延迟。

“Intellectual Property” shall mean all intellectual property and/or proprietary rights, technical information and data of all kinds, whether registered or unregistered or subject to statutory protection or not, included in the Products/Services, such as without limitation, inventions, patents, copyrights, designs know-how and trade secrets, or other confidential or proprietary information whether developed, generated, or acquired by Smiths before or after the effective date of an Order, or in the course of performance of an Order.

“知识产权”指产品/服务中包含的所有知识产权和/或专有权利、各种技术信息和数据；无论其是否已注册，或受法规保护；无论史密斯是在订单生效日期之前、之后或执行订单过程中开发、生成或获得的。包括但不限于发明、专利、版权、设计专有技术和商业秘密，或其他机密及专有信息。

“Order” shall mean the agreement between Smiths and the Customer (individually “Party” and collectively “the Parties”) for the sale and purchase of the Product/Services, including the Terms and Conditions of Sale herein, signed by both Parties, and firmly attached hereto.

“订单”指史密斯和客户（两者单称“一方”、合称“双方”）之间达成的产品 / 服务销售和购买协议，包括本销售条款及条件，以及紧随本销售条款及条件后附的、经双方签字的任何书面文件。

“Product” means all components, spare parts, goods, product, or materials of any kind, which are supplied by Smiths under the Order.

“产品”指史密斯在订单项下供应的所有组件、备件、货物、产品或任何种类的材料。

“Services” means all services, including maintenance and installation services, provided under the Order.

“服务”指在订单项下提供的、包括维护和安装服务在内的一切服务。

**2. OFFER AND GOVERNING PROVISIONS:** Smiths is not obligated to accept orders placed by the Customer. Submission by the Customer of an order is an offer by the Customer to purchase Product/Services in accordance with these Terms and Conditions of Sale. The Order shall be formed and come into existence on the earlier of: (i) Smiths issuing and delivering to the Customer a written acknowledgement of the Order; (ii) Smiths commencing manufacture or assembly of the Product; (iii) Smiths delivering the Product to the Customer; or (iv) Smiths commencing the provision of the Services; or (v) receipt by Smiths of payment or part-payment for the relevant Product and/or Services. Each Order is expressly conditioned upon the Customer's assent to these Terms and Conditions of Sale. Smiths objects to any additional or different terms contained in any purchase order or other communication previously or hereafter provided by Customer to Smiths. No such additional or different terms or conditions will be of any force or effect. The terms of the Order will be the entire agreement between Customer and Smiths on the subject of the transaction that it describes.

**要约和适用规定：**史密斯没有义务接受客户的订单。客户提交订单即表示客户根据本销售条款及条件购买产品/服务。订单应在以下最早的时候成立并生效：(i) 史密斯向客户发出并交付订单的书面确认；(ii) 史密斯开始制造或组装产品；(iii) 史密斯将产品交付给客户；(iv) 史密斯开始提供服务；或(v) 史密斯收到有关产品和/或服务的付款或部分付款。每笔订单明确地以客户对本销售条款及条件之同意为条件。史密斯不接受客户以前或在文件签发之后向史密斯提供的任何订单或其他通信文书中含有的任何追加条款或不同条款。该等追加的或不同的条款或条件均不会具有任何效力。订单的各项条款将是客户和史密斯之间签订的、关于订单所述交易标的的全部合意。

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#### 3. PRICE AND PAYMENT 价格与支付:

(A) Payment in full of the purchase price shall be made in Peoples' Republic of China currency in accordance within 30 days of the date of invoice and may only be paid by electronic bank transfer, unless otherwise agreed and shown on the original quote or invoice.

除非原始报价或发票另有约定，全部货款应在发票载明日期的三十（30）天内、以中华人民共和国法定货币支付，且只能以电子银行转账方式支付。

(B) Punctual payment as stipulated herein is of the essence for the Order. When any sum owed by Customer to Smiths under the Order is overdue, Smiths may, without notice to Customer, either:

按照本条款的规定准时付款对**订单**而言至关重要。如果**客户**在**订单**项下欠付**史密斯**的任何款项逾期，则**史密斯**可采取以下措施而无需向**客户**发出通知：

(i) cease the supply of further Product/Services under the Order without liability for any loss (including loss of profit or other financial or economic loss) to Customer until such sum, together with such interest as may be due thereon, is paid; or

停止供应**订单**项下的进一步**产品 / 服务**，并且不对**客户**的任何损失承担（包括利润损失或其他财务或经济损失）责任，直到**客户**向**史密斯**支付了该笔款项及其可能到期的利息为止；或者

(ii) terminate the Order and any other agreements between Smiths and Customer, whether or not any sums are due for payment by Customer there under, without liability on the part of Smiths. Customer shall pay Smiths immediately all sums due and outstanding under all such agreements with respect to Product/Services, supplied or ordered by Smiths in partial execution of the agreements, together with all overhead and other costs incurred by Smiths as a result of such termination.

终止**订单**以及**史密斯**和**客户**签订的任何其他协议，无论**订单**和该等协议项下是否有**客户**到期应付的任何款项，且**史密斯**不承担任何责任。对于在所有该等协议项下的、已到期但未付的、与**产品 / 服务**（为部分实施该等协议而供应或订购的）相关的所有款项，**客户**应立即向**史密斯**支付，并应支付**史密斯**因该等终止而产生的所有间接成本和其他成本。

(C) No defect in the Order of the Product/Services shall operate to interfere with the terms of payment. If payment is not made as provided above, Customer shall thereby be deemed to have waived the warranties provided in Section 9 hereunder. Smiths may demand different terms of payment from those specified on the face of the Order, whenever it has reasonable evidence that Customer's financial condition requires such changes, and may demand assurance of the Customer's ability to pay whenever it has reasonable evidence that such ability is in doubt. Such demand shall be in writing and Smiths may, upon making such demand, stop production and/or suspend shipments hereunder.

**产品 / 服务**的**订单**中的任何缺陷均不得对付款条款形成妨碍。如果**客户**未按上文规定付款，则**客户**应被视为已豁免了本销售条款及条件项下的第9条中规定的保证。无论何时，只要**史密斯**有合理证据证明**客户**的财务状况使变更付款条款变得有必要，**史密斯**便可要求采用与**订单**规定的条款不同的其他付款条款；只要**史密斯**有合理证据证明**客户**的付款能力存在疑问，**史密斯**便可要求**客户**做出付款能力保证。**史密斯**的该等要求应采用书面形式提出，且一经提出，**史密斯**便可立即停止本销售条款及条件项下的生产活动并 / 或中止发货。

(D) If Customer is in default of any payment obligation, Smiths is, without reminder and prejudice to any other rights, entitled to charge a penalty interest at a rate of 1.5 times the benchmark lending rate for 1-year term loan published by the People's Bank of China at the due date of payment for any outstanding sum, beginning with any due date of payment.

如果**客户**不履行任何付款义务，则**史密斯**有权在不发出通知且在不影响任何其他权利的情况下，对任何欠付款项收取罚息，罚息利率为中国人民银行于该等付款到期之日公布的1年期定期贷款基准贷款利率的1.5倍，从该等款项的到期之日起算。

(E) The Prices for Product and/or Services shall be the prices set out in the Order, or if no price is quoted, the price set out in the published price list or pricing agreement in force at the date of delivery. Notwithstanding the foregoing, Smiths may: (i) correct quantities or prices due to typographical, clerical or mathematical errors; and (ii) by giving notice to the Customer at any time before delivery, increase the price of the Product and/or Services to reflect any increase in the cost of the Product/Services that is due to: (i) any request by the Customer to change the mode or place of delivery, delivery date(s), quantities, Specification or types of

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Product/Services ordered or the Customer requests any other alteration to the Order; (ii) a request by the Customer to make any modification to the Product/Services; (iii) increases in the cost of raw materials or other input costs; (iv) any delay caused by instructions of the Customer or failure of the Customer to give Smiths adequate or accurate information or parts; or (i) any factor beyond the reasonable control of Smiths (including but not limited to foreign exchange fluctuations, increases in taxes and duties and price increases in labour, materials and other manufacturing or development costs).

产品和/或服务的价格应为订单中列出的价格，如果没有报价，则为交货日公布的有效价格表或定价协议中列出的价格。尽管有上述规定，史密斯可以:(i)由于印刷、文书或数学错误而纠正数量或价格;以及(ii)在交付前的任何时间向客户发出通知，提高产品和/或服务的价格，以反映由于以下原因导致的产品/服务成本的任何增加:(i)客户要求更改所订购的产品/服务的交付方式或地点、交付日期、数量、规格或类型，或客户要求对订单进行任何其他更改;(ii)客户要求对产品/服务进行任何修改;(三)原材料成本或者其他投入成本的增加;(iv)由于客户指示或客户未能向史密斯提供足够或准确的信息或部件而造成的任何延误;或(i)超出史密斯合理控制范围的任何因素(包括但不限于外汇波动、税收和关税的增加以及劳动力、材料和其他制造或开发成本的价格上涨)。

**4. CANCELLATION:** SMITHS at its option and in addition to its other remedies may without liability cancel this Order or refuse shipment, if (a) Customer is in default in any payments or other performance due SMITHS under this Order or any other agreement (b) Customer becomes insolvent or a petition in bankruptcy is filed with respect to Customer (or similar event) or (c) causes beyond SMITHS 'S control or in control of SMITHS's suppliers or subcontractors prevent or make it impossible to assure SMITHS 's timely performance. Customer may cancel the remaining unfilled portion of its Order only upon written consent of SMITHS and payment of the full price for that portion of the Order that SMITHS has substantially completed at time of cancellation plus reasonable cancellation charges which shall include the full profit plus all costs incurred in connection with the canceled portion of the Order such as overhead and administrative costs, commitments made by SMITHS as a consequence of Customer's Order and the cost of all work-in-progress. Cancellation charges shall not exceed the purchase price of the canceled portion of the Order.

**取消订单:** 如存在下述情况的，除其他补救措施外，史密斯有权决定取消订单或拒绝装船且不承担任何责任：(a) 客户未履行本订单或其他合同项下的付款或其他义务；(b) 客户资不抵债或已提交破产申请（或其他类似事件）或(c) 在史密斯控制外或由于史密斯供应商/分包商的原因致使史密斯无法按时履行义务。仅经史密斯书面同意，且全额支付史密斯于取消时已实质性完成的订单部分另加合理的、包括全部利润以及与订单取消部分相关的成本，比如管理费、史密斯因客户订单产生的承诺的费用以及在制品费用的取消后，客户有权取消剩余未完成的订单部分。取消费不应超过取消部分的购买价格。

**5. DELIVERY:** Delivery Dates are estimates only. Unless otherwise agreed to in writing, all delivery hereunder is per EX works (Incoterms 2020). Deliveries shall be made during normal business hours Monday through Friday. One attempt to deliver will be made. Should delivery need to be rescheduled or there is any other Customer Delay, any additional costs incurred for redelivery and/or storage fees will be charged to the Customer. Smiths shall use reasonable efforts to make timely delivery but shall be excused from any delays arising out of causes beyond its reasonable control. Any specific delivery dates that may be stated are approximate. Smiths shall, to the fullest extent permitted by applicable law, not be liable for damages, incidental or consequential (hereinafter contemplated as including, but not limited to, damages for lost profits, lost sales and injury to person or property), for delays, or failure to give notice of delay. Customer agrees not to make such claim on Smiths. Unless otherwise agreed to in writing, title and risk of loss to Product passes to Customer on completion of delivery of Product in accordance with the applicable Incoterm.

**交付:** 交付时间仅是预计时间。除另有书面约定之情形外，所有交付适用 Incoterms2020 EX Works 术语。交付应在周一至周五的正常营业时间内进行。交付之前应制定交付计划。如果客户需要对交付时间计划进行变更，则因重新交付或客户延迟而发生的任何追加成本及 / 或储存费应由客户承担。史密斯应尽合理努力实现及时交付，但是对于因超出其合理控制的缘由导致的任何交付延误，史密斯不承担责任。可能被述及的任何具体交付日期均只是近似日期。以有关法律允许的最大程度为限，对于交付延误或未能发出延期通知导致的任何附带损害或间接损害（以下均包括但不限于预期利润损失、销售损失、人员受伤或财产受损），史密斯均不承担任何责任。客户同意不会就此向史密斯提出索赔。除另有书面约定之情形外，产品的所有权和货损风险在产品根据适用的国际贸易术语交付完成时转移至客户。

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**6. DELIVERY REQUIREMENTS:** The Customer is responsible for assuring access points for delivery of Product when necessary and is required.

**交付要求:** 客户负责确保在需要且被要求的情况下为产品的交付提供联络点。

**7. DELIVERY INSPECTION REPORT:** In an effort to help protect both Smiths and our Customers, we ask that before signing for receipt of your Products, the Customer conduct a thorough evaluation and inspection of the Products and complete the "Delivery Inspection Report" provided by the contracted delivery company. Customer must set out all quantity and quality issues (including apparent and hidden imperfections and defects of the Products) identified during the inspection in the "Delivery Inspection Report" and submit to Smiths within ten (10) days from receipt of delivery. Product shall be deemed accepted if the Customer does not identify any issues in the Delivery Inspection Report.

**交付检查报告:** 为了有助于保护史密斯和客户的利益, 请客户注意: 在签收您的产品之前, 请花几分钟对产品进行一次全面评估和检查, 并填写由签约递送公司提供的《交付检查报告》。客户必须将检查过程中发现的所有数量和质量问题在《交付检查报告》中注明(包括产品明显和隐藏的缺点和瑕疵)并在交付后十(10)日内递交史密斯。如果客户未在交付检查报告中指出问题, 则视为产品已被接受。

**8. STORAGE FEES:** A storage fee will be applied monthly up to the maximum allowed by law on all repaired and overhauled units if the Products are not taken with five (5) days after the Products are delivered to the delivery address designated by Customer.

**储存费:** 对所有修理的和大修的产品, 如果在产品被交付至客户指定的交付地址后的五(5)天内客户还未前来取货, 则在法律允许的最大额度内史密斯将按月收取储存费。

### 9. WARRANTIES:

#### 保证条款:

(A) Smiths warrants that Products sold by Smiths and manufactured by Smiths (1) conform to Smiths specifications, and (2) are free from defects in materials and workmanship (under normal usage and provided that Smiths' operation and maintenance instructions are followed by competent personnel). Warranty periods shall not be more than six (6) months unless otherwise agreed to in writing. Normal wear and tear shall not be considered a defect.

史密斯保证, 史密斯出售和制造的产品(1)均符合史密斯的规范, 且(2)无任何材料或工艺上的瑕疵(以正常使用且适格人员遵守史密斯的操作和维护说明为前提)。除非书面另行约定, 产品保修期不应超过六(6)个月。正常磨损不应被视为瑕疵。

(B) Smiths warrants that it shall use reasonable efforts to provide the Services ordered under the Order. The express warranty set forth in the first sentence of this paragraph shall be the only warranty given by Smiths with respect to the Services provided.

史密斯保证, 史密斯将尽其合理努力提供订单项下订购的服务。本段落的第一句中所所述明示保证应为史密斯对其所提供的服务的唯一保证。

(C) Product and parts that are consumed in normal operation are not covered by this warranty.

在正常操作中消耗的产品和部件不包含在本保证条款范围之内。

(D) If the Customer or operator, as the case may be, discovers a defect within the applicable warranty period, it must be reported to Smiths' service department immediately upon discovery.

如果客户或操作者(视具体情况而定)在适用的保修期内发现某一瑕疵, 则必须在发现后立即将之报告史密斯的服务部门。

(E) Within a reasonable time after proper notification, Smiths shall, during its normal business hours, Monday through Friday in the warranty period, correct any defect covered by this warranty without charge. The original duration of this Warranty shall remain applicable to those parts not repaired or replaced. Any part repaired or replaced is warranted to conform to Smiths' specifications and to be free from defects in materials or workmanship appearing within a period after repair or replacement equivalent to the warranty period originally applicable to the Product of which it is a part, subject to the other terms of this Warranty. The above remedies are the exclusive remedies of Customer and operator, and the sole responsibility of Smiths, for breach of this Warranty.

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在收到适当通知后的合理时限内，史密斯应在保修期内的周一至周五的正常营业时间内，对本保证条款所涵盖的任何瑕疵免费进行纠正。本项保证的原有效期应对那些未经修理或更换的部件保持有效适用。任何经修理或更换的部件被保证符合史密斯的规范且无任何材料或工艺上的瑕疵，其修理或更换后的保修期与适用于其对应的产品的原保修期相同，并同样受限于本保证条款的其他规定。对于违反本保证条款的行为，上述补救措施是客户和操作者的排他性补救措施，也是史密斯承担的惟一责任。

(F) Smiths' warranty ceases to be effective if Customer fails to operate and use the Product sold hereunder in a safe and reasonable manner in accordance with Smiths' written instructions.

如果客户未能按照史密斯的书面说明采用安全、合理的方式操作和使用史密斯在本销售条款及条件项下出售的产品，则史密斯的保证失效。

(G) CUSTOMER SHALL NOT BE ENTITLED TO ANY REMEDY UNDER THIS WARRANTY WITH RESPECT TO THE FOLLOWING:

出现以下任一情况的，客户无权享有本保证条款项下的任何补救措施：

(i) PRODUCT/SERVICES THAT HAS BEEN SUBJECTED TO ANY ALTERATION, DISASSEMBLY, TAMPERING, MODIFICATION, OR REPAIR WITHOUT PRIOR AUTHORIZATION BY SMITHS;

未经史密斯的事先授权，客户擅自对产品 / 服务进行了修改、拆卸、篡改、更改或修理；

(ii) PRODUCT/SERVICES SUBJECTED TO EXPERIMENTAL RUNNING OR ANY TYPE OF OPERATION OR USE OTHER THAN THAT FOR WHICH THE PRODUCT/SERVICES IS DESIGNED;

客户在超出产品 / 服务的设计用途范围之外对产品 / 服务进行实验性运行或任何类型的操作或使用；

(iii) PRODUCT/SERVICES FROM WHICH SMITHS' AND/OR VENDOR'S TRADEMARK OR SERIAL NUMBER HAS BEEN ALTERED, REMOVED, OR OBLITERATED WITHOUT SMITHS' WRITTEN PERMISSION, EXCLUDING ANY ALTERATION, REMOVAL, OR OBLITERATION DIRECTLY CAUSED BY ACCIDENT OR MISHAP;

未经史密斯书面允许，客户擅自对产品 / 服务上的史密斯的和 / 或供货商的商标或序列号进行了修改、移除或遮盖，但不包括因事故或灾祸直接造成的修改、移除或遮盖情况；

(iv) PRODUCT/SERVICES THAT HAS BEEN IN STORAGE OR IMMOBILIZED FOR ONE YEAR OR MORE AFTER DELIVERY;

产品 / 服务在交付之后已被储存或未被动用过达一年或以上。

(v) PRODUCT/SERVICES THAT HAVE BEEN SUBJECTED TO ANY TESTING BY THE CUSTOMER OUTSIDE OF AGREED SPECIFICATIONS OR PROTOCOLS;

客户在约定的协议或规格之外进行了产品/服务的测试；

(VI) SMITHS HAS FOLLOWED ANY DESIGN, DRAWING OR SPECIFICATION PROVIDED BY THE CUSTOMER.

史密斯遵循了客户提供的任何设计、图纸或规格。

(H) SMITHS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE; AND THE EXPRESS WARRANTY SET FORTH IN THIS ARTICLE IS IN LIEU OF ANY SUCH WARRANTY AND ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF SMITHS.

除上述保证之外，史密斯不作任何其他明示或暗示的保证，尤其对于产品的适销性或适于某一特定用途不作任何保证；并且，本条款中所述的明确保证替代任何该等保证以及史密斯承担的任何其他义务或责任。

(I) For purposes of the exclusive remedies set forth in this Warranty, and the limitations of liability set forth in Section 11 of these Terms and Conditions of Sale into which it is incorporated, "Smiths" shall be deemed to include Smiths, its subsidiaries, and their affiliates, directors, officers, employees, agents, representatives, subcontractors, and suppliers of all of them.

为本保证条款规定的排他性补救措施且本销售条款及条件第 11 条中规定的史密斯的责任范围之目的，“史密斯”应被视为包括史密斯总公司及其子公司、分公司、董事、管理人员、雇员、代理、代表、分包商，以及上述各方的供应商。

## TERMS AND CONDITIONS OF SALE (CHINA)

### 销售条款及条件

(J) This Warranty is non-transferable and is applicable only to the original Customer.

本**保证条款**不可转让，仅适用于原始**客户**。

(K) This Warranty shall not be extended, altered or varied except by written instrument executed by Smiths.

未经**史密斯**签署书面文件同意，不得对本**保证条款**进行扩展、修改或变更。

(L) Any claim for breach of this Warranty will not be accepted by Smiths unless such action or proceeding commences within the applicable warranty period.

针对违反本**保证条款**的行为提出索赔的，该等索赔行动或索赔程序须在有关保修期内启动，否则**史密斯**不会接受该等索赔。

**10. TRADEMARKS/COPYRIGHTS:** Smiths makes no warranty with respect to infringement of the intellectual rights (including patents, trademarks and copyrights) of others or for any claim for infringement arising out of compliance with Customer's drawings, specifications, requirements or instructions.

**商标 / 版权:** 对于侵犯他人知识产权（包括专利、商标和版权）的行为，或因遵守**客户**的图纸、规格、要求或指示引起的任何侵权索赔，**史密斯**不做出任何保证。

#### 11. LIMITATIONS OF LIABILITY AND INDEMNITY:

##### 责任范围和赔偿:

(A) TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, SMITHS SHALL NOT BE RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, OR OTHER DAMAGES OR ANY LOSS OF USE, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF REPUTATION, COSTS OF PERFORMANCE RETESTING, COSTS OF REMOVAL OR REINSTALLATION, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF REVENUES, OR LOSS OF BUSINESS. CUSTOMER AGREES THAT SMITHS' MAXIMUM AGGREGATE LIABILITY TO CUSTOMER FOR DAMAGES (INCLUDING MULTIPLE CLAIMS) RELATING TO OR ARISING UNDER THE TERMS AND CONDITIONS OF SALE HEREIN SHALL NOT EXCEED THE AMOUNT OF THE ORDER. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, NOR SHALL SMITHS BE RESPONSIBLE FOR ANY CLAIM AGAINST CUSTOMER BY A THIRD PARTY.

在适用法律允许的最大范围内，**史密斯**均不对以下损失承担责任：特殊的、附带的、间接的、惩戒性的或产品丧失用途、数据丢失、商誉损失、业务中断、声誉损失、性能重测成本、拆除或重新安装成本、利润损失、存款损失、收入损失及业务损失。客户同意，**史密斯**就本销售条款及条件项下产生或与此相关产生的客户损失（包括多项权利主张）向客户承担的累计赔偿责任限额不应超过订单金额。在适用法律允许的最大范围内，**史密斯**也不应为第三方向客户提起的任何索赔要求承担责任。

(B) Smiths shall not be liable for any total or partial failure to deliver, for delay in delivery or production, or for any losses or damage to Customer, or to the Product/Services occasioned by delays, in the performance of Smiths' obligations, due to any Customer Delay or any cause beyond Smiths reasonable control or the control of Smiths' suppliers or subcontractors which cannot be foreseen, avoided and overcome, including but not limited to any epidemic, pandemic or widespread virus/disease, an act of God, default of Customer, act of civil or military authority, fire, terrorism, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the suppliers or subcontractors, delay in transportation.

在履行**史密斯**的义务时，因客户延迟或超出**史密斯**合理控制的或**史密斯**的供应商或分包商的控制的、无法预见、避免和克服的任何缘由，包括但不限于流行病、全球大流行或广泛传播的病毒/疾病、天灾、**客户**违约、民事或军事当局的行为、火灾、恐怖主义、罢工或其他用工困难、暴乱或其他内乱、供应商或分包商资不抵债或其他无能力履行的情况、运输延误，而造成的全部或部分未能交付或迟延交付/生产的情况，或**客户**蒙受任何损失或损害的情况，或因延误引起**产品 / 服务**上的任何损失或损害的情况，**史密斯**概不承担任何责任。

(C) The conditions to performance specifically stated in this provision and elsewhere in the Order shall be the only conditions to an absolute duty of performance on the part of Customer and Smiths. Any claim by Customer in connection with the Order, other than provided for elsewhere in the Order, must be commenced within one (1) year from delivery. Customer agrees to defend, indemnify and hold harmless Smiths from and against any claim, loss, liability, expense or damage (including legal fees) incurred by Smiths with

## TERMS AND CONDITIONS OF SALE (CHINA)

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respect to any of Customer's export or re-export activities contrary to Section 17 – EXPORT AND IMPORT CONTROLS, ECONOMIC SANCTIONS; NOTIFICATION.

本条及订单其他部分中明确所述的各项履约条件，应是客户和史密斯完全履约仅有的履约条件。与订单有关的、客户提出的任何索赔必须在自交付之时起的一（1）年内做出，但订单中另有规定的除外。对于与客户的、有违第 17 条“进出口管制、经济制裁；通知”的任何出口活动或再出口活动有关的、史密斯发生的任何索赔、损失、责任、费用或损害（包括法律费用），客户同意为史密斯进行抗辩，对史密斯进行赔偿，令史密斯免受任何损害。

**12. TAXES:** Value added taxes in connection with the sale of the Products will be payable by Smiths but charged to Customer, and will be included in the sale price and identified. All other taxes will be paid by the Parties according to the requirements of the law.

**税费：**与产品的销售有关的增值税将由史密斯缴纳，但会向客户收取，并会包括在销售价格中并予以明确。所有其他税费将由双方根据法律规定缴纳。

### 13. CHANGES AND TERMINATION:

#### 变更和终止：

(A) Smiths shall have the right, in its sole discretion, to terminate the Order if Customer: (i) is unable to pay its debts generally as and when they become due; (ii) is the subject of a legal process declaring it insolvent; (iii) ceases or threatens to cease carrying on its business; or (iv) commits a substantial breach of the Order and cannot effectively remedy such breach within 15 days.

如果客户出现以下任一情况，史密斯应有权自行决定终止订单：(i) 客户在通常情况下无法支付到期的债务；(ii) 客户经法律程序宣告破产；(iii) 客户不再或威胁不再开展业务；或 (iv) 客户对订单构成实质违约且不能在十五（15）天内有效地纠正该等违约。

(B) Customer may make a written request for amendment, modification, or termination of the Order. If a request for amendment or modification is accepted by Smiths, and any changes cause an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. If request for termination is accepted by Smiths, equitable indemnifications shall be made to Smiths for a recoupment of all costs incurred under the Order and for reasonable profit based on time and costs expended. The Order shall continue in effect until such time as payment is received. A written request as specified herein shall give Smiths adequate reason to demand written assurance of Customer's ability and intent to carry out the Order. Customer is not entitled to cancel or terminate the Order without cause or suspend or stop performance of the work in whole or in part without the express prior written consent of Smiths, which shall be at the sole discretion of Smiths.

客户可提出修正、修改或终止订单的书面请求。如果史密斯接受了某一修正或修改订单的请求，且任何变更造成进行订单项下的任何一部分工作的成本或所需时间出现增减，则应在价格表和 / 或交付时间表中做出相应调整，并应对订单进行相应的书面更改。如果史密斯接受了终止订单的请求，则对于订单项下发生的一切损失，以及按所花费的时间和成本计算的合理利润，客户应对史密斯进行公平的赔偿。在史密斯收到上述款项之前，订单应持续有效。合乎本条款规定的书面要求将赋予史密斯充分的理由来要求获得客户提供关于执行订单的能力和意愿的书面保证。未经史密斯事先书面同意，客户无权无故取消或终止订单，或暂停或停止全部或部分工作的执行。

**14. ENTIRE AGREEMENT AND SEVERABILITY:** The Order contains the entire agreement of the Parties, and all agreements entered into prior to or contemporaneously with the execution of the Order are excluded whether oral or in writin., If any provision of the Order shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not effect the remaining provisions of the Order, all of which shall remain in full force and effect.

**协议完整和可分割性：**订单包含双方的全部合意，不包含双方在签署订单之前或同时达成的一切口头的或书面的协议。如果某一具有适格司法管辖权的法院判定订单的任何规定无效或不可强制执行，则订单的剩余规定不受该判定的影响且应保持充分的效力。

**15. DISPUTE RESOLUTION, GOVERNING LAW, AND FORUM:** (A) The Order shall be governed by, and construed in accordance with, the laws of Peoples' Republic of China without the application of conflict of laws principles.

## TERMS AND CONDITIONS OF SALE (CHINA)

### 销售条款及条件

**争议解决、适用法律和裁判地：**(A) 订单应适用中华人民共和国法律，并据之进行解释，但不适用法律冲突原则。

(B) In the event a dispute arises under or relates to the Order, the Parties shall diligently attempt to resolve the dispute within thirty (30) days from the date on which either Party gives written notice to the other of its intent to invoke this provision, during which period neither Party may commence legal action to assert its rights against the other. In the event the Parties do not resolve the dispute within the thirty (30) day period referenced above, either Party may institute legal action to pursue any right or remedy it may have against the other Party. Any legal action or proceeding with respect to the Order shall be brought and maintained in the court of the People's Republic of China which has jurisdiction over the domicile address of Smiths. By execution of the Order, Customer hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. No action in law arising out of the Order may be brought by Customer more than two (2) years after the cause of action has first arisen.

如果某一争议因订单引起或与订单相关，则双方应在任何一方向另一方发出书面通知、表明想要援引本条款的意图之日后的三十（30）天内，努力尝试解决该争议，在这三十（30）天期限内，任何一方均不得向另一方提起法律诉讼以主张己方对对方的权利。如果双方在上述三十（30）天期限内未解决争议，则任何一方均可提起法律诉讼以主张己方可能享有的、对对方的任何权利或救济。与订单相关的任何法律诉讼或程序均应交由对史密斯的住所地址享有司法管辖权的中华人民共和国的法院进行解决。通过签署订单，客户在此为其自己并就其财产普遍地且无条件地接受上述法院的司法管辖权。在因订单引起的任何诉因首次出现后已满两(2)年的，客户便无权就该诉因提起法律上的任何诉讼。

(C) Customer further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding if such process shall be in writing and either shall be delivered in person or sent by registered or certified mail (return receipt requested), postage pre-paid, and addressed to Customer at the address of Customer for notices under the Order. Nothing herein shall affect the right of Smiths to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Customer in any other jurisdiction.

客户进一步不可撤销地同意，服从任何上述法院就任何该等诉讼或程序向客户送达的法律文件，前提条件是该等法律文件应是书面形式的，并应由专人递送或以邮资预付的挂号信或保证邮件（需要回执）的方式寄出，送达客户的地址以订单项下告知的客户地址为准。本条款中的任何规定均不影响史密斯以法律允许的任何其他方式向客户送达法律文件的权利，以及在任何其他法域内对客户提起法律诉讼或程序的权利。

(D) Smiths shall have the right to collect from Customer its reasonable expenses, including attorneys' fees, incurred in enforcing the Order.

史密斯应有权向客户收取因其强制执行订单而发生的、包括律师费在内的合理费用。

(E) The rights and obligations herein shall survive completion of the final payment under the Order.

在订单项下的最终付款完成之后，本条款规定的权利和义务应仍然有效。

**16. CONFIDENTIALITY:** The Parties agree that, in the course of performance of the Order, it may be necessary and desirable for them to exchange confidential information. For example, all updates, repairs, replacements, fixes, modifications, and other changes to the Product/Services shall be considered Smiths' proprietary information. To accomplish this confidentiality, the Parties agree as follows: any Party disclosing confidential information to the other Party shall identify such information as confidential when disclosing it. The receiving Party shall not disclose confidential information of the disclosing Party to any person outside its employment, except when authorized by the disclosing Party. Any Party receiving confidential information under this Article shall maintain such information in confidence in the same manner it protects its own confidential information and shall use it only for the performance of the Order, and for no other purpose.

**保密：**双方同意，在履行订单的过程中，相互交换保密信息可能是有必要且属适宜的。例如，对产品 / 服务进行的一切更新、修理、更换、补丁、修改和其他变更均应视为史密斯的专有信息。为了实现这一保密性，双方就以下事项达成一致：任何一方在向另一方披露保密信息时，应将该等信息标示为保密信息。接收保密信息的一方不得将披露方的保密信息披露给其雇佣范围外的任何人，但被披露方授权的情况除外。本条款项下接收保密信息的任何一方均应对该等保密信息以保护自己的保密信息一样的方式加以保密，并应只将该等保密信息用于履行订单之目的，不得用于任何其他目的。

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**17. EXPORT AND IMPORT CONTROLS, ECONOMIC SANCTIONS; NOTIFICATION:** (A) Customer acknowledges and agrees that the ultimate destination of the products, technology, software, or services sold hereunder is in China, unless otherwise stated in writing. Customer shall comply with all applicable export, import and trade sanctions laws and not authorize or permit its employees, distributors, customers, brokers, freight forwarders, and/or agents to transfer, export, re-export, or import any of the products, technology, software, or services to any person without complying with applicable export, import, and economic sanctions laws and regulations of China, the United States, the United Kingdom, the European Union, or any other applicable jurisdictions.

(B) Customer agrees to notify Smiths immediately if Customer or the end-user (if not the Customer parties lists, including the Denied Persons List, Entity List, Sectoral Sanctions Identifications List, or Specially Designated Nationals List, or if the export privileges of Customer or any relevant third party whom Customer will involve in this transaction (including its customer, if applicable), are otherwise denied, suspended or revoked in whole or in part by any relevant government authority.

(C) Customer shall ensure that the products, technology, software, or services are not used in relation to chemical, biological or nuclear weapons, or missiles capable of delivering such weapons and are not supplied to any person who intends to use them for a military purpose, including but not limited to development, production or use of any materials for the conduct of war, military or paramilitary operations without the express prior written agreement of Smiths.

(D) Customer shall use reasonable efforts to obtain and provide to Smiths in a timely manner end-user, end-use and other documentation, certifications and information as may be requested by Smiths in support of applications by Smiths to the appropriate authorities in connection with the export and/or sale of the Product and/or confidential information to Customer. If Smiths has reason to believe that Customer has misrepresented or failed properly to disclose any material fact, including without limitation the intended end-use/end-user or destination of the Product, Smiths may terminate the Order immediately in writing and discontinue all performance hereunder with no further obligation or liability to the Customer.

(E) Failure by Customer to comply with any part of this Clause 17 shall constitute a material breach of these Terms and Conditions of Sale. Customer's obligations under this Clause 17 shall survive termination of the Order for any reason whatsoever.

**进出口管制，经济制裁，通知：**（A）客户承认并同意，本销售条款及条件项下出售的产品、技术、软件或服务的最终目的地是中国，但另有书面说明的情况除外。客户应遵守所有适用的出口、进口和贸易制裁法律，不得授权或允许其雇员、经销商、顾客、经纪人、货运代理人 and / 或代理向任何人士转让、出口、再出口或进口任何产品、技术、软件或服务，而不遵守中国、美国、英国、欧盟或任何其他适用司法管辖区的、关于进出口和经济制裁的有关法律、法规。

（B）客户同意在以下情形将立即通知史密斯：客户或终端用户（若非客户方名单，包括禁运个人名单、禁运实体名单、行业制裁识别名单或特定国家名单），或客户或与客户进行此次交易的任何相关第三方（包括其客户，如适用）的出口权限被任何相关政府当局以任何方式全部或部分禁止、暂停或取消。

（C）客户应确保产品、技术、软件或服务不会用于制造化学、生物或核武器，或能够运载该等武器的导弹。未经史密斯事先明确书面同意，不得提供给任何有意将其用于军事目的的一方，包括但不限于开发、生产或使用任何用于战争、军事或准军事行动的材料。

（D）客户应尽合理努力，及时获取并向史密斯提供最终用户、最终用途和史密斯可能要求的其他文件、证明和信息，以支持史密斯向有关当局提出与产品出口和/或销售有关的申请和/或向客户提供机密信息。如果史密斯有理由相信客户虚假陈述或未能正确披露任何重要事实，包括但不限于产品的预期最终用途/最终用户或目的地，则史密斯可以立即以书面形式终止订单，并停止在本协议项下的所有履行，而无需对客户承担进一步的义务或责任。

（E）客户未能遵守第 17 条的任何部分均构成对本销售条款和条件的重大违约。客户在第 17 条项下的义务在订单因任何原因终止后仍然有效。

**18. INTELLECTUAL PROPERTY RIGHTS:** (A) To the extent that the Order Product/Services contain or are software, Smiths hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable personal license to use the software and related documentation. Customer's use of the Order Product/Services conclusively evidences its acceptance of this license and the Order. Title to the software shall at all times remain with Smiths. Customer agrees that the software, all enhancements, related documentation, and derivative works are, and will remain the sole property of Smiths and includes valuable trade secrets. Customer agrees to treat the software and related documentation as confidential and to not copy, reproduce, sub-license, or otherwise disclose

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the software and related documentation to third parties. Customer agrees to not disassemble, decompile, reverse engineer, create derivative works from or otherwise translate, customize, localize, modify, add to, or in any way alter, rent, or loan the software or related documentation.

**知识产权:** (A) 如果**订单产品 / 服务**是软件或包含软件, 则**史密斯**同意向**客户**授予一项非排他性、不可转让、不可分许可的个人许可, 许可其使用该软件及相关文档。如果**客户**使用**订单产品 / 服务**便最终证明**客户**接受此项许可和**订单**。该软件的所有权应始终归**史密斯**拥有。**客户**同意, 该软件及其一切增强版、相关文档及衍生作品均是且将保持是**史密斯**的独有财产, 并涵盖各项宝贵的商业秘密。**客户**同意将该软件及相关文档作为保密信息对待, 不会对该软件及相关文档进行复印、复制、分许可或以其他方式披露给第三方。**客户**同意不会对该软件或相关文档进行反汇编、反编译、逆向工程、创造衍生作品, 也不会对之进行翻译、定制化、本地化、修改、添加或以任何方式进行更改、出租或出借。

(B) Any and all Intellectual Property generated by Smiths from, or arising as a result of, the Product, Services and/or work undertaken in connection with the Order shall be the sole and exclusive property of Smiths, notwithstanding the source of payment or funding. Smiths reserves the right to protect the same by securing appropriate Intellectual Property rights therein.

无论付款或资金来源, 史密斯从产品、服务和/或与订单相关的工作中产生或产生的任何和所有知识产权都应是史密斯的唯一和排他性财产。史密斯拥有通过确保知识产权来保护这些产品的权利。

(C) A tooling charge may be imposed for any special tooling or equipment (collectively, "Tooling") acquired by Smiths to manufacture the Product. Smiths is the sole and exclusive owner of all Tooling, and the Customer will not acquire any rights, title, or interest in or to any Tooling, unless stated in the Order.

对于史密斯为制造产品而购买的任何特殊模具或设备(统称为“工具”), 可能会征收工具费。史密斯是所有工具的唯一和排他性所有者, 除非订单中另有规定, 客户不会获得任何工具的任何权利、所有权或利益。

**19. CODE OF BUSINESS ETHICS:** Smiths is committed to conducting its business ethically and lawfully. To that end Smiths, through its ultimate parent company, Smiths Group plc, maintains a Code of Business Ethics and a process for reporting unethical or unlawful conduct. Smiths expects that the Customer will also conduct its business ethically and lawfully. If the Customer has cause to believe that Smiths or the Customer or any of their respective affiliates, employees or agents has behaved in a manner that violates the Code of Business Ethics, Customer is encouraged to report such behavior to Smiths or to Smiths Group plc. Smiths Group plc's Code of Business Ethics and the process by which to report such violations of the Code of Business Ethics are available on [www.smiths.com](http://www.smiths.com).

**商业道德准则:** 史密斯承诺其商业行为符合商业道德准则和法律。为此, 史密斯的最终控制方 Smiths Group Plc 公司制定了商业道德准则和不符合商业道德准则或违法行为的报告流程。史密斯希望其客户的商业行为也同样符合商业道德准则和法律。如果客户认为史密斯或客户或其各自的关联公司、员工或代理的行为违反商业道德准则, 我们鼓励客户向史密斯或 Smiths Group Plc 报告上述行为。Smiths Group Plc 的商业道德准则和报告流程详见官网 [www.smiths.com](http://www.smiths.com)。

**20. ASSIGNMENT:** Neither Party shall assign the Order without the prior written consent of the other Party, except that Smiths may assign it to any of its parent, sister, or affiliate companies.

**转让:** 任意一方均不得在未获得另一方的事先书面同意的情况下对**订单**进行转让, 但是**史密斯**可将**订单**转让给自己的母公司、姊妹公司或关联公司。

**21. RELATIONSHIP:** Nothing in the Order shall be construed to place the Parties in the relationship of partners or joint ventures, and the Parties shall have no power to obligate or bind the other in any manner whatsoever.

**关系:** 订单中的任何规定均不被解释为**双方**具有合作伙伴或合资公司的关系, 且**双方**均无权以任何方式限制或约束对方。

**22. HEADINGS:** Any headings or paragraph titles are for the convenience of reference only and shall not define, limit, or extend the scope or intent of the Order or any provision thereof.

**标题:** 任何条款标题或段落标题仅为便于参考之用, 并不对限定、限制或延伸**订单**或**订单**的任何规定的范围或意图。

## TERMS AND CONDITIONS OF SALE (CHINA)

### 销售条款及条件

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**23. COMPLIANCE WITH LAWS AND WARNINGS:** In those instances in which Smiths provides health or safety information, hazardous material warning statements or other warning statements, and/or instructions in connection with the use of the Products (and Smiths assumes no obligation to do so), Customer agrees to comply with all such information, warnings and instructions. Customer further agrees to communicate all such information, warnings and instructions to its employees, agents and subcontractors, and to subsequent buyers and users of the Products. Customer will comply with all applicable laws. Customer will indemnify and hold Smiths harmless for Customer's breach of this Condition 23.

**遵守法律与警示:** 如果史密斯提供了与产品使用有关的健康或安全信息、危险物质警告声明或其他警告声明和/或说明(史密斯没有必须之义务作此行动), 客户同意遵守所有此类信息、警告和说明。客户进一步同意将所有该等信息、警告和指示传达给其员工、代理和分包商, 以及产品的后续买家和用户。客户将遵守所有适用的法律。如果客户违反本条款, 客户将赔偿史密斯公司并使史密斯免受相关的损害及索赔。

**24. SECURITY INCIDENT NOTIFICATION.** In the event that the Customer becomes aware of any suspected or actual information security incident having (or with potential to have) an adverse effect on the security of its network and information systems that process, store or otherwise utilize the confidential information and/or personal data of Smiths (a "Security Incident"), the Customer shall immediately notify Smiths of the time the Security Incident occurred, the duration of the Security Incident, information concerning the nature and impact of the Security Incident and any other information or support that Smiths may reasonably request to help it comply with any obligations to notify its employees, a competent authority or any other third parties affected by the Security Incident.

**安全事件通知:** 如果客户发现任何可疑的或实际的或潜在的信息安全事件可能对处理、存储或以其他方式使用史密斯的机密信息和/或个人数据的网络信息系统之安全产生不利影响("安全事件"), 客户应立即通知史密斯安全事件发生的时间、安全事件的持续时间、有关安全事件的性质和影响的信息, 以及史密斯合理要求的任何其他信息或支持, 以帮助其履行通知受安全事件影响的员工、主管当局或任何其他第三方的义务。