

千業貿易有限公司銷售條款 (台灣)

CHAINEX INDUSTRIAL CO., LTD SALES TERMS AND CONDITIONS (TAIWAN)

倘若買方同意以下及任何隨附文件所載之條款並放棄不同之條款者，千業貿易有限公司（以下簡稱「賣方」）將同意接受隨附報價單所述之買方訂單。前述買方之同意及棄權係以買方提出訂單（如有任何相反條款，應不予理會）或接受依本條款所為之首批貨品證明之。

CHAINEX INDUSTRIAL CO., LTD ("SELLER") WILL ACCEPT BUYER'S ORDER REFERRED TO ON THE ACCOMPANYING QUOTATION ON CONDITION THAT BUYER ASSENTS TO THE TERMS AND CONDITIONS SET FORTH BELOW AND ON ANY ACCOMPANYING DOCUMENT(S) AND WAIVES ANY DIFFERING TERMS OR CONDITIONS. SUCH ASSENT AND WAIVER IS EVIDENCED EITHER BY BUYER'S PURCHASE ORDER (ANY CONTRARY TERMS OR CONDITIONS OF WHICH SHALL BE DISREGARDED) OR BY ACCEPTING DELIVERY OF THE FIRST SHIPMENT HEREUNDER.

1. **付款方式及裝運條款。**除隨附之報價單另有相反規定外，付款方式及裝運條款為交貨後30日付款，並以FCA（貨交運人條件）賣方場所為（台灣）交貨地點。如未按时付款，就未付餘額應支付延遲利息，按每月1.5%計算，未滿1個月亦同，至未付餘額付清為止，惟延遲利息不得超出法律允許之最高限額。

1. **Payment and Shipping Terms.** Terms are net 30 days, FCA Seller's (Taiwan) Facility, unless expressly provided to the contrary on the accompanying quotation. Any amount not timely paid shall bear a late charge of one and one-half percent (1.5%) for each nth or fraction of a month computed on the outstanding balance until paid in full; provided, however, that such late charges shall not exceed the maximum amount allowed by law.

2. **所有權及損失風險。**貨物之所有權僅於全額價款付清後始移轉予買方，惟縱有上開規定，一切損失風險自賣方將貨物交至公共承運人或其他運輸方式起，即由買方負責。

2. **Titles and Risk of Loss.** Title to products shall pass only upon payment of the full purchase price. Notwithstanding the foregoing, all risk of loss shall be borne by Buyer from the time of delivery of the products by Seller to a public carrier or other manner of transportation.

3. **模具配備。**工具、壓模及其他配備之費用僅涵蓋其成本之一部分，故其所有權及唯一擁有及使用權利不應移轉予買方，而應歸由賣方享有。

3. **Tooling.** Charges for tools, dies and other equipment cover only a portion of their cost and ownership and sole right to possession and use thereof shall not pass to Buyer but shall remain in Seller.

4. **取消。**發生下列任何情形時，賣方除享有其他救濟外，另得選擇以書面取消本訂單並拒絕交貨，不因此負擔任何責任：（1）買方拖欠依本協議或其他任何協議應對賣方所為之付款或其他給付，（2）買方無力償還或遭他人提出破產聲請（或類似事件），或（3）因買方無法控制之事由致無法確保其按時履約。除買方取得賣方之書面同意並全額付清賣方於取消訂單時已大致完成之訂單工作之價外加合理取消費用，包括該取消之訂單工作之全部利潤及所生費用，例如經常性支出及行政費用、賣方因買方之訂單所為之承諾及所有進行中工作之費用外，買方不得以書面取消其訂單之其餘未完成部分。取消費用不得超出訂單取消部分之價款。

4. **Cancellation.** Seller at its option and in addition to its other remedies may without liability cancel this order in writing and refuse shipment, if (a) Buyer is in default in any payments or other performance due Seller under this or any other agreement (b) Buyer becomes insolvent or a petition in bankruptcy is filed with respect to Buyer (or similar event) or (c) causes beyond Seller's control make it impossible to assure its timely performance. Buyer may cancel in writing the remaining unfilled portion of its order and only upon written consent of Seller and payment of the full price for that portion of the order that Seller 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 Seller as a consequence of Buyer'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. [B&M Taipei's comment: According to Article 258 of the Civil Code, the right of rescission shall be exercised with the expression of intent to the other party. The said article is a mandatory provision under the Civil Code. As such, we suggest that both of the Seller's cancellation of the order and the Buyer's cancellation of the remaining unfilled portion of its order shall be made in writing, as otherwise it may be challenged if such cancellation is made verbally.]

5. **價格。**賣方有權因誤植、筆誤或計算錯誤更改數量或價格。賣方報價單或確認單所顯示之價格係基於其目前成本所訂定，如成本於本訂單有效期限內增加，買方將接獲調價通知，但就規定於報價日起30日內交貨之訂單，應經買方之同意後，始得調價。賣方如應負擔或依法須收取本項交易之附帶消費稅、銷售稅、使用稅或其他稅金，買方應償付賣方。

5. **Price.** Seller reserves the right to correct quantities or prices due to typographical, clerical, or mathematical errors. The price stated in Seller's quotation or acknowledgment is based upon Seller's current costs. If costs increase during the life of this order, Buyer will be notified of any adjustment of the price; provided, however, that no price adjustment will be made without Buyer's agreement on orders for delivery within 30 days of the date of a price quotation. Buyer shall reimburse Seller for any excise, sales, use or other taxes incident to this transaction for which Seller may be liable or which Seller is required by law to collect.

6. **交貨及不可抗力。**交貨日期僅屬預估性質。賣方如因其無法控制之原因，包括（但不限於）天災、買方之行為、戰爭或內亂、優先順序、火災、罷工、自然災害、運輸延誤，或無法取得必要之人力或原料，致完全或部分未予交貨或延遲交貨或生產，賣方概不負責。如因未予或延遲交貨致生任何費用，包括（但不限於）直接、特殊、間接或衍生性損害賠償，則不論其事由，賣方亦概不負責。

6. **Delivery and Force Majeure.** Delivery dates are estimates only. Seller shall not be liable for any total or partial failure to deliver or for any delay in delivery or production due to causes beyond its control, including but not limited to acts of God, acts of Buyer, war or civil unrest, priorities, fires, strikes, natural disasters, delays in transportation, or inability to obtain necessary labor or raw materials. Seller shall not be liable in any event for any costs, including but not limited to direct, special, indirect or consequential damages on account of failure or delay in delivery regardless of the cause.

7. **履約保證。**如買方拖欠付款，或依賣方判斷買方之信用已受損或欠佳，賣方除享有其他救濟外，另得取消買方之信用、停止其他履約行為，並要求買方提供現金、擔保或其他賣方認可之充分付款保證。

7. **Assurance of Performance.** If Buyer is delinquent in payment at any time, or if in Seller's judgment, Buyer's credit becomes impaired or unsatisfactory, Seller may, in addition to its other remedies, cancel Buyer's credit, stop further performance, and demand cash, security or other adequate assurance of payment satisfactory to it.

8. **有限擔保。**賣方保證，於其首次交貨後1年內，賣方提供之貨物並無材料或工藝之瑕疵。如賣方於上述保固期間發現任何貨物違反上述保固規定而具有瑕疵，將於該貨物以運費預付之方式退還至賣方指定之地點後，依其選擇免費辦理維修或替換。賣方不接受未經其事先以書面授權之退貨。以上為賣方之唯一擔保及買方之唯一救濟，並取代其他為本條款所排除之所有擔保、聲明或保證，不論其為明示或默示，包括適銷性及特定用途之適宜性之擔保。於上開規定不受限制之原則下，對於使用或利益損失；特殊、間接、衍生性、懲罰性或其他損害賠償；任何損害賠償；賣方或其他人所為之設計或工程之瑕疵；或超出該貨物之賣方淨價之金額（不論該金額係主張因契約或擔保之違反、過失、無過失責任或其他所致），賣方概不負責。

8. **Limited Warranty.** Seller warrants for a period of one year following original shipment by Seller that its products are free from defects in material or workmanship furnished by Seller. Seller will repair or at its option replace free of charge any product found by it within such warranty period to be defective in breach of said warranty upon return thereof transportation prepaid to the location specified by Seller. No returns will be accepted without prior written authorization by Seller. **The Foregoing is Seller's sole warranty and Buyer's exclusive remedy and IS IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS OR GUARANTEES, EXPRESS OR IMPLIED WHICH ARE HEREBY EXCLUDED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL SELLER BE LIABLE FOR LOSS OF USE OR PROFITS OR FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES OF ANY KIND, DAMAGES, OR FOR DEFECTS IN DESIGN OR ENGINEERING WHETHER PERFORMED BY IT OR BY OTHERS, OR FOR ANY AMOUNTS IN EXCESS OF SELLER'S NET PRICE OF THE PRODUCT IN QUESTION WHETHER SUCH AMOUNTS ARE CLAIMED TO RESULT FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.**

9. **生產性能評估。**買方提出之生產或性能標準皆視數項變數而定，故不能保證任何結果或估算。

9. **Production Performance Estimates.** Any production or performance standards furnished by Buyer may depend on several variable factors, and as such no results or estimates are guaranteed.

10. **法規及警告之遵循。**如賣方就其貨物之安裝、使用或維護（包括預防保養）提供衛生或安全資料、警告聲明及（或）指示（賣方不負提供該等資料、警告及指示之義務），買方同意皆予以遵循。買方並同意向其員工、代理人及分包商以及該等貨物將來之購買人及使用者傳達上開資料、警告及指示。買方另應遵守所有相關法律規定，如違反本條款，並應賠償賣方，使賣方不因之受損。

10. **Compliance with Laws and Warnings.** In those instances in which Seller provides health or safety information, warning statements, and/or instructions in connection with the installation, use or aintenance, including preventive maintenance, of its products (and Seller assumes no obligation to do so), Buyer agrees to comply with all such information, warnings and instructions. Buyer further agrees to communicate all such information, warnings and instructions to its employees, agents and subcontractors, and to subsequent buyers and users of those products. Buyer will comply with all applicable laws. Buyer will indemnify and hold Seller harmless for Buyer's breach of these terms and conditions.

11. **維修：**如供維修之貨物、零件或存貨發生變質或受損，賣方概不負責。除第8條規定所載之特定除外責任外，賣方之責任另應以其有過失之情形為限，並僅以取消其維修該變質或受損零件、貨物或存貨為限。

11. **Production Performance Estimates.** Any products, parts or stock furnished for lapping or repair. In addition to the specific exclusions in paragraph 8 above, Seller's liability shall be limited to cases of its negligence, and then only to the extent of cancellation of its charges for lapping or repairing the spoiled or damaged parts, products or stock.

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12. **保密。**賣方已提供或應提供予買方之技術及商業資料及構想，除買方自賣方取得該資料前已屬公開或已為買方妥善持有之有形資料外，概屬賣方專屬資料，並以保密方式揭露予買方，其目的僅限於協助買方評估或使用賣方之產品。買方未經賣方事先以書面同意前，均不得向其他人揭露或提供上述保密資料，亦不得以上述有限目的以外之目的使用該等保密資料。所有保密資料應經要求後或於買方無需就賣方產品使用保密資料後歸還賣方。除賣方享有之其他救濟外，買方另同意，其因擅自使用保密資料所獲得之利益或財產，概屬賣方之唯一專有財產。

12. **Confidentiality.** All technical and commercial information and ideas which Seller has supplied or shall supply Buyer, but excluding information in the public domain or property in Buyer's possession in tangible form before receiving such information from Seller, ("confidential information") is proprietary to Seller and is disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation or use of Seller's products. Buyer shall not without Seller's prior written consent, disclose or make available such confidential information to any other person or use such confidential information except for such limited purpose. All confidential information shall be returned to Seller on demand, and, in any event, when no longer needed by Buyer in connection with Seller's products. In addition to Seller's other remedies, Buyer agrees that any benefit or property derived by Buyer from any unauthorized use of confidential information shall be the sole and exclusive property of Seller.

13. **短缺。**短缺請求須於收到產品後5日內提出，其他請求則須於裝運日起30日內為之（保固請求除外，保固請求應適用第8條規定）。

13. **Shortages.** Claims for shortages must be made within five days after receipt of goods. All other claims must be made within 30 days of shipping date (except for warranty claims, which are governed by Paragraph 8 above).

14. **專利。**如全部或部分依照買方之設計或規格所製造之產品發生專利、設計、營業秘密、著作權或商品名稱之主張或請求，買方應保護並賠償賣方，包括任何費用、支出、損失、律師費、和解費用或損害賠償。

14. **Patents.** Buyer will protect and indemnify Seller against all claims arising out of patents, designs, trade secrets, copyrights, or trade names with respect to products manufactured wholly or partially to Buyer's designs or specifications, including any costs, expenses, loss, attorneys' fees, settlement payments, or damages.

15. **政府契約。**如依本條款購買之物品係供履行國家政府契約之用，賣方應遵守該政府所規定適用於賣方之所有強制規定，但買方應於千業貿易有限公司銷售條款 (台灣) 充分時間將該等規定以書面通知賣方，俾賣方予以遵循。

15. **Government Contracts.** If the items purchased hereunder are to be used in fulfilling a contract with any national government, Seller will comply with all mandatory provisions required by such government applicable to Seller, provided that Buyer gives Seller written notice of such provisions in sufficient time to permit compliance.

16. **變更及持續有效。**本條款之增補、修改或修訂皆應以書面為之，並須經賣方授權代表簽名，始生效力。第3、4、6、8、10、11、12、14、16、17、18、19、20及21條規定於本條款有效期限屆期或終止後，仍持續有效。

16. **Amendments and Survival.** No addition to, modification or revision of the terms and conditions contained herein shall be valid unless in writing, and signed by duly authorized representative of Seller. Sections 3, 4, 6, 8, 10, 11, 12, 14, 16, 17, 18, 19, 20 and 21 shall survive the expiration or termination of these terms and conditions.

17. **準據法及可分性。**本合約之解釋、有效性及履行應依中華民國法律規定。本合約當事人茲此不可撤回地同意中華民國之法院對因本合約所生或與本合約有關之任何請求或事件 有專屬管轄權，且關於前述請求或事件之任何程序應向前述法院提起。如本條款任何規定經認定屬非法或無法執行，其餘規定應保持完全效力。

17. **Governing Law and Severability.** The construction, validity and performance of this Agreement shall be governed by the laws of the Republic of China (Taiwan). The parties to this Agreement irrevocably agree that the courts of the Republic of China (Taiwan) shall have exclusive jurisdiction over any claim or matter arising under or in connection with this Agreement and that accordingly any proceedings in respect of any such claim or matter shall be brought in such court. If any term or condition hereof is found to be illegal or unenforceable, the balance hereof shall remain in full force and effect.

18. **行為規範。**賣方向來致力於以合乎道德及合法之方式經營業務，為此透過維持企業責任及商業道德準則及機制，供提報不合道德標準或非法之行為。賣方預期買方亦以合乎道德及合法之方式經營業務，如買方有理由認為，賣方或賣方任何員工或代理人按本條款規定有不符道德標準或非法之行為，賣方鼓勵買方向賣方予以提報。

18. **Code of Conduct.** Seller is committed to conducting its business ethically and lawfully. To that end the Seller maintains a Code of Corporate Responsibility and Business Ethics and mechanisms for reporting unethical or unlawful conduct. The Seller expects that the buyer will also conduct its business ethically and lawfully. If the Buyer has cause to believe that the Seller or any employee or agent of the Seller has behaved unethically or unlawfully under, or in connection with, these terms and conditions, Buyer is encouraged to report such behavior to the Seller

19. **出口規範及目的地管制聲明。**依本條款規定出售之貨品、技術或軟體，如自賣方所在之國家出口者，僅得依該管轄地之法規為之，不得違反該等法規規定偏離之。買方亦不得違反該等規定出口受政府規定管制之技術資料或貨品。如買方違反相關進出口管制規定進行出口或再出口活動，致賣方遭受任何主張/請求、產生任何損失、責任、支出或損害（包括留置權或訴訟費用），買方同意替賣方提出辯護，並賠償賣方，使賣方不因之受損。

19. **Export Regulations and Destination Control Statement.** If the commodities, technologies or software sold hereunder are exported from the country where Seller resides, they may only be done so in accordance with the laws and regulations of such jurisdiction, and any diversion contrary to such laws is prohibited. Buyer will not export any technical data, or commodities that are controlled by government regulations in violation thereof, and agrees to defend, indemnify and hold harmless Seller from and against any claim, loss, liability, expense or damage (including liens or legal fees) incurred by Seller with respect to any of Buyer's export or re-export activities contrary to applicable export and import controls.

20. **智慧財產。**貨物縱經交付並移轉其所有權，本條款並未授與買方、向買方移轉或賦予買方任何貨物之智慧財產權

20. **Intellectual Property.** Notwithstanding delivery of and the passing of title in any product, nothing in these terms and conditions shall have the effect of granting or transferring to, or vesting in, Buyer any intellectual property rights in or to any products.

21. **一般規定。**買方未經賣方事先以書面同意前，不得轉讓或移轉其於本訂單項下之權利或義務之全部或一部。本條款構成買賣雙方就本訂單標的之全部合意及瞭解，並取代先前所為之相關口頭或書面通訊、聲明或協議。

21. **General.** Buyer may not assign or transfer all or part of its rights or obligations under this order without the prior written consent of Seller. These terms and conditions constitute the entire agreement and understanding between Buyer and Seller in connection with the subject matter of this order, and supersede all prior oral or written communications, representations or agreements in relations thereto.

22. **語言。**本合約條款係以英文與中文併呈，如英文版與中文版有任何歧異，以中文版為準。

22. **"Language.** These terms and conditions are set out in English and Chinese. In case of any discrepancy between the English and Chinese versions, the Chinese version shall prevail."