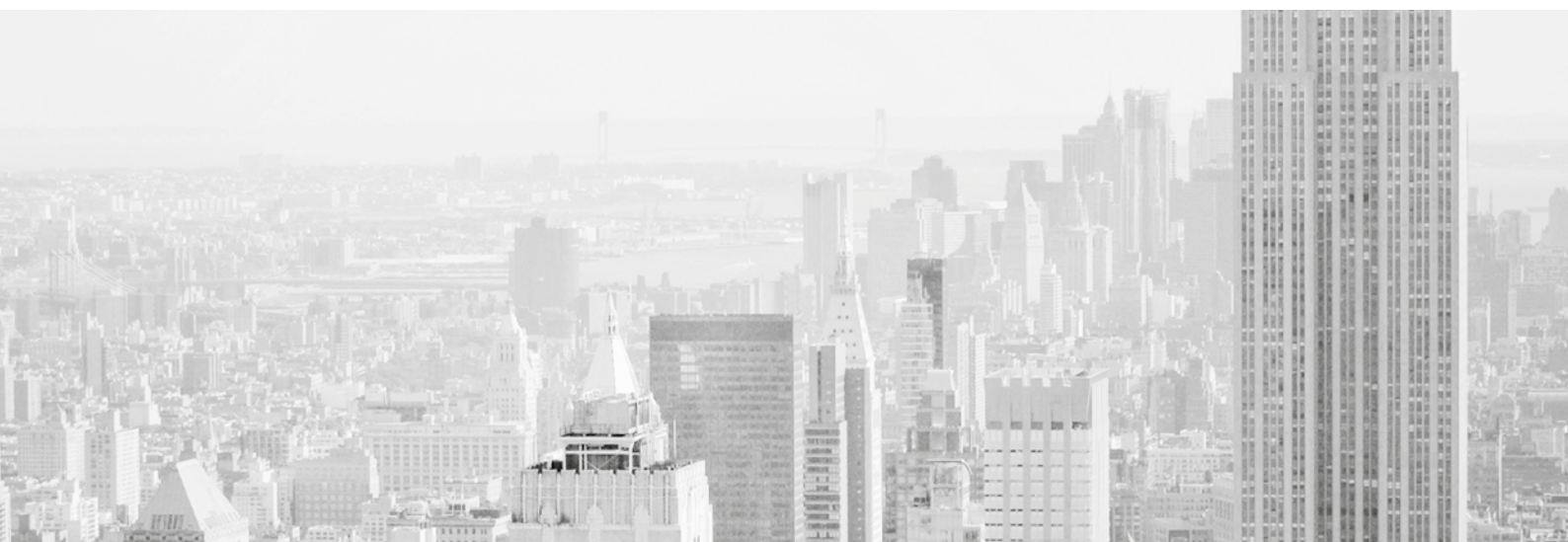


尽善尽美的发展



通风、控制以及驱动技术领域的引领者

一般销售条款和条件 施乐百机电设备（上海） 有限公司

General Terms and Conditions of Business

April 2017

Please note that this is an English translation of the original Chinese version. Both language versions shall have the same legal effect. In case of any conflict, the original Chinese version shall prevail.



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一般销售条款和条件 施乐百机电设备（上海）有限公司

General Terms and Conditions of Business

ZIEHL-ABEGG Mechanical and Electrical Equipment (Shanghai) Co., Ltd.

I. 一般条款和条件的适用范围

1. 所有的交付、服务和报价都将适用施乐百机电设备（上海）有限公司（“我方”）现行的一般条款和条件。因此，本一般条款和条件也适用于所有未来的业务关系，即便今后并未再次明确同意。
2. 本一般条款和条件最迟将在客户收到产品和服务时即视为被接受。我方明确拒绝与本条款和条件存在的任何差异以及客户的一般条款和条件。

I. Application of the General Terms and Conditions

1. All our deliveries, services, and offers are made exclusively on the basis of the present General Terms and Conditions (“GTC”) of ZIEHL-ABEGG Mechanical and Electrical Equipment (Shanghai) Co., Ltd. (“ZIEHL-ABEGG”). Consequently, these GTC also apply to all future business relations even if not expressly agreed upon again in the future.
2. With the receipt of the goods and services by the Customer, at the latest, these GTC are deemed accepted. Any deviation from the GTC and any terms and conditions of the Customer are hereby expressly excluded.

II. 报价、履行范围

1. 有关我方交付和服务的范围，我方对订单的书面确认是决定性的且具有约束力，或者，如果我方提交了有时间限制的报价且此类报价被按时接受，该报价为决定性的且具有约束力。为避免疑问，参考价格和估价不具有约束力。
2. 我方不加限制地保留所有成本估算、图纸以及其他文件的物权和著作权；没有我方的明确同意，此类文件不得提供给第三方并应当对第三方保密。若订单未交给我方进行，构成我方报价一部分的图纸和其他文件必须归还给我方，不得无故拖延。所有情形下均应排除任何对上述文件的留置权利。

II. Offers, Scope of Performance

1. For the scope of our deliveries and services, our written confirmation of the order is decisive and binding or, if we submit an offer with a limitation in time and such offer is timely accepted, the offer is decisive and binding. To avoid any doubt, price indication and quotation is not binding.

2. We shall unrestrictedly retain the property rights and copyright to all cost estimates, drawings, and other documents; such documents shall not be made accessible to third parties without our explicit consent and shall be kept secret from third parties. Drawings and other documents that are part of our offers must be returned to us without undue delay if the order is not placed with us. Any right of retention to such documents shall be excluded in all cases.

III. 价格与付款

1. 若无其他单独约定，我方提供的价格是工厂交货价，包括工厂内的装载费用。对于上述价格，将另行根据当时法定的增值税税率附加增值税。
2. 若在合同订立后超过四个月后交货或提供服务的，而在合同签订期间对我方定价有决定性影响的因素有明显增加，特别是材料、工资和公共负担等费用，我方保留合理提高价格的权利。
3. 若无其他约定，我方的账单应在开具后的十日内无扣减全额予以支付。仅在特别约定的情况下，才接受现金或汇票付款。
4. 如客户迟延付款，我方有权要求按照当时适用的基本年利率附加八个百分点的年利率支付迟延利息。我方保留进一步主张损害赔偿的权利。

III. Price and Payment

1. In the absence of a separate agreement, our prices are ex works including loading at our works. To these prices, VAT at the statutory rate applicable at the time will be added.
2. If the delivery or service is to be made or provided more than four months after the conclusion of the contract, we reserve the right to reasonably raise our prices if there has been a significant increase in the factors prevailing at the time the contract was entered into, that are decisive for the determination of our prices, in particular, in the cost of materials, wages, and public charges.
3. To the extent not otherwise agreed, our invoices are payable without deduction ten days after they are issued. Payment in cash or by bill of exchange is accepted only on the basis of a special agreement.
4. **If the Customer defaults in payment, we are entitled to claim interest at a rate of 8% above the basic interest rate applicable at the time p.a. from the relevant point in time. We reserve our right to assert further claims for damages.**

IV. 交付期限与服务期限

1. 对于交付日期或期限，无论有约束力还是无约束力的约定，都必须以书面形式约定。
2. 即使就期限和日期存在具有约束力的约定，我方对由于不可抗力或由于使我方的交付变得相当复杂或形成不可能交付的事件导致的交货或延迟履行不承担责任。这些事件尤其包括罢工、停工、官方指令等；前述规定同样适用于上述事件发生在我方的供应商或分供应商的情形。如发生此类事件，我方有权延迟交付或提供服务，延迟期限为障碍事件期间加上一个合理的恢复履行启动期间。如果此类事件很大程度上改变了交付或者服务的经济重要性或内容，或者如果它们对我方业务运营产生重大影响，我可以额外要求对合同进行合理的变更。如果上述障碍持续超过一个月以上的，我方有权全部或部分解除合同。如果由于此类事件，交货期限被延长或我方相关履行义务被免除，客户对此并不享有任何损害赔偿请求权。
3. 若我方应对未能遵守的履行期限和日期负责，或者若我方处于延迟交付的状态，则客户的权利主张仅限于要求每延迟一周支付延迟交付和服务所涉账单金额0.5%的赔偿，但赔偿总额不得超过延迟交货和服务部分账单价值的5%。客户任何其他的索赔权利均予以排除，但该延迟至少基于重大过失引起的除外。
4. 我方有权分批交货和部分履行，除非这对客户而言是不可接受的负担。
5. 在交货延迟的情况下，如果客户在延迟交货发生时给予了额外的履行期限，并警告该额外履行期到期后将不接受任何履行，而该履行期到期并未消除迟延，则客户有权解除合同。

IV. Delivery and Service Period

1. Delivery dates or periods, which may be agreed upon as binding or non-binding, must be agreed upon in writing.
2. **We are not liable for delays in delivery or performance that occur due to force majeure or because of events that considerably complicate our delivery or make delivery impossible – these events particularly include strikes, lock-outs, official orders, etc., even if the same occur at our suppliers or their sub-suppliers – even if periods and dates have been bindingly agreed upon. Such events entitle us to delay the delivery or service for the duration of the impediment plus a reasonable start-up period. If such events considerably change the economic importance or the content of the delivery or service or if they have a significant impact on our business operation, we may additionally demand that the contract be reasonably adjusted. If the impediment continues more than one month, ZIEHL-ABEGG is entitled to rescind the contract in whole or in part without liability. If, because of such events, the delivery period is extended or we are released from our obligation to perform, this does not give rise to claims for damages on the part of the Customer.**

3. **If we are liable for non-compliance with bindingly agreed periods and dates for performance or if we are in delay, the Customer's claim is limited to compensation in an amount equal to 0.5% for each entire week of delay, in total, however, to a maximum of up to 5% of the invoice value of the deliveries and services concerned by the delay. Additional claims are excluded unless the delay is based at least on gross negligence.**
4. We are entitled to make part deliveries and to perform in part unless this is an unacceptable burden to the customer.
5. In the event of a delay in delivery, the Customer is entitled to rescind the contract if, upon occurrence of the delay in delivery, the Customer sets an additional period for performance with the warning that performance will not be accepted after the expiration of this additional period and said period expires to no avail.

V. 风险转移和收货

1. 即使我方进行部分交付，或者我方承担额外的履行义务（如运输费用或交付和安装），货物的风险最晚于发运之时转移给客户。如果因客户的过错导致交付迟延，则风险在产品备好待发货之日即转移给客户。

V. Passing of Risk

1. The risk passes to the Customer no later than with the dispatch of the parts to be delivered, even if part deliveries are made or if we have assumed further obligations, e.g., the shipping costs or delivery and installation. If there is a delay in shipment due to circumstances for which the Customer is responsible, the risk passes to the Customer from the day the goods are ready for dispatch.

VI. 所有权保留

1. 在我方与客户业务往来中的所有请求权全部获得清偿之前，已交付产品的所有权仍应归我方所有。

VI. Retention of Title

1. Title to the delivered goods shall remain with ZIEHL-ABEGG until all claims deriving from the business relationship with the Customer have been fully settled.



VII. 瑕疵相关请求权

1. 客户不得因轻微瑕疵而拒绝接受交付的产品。客户有义务在产品交付（收货）时对其进行检查。显著的瑕疵以及在合理检查中可被识别的瑕疵应当在交付（收货）后的8日内以书面形式通知我方。其他（隐藏）的缺陷应在发现后8日内以书面形式通知我方。
2. 除非在有书面明确同意的情况下，我方对特殊用途或特定适用性不承担责任。对应由客户负责的瑕疵以及由于技术原因造成的、非原有瑕疵等瑕疵情形，我方不承担任何责任。
3. 如果产品存在瑕疵并且必须退还给我方，则只有在我方事先同意的情况下才可以安排运输退回。
4. 若存在的瑕疵得到了确认并及时以适当的方式通知我方，我方保留自主选择补救措施的权利，即由我方或我方委派的第三方对瑕疵产品进行维修或换货。
5. 客户基于瑕疵的质保请求权的质保期为一年，自产品交付之日起算。

VII. Claims based on Defects

1. The Customer may not refuse to accept deliveries because of insignificant defects. The Customer is obligated to inspect the goods upon delivery (receiving). Obvious defects and defects that are identifiable on a due inspection are to be notified in writing no later than 8 days upon delivery (receiving). Other (hidden) defects shall be notified to us in writing no later than 8 days after they are discovered.
2. **We assume no liability for a specific application or suitability unless explicitly agreed in writing. We do not assume any liability either for defects for which the Customer is responsible or that are due to a technical cause other than the original defect.**
3. If a defect exists and the goods must be returned to us, the return shipment may be made only with our prior consent.
4. When the existence of a defect has been established and notified to us in due form and time, we reserve the right to decide at our own discretion the remedy to be taken i.e. repair or replacement of the defective goods by ourselves or through third parties engaged by us.
5. The warranty period for the Customer's claims that are based on defects is one year, commencing on the delivery of the goods.

VIII. 责任

1. 我方仅在以下情况下对轻微过失承担责任，即我方违反了根据合同性质、对于实现合同目的具有重要意义的实质合同义务，并且客户事实上依赖且可以依赖遵守该等合同义务。在违反实质合同义务、违约和/或履行不可能的情况下，客户的赔偿请求权仅限于在合同项下典型的、可预见的损失和费用。
2. 我方对必要第三方产品的责任仅限于将对第三方产品供应商缺陷责任的请求权予以转让。如果针对第三方产品供应商的此等请求权依据法律是不可执行的，或者对客户来说不可接受的，则本条不适用。
3. 如果客户或其客户之一向最终客户（自然人）转售了我方交付的产品，则有关产品责任的法律规定适用于相关瑕疵请求权。在这种情况下，仅在客户给予其客户的瑕疵请求权条款条件不超过法律强制性规定，并且客户履行了检查和通知的义务时，我方才承担责任。
4. 除非在特定情况下且我方书面同意，否则不得将修理缺陷、换货或支付损害赔偿等视为我方承认任何法律责任。

VIII. Liability

1. **We are liable for slight negligence only insofar as material obligations are violated that results from the nature of the contract and is of particular importance for achieving the purpose of the contract and where the Customer relies and may rely on compliance with them. In case of a breach of a material contractual obligation, default and/or impossibility, the Customer's claim is limited to damages and reimbursement of expenses for losses that are typical for the contract and are foreseeable.**
2. Our liability for essential third-party products is limited to assignment of the claims based on liability for defects against the supplier of the third-party products. This does not apply if these claims against the supplier are not legally enforceable or if this is unacceptable for the Customer.
3. In case that the Customer or one of its Customers resells the goods delivered by us to an end-Customer (natural person), the statutory provisions relating to product liability apply to claims based on defects. In this case we are only liable insofar as the Customer did not grant its Customer terms which exceed the statutory mandatory provisions for claims based on defects and subject to the condition that the Customer fulfilled its obligation to inspect and notify.
4. No repair of defects, replacement delivery or payment of damages may be regarded as recognition of a legal obligation unless in a specific case we agreed otherwise in writing.

IX. 保密条款

1. 缔约方有义务无期限地对他们所获知的任何和所有被称为机密或根据其他情况被认定为贸易或商业秘密的信息进行保密。任何一方既不能记录也不能传递或利用这些信息。缔约方应通过与其雇员和代理人签订充分的协议性安排，确保其雇员和代理人也应无期限地不得使用、流通或未经授权地记录此等贸易或商业秘密。

IX. Confidentiality

1. The contracting parties are under obligation to maintain, for an unlimited period of time, the confidentiality of any and all information that becomes available to them and is referred to as confidential or can be recognized as a trade or business secret according to other circumstances, and they may neither record nor pass on or exploit such information. The contracting parties shall ensure through adequate contractual arrangements with their employees and agents that the latter also refrain for an unlimited period of time from the exploitation, circulation, or unauthorized recording of such trade or business secrets on their own behalf.

X. 其他

1. 客户将其权利和义务向第三方转让（让与），须经过我方书面同意。
2. 缔约双方之间的法律关系应受中华人民共和国的法律管辖，排除《联合国国际货物销售合同公约（CISG）》的适用。
3. 任何产生于或者与此一般条款和条件相关的争议应通过友好协商解决。如果无法通过协商解决，争议应提交至中国国际经济贸易仲裁委员会（CIETAC）上海分会申请仲裁并遵守申请仲裁时仲裁委委员有效的仲裁规则。仲裁裁决是终局的，对双方均有约束力。
4. 本一般销售条款和条件以中英双语版本进行签署。两种语言应有相同的法律效力。在发生冲突时，以中文版本为准。

X. Miscellaneous

1. The transfer of rights and obligations of the Customer to third parties is subject to our written consent.
2. The legal relations between the contracting parties shall be governed by the laws of the People's Republic of China, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. **Any dispute arising from or in connection with these GTC or the contract shall be settled through friendly negotiation. In case no settlement can be reached, the**

dispute shall be submitted to the China International Economic and Trade Arbitration Commission (CIETAC) Shanghai Sub-commission for arbitration in accordance with its rules in effect at the time of applying for arbitration. The arbitration award shall be final and binding upon the parties.

4. This GTC is executed in both Chinese and English. Both language versions shall have the same legal effect. In case of any conflict, the Chinese version shall prevail.





The Royal League

