

**博雷国际销售条款和条件**  
**Bray International Terms and Conditions of Sale**

**(1) 适用范围 / APPLICABILITY**

本销售条款和条件（本“条款书”）是管辖博雷国际公司及其附属公司、分公司和部门（在适当情况下称为“博雷”或“卖方”）向产品买方（“买方”）销售产品（“产品”）的唯一条款。无论本文是否有相反规定，如果博雷和买方签署了覆盖本文所述产品销售的书面合同，且该合同与本条款书存在不一致之处，则以该合同的条款和条件为准。

提及（i）“博雷工厂”是指接收订单所在国家的卖方相应全国性或区域性总部，及（ii）“美元”或“\$”是指美元，但另有说明除外。

These terms and conditions of sale (these “Terms”) are the only terms which govern the sale of the products (“Products”) by Bray International, Inc. and its subsidiaries, branches and divisions (as applicable, “Bray” or “Seller”) to a purchaser of Products (“Buyer”) from Bray. Notwithstanding anything herein to the contrary, if a written contract signed by Bray and a Buyer covers the sale of Products covered hereby, the terms and conditions of such contract shall prevail to the extent they are inconsistent with these Terms. References to (i) “Bray factory” are to the applicable Bray national or regional headquarters of Seller in the country where the order is received and (ii) “dollars” or “\$” are to United States dollars unless specified otherwise.

**(2) 完整协议 / ENTIRE AGREEMENT**

本条款书和随附的报价单（“报价单”）（统称为“本协议”）构成博雷与买方就作为报价单对象的产品订立的完整协议，并代替先前或同期的书面和口头谅解、协议、磋商、声明、保证及沟通。本条款书的优先性高于博雷的一般采购条款和条件，而无论博雷是否或何时提交其采购订单或此等条款。买方对报价单的接受受到本条款书的明确限制，并且博雷反对异于、增加至或修订本条款书的任何条款或条件及不受其约束。买方履行订单并不构成接受买方的任何条款和条件，也不视为修订或修改本条款书。

These Terms and the quotation (the “Quotation”) which they accompany (collectively, the “Agreement”) comprise the entire agreement between Bray and Buyer relating to the Products that are the subject of such Quotation, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless of whether or when Buyer submitted its purchase order or such terms. Buyer’s acceptance of the Quotation is expressly limited to these Terms, and Bray objects to, and is not bound by, any terms or conditions that differ from, add to, or modify these Terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

**(3) 报价单/ QUOTATIONS**

除非卖方另有书面规定，可以立即接受卖方作出的所有报价单。卖方保留权利以在买方最终接受报价单之前随时撤销及/或修订任何报价单。

Unless stated otherwise in writing by Seller, all Quotations made by Seller are for immediate acceptance. Seller reserves the right to withdraw and/or revise any Quotation at any time prior to final acceptance by Buyer.

**(4) 价格。/ PRICES**

买方应按照截至博雷收到买方订单之日期有效的卖方已公布价格表载列的价格（“价格”）购买产品。所有产品价格（及任何适用的折扣）如有更改，恕不另行通知。按照买方的请求延迟交付或作出其它安排以在订单日期起计超过一百二十（120）天交付的任何订单，将按照已公布价格表及运输时有效的折扣出具发票，除非在接受卖方订单之前另有明确协定。卖方招致的超额开支（例如工程、贴标签、服务呼叫、出口装箱或其它开支）将在就额外成本通知买方之后增加至发票。

Buyer shall purchase the Products from Seller at the prices (the “Prices”) set forth in Seller’s published price list in force as of the date Buyer’s order is received by Bray. All Prices (and any applicable discounts) for Products are subject to change without notice. Any order that is delayed for delivery at Buyer’s request or is otherwise scheduled to be made in excess of one hundred twenty (120) days from the order date will be invoiced at published list prices and discounts effective at the time of shipment unless otherwise specifically agreed at the time of Seller’s order acceptance. Any extra expenses incurred by Seller, such as engineering, tagging, taxes, service calls, export crating or other expenses, will be added to the invoice after notification to Buyer of the extra costs.

**(5) 税务/ TAXES**

价格不包括所有销售税、使用税和消费税，以及任何政府当局就买方应付的金额征收的任何类型的其它类似税款、关税、费用和收费。买方应负责支付所有此等收费、成本和税款，如果应由卖方支付或已由卖方支付，则将其增加至价格

Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties, fees and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes, and if payable or paid by Seller, then added to the Price.

#### **(6) 支付条款 / PAYMENT TERMS**

国内 买方的所有发票将在发票日期起计净三十 (30) 天到期应付, 但卖方另有规定除外。除非卖方另行发出同意, 国际 买方的所有发票将需要在美国港口发运至货运代理之后出具到期应付的已确认、不可撤销信用证。

买方应就所有延迟付款支付利息, 利率以下列较低者为准: (i) 每月百分之二 (2%) 的利率, 及 (ii) 适用法律准许的最高利率。买方应向卖方补偿其征收任何延迟付款的所有成本, 包括但不限于律师费和法庭成本。如果买方未能支付任何到期金额, 则除了本条款书或法律提供的所有其它补救外 (卖方没有放弃行使其于本文的任何权利), 卖方应有权暂停交付任何产品。

买方不得由于任何索偿的抵销、反诉、扣减、客户延迟付款或与卖方的纠纷而扣留或延迟支付任何到期应付金额, 无论是否与卖方违约、破产或其它事宜相关。

All invoices for domestic Buyers will be due net thirty (30) days from date of invoice unless otherwise stated by Seller. All invoices for international Buyers will require confirmed, irrevocable Letters of Credit due upon delivery to freight forwarder at its United States port for shipment, unless otherwise agreed by Seller.

Buyer shall pay interest on all late payments at the lesser of: (i) the rate of two percent (2%) per month and (ii) the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorney fees and court costs. In addition to all other remedies available under these Terms or at law (which are not waived by Seller's exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Products if Buyer fails to pay any amounts when due hereunder.

Buyer shall not withhold or delay payment of any amounts due and payable by reason of any set-off of any claim, counterclaim, abatement, delay of customer payment or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

#### **(7) 信用 / CREDIT**

向买方作出的产品运输和交付在任何时候均应取得卖方信用部门的批准。除了任何其它权利和补救外, 卖方可选择拒绝根据本协议作出运输或交付, 除非收到付款或满意的担保或满足令卖方满意的其它条款和条件。如果卖方选择向买方授予信用, 卖方可独自酌情限制或拒绝进一步授予信用。卖方是否提供赊账期取决于买方是否持续能够支持其业务的营运资本要求。

Shipments and deliveries of Products to Buyer shall remain at all times subject to the approval of Seller's credit department. Seller, in addition to any other rights and remedies, may, at its option, decline to make shipments or deliveries hereunder except upon receipt of payment or satisfactory security or otherwise upon terms and conditions satisfactory to Seller. Should Seller elect to extend credit to Buyer, Seller may limit or deny further extensions of credit in Seller's sole discretion. Any extension of open payment terms by Seller is dependent on Buyer's ongoing ability to support its working capital requirements for its business.

#### **(8) 交付 / DELIVERY.**

A. 将在收到买方订单之后的合理时间内交付产品。交付日为大约日期, 取决于是否迅速收到买方提供的所有必要信息和资料 (若适用)。

A. The Products will be delivered within a reasonable time after the receipt of Buyer's order. Delivery dates are approximate and are dependent upon prompt receipt of all necessary Buyer-furnished information and materials (if applicable).

B. 除非双方另有书面协定, 卖方应在博雷工厂提供产品 (“**交付点**”)。产品的所有权和损失风险在运输公司签署了提单之后转移至买方 (这表示将产品交付至运输公司以运输至买方)。买方应负责所有装载成本, 并在交付点提供适合收取产品的设备和劳动力。

B. Unless otherwise agreed in writing by the parties, Seller shall make the Products available at the Bray factory (the "Delivery Point"). The title to and risk of loss for Products passes to Buyer upon signing of the bill of lading by the transportation company (which signifies the delivery of the Products to the transportation company for shipment to Buyer). Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Products at the Delivery Point.

C. 所有价格均是博雷工厂或卖方可能在报价单中指定的其它地点的工厂交货 (EXW) 价。卖方不对交付点以外的运输投保, 因此运输途中的所有损失或产品受损索偿必须由买方直接向运输公司提出。卖方应选择产品的运输方法和承运商。如果运输路线令人满意且运费等于或低于卖方的正常选择, 则卖方可按照买方的选择进行运输。倘若运费高于正常的特殊运输要求, 卖方运输产品的开支将由买方承担 (包括搬运费或到付运费), 且买方不会就卖方在正常情况下将招致的运费收到任何信用额。每个订单只可以有一个目的地。

C. All Prices are quoted ExWorks (EXW) Bray factory or such other place that Seller shall designate on the Quotation. Seller does not insure shipments beyond the Delivery Point and, therefore, all claims of lost or damaged Products in transit must be filed directly with

the transportation company by Buyer. Seller shall select the method of shipment and the carrier for the Products. Seller may ship via the Buyer's choice if routing is satisfactory and rates equal to or less than Seller's normal choice. In the case of higher than normal special shipping requirements, Seller will ship the Products at Buyer's expense (including a handling fee or collect basis) and Buyer will not receive any credit for freight charges that under normal circumstances would be incurred by Seller. There may be only one destination per order.

D. 如果买方因故未能根据卖方向买方发送的通知（表明将在交付点交付产品）在固定日期接收产品交付：(i) 产品的损失风险应转移至买方，(ii) 产品应被视为已经交付及获买方接受，及 (iii) 卖方可选择储存产品，直至买方领取为止，而买方应负责支付所有相关成本和开支（包括但不限于储存费和保险费）。如果买方未能提供与产品交付相关的适当指示、文件、许可或授权，这应被视为买方未能在此等产品可以交付之时接受产品交付。卖方搁置超过六十（60）天的任何订单可被视为已取消，并且产品被视为已退还。

D. If for any reason Buyer fails to accept delivery of Products on the date fixed pursuant to Seller's notice to Buyer that the Products are being made available for delivery at the Delivery Point: (i) risk of loss to the Products shall pass to Buyer, (ii) the Products shall be deemed to have been delivered and accepted by Buyer and (iii) Seller, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance). Any failure of Buyer to provide appropriate instructions, documents, licenses or authorizations in connection with delivery of Products shall be deemed to be a failure of Buyer to accept delivery of Products at such time as such Products are otherwise available for delivery. Any orders held by Seller more than sixty (60) days may be treated as a cancelled and the Products deemed returned.

#### **(9) 检查和拒收不合格产品 / INSPECTION AND REJECTION OF NONCONFORMING PRODUCTS**

A. 买方应在收货之后十（10）天内检查产品（“**检查期**”）。除非买方在检查期内就任何不合格产品书面通知卖方及提供卖方合理要求的书面证据或其它文件，否则买方应被视为已接受产品。“**不合格产品**”指运输的产品异于买方的采购订单中列明的产品。

A. Buyer shall inspect the Products within ten (10) days of receipt (“**Inspection Period**”). Buyer will be deemed to have accepted the Products unless it notifies Seller in writing of any Nonconforming Products during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. “**Nonconforming Products**” means that the Products shipped are different than those identified in Buyer's purchase order.

B 如果买方在检查期内就不合格产品及时通知卖方，卖方应独自酌情 (i) 以合格产品替换不合格产品，或 (ii) 贷记或退还此等不合格产品的价格，以及买方就此招致的任何合理运输和搬运开支。买方应将不合格产品运输至博雷工厂或卖方在报价单中指定的其它地点，相关开支和损失风险由买方承担。在卖方确认不合格产品的不合格性质之后，卖方应在买方向卖方承担的付款义务中贷记买方的运输开支。如果卖方行使其选择权以替换此等不合格产品，卖方应在收到买方退还的不合格产品之后向买方运输替换产品，并且**第 8(B) 条**的条款应适用于此等替换产品，除非卖方负责支付此等运输的成本和开支。

B. If Buyer timely notifies Seller of any Nonconforming Products during the Inspection Period, Seller shall, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the Price for such Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Products to the Bray factory or such other place that Seller shall designate on the Quotation. Upon Seller's confirmation of the nonconforming nature of the Nonconforming Products, Seller shall credit the Buyer's expense for such shipment against the Buyer's payment obligations to Seller. If Seller exercises its option to replace such Nonconforming Products, Seller shall, after receiving Buyer's shipment of returned Nonconforming Products, ship to Buyer the replaced Products and the terms of **Section 8(B)** shall apply for such replaced Products, except that Seller shall be responsible for the costs and expenses for such shipment.

C. 买方承认及同意，**第 9(B) 条**载列的补救（根据本条款书行使）是买方就交付不合格产品而拥有的排外性补救。

C. Buyer acknowledges and agrees that the remedies set forth in **Section 9(B)** (exercised in accordance with these Terms) are Buyer's exclusive remedies for the delivery of Nonconforming Products.

**(10) 更改订单/取消 / CHANGE ORDER/ CANCELLATIONS** 除非条款令卖方满意及不会导致卖方招致任何损失，否则卖方已经收取和接受的订单不得更改或取消。在没有全额补偿卖方截至目前为止招致的所有相关开支的情况下，卖方不会接受产品订单的更改或取消，而无论是标准、非标准还是特殊产品。买方必须以书面提出所有订单取消和更改请求，并且必须由卖方的授权代表签署方为有效。项目的任何更改或取消将会导致折扣更改及由买方承担的运费成本和其它收费。

Orders received and accepted by Seller may not be changed or cancelled except on terms satisfactory to Seller and which prevent Seller from incurring any loss. Seller will not accept changes or cancellations of Products, whether standard, non-standard or special, without full reimbursement of all related expenses incurred to date. Buyer must request all cancellations and change orders in writing, and must be signed by an authorized representative of Seller to be effective. Any changes or cancellations of Projects

will be subject to appropriate changes in discounts, freight costs and other charges to Buyer.

**(11) 有限保证/ LIMITED WARRANTY**A. 卖方向买方保证, 在从安装日期起计的十二 (12) 个月期间或运输日期起计的十八 (18) 个月期间 (以较短者为准) (若适用, “**保证期**”), 卖方制造的产品在用于产品设计和制造之目的时不会出现材料和工艺瑕疵。卖方不保证产品会抵抗化学或应力腐蚀或不会出现除了材料或工艺瑕疵外的其它故障。

A. Seller warrants to Buyer that for a period ending as of the earlier of twelve (12) months from the installation date and eighteen (18) months from the shipment date (as applicable, the “**Warranty Period**”), Products manufactured by Seller will be free from defects in materials and workmanship when used for the purposes for which they were designed and manufactured. Seller does not warrant the Products against chemical or stress corrosion or against any other failure other than from defects in materials or workmanship.

B. **第 1.11(A) 条**载列的明示保证是排外性保证, 并代替任何和所有其它明示或暗示保证。不对适销性或适合于特定目的作出任何保证。

**B. THE EXPRESS WARRANTY SET FORTH IN SECTION 1.11(A) IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS INTENDED OR GIVEN.**

C. 由第三方制造的产品 (“**第三方产品**”) 可能构成、含有、包含于、纳入、随附于产品或与产品一起包装。第三方产品并不在**第 11(A) 条**的涵盖范围内。为免生疑问, 卖方不对任何第三方产品作出任何声明或保证。

C. Products manufactured by a third party (“**Third Party Product**”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Products. Third Party Products are not covered by the warranty in **Section 11(A)**. For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT.**

D. 卖方不对违反**第 11(A) 条**载列的保证负责, 除非: (i) 买方在保证期内就瑕疵向卖方发送书面通知, 并在任何情况下均在买方发现或应该发现瑕疵之时起计十四 (14) 天内发出; (ii) 卖方在收到上述通知之后有合理机会检查此等产品, 且买方 (若卖方提出要求) 退还此等产品至博雷的工厂或卖方在报价单中指定的其它地点, 以在此等地点进行检查; 及 (iii) 卖方合理核实买方提出的产品存在瑕疵的主张。买方应在买方首次就瑕疵通知卖方之后的九十 (90) 天内, 将瑕疵产品退还 (预付运费) 至博雷的工厂或卖方在报价单上指定的其它地点。在卖方确认产品违反**第 11(A) 条**所载的保证之后, 卖方将在买方对卖方承担的付款义务中贷记买方的运输开支; 如果卖方行使其选择权以替换此等不合格产品, 卖方应在收到买方退还的不合格产品之后向买方运输替换产品, 并且**第 8(B) 条**的条款应适用于此等替换产品, 除非卖方负责支付此等运输的成本和开支。

D. The Seller shall not be liable for a breach of the warranty set forth in **Section 11(A)** unless: (i) Buyer gives written notice to Seller of the defect during the Warranty Period and, in any event, within fourteen (14) days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Products and Buyer (if requested to do so by Seller) returns such Products to Bray’s factory or such other place that Seller shall designate on the Quotation for the examination to take place there; and (iii) Seller reasonably verifies Buyer’s claim that the Products are defective. Buyer shall return (freight prepaid) the defective Product to Bray at Bray’s factory or such other place that Seller shall designate on the Quotation no later than ninety (90) days of Buyer’s initial written notice to Seller of the defect. Upon Seller’s confirmation of Products in breach of the warranty provided under **Section 11(A)**, Seller shall credit the Buyer’s expense for shipment against the Buyer’s payment obligations to Seller and, if Seller exercises its option to replace such defective Products, Seller shall ship to Buyer the replaced Products and the terms of **Section 8(B)** shall apply for such replaced Products, except that Seller shall be responsible for the costs and expenses for such shipment.

E. 卖方在以下情况下不对违反**第 11(A) 条**载列的保证负责: (i) 买方在发出此等通知之后进一步使用此等产品; (ii) 瑕疵是由于买方未能遵守卖方有关产品存储、安装、试运行、使用或维护的口头或书面指示而导致; 或 (iii) 买方未经卖方事先书面同意而更改或修复此等产品。

E. The Seller shall not be liable for a breach of the warranty set forth in **Section 11(A)** if: (i) Buyer makes any further use of such Products after giving such notice; (ii) the defect arises because Buyer failed to follow Seller’s oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products; or (iii) Buyer alters or repairs such Products without the prior written consent of Seller.

F. 在遵守上文**第 11(D) 条**和**第 11(E) 条**的前提下, 对于处于保证期内的此等产品, 卖方可以独自酌情: (i) 修复或替换此等产品 (或瑕疵部分), 或 (ii) 按照合同约定的比例贷记或退还此等产品的价格, 但是, 如果卖方提出请求, 买方应向卖方退还此等产品, 相关开支由卖方承担。**本第 11(F) 条**载列的补救应为买方的唯一和排外性补救以及卖方就违反**第 11(A)**

### 条载列的有限保证而承担的唯一和全部责任

F. Subject to **Section 11(D)** and **Section 11(E)** above, with respect to any such Products during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Products (or the defective part) or (ii) credit or refund the price of such Products at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Products to Seller. **THE REMEDIES SET FORTH IN THIS SECTION 11(F) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S SOLE AND ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11(A).**

### (12) 有限责任 / LIMITATION OF LIABILITY

A. 在任何情况下，对于由于违反本条款书或与之相关的后果性、间接、附带、特殊、惩戒性或惩罚性损害、利润损失或收入或价值减少，卖方概不负责，无论买方是否已经披露此等损害的可能性或买方已经合理预计此等损害，也无论是否根据法律或衡平法理论（合同、侵权或其它）提出索偿，即使未能实现任何协定补救或其它补救的关键目的亦为如此。

B. 在任何情况下，卖方由任何产品导致或与产品相关的总责任（无论是由于违反合同、侵权（包括过失）或其它原因而导致或与之相关）不得超过就此等产品向卖方支付的总金额。

**A. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY ONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NO TWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

**B. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY PRODUCT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR SUCH PRODUCT.**

### (13) 获授权的退货 / AUTHORIZED RETURNS

向买方作出的所有产品销售属于单向销售，未经卖方事先书面批准不得退还产品。一般而言，除了取得事先书面批准的要求外，只有当买方在运输相应产品至买方之后及时提出退货请求且产品处于良好、可再使用的状况及仍然是博雷标准产品（并非定制、过时或买断的产品）的情况下，博雷才会接受买方的退货。对于任何退货，卖方一般会进行贷记（由此，卖方可能扣减运输、补货和倒舱开支）。

All sales of Products to Buyer are made on a one- way basis and no Products may be returned without prior written approval from Seller. Generally, in addition to the requirement for prior written approval, Bray will accept returns from a Buyer only if the return request is timely made following shipment of the applicable Product(s) to Buyer and the Product(s) are in good, reusable condition and remain standard Bray products (i.e., not custom-made, obsolete or buyout products). In regards to any returns, Seller generally issues credit (from which Seller may deduct shipping, restocking and reconditioning expenses).

### (14) 知识产权 / INTELLECTUAL PROPERTY RIGHTS

与产品关联或相关的根据全球任何司法管辖区之法律而享有的所有版权、专利、商标、商业秘密、技术诀窍和其它知识产权或财产权（“**知识产权**”）应属于卖方的独家和排外性财产。卖方将保留用于创建、内含于、用于产品及其组成部分或与之相关的所有知识产权，并且买方没有取得卖方的任何知识产权的任何权益。买方应仅根据本条款书及卖方的任何指示使用卖方的知识产权。一概没有授予卖方知识产权的明示或暗示许可。如果买方通过法律实施或其它方式取得任何产品的知识产权或与产品相关的知识产权，此等权利被视为及特此不可撤销地转让予卖方，而无需采取进一步行动。买方应签署为了使卖方能够保护其知识产权而必需的文件及采取必需的行动，相关开支由卖方承担。

All copyrights, patents, trademarks, trade secrets, know-how and other intellectual property or proprietary rights pursuant to the laws of any jurisdiction worldwide ("**IP Rights**") associated with or relating to the Products shall belong solely and exclusively to Seller. Seller will retain all IP Rights used to create, embodied in, used in and otherwise relating to the Products and any of their component parts, and Buyer shall not acquire any ownership interest in any of Seller's IP Rights. Buyer shall use Seller's IP Rights only in accordance with these Terms and any instructions of Seller. No license, either express or implied, is granted in any IP Rights of Seller. If Buyer acquires any IP Rights in or relating to any Product by operation of law or otherwise, such rights are deemed and are hereby irrevocably assigned to Seller without further action. Buyer shall, at Seller's expense, execute such documents and do such things as are necessary to enable Seller to protect its IP Rights.

### **(15) 设计变更/ DESIGN CHANGES**

卖方保留权利以变更、中止或更改产品的设计和结构，而无需事先通知及承担进一步义务。

Seller reserves the right to change, discontinue or alter the design and construction of Products without prior notice and without further obligation.

### **(16) 遵守法律 / COMPLIANCE WITH LAW**

买方应遵守所有适用法律、法规和条例，并且应维持其履行本协议项下义务而必需的所有许可、准许、授权、同意和执照的效力。为了进一步阐述上述规定（并且不限于此），请注意以下合规事项：

**贸易合规。**买方必须遵守管辖出口/进口管制和规定的所有法律，包括但不限于管辖转口的法律。如果买方取得产品以转售，此等合规要求买方知悉最终用途、最终用户、最终目的地或与此等产品销售相关的其它事实，并且警惕此等销售相关情况下的“红色警报”。买方有义务遵守博雷与任何产品销售和购买相关的贸易合规计划。买方应联系博雷以确保其遵守本计划的要求。

**反腐败法律。**买方必须遵守所有反腐败和反贿赂法律法规，包括但不限于英国 2010 年《反贿赂法》及美国《反海外腐败法》。买方不得直接或间接支付、提议或承诺支付任何有价值物，以旨在影响官方决策或寻求影响附属政府机构之人士或组织的决策，或由政府机构全部或部分拥有之组织或业务实体的决策。倘若根据本协议进行的任何产品交易将会涉及此等法律，买方必须联系博雷。博雷可立即终止违反此等法律的任何销售、协议或与违约此等法律之人士的关系，而无需承担任何责任。

Buyer shall comply with all applicable laws, regulations and ordinances, and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Agreement. In furtherance of the foregoing (and without limitation thereto), please note the following in regards to compliance:

**Trade Compliance.** Buyer must comply with all laws governing export/import control and regulation, including, without limitation, laws governing re exporting. If Buyer is obtaining Product(s) for resale, such compliance requires that Buyer know of the end- user, end-user, ultimate destination or other facts relating to such sale of Product(s), and be alerted to “red flags” in the circumstances related to such sale. Buyer is obligated to comply with Bray’s trade compliance program in regards to any sale and purchase of Product(s). Buyer should contact Bray to confirm compliance with the requirements of this program.

**Anti-Corruption Laws.** Buyer must comply with all anti-corruption and bribery laws and regulations, including, without limitation the United Kingdom’s Bribery Act 2010 and the United States’ Foreign Corrupt Practices Act. Buyer must not pay, offer or promise to pay, directly or indirectly, anything of value for purposes of influencing an official decision or seeking influence in regards to any such decision from a person or organization affiliated with any government body, organization or business entity owned in part or in whole by a government body. Buyer must contact Bray in regards to any transaction in respect of Product(s) provided under this Agreement that could implicate such laws. Bray may immediately terminate, without any liability, any sale, agreement or association with any person violating such laws.

### **(17) 终止/ TERMINATION**

除了本协议可能提供的任何补救外，如果买方：(i) 未能支付任何到期金额；(ii) 由于其它原因而没有履行或遵守本协议任何条款的全部或部分；或 (iii) 无力偿债、提交破产申请或开始或已经开始针对买方提起与破产、接管、重组相关的法律程序或出于债权人的利益作出转让，则卖方可以在向买方发出书面通知之后立即终止本协议。

In addition to any remedies that may be provided under the Agreement, Seller may terminate the Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due; (ii) has not otherwise performed or complied with any of the terms of the Agreement, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

### **(18) 放弃 / WAIVER**

除非以书面明确载列及由卖方签署，否则卖方对本条款书或协议任何规定的放弃均为无效。未能行使或延迟行使本协议导致的任何权利、补救、权力或特权不得被当作或解释为放弃此等权利、补救、权力或特权。单次或部分行使本文的任何权力、补救、权力或特权不得妨碍其它行使或进一步行使，或行使任何其它权利、补救、权力或特权。

No waiver by Seller of any of the provisions of these Terms or the Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

### **(19) 保密信息 / CONFIDENTIAL INFORMATION**

卖方就本条款书或本协议向买方披露的所有卖方保密信息（定义见下文）（无论是口头披露还是以书面、电子或其它形式或媒介披露或查阅，也无论是否标记、指定或以其它方式认定为“保密”信息）属于保密信息，仅可用于履行本协议，除非事

先获得卖方书面授权，否则不得披露或复制。在接到卖方的请求后，买方应迅速退还向卖方收到的所有保密信息。卖方应有权就违反本条的行为取得禁制令。就本协议而言，“**保密信息**”指卖方的所有非公开、保密或专有信息，包括但不限于业务、业务计划、商业秘密、知识产权、规格、样品、模型、设计、客户信息、消费者信息、供应商信息、技术数据、开发、财产、系统、程序、服务、流程、方法、图纸、技术诀窍、设备、开发计划、文件、手册、策略、培训资料、成本、定价、折扣或回扣、发明、发现或所取得的与卖方或产品相关的其它保密资料。

All Confidential Information (as defined below) of Seller disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential,” in connection with these Terms or the Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller’s request, Buyer shall promptly return all Confidential Information received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. For purposes of this Agreement, “Confidential Information” means all non-public, confidential or proprietary information of Seller including, but not limited to, business affairs, business plans, trade secrets, intellectual property, specifications, samples, patterns, designs, client information, customer information, supplier information, technical data, developments, properties, systems, procedures, services, processes, methods, drawings, know-how, equipment, development plans, documents, manuals, strategies, training materials, costs, pricing, discounts or rebates, inventions, discoveries or any other confidential matters acquired in respect of the Seller or the Products.

#### **(20) 不可抗力/ FORCE MAJEURE**

如果超出一方控制且并非由于受影响方的过失而导致的不可抗力状况（“**不可抗力**”）阻止履行本条款书和本协议（付款义务除外），则卖方或买方均不构成违约，也不需要就任何延迟或损害而对另一方负责。不可抗力包括但不限于地震、水灾、飓风、命名的热带风暴、雷击、冰暴、暴风雪、冰山、浮冰、空中和海上灾难、爆炸和火灾、流行病、天灾、战争行为、恐怖主义、国家紧急状况、入侵、暴动、骚乱、罢工、停工、封锁或其他劳资纠纷、任何政府或政府机构的任何法律、法规、规章、命令、指令、要求或干预，或延迟获得足够或适当的材料供应、停电或不受该方控制且该方无法通过合理努力以防止或补救的其它情况，无论是相似还是不相似、可预见还是不可预见。倘若发生任何不可抗力事件，应向卖方提供履行其义务而可能合理需要的额外时间。

Neither Seller nor Buyer shall be in breach of contract nor liable to the other party for any delay or damages if prevented from performance of these Terms and the Agreement (other than the payment of money) by any condition of force majeure which is beyond the control and not caused by the negligence of the party so affected (“Force Majeure”). Force Majeure includes, but shall not be limited to, earthquakes, floods, hurricanes, named tropical storms, lightning strikes, ice storms, blizzards, icebergs, pack ice, air and sea disasters, explosions and fire, epidemics, acts of God, acts of public enemy, war, terrorism, national emergency, invasion, insurrection, riot, strike, lockout, blockade or other industrial disputes, any laws, rules, regulations, orders, directives or requirements of or interference by any government or government agency, inability or delay in obtaining supplies of adequate or suitable materials, power outage or other circumstances not within the control of the party and which, by the exercise of reasonable diligence, the party is unable to prevent or remedy, whether similar or dissimilar, foreseen or unforeseen. Seller shall have such additional time as may be reasonably necessary to perform its obligations upon the occurrence of any Force Majeure event.

#### **(21) 转让 / ASSIGNMENT**

未经卖方事先书面同意，买方不得转让其于本协议下的权利或委托其于本协议下的义务。违反本条的任何声称转让或委托均为无效。转让或委托不会免除买方于本协议项下的任何义务。

Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

#### **(22) 修订和修改/ AMENDMENT AND MODIFICATION**

本条款书仅可由明确表明修订本条款书且由卖方和买方之授权代表签署的书面修订案进行修改或修订。

These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each of Seller and Buyer.

#### **(23) 双方的关系 / RELATIONSHIP OF THE PARTIES**

双方之间的关系属于独立承包商关系。本条款书或本协议概无规定应被解释为在双方之间创建任何代理、合伙、合资或其它形式的合办企业、雇佣或受信关系，并且任何一方均无权以任何方式为对方订约或约束对方。

The relationship between the parties is that of independent contractors. Nothing contained in these Terms or the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between Seller and Buyer, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**(24) 2无第三方受益人/ NO THIRD PARTY BENEFICIARIES**

本条款书和本协议仅为了保障卖方和买方及其各自的继任人和获准受让人的利益，并且本文概无明示或暗示规定旨在或应该根据本条款书或因为本条款书而授予任何其他人士或实体任何性质的法律或衡平法权利、利益或补救

These Terms and the Agreement are for the sole benefit of the Seller and Buyer and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

**(25) 管辖法律 / 司法管辖区 / 放弃陪审团审理 / GOVERNING LAW/JURISDICTION/ JURY WAIVER**

本条款书、本协议及双方之间的关系应受德克萨斯州的程序和实体法管辖，而排除将会导致适用其它司法管辖区之实体或程序法律的法律冲突原则。倘若德克萨斯州法律被裁定或裁决不适用于双方之间的任何纠纷，则就该纠纷而言，本条款书、本协议及双方之间的关系应受销售产品的相应博雷工厂所在司法管辖区的法律管辖，而排除将会导致适用其它司法管辖区之实体或程序法律的法律冲突原则。

如果销售产品的相应博雷工厂位于美国的任何州份、领地或区域，则各方：(A) 不可撤销地接受德克萨斯州哈里斯郡的管辖权和法庭审判地，以解决由于本条款书、本协议和双方之间关系导致或与之相关的任何和所有纠纷；及 (B) 在知情情况下自愿放弃在本条款书、本协议和双方之间关系导致或与之相关的任何法律程序中由陪审团审理的所有权利。

如果销售产品的相应博雷工厂位于美国的任何州份、领地或区域，则各方同意，本条款书或本协议导致或与之相关的所有纠纷应根据国际商会的仲裁规则由按照上述规则委任的一名仲裁员进行最终解决，并可以作出适用法律允许的抗辩。仲裁应以英语进行，并受到德克萨斯州休斯顿市的限制。仲裁员必须满足以下各项资质要求才能获委任：(1) 毕业于美国的法学院；(2) 在复杂商业纠纷的诉讼及/或仲裁方面拥有超过二十年的经验；(3) 在德克萨斯州拥有法律执业牌照；及 (4) 客观公正。仲裁员将有权在双方之间确定责任归属，但无权判决本条款书或本协议的明示条款并没有提供或超出本条款书或本协议明确条款的任何损害赔偿或补救。仲裁判决书将会呈交至双方，并可按照任何一方的要求纳入事实发现和法律结论。该判决可在合资格司法管辖区的法庭确认及执行。买方和供应商特此同意及接受上述仲裁，并将德克萨斯州休斯顿任何当地、州或联邦法庭的管辖权作为复核或挑战仲裁结果的管辖权，并且放弃该方可能拥有的将审判地点转移至其它司法管辖区的任何权利。双方明确保留在德克萨斯州的法庭寻求禁制令的所有权利。双方承认及同意，本协议包括州际商务活动（因此，如果美国联邦仲裁法与任何州法律规定有冲突，应以美国联邦仲裁法为准，并适用于据此开展的所有仲裁）。

THESE TERMS, THE AGREEMENT AND THE RELATIONS BETWEEN THE PARTIES SHALL BE GOVERNED BY THE PROCEDURAL AND SUBSTANTIVE LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES WHICH WOULD DIRECT THE APPLICATION OF THE SUBSTANTIVE OR PROCEDURAL LAW OF ANOTHER JURISDICTION. IN THE EVENT TEXAS LAW IS RULED OR ORDERED TO NOT APPLY TO ANY DISPUTE BETWEEN THE PARTIES, THEN FOR PURPOSES OF THAT DISPUTE THESE TERMS, THE AGREEMENT AND THE RELATIONS BETWEEN THE PARTIES SHALL BE GOVERNED BY THE LAWS OF THE JURISDICTION IN WHICH BRAY'S FACTORY APPLICABLE TO THE SALE IS LOCATED, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES WHICH WOULD DIRECT THE APPLICATION OF THE SUBSTANTIVE OR PROCEDURAL LAW OF ANOTHER JURISDICTION. IF BRAY'S FACTORY APPLICABLE TO THE SALE IS LOCATED IN ANY STATE, TERRITORY, OR DISTRICT OF THE UNITED STATES OF AMERICA, EACH PARTY: (A) IRREVOCABLY SUBMITS TO THE JURISDICTION AND VENUE OF THE COURTS LOCATED IN HARRIS COUNTY, TEXAS FOR THE RESOLUTION OF ANY AND ALL DISPUTES ARISING FROM OR RELATING TO THESE TERMS, THE AGREEMENT AND THE RELATIONS BETWEEN THE PARTIES; AND (B) KNOWINGLY AND VOLUNTARILY WAIVES ALL RIGHTS TO A JURY TRIAL IN ANY LEGAL PROCEEDING RELATING TO THESE TERMS, THE AGREEMENT AND THE RELATIONS BETWEEN THE PARTIES.

IF BRAY'S FACTORY APPLICABLE TO THE SALE IS NOT LOCATED IN ANY STATE, TERRITORY, OR DISTRICT OF THE UNITED STATES OF AMERICA, EACH PARTY AGREES ALL DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE ORDER(S) SHALL BE FINALLY SETTLED, SUBJECT TO THE DEFENSES ALLOWED BY APPLICABLE LAW, UNDER THE RULES OF ARBITRATION OF THE INTERNATIONAL CHAMBER OF COMMERCE BY A SINGLE ARBITRATOR APPOINTED IN ACCORDANCE WITH THE SAID RULES. THE ARBITRATION SHALL BE CONDUCTED IN ENGLISH WITHIN THE LIMITS OF THE CITY OF HOUSTON, TEXAS. THE ARBITRATOR MUST MEET EACH OF THE FOLLOWING QUALIFICATIONS IN ORDER TO BE APPOINTED: (1) BE A GRADUATE OF A LAW SCHOOL LOCATED IN THE UNITED STATES; (2) HAVE MORE THAN TWENTY YEARS OF EXPERIENCE IN LITIGATING AND/OR ARBITRATING COMPLEX COMMERCIAL DISPUTES; (3) BE LICENSED TO PRACTICE LAW IN THE STATE OF TEXAS; AND (4) BE IMPARTIAL. THE ARBITRATOR WILL HAVE THE AUTHORITY TO APPORTION LIABILITY BETWEEN THE PARTIES, BUT WILL NOT HAVE THE AUTHORITY TO AWARD ANY DAMAGES OR REMEDIES NOT AVAILABLE UNDER, OR IN EXCESS OF, THE EXPRESS TERMS OF THESE TERMS OR THE AGREEMENT. THE ARBITRATION AWARD WILL BE PRESENTED TO THE PARTIES IN WRITING, AND UPON THE REQUEST OF EITHER PARTY, WILL INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW. THE AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF COMPETENT JURISDICTION.



BUYER AND SUPPLIER HEREBY CONSENT AND SUBMIT TO THE AFOREMENTIONED ARBITRATION AND THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN HOUSTON, TEXAS, AS JURISDICTION FOR REVIEW OR CHALLENGE OF THE ARBITRATION RESULTS AND WAIVE ANY RIGHT SUCH PARTY MAY HAVE TO TRANSFER THE VENUE TO ANY OTHER JURISDICTION. THE PARTIES EXPRESSLY RESERVE ALL RIGHTS TO PURSUE INJUNCTIVE RELIEF IN ANY COURT LOCATED IN HOUSTON, TEXAS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT INCLUDES ACTIVITIES IN INTERSTATE COMMERCE (AND, ACCORDINGLY, THE FEDERAL ARBITRATION ACT OF THE UNITED STATES SHALL CONTROL AND APPLY TO ALL ARBITRATIONS CONDUCTED HEREUNDER, NOTWITHSTANDING ANY STATE LAW PROVISIONS TO THE CONTRARY).

**(26) 通知 / NOTICES**

据此发出的所有通知、请求、同意、索偿、要求、放弃和其它通讯（各称为“通知”）应以书面作出，并发送至双方载于报价单正面的地址或接收方可能书面指定的其它地址。所有通知均应通过亲自交付、全国公认的隔夜快递公司（预付所有费用）、传真（附带传输确认书）、电子邮件、保证邮件或挂号信（在各情况下均索取回执、预付邮资）发出。除非本协议另有规定，通知仅在（i）接收方收到之后（以及传真或电子邮件传输的回执确认），及（ii）发出通知的一方已遵守本条要求时方为有效。

All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “Notice”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Quotation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), email or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Agreement, a Notice is effective only (i) upon receipt of the receiving party (and confirmation of such receipt in respect of facsimile or email transmissions), and (ii) if the party giving the Notice has complied with the requirements of this Section.

**(27) 可分割性 / SEVERABILITY**

如果本条款书的任何规定或协议的其它条款或规定在任何司法管辖区为无效、非法或不可执行，则此等无效性、非法性或不可执行性不得影响其它条款或规定或导致此等条款或规定在任何其它司法管辖区为无效或不可执行。

If any of these Terms or other terms or provision of the Agreement are determined to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision or invalidate or render unenforceable such term or provision in any other jurisdiction

**(28) 笔误** 卖方保留更正任何文件（报价单、发票或其它文件）中的所有速写错误、笔误或遗漏的权利。

Seller reserves the right to correct all stenographic or clerical errors or omissions in any documents (whether Quotations, invoices or other documents).

**(29) 继续有效 / SURVIVAL。**

按其性质应该在期满之后继续适用的本协议规定（包括但不限于以下规定：遵守法律、保密性、管辖法律/司法管辖区和继续有效）应在本协议终止或期满之后仍然有效。

Any provision of the Agreement that by its nature should apply after any termination or expiration of the Agreement, including (but not limited to) the following provisions: Compliance with Laws, Confidentiality, Governing Law / Jurisdiction and Survival, shall survive any such termination or expiration.

**(30) 已公布数据 / PUBLISHED DATA**

所有已公布的尺寸、重量、温度、压力评级和其它产品数据是近似数据。

All published dimensions, weights, temperatures, pressure ratings and other Product data are approximate.

*本合同中英文两种文字具有同等法律效力，如文字解释有异议时，应以中文为准。This contract is made out in both Chinese and English, which are equally effective in terms of law. If conflicts between the two languages arise therefore, it shall be subject to the Chinese version.*