

## 2 BK SP SUP General Terms and Conditions of Purchase Order - Chinese

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Authorised by: Chief Procurement Officer



The following are the terms and conditions ("Conditions") upon which the offer to purchase on the reverse side hereof or to which these Conditions are attached, form part of or are referred to therein the Purchase Order (the "PO") is given by Bradken (Xuzhou) Metal Equipment Manufacturing Co., Ltd ("BXM") and Bradken (Xuzhou) International Trading ("BXT") (hereinafter referred to as Bradken) wholly owned subsidiary of Bradken Operation Pty Limited to the addressee named in the Order ("Supplier" or "Seller") and the terms and conditions upon which the goods and services described in the Order (collectively the "Goods") are to be manufactured, sold or supplied by the Supplier to Bradken.

以下规定系本文件背面之采购要约所依据的条款和条件("条件"), 该等条件构成该采购要约的一部分或在该采购要约中被提及("订单")。订单由Bradken Operation PTY Ltd 在中国投资的两个全资子公司布兰肯(徐州)金属设备制造有限公司("布兰肯制造")及布兰肯(徐州)国际贸易有限公司("布兰肯贸易")(以下简称"布兰肯")向订单收件方("供应商"或"卖方")发出, 供应商将按照该等条款和条件为布兰肯生产、出售或供应订单中所述货物及服务(合称"货物")。

### 1. CONDITIONS CONSTITUTE WHOLE PO 构成完整订单之条件

Except to the extent to which these terms and conditions are expressly varied by Bradken in writing in the Order these terms and conditions shall apply to the Goods the subject of the Order and shall constitute all of the terms and conditions of any PO for sale of the Goods from the Supplier to Bradken. The acceptance of this Order by the Supplier shall constitute an acceptance by the Supplier of these terms and conditions absolutely and without amendment as the terms and conditions of the PO for sale.

除了布兰肯书面明确修改的订单之条款和条件外, 该等条款和条件应适用于订单项下货物, 并应构成供应商向布兰肯出售货物的任何销售订单的所有条款和条件。供应商接受订单应构成其对该等条款和条件的完全接受, 且未因销售订单的条款和条件而作任何修改。

### 2. PRICES 价格

(a) All prices shown in the Order are fixed and firm and include all extras (such as, but without limitation, freight, cartage, insurance, packing, use or supply of pallets and containers, etc.) unless otherwise shown in the Order and no increase in prices will be allowed

未经订单另行明确, 所有订单上体现的价格均为确定值, 并且包括全部额外费用(如, 但不限于, 运费, 保险费, 包装, 使用或供应铲板和集装箱等); 价格不得提高。For Goods, VAT will be included in Order in separate column. For Services, sales tax is included in price unless otherwise shown in the Order.

对于货物而言, 将在订单中另起一栏包含增值税。对于服务而言, 未经订单另行明确, 销售税已包含于价格之中。

(b) The Supplier shall not be entitled to recover any amount in respect of VAT unless and until it has provided a tax invoice to Bradken.

供应商无权获得任何增值税金额, 除非且直至其已向布兰肯提供税务发票。

(c) In these Conditions:

该等条件中:

"VAT" means Value Added Tax

"VAT" 指增值税。

### 3. TOOLING 工具

(a) The ownership of patterns, dies, tools, jigs, gauges and fixtures (collectively known as "Tooling") which are related to production of PO's goods, will be transferred to Bradken upon the payment being done by Bradken.

生产订单货物涉及的模具, 工装, 夹具, 量具及固定装置等(合称"工具"), 其所有权在布兰肯完成支付之时转移至布兰肯。

(b) Any Tooling loaned to the Supplier by Bradken is loaned as an aid to manufacture of the Goods by the Supplier only and Bradken accepts no responsibility for the accuracy or otherwise of such Tooling.

任何布兰肯租借给供应商的工具仅用于协助该供应商制作货物, 且布兰肯不对该等工具的精确性或其他性能承担任何责任。

(c) The Supplier shall keep in good order and repair any Tooling loaned to the Supplier by Bradken and in the event of loss, destruction or damage of or to the Tooling shall pay to Bradken the actual cost incurred by Bradken in replacing or repairing the lost, destroyed or damaged Tooling.

供应商应将布兰肯向其租借的所有工具保持在良好状态并负责维修, 对于工具的丢失、毁损或损坏, 供应商应支付布兰肯更换或修理该丢失、毁损或损坏工具所发生的实际费用。

### 4. DELIVERY 交货

(a) All Supplier invoices, packing slips, delivery dockets and correspondence must clearly show the order number endorsed on the Order.

所有供应商发票, 装箱单, 交货明细表及通讯必须清晰显示订单所附之订单号码。

(b) The Goods shall be delivered at no additional cost to Bradken to the destination indicated on the Order unless otherwise specified in writing.

除非另有书面说明, 供应商将货物在交付至订单指定的目的地, 而不向布兰肯收取额外费用。

(c) If the Supplier fails to deliver all or any of the Goods at the time or times specified in the Order or in accordance with any delivery schedule mutually agreed upon, then Bradken in its absolute discretion and without any requirement to provide notice to the Supplier may treat the Order as having been repudiated by the Supplier and Bradken shall then be entitled to recover from the Supplier an amount no less than the total profit lost by Bradken on any and all POs in which the Goods or any item forming part of the Goods were to be utilised or form part in addition to any liquidated damages, costs, penalties or other expenses Bradken incurred or may thereafter incur by reason of such repudiation as liquidated damages.

如果供应商未能按照订单规定的时间或双方协商一致的交付安排交付所有或任何货物, 则布兰肯可自行决定且无需通知供应商而将该订单视为已被供应商拒绝履行, 且除布兰肯因

该等拒绝履行而发生的或可能发生的任何违约金、成本、罚金或其他支出之外, 布兰肯则应有权从供应商处获得不低于货物或其任何部分将被使用或构成的任何及所有订单项下布兰肯的利润损失总额的违约金。

(d) Bradken accepts no liability for Goods delivered in excess of the quantity ordered or Goods delivered in excess of the quantity agreed in any delivery schedule approved by the parties.

对于超出订单数量的交货或者超出经双方同意的订单交货计划中数量的交货, 布兰肯无义务接收。

(e) Receipt of the Goods must be acknowledged in writing by an authorised representative of Bradken.

货物收讫必须经布兰肯的一名授权代表书面确认。

### 5. PACKAGING 包装

(a) The Goods must be suitably packaged or otherwise prepared for transportation to avoid damage, to comply with carrier requirements and to secure minimum transportation costs and insurance rates.

货物必须经过适当包装或为避免运输发生破损而施以适当保护措施, 以符合运输要求并确保最低限度的运输成本及保险费率。

(b) The package need to be suitable for forklift truck operation, truck transportation and container ocean ship. Supplier needs to clearly mark part/drawing no., name, quantity, weight of goods on each package.

包装需适合叉车操作、卡车运输和集装箱海运。供应商需在每个单独包装外醒目标记零件号/图号、品名、数量、重量等货物信息。

### 6. INSPECTION 检测

(a) The Supplier of the Goods is solely responsible for controlling the quality of the Goods and shall only supply to Bradken those Goods which conform to the requirements of the Order. The Supplier shall make complete inspections and tests on the Goods where required by Bradken and make those inspection and test records available to Bradken upon request. Where the Order contains particular specification requirements for the Goods, the Supplier shall deliver a Certificate of Compliance with the Goods confirming that the specification requirements of the Order have been satisfied.

货物供应商独自负责商品的质量控制, 且其向布兰肯供应的该等商品应符合订单要求。供应商应按照布兰肯要求对商品进行完整的检验和测试, 并应布兰肯要求向其提供该等检验和测试记录。如果订单包含特定的商品规格要求, 供应商应随同商品一起交付《合格证明》, 以确认订单之规范要求已经得到满足。

(b) The Supplier acknowledges that Bradken will not always inspect all goods at the time of delivery, therefore the signing of a delivery docket as evidence of receipt of the Goods or payment in part or in full does not constitute full acceptance of the Goods by Bradken. The Goods shall, notwithstanding payment or part payment or confirmation of receipt, be subject to rejection by Bradken and may be rejected by Bradken if evidence show that they do not strictly comply with the Order in later inspection or usage.

供应商承认, 布兰肯并非在交付时对所有货物进行全面检验, 因此布兰肯签署交付明细表作为收讫货物证明或者支付部分或全部款项均不构成布兰肯对货物的全面接受。尽管布兰肯已支付全部或部分款项或者已确认收讫货物, 如果货物在后续的检验或使用过程中暴露其不严格符合订单, 布兰肯仍可予以拒收。

(c) Goods returned to the Supplier as defective or otherwise outside the Order for rework, replacement or credit are at the risk of the Supplier and all handling, insurance and transportation costs (including Bradken's costs of inspection) both from the initial point of delivery of the Goods and return will be borne by the Supplier and the Supplier shall forthwith pay to Bradken any such costs and refund any payment or part payment made by Bradken in respect of the Goods. In addition, the Supplier shall fully indemnify the liquidated damage of Bradken according to Article 4 (c).

作为次品而退还至供应商的商品或者订单外的返工、替换或账账的货物风险由供应商承担, 并且从货物初始交货地点到退货发生的所有处理、保险和运输费用(包括布兰肯的检验费用)将由供应商承担, 供应商应立即向布兰肯支付任何该等费用并返还布兰肯就货物所支付的任何款项或部分款项。同时, 供应商还需参照本条件第4(c)条约对布兰肯承担赔偿责任。

### 7. WARRANTIES 担保

(a) The Supplier acknowledges by its acceptance of the Order that it is aware that Bradken is relying on the Supplier's skill, expertise and judgement in the manufacture and supply of the Goods.

供应商接受订单即表明其理解, 对于货物的生产和供应, 布兰肯依赖于供应商的技能、专业技术和判断力。

(b) Goods supplied must carry any applicable manufacturer's warranty which passes on to any customer of Bradken without liability to Bradken. The Supplier must assign to Bradken at the request of Bradken, the benefit of any warranty or guarantee that the Supplier has received from any supplier of the Supplier (whether under PO or by implication or operation of law). This warranty shall endure for the benefit of Bradken, its successors and assigns.

供应的货物必须具有任何适用的制造商质量保证, 可转移至布兰肯的任何客户, 而布兰肯无需承担任何责任。供应商必须依照布兰肯要求向布兰肯转让自其任何供应商处获得的任何有利担保或保证(不论是根据订单、默示或法律规定)。该质量保证亦应对布兰肯、其继受人和受让人有效。

(c) The Supplier by its acceptance of the Order warrants that the Goods supplied are of merchantable quality and conform with the specifications provided by Bradken and are fit for the purpose for which Bradken or Bradken's customers intend to use the Goods or the purpose for which the Goods would normally be used, (such purpose being made known to the Supplier either expressly or by implication), and that the goods are free from defect in material and workmanship.

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供应商接受订单即表明其保证供应的货物适合销售、符合布兰肯的规格要求、并满足布兰肯或其客户拟使用货物或通常使用货物之目的（以明示或暗示的方式告知供应商该等目的），并且货物在材料和工艺方面无任何缺陷。

### 8. INTELLECTUAL PROPERTY

#### 知识产权

- (a) All drawings, blueprints, sketches, Tooling and copies of any kind whatsoever supplied by Bradken to the Supplier remain the property of Bradken and may not be copied or used by the Supplier for any purpose other than for fulfilling its obligations under the Order. Unless otherwise agreed all such drawings, blueprints, sketches, Tooling and copies must be delivered to Bradken with the Goods. 布兰肯向供应商提供的所有图纸、蓝图、示意图、工具和任何种类之副本的产权属于布兰肯所有，并且供应商不得为履行其订单义务之外的其他目的复制或传播。除非另有约定，该等图纸、蓝图、示意图、工具和副本必须随附货物一同交付予布兰肯。
- (b) All patent, design rights, trade marks, copyright, original works and other intellectual property in any design, specification, process, method of working or other information relating to the Goods (other than that provided by the Supplier to Bradken) for the purpose of fulfilling the Order shall vest for all time with Bradken. 为完成订单之目的，与货物有关的设计、技术规范、工序、工作方法或其他信息（供应商向布兰肯提供的除外）中的所有专利、设计权、商标、版权、原创作品及其他知识产权永久属于布兰肯所有。

### 9. PAYMENTS

#### 付款

- (a) Payment to the Supplier shall not constitute an acceptance of the Goods by Bradken or waiver of any of the Supplier's warranties. 向供应商付款不构成布兰肯对货物的接受或对供应商担保的放弃。
- (b) Payment within 30 days after goods delivery or service rendering and tax invoice (remark: VAT invoice for inventory and fixed assets, and related tax invoice for service) being received by Bradken. 货物交付或服务提供后并在布兰肯收到税务发票后30日内付款。（注：存货及固定资产适用增值税专用发票，服务适用相关税务发票）

### 10. CANCELLATION OF ORDER

#### 订单的取消

- (a) Bradken may cancel the Order in whole or in part in the event of the Supplier: 当供应商出现以下情况时，布兰肯将取消订单：  
(i) at any time failing, or being unable or unwilling to comply with any of the Conditions or warranties herein contained; 在任何时候未能、不能或不情愿遵守本文件项下之任何条件或保证；  
(ii) committing an act of bankruptcy or (if the Supplier is a company) having a receiver appointed or proceedings instituted against it or a resolution passed for its winding up; or 发生破产行为，或（如果供应商是公司）被指定接管人，或被提起法律程序或为此陷入诉讼，或通过决议解散；或  
(iii) fails to deliver the Goods within the time specified or otherwise in accordance with the Order or any delivery schedule agreed upon by the parties. 未能按规定时间或者订单规定的时间或者双方同意之任何交货安排的规定交付货物。
- (b) The Supplier shall not be entitled to claim any compensation in respect of or arising from any such cancellation. 由于上述原因而导致的订单取消，供应商没有权利要求任何补偿。

### 11. NON-DISCLOSURE OF SPECIFICATIONS AND INFORMATION

#### 技术规范及信息的保密

The Supplier undertakes that it will not now or in the future reproduce for or sell to any person or company other than Bradken, whether for profit or otherwise, the Goods (or any part of the Work in Progress) manufactured by the Supplier to specifications provided by Bradken or any of its related entities, nor will the Supplier divulge to any other person any information, specifications, drawings or intellectual property received from or provided by Bradken or its related entities without the prior written consent of Bradken. 未经布兰肯事先书面同意，供应商保证现在和将来均不得复制或根据布兰肯或其任何关联实体提供之技术规范所生产的产品（或半成品的任何部分）或者出售予布兰肯以外的其他个人或公司，不论是否以盈利为目的，并且不得将从布兰肯或其关联实体获得的或者由其提供的任何信息、技术规范、图纸、或知识产权泄露给任何他人。

### 12. PATENTS ON MATERIALS USED

#### 使用材料之专利

By its acceptance of the Order, the Supplier indemnifies and holds harmless Bradken, its successors, administrators and assigns at all times after such acceptance from and against all costs including legal fees on a full indemnity basis, loss, damages, liability, claims, demands and suits for or in respect of the actual or alleged infringement of any patent, trade mark or corresponding intellectual property right to or in respect of materials used by the Supplier in the execution of the Order

在接受订单后，对于供应商在履行订单过程中使用的材料中所包含或有关的任何专利、商标或相应知识产权的实际或要求之侵权的损失、损害、负债、索赔、要求及诉讼所产生的所有费用（包括法律费用），供应商在接受后的任何时间全额赔偿布兰肯、其继任方、管理人及受让人，并使其免受损害。

### 13. NON-ASSIGNMENT

#### 不得转让

The Supplier shall not delegate, subcontract or assign any duties, performance of work or claims under the PO constituted by its acceptance of the Order without the prior written consent of Bradken. 未经布兰肯事先书面同意，供应商不得委托、发包或转让其（所接受订单而构成的）订单项下的任何义务、工作责任、或请求权。

### 14. INDEMNITY

#### 赔偿

- (a) The Supplier by its acceptance of the Order indemnifies and holds harmless Bradken, its successors, administrators and assigns, from and against all claims for loss or damage to persons or property or loss of property or for death or injury caused by or arising out of or in connection with any act matter or thing done, omitted or permitted to be done by the Supplier, its servants or agents. 在接受订单后，对于因供应商、服务商或其代理人进行的、未进行的或被允许进行的任何行为或事项所引起的或与之有关的人身损害或财产损失或损失或者人身死亡或伤害而提出的全部索赔，供应商赔偿布兰肯、其继任方、管理人及受让人，并使其免受损害。

- (b) The Supplier by its acceptance of the Order indemnifies and holds harmless Bradken, its successors, administrators and assigns, from and against all claims for loss, (whether direct, indirect or consequential), loss of profit, loss of opportunity or loss of use and any and all other economic loss, including and without limitation, any loss by reason of a breach of a term or condition of the Order, or the negligence or any other act, matter or thing done, admitted or omitted to be done by the Supplier. 在接受订单后，对于因损失（不论直接、间接或影响性）、利润损失、机会损失、使用损失或所有其他经济损失（包括但不限于因违反订单条款或条件或不履行或供应商进行的、被允许进行的或未进行的任何其他行为、事项或事物所引起的任何损失）而提出的全部索赔，供应商赔偿布兰肯、其继任方、管理人及受让人，并使其免受损害。

- (c) If the goods provided by Supplier are different from any aspect specified in PO, Bradken reserves the right of requesting repair, replacement, refund or deduction of payment according to the actual situation. 如果供应商提供的货物在任何方面不符合订单规定，布兰肯有权根据实际情况选择要求供应商承担修理、更换、退货、减少价款等责任。

- (d) If delivery delayed without Bradken's fault, 2% of total PO amount shall be deducted each week, restricting to maxim 30% of total amount (delay caused by earthquake, flood or other force majeure is excepted). Bradken reserves the right to cancel the PO without paying Supplier's loss when the delivery was delayed for over 60 calendar days at Supplier's fault. 如非因布兰肯过错延迟交付货物，每延迟一周应扣除订单货款总额的2%，最高不超过订单总金额的30%（因地震、洪水等不可抗力引起的延迟除外）。如果因供应商过错延迟交货60日历日以上，布兰肯有权解除订单并不承担供应商的损失。

- (e) Bradken shall pay for any loss caused by Bradken's fault, including material cost, stock products, semi-finished product and on line product. 布兰肯应承担因其过错所造成的任何损失，包括材料费、备货、半成品、仍在生产线的货品损失。

### 15. PERFORMANCE OF WORK ON BRADKEN'S PREMISES

#### 在布兰肯场地开展工作

If any work necessary for fulfilling the Order is performed on Bradken's premises, then the Supplier shall, prior to starting work provide evidence of Workers Compensation Insurance cover, and other Insurances as reasonably required by Bradken and comply fully and without exception with all of the requirements of Bradken's workplace and occupational health and safety and environmental controls, policy, guidelines and directions. The Supplier by its acceptance of the Order indemnifies Bradken its successors, administrators and assigns at all times hereafter from and against all costs, (including legal fees on a full indemnity basis), loss, liability, damage, claim or proceedings whatsoever arising out of the performance of such work for injury to or the death of any person and damage to any property and any other loss, liability, damage, claim or proceedings for which the Supplier, its employees, servants or subcontractors are liable and prior to commencement of any such work the Supplier shall furnish to Bradken satisfactory evidence that the Supplier and its subcontractors have adequate and current public liability and worker's compensation insurance

如果在布兰肯的场地开展履行订单的任何必要工作，供应商应在开展工作前提供证据证明（其以投保）劳工赔偿险和布兰肯合理要求的其他保险，并且毫无例外地全面遵守布兰肯工作场所、职业健康和安全管理及环境控制、政策、指南和指导的所有要求。接受订单后，对于因履行该等工作中的任何人身伤害或死亡及任何财产损失所引起的所有费用（包括足额赔偿的法律费用）、损失、负债、损害、索赔或法律程序以及供应商、其员工、雇工或分包商承担责任的任何其他损失、负债、损害、索赔或法律程序，供应商在接受后的任何时间赔偿布兰肯、其继任方、管理人及受让人，并使其免受损害。并且在开始任何该等工作之前，供应商应向布兰肯提供令人满意的证据证明供应商及其分包商拥有充分的现行有效的公众责任险和劳工赔偿险。

### 16. SUPPLY OF PARTS BY BRADKEN

#### 布兰肯提供零部件

If Bradken provides to the Supplier any parts or components to be incorporated by the Supplier in the Goods, the parts or components supplied shall at all times after delivery thereof to the Supplier until acceptance of the Goods by Bradken be at the risk of the Supplier who shall pay and bear the actual cost incurred by Bradken in replacing or repairing the parts or components where such loss or damage arose whilst the parts or components were in the possession of the Supplier.

如果布兰肯向供应商提供任何组装于货物之内的任何零部件，供应商应承担零部件在交付予供应商后到货物被布兰肯接受前的风险，并承担零部件因处于供应商而导致的布兰肯更换或维修（该等）零部件所发生的实际费用。

### 17. QUALITY MANAGEMENT SYSTEMS

#### 质量管理体系

The Supplier shall operate and maintain an effective quality management system appropriate to the type of goods and services offered and/or in accordance with that specified in the Order. The Supplier shall provide Bradken, its principal or authorised representatives, access to the Supplier's premises or working area for the purpose of quality surveillance and audit.

供应商应执行并维持适合订单项下货物及服务类型的有效质量管理体系。供应商应允许布兰肯、其负责人或授权代表进入供应商场所或工作区域进行质量监督及审核。

### 18. DISPUTE

#### 争议解决

Any dispute arising from or in connection with PO shall be submitted to China International Economic and Trade Arbitration Commission Beijing Shanghai Commission for arbitration which shall be conducted in accordance with the commission's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The PO should be governed by the laws of People's Republic of China.

因订单引起的或与之有关的任何争议均应按提交至中国国际经济贸易仲裁委员会上海分会根据其申请仲裁之日有效的仲裁规则进行仲裁。仲裁裁决是终局的，并对双方具有约束力。订单应由中华人民共和国法律管辖。

### 19. LANGUAGE

#### 语言

The PO is in both Chinese and English. In case of discrepancies between the 2 languages, Chinese prevails. 订单以中、英文书就。如果两种语言存在不一致，以中文为准。

### 20. HEALTH AND SAFETY REQUIREMENTS

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### 健康及安全要求

The Goods supplied must comply with all applicable health and safety legislation, and meet or exceed the appropriate Chinese or International Standard.

供应之货物必须符合所有适用之健康和法规要求，并满足或超过适当的中国或国际标准。

### 21. ENVIRONMENTAL REQUIREMENTS

#### 环境要求

The Goods supplied must comply with all applicable environmental legislation and meet or exceed the appropriate Chinese or International Standard.

供应之货物必须符合所有适用之环境法规要求，并满足或超过适当的中国或国际标准。

### 22. SEVERANCE

#### 可分割性

In the event that the whole or any part or parts of any clause in these terms and conditions is found to be unenforceable by the arbitration body then such clause or part thereof shall be to that extent severed from these terms and conditions without effect to the validity and enforceability of the remainder of these terms and conditions.

如果该等条款和条件的任何规定全部或部分被仲裁机构认为不可执行，则该等规定或部分规定应在前述范围内与该等条款与条件分离，不影响该等条款和条件其他规定的效力及执行力。

### 23. OTHERS

#### 其它

The PO shall become effective after both parties signature and seal. Neither parties have the right of changing or cancelling this PO. Anything not specified in this PO shall comply with CONTRACT LAW OF PEOPLE'S REPUBLIC OF CHINA and other relevant laws and regulations. The faxed or scanned version of this PO has the same force affect as the original copy.

订单经双方签字、盖章生效。任何一方均无权变更或取消订单。订单中任何未尽事宜均应依照《中华人民共和国合同法》及其他相关法律、法规的规定执行。订单传真件或扫描件具有与原件同等的法律效力。