

销售和交货的一般条款和条件

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

1. 范围，一般

1. SCOPE, GENERAL

- 1.1 本《销售和交货的一般条款和条件》（《销售通则》）适用于申克博士测试设备（昆山）有限公司（“申克博士”）与其客户（“买方”）之间的所有业务关系。这些一般条款和条件适用于申克博士与买方之间所有以销售和/或交付动产（货物）为主题的合同。
- These General Terms and Conditions of Sale and Delivery (“GTC Sales”) apply to all business relations between Dr. Schenk Inspection Systems (Kunshan) Co., Ltd. (“Dr. Schenk”) and its customers (“Buyer”). These General Terms and Conditions apply to all contracts with the subject of sale and /or delivery of movable property (“Goods”) between Dr. Schenk and the Buyer.
- 1.2 本《销售通则》独家适用。任何买方的一般条款和条件在此被明确排除适用。如果买方已在其标准订单或与确认函相关的文件中表明其通用条款和条件适用，并打算通过此类行为将其纳入合同，则也应被排除适用。
- These GTC Sales apply exclusively. The applicability of any Buyer's General Terms and Conditions is hereby expressly rejected. This shall also apply where the Buyer has indicated in standardized order forms or in connection with letters of confirmation that its General Terms and Conditions are applicable, intending by such action to incorporate them into the contract.
- 1.3 申克博士不受限制地保留对申克博士编写的图纸、计划、文件和其他文件的所有权和使用权。只有在事先征得申克博士的同意后，才可向第三方提供这些文件。如果买方与申克博士之间没有签订合同，则必须根据要求立即归还这些文件。
- Dr. Schenk reserves the ownership and usage rights to drawings, plans, documentation and other documents prepared by Dr. Schenk without restriction. They may only be made accessible to third parties with prior consent of Dr. Schenk. If no contract is concluded between the Buyer and Dr. Schenk, they must be returned immediately upon request.
- 1.4 申克博士授予买方对其标准软件和固件的非独家使用权，但仅限于合同标的物的绝对必要使用范围。
- Dr. Schenk grants the Buyer a non-exclusive right of use to its standard software and firmware only to the extent that is absolutely necessary for the contractual use of the subject matter of the contract.

2. 签订合同

2. CONTRACT CONCLUSION

- 2.1 申克博士的报价不具约束力。买方所下的订单是具有约束力的合同要约。申克博士与买方之间的合同，须经申克博士书面确认买方所下的订单后方告成立。
- Quotations issued by Dr. Schenk are non-binding. The order placed by the Buyer is a binding contractual offer. A contract between Dr. Schenk and the Buyer is not concluded until Dr. Schenk confirms the order placed by the Buyer in writing.
- 2.2 对订单的修改需要得到申克博士的明确书面同意。由此产生的任何额外费用均由买方承担。
- Changes to the order require express written consent of Dr. Schenk. Any additional costs incurred as a result are to be borne by the Buyer.

3. 供应范围

3. SCOPE OF SUPPLY

供应范围由相应的报价及其附件“系统描述”和“一般技术数据表”决定。

The scope of supply is determined by the respective offer and its attachments “System Description” and “General Technical Data Sheet”.

4. 买方的义务

4. OBLIGATIONS OF THE BUYER

所有的关键日期都要记录在共同编制的里程碑计划中，该计划对双方都有约束力。这些里程碑是直接相互依赖的。如果买方推迟了里程碑计划，则整个里程碑计划必须被重新定义，并调整交付日期。里程碑计划是合同的一个有约束力的部分，可以在任何时候通过双方的协议进行修改。

All critical dates are to be recorded in a jointly prepared milestone plan that is binding for both parties. The

milestones are directly dependent on one other. If a milestone is delayed by the Buyer, the entire milestone plan must be redefined and the delivery date adjusted. The milestone plan is a binding part of the contract and can be changed by mutual agreement at any time.

5. 付款条件

5. PAYMENT TERMS

5.1 除非另有书面约定，否则应适用以下支付条款

Unless otherwise agreed in writing, the following terms of payment shall apply:

- 5.1.1 订单确认后，订单总价的 30%（以下称为“预付款”）应在预付款形式发票（开票）日期(后)的 14 天内电汇支付。
30% of order value (hereinafter referred to as “Advance Payment”) by T/T after order acknowledgement, payable net 14 days after Advance Payment invoice date.
- 5.1.2 订单总金额的 60%，最迟在装运前的 14 天内以电汇方式支付；请注意，收到货款后将安排装运。如果由于申克博士无法控制的情况而推迟了装运，则付款仍应按照最初确认的装运日期进行。
60% of order value by T/T, payable net 10 days prior to notification of readiness for shipment; shipment will be effected once payment is received. If shipment is postponed due to circumstances beyond Dr. Schenk's control, the payment remains due according to the originally confirmed shipment date.
- 5.1.3 订单总价的 10%应在最终验收后 14 天内付清。若由于申克博士无法控制的情况而导致最终验收延迟，则最迟应在发货后八周内支付尾款。如果买方拖欠尾款，卖方保留停止保修服务的权利，直至买方付清合同价款。
10% of order value by T/T, payable net 14 days after final acceptance. If final acceptance is delayed due to circumstances beyond Dr. Schenk's control, the final payment is due no later than 8 weeks after shipment. In case the Buyer is in default with the final payment, Dr. Schenk reserves the right to discontinue its warranty services until the Buyer has paid the order value in full.
- 5.2 根据书面要求，Dr. Schenk 将提供一份有效期至装运日、金额为预付款金额的有限的银行保函。此外，根据书面要求，Dr. Schenk 将为履行保修义务提供一份在保修期内有效的有限的银行保函。
Upon written request Dr. Schenk will provide a limited bank guarantee in the amount of the Advance Payment valid until shipment. Additionally, on written request, Dr. Schenk will provide a limited bank guarantee for fulfilment of warranty obligations valid for the duration of the warranty period.
- 5.3 除非另有书面约定，差旅费用和每日津贴不包括在订单价值中；它们将按成本单独开具发票。
Unless otherwise agreed in writing, travel expenses and daily allowances are not included in the order value; they will be invoiced separately at cost.
- 5.4. 除非报价中明确说明，所有价格均不含增值税及/或任何其他适用税费。包装、保险及运输费用已包含在内。
Unless explicitly stated in the quotation, all prices exclude VAT and / or any other applicable taxes and duties. Packaging, insurance and transport costs are included.
- 5.5 所有的发票都应在 14 天内支付净额。
All invoices are payable net within 14 calendar days.

6. 所有权和风险转移

6. TRANSFER OF OWNERSHIP AND RISK

- 6.1 在本协议条款下，所有款项未全部付清之前，申克博士保留所有已交付货物的完整合法权利和所有权。设备毁损或灭失的风险应根据《国际贸易术语解释通则》规定转移给买方。
Dr. Schenk retains full legal title to and ownership of all delivered Goods until all outstanding amounts under the contract have been paid in full. Risk of loss or damage to the Goods shall pass to the Buyer according to the agreed Incoterm.
- 6.2 即使货物所有权尚未移交给买方，买方仍有义务谨慎处理已交付的货物。特别地，买方同意自费按货物的原值为所交付的货物充分投保偷窃、火灾和水渍险。
The Buyer is obligated to handle the delivered Goods with care as long as title has not passed to the Buyer. In particular, the Buyer agrees to insure the delivered Goods adequately against theft, fire and water damage at its own cost and in the amount of their original value.

7. 装运时间, 运输条款

7. SHIPPING LEAD TIME AND SHIPPING TERMS

- 7.1 报价中规定的发货时间从订单确认、澄清所有技术细节（开始生产）和收到预付款之后开始起算，以最后的时间为准。延迟付款将可能会导致发货的延迟。允许部分交货。
The shipping lead time specified in the offer starts after order acknowledgement, clarification of all technical details (release to build) and receipt of the Advance Payment, whichever is last. Delayed payment might cause a delay in shipment. Partial deliveries are allowed.
- 7.2 如果申克博士因不可抗力而无法履行其合同义务，不可抗力例如但不限于战争、恐怖活动、火灾、洪水、地震、流行病和大流行病、罢工或官方命令，申克博士将立即通知买方。在发生不可抗力的情况下，可能会出现延迟交货的情况，Dr. Schenk 对此不承担责任。
If Dr. Schenk is prevented from fulfilling its contractual obligations by force majeure such as, but not limited to, war, terror, fire, flood, earthquake, epidemics and pandemics, strikes or official orders, Dr. Schenk will inform the Buyer immediately. In the event of force majeure delays in delivery may occur for which Dr. Schenk is not responsible.
- 7.3 除非另有书面约定，中国境内的交付应采用 DAP 客户地址（《国际贸易术语解释通则 2020》）条款，包括包装、保险及运输费用。
Unless otherwise agreed in writing, deliveries within PR China shall be made DAP customer address (Incoterms 2020), including packaging, insurance and transport costs.
- 7.4 若货物未在约定日期或申克博士发出装运准备通知后一周内（FCA 贸易术语适用时）完成提货，或因申克博士无法控制的原因导致无法如期发货，申克博士有权收取合理的仓储费用。
If the Goods have not been picked up on the agreed date or within one week after Dr. Schenk's notification of readiness for shipment (in case of FCA Incoterm) or could not have been shipped out on the agreed date due to reasons beyond Dr. Schenk's control, Dr. Schenk reserves the right to charge reasonable storage costs.
- 7.5 如果卖方未按合同约定的装运日期交货，且这种情况是卖方控制范围内的原因造成的，则卖方同意向买方支付违约金：每延期一天，支付延期部分合同价值的 1%。但是，违约金最高不应超过延期部分货物价值的百分之三（3%）。一旦延期，买方应在延期开始时以书面形式要求卖方支付违约金。
If Dr. Schenk fails to deliver in accordance with the confirmed shipment date due to reasons within its control, Dr. Schenk agrees to pay a penalty to the Buyer of 1% of the order value of the delayed portion for every day of delay. The penalty, however, shall not exceed three percent (3%) of the Goods involved in the late delivery. The Buyer shall notify Dr. Schenk of the penalty claim in writing at the beginning of the delay period.

8. 安装、调试和最终验收

8. INSTALLATION, COMMISSIONING AND FINAL ACCEPTANCE

- 8.1 如果所交付货物的安装工作由申克博士执行，则适用“申克博士检测系统调试的前提条件”文件，该文件附在报价中。
If the installation of the delivered Goods is carried out by Dr. Schenk, the document "Prerequisites for the Commissioning of Dr. Schenk Inspection Systems" applies, which is attached to the quotation.
- 8.2 交付货物的调试和最终验收应遵循“申克博士检测系统调试的前提条件”文件，该文件附在报价中。除非另有书面约定，最终验收应在调试后立即进行。
Commissioning and final acceptance of the delivered Goods shall be governed by the document "Prerequisites for the Commissioning of Dr. Schenk Inspection Systems", which is attached to the quotation. Unless otherwise agreed in writing, final acceptance shall take place immediately after commissioning.
- 8.3 一旦设备投入生产，最迟在发货后的八周，设备将会自动通过最终验收。
Final acceptance is granted automatically once the delivered Goods are used in production or 8 weeks after notification of readiness for shipment.

9. 保修

9. WARRANTY

- 9.1 申克博士设备保修
Dr. Schenk System Warranty
申克博士保证，从在约定地点完成最终验收之日起的 12 个月内，该设备在材料或工艺上均无缺陷，并应在此期间承担维修或更换有缺陷的设备部件所需的全部人工和材料成本。保修期最迟于装运日后八周开始。

Dr. Schenk warrants that the system is free of defects in material or workmanship for a period of 12 months starting with the date of final acceptance at the agreed site and shall within this period assume all costs for labor and material for the repair or replacement of defective system components. The warranty period commences no later than 16 weeks after the notification of readiness for shipment.

9.2 申克博士 10 年相机保修

Dr. Schenk 10-year Camera Warranty

若买方在系统保修期届满之日前签订维护合同并持续履行该合同，并保持本合同不间断，则设备中所含申克博士相机的保修期将延长至总计 10 年。十年相机保修包括人工和更换相机的费用，不包括差旅时间和差旅费用。

If the Buyer enters into a maintenance contract no later than at the date of expiration of the System warranty and maintains this contract without interruption, the warranty period for Dr. Schenk cameras included in the system will be extended to 10 years in total. The 10-year Camera Warranty includes costs for labor and a replacement camera. Travel time and travel costs are excluded.

9.3 维修或更换的设备组件的保修期从相应的发货日期开始，并最迟于设备原始保修期结束后六个月结束。

The warranty period for repaired or replaced system components recommences on the respective shipping date and ends no later than six months after the end of the original warranty period.

9.4 所有保修不包括耗材，以及消耗品、设备部件的磨损或任何由于外部因素（例如火灾，电涌）或不当使用（包括出于非预期目的的使用或违反申克博士关于正确使用、适当的维护或保养的说明）而导致的设备部件的磨损或损坏。

All warranties do not cover consumables and wear & tear or any damage to system components, which result from external factors (e.g., to fire, power surges) or improper use, including the use for a purpose other than the intended purpose or the handling contrary to Dr. Schenk's instructions for a proper use, proper maintenance or care.

9.5 申克博士保留审查买方与任何保修和/或损害索赔相关的维修文件的权利，并有权在发现有不当使用证据的情况下完全终止保修。

Dr. Schenk reserves the right to review the Buyer's maintenance documentation in association with any warranty and/or damage claims and to discontinue the warranties entirely in such cases where evidence of improper use is observed.

10. 支持和服务

10. SUPPORT AND SERVICE

如果买方要求申克博士提供额外的服务，如维护和培训，则应适用《提供支持和服务的一般条款和条件》（《服务通则》），可随时在申克博士网站上查阅。

If the Buyer requests Dr. Schenk to provide additional services such as maintenance and training, the General Terms and Conditions for Providing Support and Services ("GTC Service") shall apply, which can be accessed at any time on the Dr. Schenk website.

11. 责任

11. LIABILITY

11.1 对于因故意的不当行为或重大过失造成的任何损害，以及根据法律规定在申克博士的控制范围内对生命和肢体、健康的任何损害，申克博士应承担赔偿责任。

Dr. Schenk shall be liable for any damage caused through willful misconduct or gross negligence as well as for any damage within Dr. Schenk's control arising from the loss of life and limb, health, or well-being pursuant to the provisions of law.

11.2 尽管有上述规定，申克博士仅对申克博士的商业综合责任保险承保的性质和范围内的任何损害负责。对进一步的责任，特别是间接或后续损害的责任，例如利润损失或生产损失，不包括在内。申克博士维持 1000 万欧元的商业综合责任保险。

Notwithstanding the foregoing Dr. Schenk shall be liable for any damage only as to the nature and extent covered by its commercial general liability insurance. Further liability, in particular liability for indirect or consequential damage, e.g., loss of profit or loss of production, is excluded. Dr. Schenk maintains a commercial general liability insurance of EUR 10 million.

11.3 如果申克博士的责任被排除或限制，这也适用于其雇员、代表、协助履行合同的各方以及申克博士为履行合同而获得其服务的其他第三方的责任。

Where Dr. Schenk's liability is excluded or limited, this shall also apply with respect to liability on the part of its employees, representatives, parties assisting it in performance, and other third parties whose services Dr. Schenk procures for purposes of performance of the contract.

12. 终止

12. TERMINATION

- 12.1 买方有权在任何时候以书面形式终止合同，通知期为一个月。在这种情况下，他将对申克博士进行如下补偿：

The Buyer has the right to terminate the contract at any time in writing with a notice period of one month. In this case he will compensate Dr. Schenk as follows:

- 在签订合同和开始生产之间终止，则支付订单价值的 50%。
- Termination between conclusion of the contract and release to build: 50% of the order value.
- 从开始生产和通知准备发货之间的终止：支付订单价值的 90%。
- Termination between release to build and notification of readiness for shipment: 90% of the order value
- 在通知准备发货后取消：支付订单价值的 100%。
- Cancellation after notification of readiness for shipment: 100% of the order value.

- 12.2 如果合同一方持续不断地违反其合同义务，使合同关系的存续变得不合理，则守约方以正当理由解除合同的权力应不受影响，并且可以被主张。然而，有效解除的前提条件是，在任何情况下，至少在 30 天的期限内发出解除合同的警告。

The right to extraordinary termination for good cause shall remain unaffected and may be asserted if a contractual party persistently and continuously violates its contractual obligations, so that a continuation of the contractual relationship has become unreasonable. However, a prerequisite for an effective termination is in any case an unsuccessful warning with a deadline of at least 30 days.

13. 保密性

13. CONFIDENTIALITY

双方应对合同设备的价格、用途和技术工艺方法严格保密。

Both Dr. Schenk and the Buyer shall keep any information regarding the price, the application purpose and the technical processing method of the ordered Goods in strict confidence.

14. 管辖法律与仲裁

14. GOVERNING LAW AND ARBITRATION

- 14.1 本《销售通则》应受中华人民共和国法律的约束，但不适用《联合国国际货物销售合同公约》（CISG）。
These GTC Sales are subject to the laws of the People's Republic of China excluding the application of the UN Convention on Contracts for the International Sale of Goods (CISG).

- 14.2 凡因本《销售通则》引起的或与本《销售通则》有关的一切争议，如协商不能解决，则应根据中国国际经济贸易仲裁委员会的仲裁规则指定一名或多名仲裁员根据上述规则进行仲裁。该等仲裁员的仲裁裁决是终局，对双方均具有约束力和决定性。仲裁地点应为中国上海。仲裁语言为中文。

All disputes arising out of or in connection with these GTC Sales, which are not settled by negotiation, shall be settled under the Rules of Arbitration of the China International Economic and Trade Arbitration Commission by one or more arbitrators appointed in accordance with such Rules, and the award and determination of such arbitrators shall be final, binding and conclusive upon both parties. The place of arbitration shall be Shanghai, PR China. The language of the arbitration shall be Chinese.

15. 最后规定

15. FINAL PROVISIONS

- 15.1 对本《销售通则》的所有修改和补充都必须以书面形式进行，并且必须明确提及本《销售通则》。这也适用于对书面形式要求的放弃。

All amendments and supplements to these GTC Sales must be made in writing; moreover, they require express reference to these GTC Sales. This shall also apply to the waiver of the written form requirement.

- 15.2 如果本《销售通则》的任何条款无效或无法执行，不影响其余条款的有效性。但是，双方必须以最接近不可执行条款的经济效果的条款取代该无效或不可执行条款；同样的规定也适用于任何遗漏或漏洞。

Should any provision of these GTC Sales be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. However, the parties must replace the invalid or unenforceable provision with another provision that most closely approximates the economic effect of the unenforceable provision; the same shall apply with respect to any omission or loophole.

- 15.3 本《销售通则》是以中文和英文书写的。两种语言都是等效的。如有任何争议，以中文版本为准。

The GTC Sales are written in Chinese and English. Both languages are equivalently valid. If any disputes arise, the Chinese edition shall be final.