

# 深圳市佰仕其科技有限公司

SHENZHEN PASEIKI Technology Co., Ltd

**PASEIKI**®

PSK/T-130101-2013

## 销售、供货和付款条款/Standard terms of business

### 条款一：合同应用

(Article 1 - application, contract conclusion)

佰仕其的所有报价、销售、运输和服务都服从以下条款。即使佰仕其没有反对客户方的商业条款的情况下，本条款同样适用。  
(All Paseiki's quotations, sales, deliveries and services are subject solely to the following terms. This applies even if Paseiki has not objected to the client's different business terms.)

本条款构成佰仕其与客户方关于运输和服务方面所有合同的一部分。对于预订或承诺运输的授予将被认为是对本条款的认同。  
(These terms form part of all contracts concluded by Paseiki with contract partners in respect of Paseiki's deliveries and services; the award of an order or acceptance of a delivery is deemed to constitute recognition of the terms.)

佰仕其的报价单非一成不变并且不是固定的。购买定单如果一旦以书面的形式被佰仕其确认，那么它们将被视为接受。交货和付款通知也将同时被视为对定单的确认。

(Quotations issued by the company Paseiki are subject to change and are not binding. Purchase orders are deemed to have been accepted once they have been confirmed in writing by Paseiki. The delivery and invoice are simultaneously deemed to represent an order confirmation.)

### 条款二：价格

(Article 2 - prices)

所有价格指出厂价，不包括包装和保险，同时也不包括法定营业税。

(All prices are deemed to be ex-works, excluding packaging and insurance, and excluding the applicable statutory turnover tax.)

如果在签订合同后，佰仕其或其供应商方面出现重大或特殊成本因素的增长，（如：原料，运费，包装材料等），且这些增长会导致购买价格或成本价格的大幅增长，佰仕其有权对购买方实行适度的价格调整。

(If, following contract conclusion, extraordinary and significant cost factor increases should occur (e.g. raw materials, freight or packaging materials, etc.) in respect of Paseiki or its suppliers, and if these increases should result in a significant increase in the purchase prices or cost prices, Paseiki shall be entitled to demand an appropriate price adjustment from the purchaser.)

列入“DV”目录中的产品的价格可能会根据汇率的浮动有所变动。

(Product prices in the "DV" catalogue may be altered due to fluctuations in exchange rate parity.)

### 条款三：商品描述

(Article 3 - product description)

佰仕其在其产品目录里面对商品运输和服务的申明（如：重量，直径，实用价值，装载量，承受量，技术指数等）为大概的范围。佰仕其提供的仅为对产品的描述而非对商品属性的绝对承诺或保证。在不影响合同所规定的产品的目的性用途的情况下，在不违背一般国际惯例的原则下，变更相应的指标是允许的。

(Paseiki's statements regarding the subject of the delivery and service (e.g. weight, dimensions, utility values, loads, tolerances, technical data etc.), as well as product illustrations in catalogues, are only approximately definitive. They represent descriptions rather than guaranteed attributes. Deviations or changes in accordance with ordinary trade usage, which occur as a result of statutory regulations or which represent technical improvements, are permissible as long as they do not adversely affect the product's usefulness for the contractually intended purpose.)

在 10% 上下的差量被认为是容许的。佰仕其保留分期交货的权利。

(A quantity tolerance of +/- 10 % is deemed to be conceded. Paseiki reserves the right to make partial deliveries.)

#### **条款四：付款及结算**

##### **(Article 4 - payment and settlement)**

在 7 日内付清发票金额将有 2% 的折扣，30 天内付清则无折扣，除非以书面形式表明。付款日期以 Paseiki 收到付款的时间为准。以支票，汇票或转账付款的，以金额被打进佰仕其的账户为确认收到付款。

(Invoice amounts are payable within 7 days with a 2% discount, or within 30 days without deduction, unless otherwise agreed in writing. The date of payment shall be determined by the date on which it is received by Paseiki. Cheques, bills of exchange and transfers will only be considered as paid once they have been cleared or credited to Paseiki's account.)

如果买方要求抵消反索赔，反索赔只是在被对方承认的情况下才允许。

(Retention on the basis of the purchaser's counter-claims, or offsetting against such counter-claims, is only permitted if the counter-claims in question are undisputed or have been legally determined and can no longer be appealed.)

如是 100 美元的小量订单，佰仕其有权征收 10 美元的手续费。

(In the case of small orders up to 75 USD, Paseiki reserves the right to levy a processing fee of 10 USD.)

在未经授权的情况下，佰仕其的代表无权收集应付款项。

(Paseiki's representatives are not entitled to collect monies due unless they are explicitly authorized to do so.)

#### **条款五：名称的保留**

##### **(Article 5 - reservation of title)**

所交货物应保留为佰仕其公司的产权，直到所有相关的要求，包括损坏赔偿要求，补救要求等全部解决，且所有支票、账单全部结清。

(The goods delivered shall remain the property of the company Paseiki until all claims deriving from the business relationship, including ancillary claims and damage compensation claims, have been paid, and until all cheques and bills of exchange have been cleared.)

撤回前，在一般商品贸易的背景下，下订单方在保留产品所有权的条件下允许将货物转卖他方。但不许以货物作为抵押，或通过证券或信托方式转移货物所有权。

(Until revocation, the party placing the purchase order is entitled to resell the goods in respect of which there is reservation of title in the context of normal business dealings, but is not permitted to pledge the goods, to transfer ownership by way of security or to make a fiduciary assignment in respect of the goods.)

买方有权转移销售佰仕其产品给另外公司的债权给佰仕其。佰仕其接受该债权。除非佰仕其另外通知，买方有义务接收债权。

(The purchaser at this point already assigns to Paseiki any claims deriving from resale of the goods in respect of which Paseiki reserves title; Paseiki accepts this assignment. Until revocation, the purchaser is entitled to collect the assigned claims.)

若佰仕其所持有的抵押价值超过佰仕其债权的 20%，在买方的要求下，佰仕其有义务发放这些抵押；佰仕其有权选择发放何种抵押。

(If the value of the securities held by Paseiki exceeds the value of Paseiki's claims by more than 20%, Paseiki is obliged to release such securities if so requested by the purchaser; Paseiki may select the securities in question.)

如果在保留产品所有权的基础上，佰仕其将所运物品取回，合同只有在佰仕其清楚声明的情况下才会被认为是否决。

(If, based on the reservation of title, Paseiki takes back the delivery object, the contract will only be deemed to have been repudiated if Paseiki makes an explicit declaration in this regard.)

购买者有义务对所有属于佰仕其的产品进行投保，并承担相关费用。

(The purchaser is obliged to insure the goods in respect of which Paseiki has reserved title against damage, and to bear the associated costs.)

## **条款六：运输 / 转移风险** **(Article 6 - delivery / transfer of risk)**

已经协商的交货条款将依照合同签署时的国际商会国际贸易术语解释通则来解释。

(Agreed delivery clauses are to be interpreted in accordance with the Incoterms applicable at the time of contract conclusion.)

如果在合同中没有特殊的交货条款，交货商品将被认为是在工厂交货。

(If there is no specific delivery clause in the contract, the delivery object will be deemed to be delivered "ex works" (EXW).)

如果在工厂交货，而且购买方要求佰仕其安排运输，则佰仕其承担将货物海运至目的地，则转移的风险将从首发货人运货物开始。

(If, in the case of an EXW delivery and at the request of the purchaser, Paseiki undertakes to ship the delivery object to its destination location, the transfer of risk will, at the latest, take place at the time when the first shipper takes delivery of the goods in question.)

除另行规定，分期运货是允许的。

(Unless otherwise agreed, partial deliveries are permitted.)

海运方式和包装将由佰仕其公司决定。

(The shipping method and packaging shall be decided by the company Paseiki.)

买方收到货物后应检查货物的受损情况。对于不恰当运输，运输不到量所提出的投诉最迟必须在收到货物 7 天内提出，否则将被视为货物已被认可。

(On receipt, the purchaser is obliged to check the goods for damage and freedom from defects. A complaint must be lodged in respect of defective or incorrect deliveries, or delivery shortfalls, within 7 days of receiving the goods at the latest; otherwise the goods will be deemed to have been approved.)

如果买方在被通告运输准备就绪的情况下引起海运的延误，佰仕其可以每月收取运费 0.5% 的仓储费，但是总仓储费不得超过运费的 5%。合同双方有权提高或降低仓储费。

(If the purchaser causes shipping to be delayed for more than a month after being notified of shipping readiness, Paseiki may levy a warehousing fee of 0.5% of the delivery price for each month commenced, not however exceeding 5%. The contracting parties shall remain free to prove higher or lower warehousing costs.)

佰仕其所陈述的运输时间不是固定的。任何不可抗力，机器损坏，原料及其他材料运输的延迟，可使佰仕其免去在规定时间内供货的责任，但是并不能导致合同关系的解除，买方在任何情况下都应保持与佰仕其的合同关系，必须接受合同中的货物。如果合同关系被证明是无法履行，则佰仕其可不负运输责任。

(The delivery time stated by Paseiki is not binding. Events representing force majeure, breakage or machine damage, delays in the delivery of raw materials or other substances shall release Paseiki from the need to observe the stated delivery time, and shall not result in dissolution of the contractual relationship. The purchaser shall remain bound by the contract and is, under all circumstances, obliged to accept the goods. If contract performance should prove impossible, Paseiki shall be released from its delivery obligations.)

如有延迟，买方须给佰仕其另设一不少于 12 周的最终期限。

(In the event of delays, the purchaser must set Paseiki a subsequent deadline of at least 12 weeks.)

## **条款七：商品缺损 (Article 7 - defects)**

如果商品缺损，佰仕其可以选择矫正缺损商品或运输新产品。如果过失纠正或运输新产品失败，则买方有权取消所有进一步的需求申明，不论法律基础是什么，都可要求取消该产品或者要求降低收费。

(In the case of a verifiably defective delivery, Paseiki may chose whether to rectify the defect or to deliver a replacement. If the defect rectification or replacement delivery fails, the purchaser may - ruling out all further claims of any kind, and regardless of the legal bases therefore - choose to either repudiate the contract or demand a reduction.)

退还货物，买方须遵循佰仕其的条款（在 15 个工作日内退还申请，确认附加退还含有所有数据、特征标注的试验报告，以及样品）

(If returning goods, the purchaser is obliged to observe Paseiki's stipulations (return confirmation / complaint with a request to return the test report containing all data and features of note, and including samples, within 15 working days).)

任何买方单方面的进一步关于在法律允许的范围外货物质量问题的申报将不被接受，除非相关担保的数据没有得到实现。

(Any further claims on the part of the purchaser in respect of quality defects are ruled out to the extent legally permitted, unless relating to the absence of guaranteed attributes.)

所有有关于质量的索赔在首次风险转移的时候开始的 12 个月内进行，超过时间则索赔失效。

(Quality defects shall become statute-barred 12 months after the initial transfer of risk.)

质量缺陷必须以书面形式予以通知

(Quality defects must always be acknowledged in writing.)

如果保护买方免于损坏的各种数据担保没有实现，则佰仕其应依照其所述法令或规定进行赔偿。但是该赔偿只是限于典型的可预测的损坏。

(In the case of attribute guarantees intended to protect the purchaser from the risk of any damage as a consequence of defects, Paseiki shall be liable for damage compensation in accordance with the provisions of statutory regulations. However, this liability is limited to typical and predictable damage.)

## **条款八：责任 (Article 8 - liability)**

客户对佰仕其或者是其雇员、代理的由于产品缺损或者是没有达到相关担保的数据而引起的索赔要求，以上的都应该排除，除非损坏是由于预谋或疏忽所造成的。

(Claims against Paseiki, or persons employed in performing an obligation for which Paseiki is vicariously liable, or Paseiki's vicarious agents, relating to compensation for damage as a consequence of defects, as well as damage compensation claims relating to impossibility of performance, non-performance, the absence of guaranteed attributes, culpable breach of contract, culpability when concluding the contract, and prohibited actions are ruled out unless the damage was the result of premeditation or gross negligence.)

责权限制不适用以下情况：a) 源自于旨在保护客户免除货物因过失造成的损坏的风险的承诺书的申明；b) Paseiki 违反契

约规定，其行为违反了合同核心部分（主要职责）c）中国商品责任法案规定，

(This limitation of liability does not apply if a) damage compensation claims are derived from a guarantee of attributes intended to protect the client from the risk of damage as a consequence of defects; b) Paseiki is in breach of contractual obligations the performance of which is vital to orderly contract performance (cardinal obligations); c) the China Product Liability Act stipulates liability for damage to persons or property in the case of defects in respect of the delivery object, and relating to privately used objects. If, in such cases, minor negligence is present, Paseiki shall only be liable for contractually typical damage which could be reasonably predicted.)

### **条款九：损坏赔偿的统一费用**

#### **(Article 9 - flat-rate damage compensation)**

如果客户不正当的违反合同或不承接接受产品的相应职责，或拖欠应付账款 30 天以上，佰仕其有权索要损失赔偿。同样情况，如果有特殊情况，佰仕其有权终止合同。

(In the event that the purchaser unjustifiably repudiates the contract, or does not meet his acceptance obligation, or is in arrears of over 30 days in respect of payments due, Paseiki is entitled to demand damage compensation for non-performance. The same applies if, for other reasons, Paseiki has the right, as a result of statutory provisions, to repudiate the contract, or has the right of extraordinary termination, and has availed of this right.)

在这样的情况下，佰仕其有权利要求 20% 的原货物购买价值作为损害赔偿，并且没有必要确认损害。然而，在特定案例下，客户有权利要求减少赔偿额。

(In such cases Paseiki is entitled, without prejudicing its right to enforce a higher actual level of damage compensation, to demand 20% of the (gross) purchase price in the form of damage compensation, whereby there is no need to verify the damage. However, the client shall be entitled, in individual cases, to verify a lesser amount of damage.)

### **条款十：工具**

#### **(Article 10 - tools)**

任何工具和器材在任何情况下都是 Paseiki 的财产，即使它们已经按一定的比例被开了发票支付了。

(Tools and equipment shall remain the property of Paseiki under all circumstances, even if they have been invoiced and paid for on a pro-rata basis.)

Paseiki 保留分摊为一个特定产品的客户制造工具而产生的费用的权利（顾问保留分摊成本的权利，这个成本是因为要满足客户的特定产品而制造特殊工具的费用

(Paseiki reserves the right to apportion the costs of producing a tool intended for production of a product specific to the client to the client in question.)

### **条款十一：总结**

#### **(Article 11 - concluding provisions)**

执行地是中国深圳。客户和佰仕其的法律关系应该仅与中国的法律相适应。国际采购法在此不适用。

(The place of performance is shenzhen china. The legal relations between the client and Paseiki shall be solely subject to the law of the china. Application of the UN Law of Purchase (CISG) is ruled out.)

如果客商已经拥有中国企业资质，那么双方的管辖地应该是佰仕其所在地，即深圳或者客户的主要商务地。

(If the client is a merchant as defined by the **China enterprise qualification**, the legal venue for both parties shall be Shenzhen or, if so requested by Paseiki, the client's principal place of business.)

若上述的条款中部分无效，则剩余条款不受影响，仍然有效。当事人双方应达成协议，用与无效条款商业目标最接近的其他条款来代替无效的条款。这些商业条款必须遵守直至条款被撤回。

(Should a provision in the above General Terms of Business be or become ineffective, the remaining provisions shall not be affected thereby. The parties undertake to replace an ineffective provision with an agreement which most closely approximates to the commercial purpose of the ineffective provision. These Terms of Business shall apply until revoked.)