

## PURCHASING TERMS AND CONDITIONS (China)

## 采购条款 (中国)

**1 GENERAL 一般规定**

- a. In These Terms and Conditions (“Conditions”) “Buyer” means the Element Materials Technology group legal entity purchasing the Goods and/or Services from the Supplier; “Supplier” means the supplier indicated on the Order; “Goods” means the goods or other materials stated on the Order and any necessary ancillary goods or materials; “Services” means the services stated on the Order and any necessary ancillary services; “Company” means the Buyer and/or any of its subsidiary companies (within the meaning of the applicable laws and regulations of the People’s Republic of China); “Contract” means the contract (incorporating these Conditions and the Order) made between the Buyer and the Supplier for the sale and purchase of the Goods and/or the Services; “Order” means the Buyer’s order for the Goods and/or the Services from the Supplier; “Supplier’s Warranties” means those warranties as set out in clauses 5a, 5b and 5c.

在本条款 (以下简称“本条款”) 中, “买方”是指向供应商购买货物和 (或) 服务的埃类特材料科技 (Element Materials Technology) 集团旗下法人实体; “供应商”是指订单上指明的供应商; “货物”是指订单中规定的货物或其他材料以及任何必要的辅助货物或材料; “服务”是指订单中规定的服务以及任何必要的辅助服务; “公司”是指买方和 (或) 其任何子公司 (适用中华人民共和国有关法律、法规规定的含义); “本合同”是指买方与供应商之间就货物和 (或) 服务的买卖而订立的合同 (包含本条款和订单); “订单”是指买方从供应商购买货物和 (或) 服务的订单; “供应商的保证”是指第 5a 条、第 5b 条和第 5c 条中规定的保证。

- b. The Order constitutes an offer by the Buyer to purchase Goods and/or Services from the Supplier in accordance with these Conditions. The Order shall be deemed to be accepted on the earlier of:

订单构成买方根据本条款向供应商购买货物和 (或) 服务的要约。订单应被视为在以下日期已被接受 (以日期在先者为准):

- i. the Supplier issuing written acceptance of the Order; or  
供应商签发书面的订单接受确认书; 或者
- ii. any act by the Supplier consistent with fulfilling the Order,  
供应商的任何行为表明其正在履行订单,

at which point and on which date the Contract shall come into existence.

本合同应在该日期成立。

- c. These Conditions and the Order contain all the provisions which the parties have agreed in relation to the subject matter of the Contract and supersede any prior written or oral agreements, representations, proposal documentation or understandings between the parties (including any terms or conditions which the Supplier purports to apply under any brochure, price list, acknowledgement of order or similar document). These Conditions apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any variation to the Order or these Conditions shall have no effect unless expressly agreed in writing by the Buyer. These Conditions do not affect the Buyer’s statutory and other legal rights.

本条款和订单包含了双方就本合同标的物已达成协议的所有条款, 并取代双方之间先前的任何书面或口头协议、声明、方案文件或约定 (包括供应商希望适用的任何小册子、价目表、订单确认书或类似文件中的任何条款或条件)。本条款的适用排除供应商试图规定或纳入的任何其他条款、或者由贸易、习惯、惯例或交易过程所默示的任何其他条款。除非买方另行明确书面同意, 否则对订单或本条款的任何修改均无效。本条款不影响买方的法定和其他合法权利。

- d. The headings in these Conditions are for convenience only and shall not affect their interpretation. The word "including" will be construed so that it does not limit the general effect of the words which precede it and so that any examples that are given are not to be exclusive or limiting examples of the matters in question.

本条款使用的标题仅为方便查阅而设, 不影响各项条款的解释。“包括”一词应被解释为不限制其前面的词语表达的基本意思, 并且所给出的任何示例都不排除或限制所讨论事项的示例。

**2 DELIVERY OF GOODS/PROVISION OF SERVICES 货物交付/服务提供**

- a. The Supplier shall deliver the Goods and/or complete the provision of the Services by the delivery or completion date(s) stated on the Order. If no dates are so specified, delivery of the Goods and/or completion of the Services will be within 28 days of the date of the Order or by such later date as may be agreed by the Buyer and the Supplier in writing. Time for delivery of the Goods and/or completion of the Services shall be of the essence of the Contract.

供应商应在订单上规定的交货日期或完成日期之前交付货物和 (或) 完成服务的提供。如果未指定日期, 则应在订单日期起 28 天内, 或者在买方和供应商书面同意的较晚日期之前交付货物和 (或) 完成服务。交付货物和 (或) 完成服务的时间是本合同的关键条件。

- b. Delivery of the Goods and provision of the Services to the Buyer shall be made at the place(s) specified in the Order (or, if none specified, at the Buyer’s premises from which the Order is despatched) and by the method(s) specified on the Order (or, if none specified, using such method as accords with best accepted industry practices).

应在订单中指定的地点 (或者如果未指定, 则在发出订单的买方场所) 并且按照订单上指定的方式 (或者如果未指定, 则使用符合最佳行业惯例的方式) 向买方交付货物和提供服务。

- c. The Supplier shall deliver the quantity of goods stated on the Order. The Buyer may at its discretion accept a quantity variation and pay pro-rata for the actual quantity delivered.

供应商应交付订单上规定数量的货物。买方可以自行决定接受数量变化并按实际交付数量按比例付款。

- d. The Goods shall be properly packed and stored during transit so as to reach their destination in an undamaged condition. All containers and other packaging shall be included in the price and non-returnable unless otherwise stated on the Order.

货物在运输过程中应妥善包装和存放, 以确保运抵目的地的货物完好无损。除非订单上另有说明, 否则所有容器和其他包装均应包含在价格中且不可退回。

- e. The Supplier shall at its own cost obtain and comply with any necessary export/import licences, permits or consents (including work permits or consents) for the supply and delivery of the Goods or provision of the Services.

供应商应自行承担费用取得和遵守与供应和交付货物或提供服务相关的任何必要的进出口许可证、许可或同意 (包括工作许可证或同意书)。

- f. The Buyer or its representatives shall have the right to inspect and test the Goods and inspect the provision of the Services, and the Supplier irrevocably grants the Buyer the right to enter its premises for these purposes. If as a result of such inspection or testing the Buyer is not satisfied that the Goods or the Services comply with the Contract and the Buyer so informs the Supplier then the Supplier shall take all necessary steps to ensure compliance. No inspection or testing shall imply any acceptance by the Buyer.

买方或其代表有权检验和检测货物以及检查服务的提供情况, 供应商不可撤销地授权买方为此目的进入其场所。如果通过该等检验或检测, 买方认为货物或服务不符合本合同并通知供应商, 则供应商应采取所有必要措施以确保符合本合同。任何检验或检测均不表示买方已接受。

- g. The Buyer may at any time make changes in writing relating to the Order including changes in the specification of the Goods or the method of performance of the Services, quantities, packing or time or place of delivery of the Goods or performance of the Services. If such changes result in an increasing cost of, or time required for, the delivery of the Goods and/or the performance of the Services, an equitable adjustment shall be made to the price and/or the schedule for the delivery of the Goods or the performance of the Services. Any claim for adjustment by the Supplier must be approved by the Buyer in writing before the Supplier proceeds with such changes.

买方可以随时对订单进行书面变更, 包括变更货物规格或服务履行方式、货物的数量、包装或交付时间或地点、或履行服务的时间或地点。如果该等变更导致交付货物和 (或) 提供服务的成本增加或所需时间增加, 则应公平调整价格和 (或) 交付货物或履行服务的时间安排。供应商要求作出任何调整的请求必须在供应商实施该等变更之前取得买方书面批准。

- h. The Buyer shall be entitled to cancel the Order in whole or in part by giving notice to the Supplier at any time prior to delivery of the Goods or performance of the Services, in which event the Buyer’s sole liability shall be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation shall not include loss of anticipated profits or any consequential loss.

买方有权在交付货物或履行服务之前的任何时候通知供应商以部分或全部取消订单, 在此情况下, 买方的唯一责任是应向供应商支付取消时已制作的半成品的公平合理补偿, 但该补偿不包括任何预期利润损失或任何间接损失。

**3 PRICE AND PAYMENT 价格和付款**

- a. Unless otherwise stated on the Order the price for the Goods and/or the Services is exclusive of VAT but inclusive of all other duties, fees or taxes, cost of delivery, carriage, packing or provision to the Buyer, and shall not be subject to adjustment without the Buyer’s prior written consent.

除非订单上另有规定，货物和（或）服务的价格不含增值税，但包含所有其他关税、收费或税金、以及交付、运输、包装或提供给买方的费用，并且未经买方事先书面同意，不得调整价格。

- b. If no price is stated on the Order, a price must be agreed in writing with the Buyer before the Order is acted upon by the Supplier.

如果订单上未注明价格，价格则必须在供应商执行订单之前与买方书面约定。

- c. The Supplier's invoices shall not be paid by the Buyer unless they show: the Order number, VAT rate, amount of VAT charged and the Supplier's VAT registration number. Unless otherwise stated on the Order, payment shall be due from the Buyer sixty (60) days from the date of invoice which the Buyer receives from the Supplier. The Supplier may not invoice the Buyer until delivery of the Goods to the Buyer or completion of the Services unless otherwise stated on the Order.

供应商的发票必须载明订单号、增值税税率、收取的增值税税额和供应商的增值税登记号，否则买方有权拒绝付款。除非订单上另有指明，买方应在所收到的供应商发票日期起六十（60）天内付款。除非订单上另有指明，货物交付给买方或服务完成之前，供应商不得向买方开具发票。

- d. Payment by the Buyer shall be without prejudice to any claims or rights which the Buyer may have against the Supplier and shall not constitute any admission by the Buyer as to satisfaction of the Supplier's obligations under the Contract. The Buyer may withhold payment of any sums due under the Contract in the event of any dispute with or claim against the Supplier.

买方付款不影响买方可能对卖方享有的任何索赔或权利，并且不构成买方承认供应商已充分履行本合同项下的义务。如果与供应商存在任何争议或者对供应商提出任何索赔，买方可以拒绝支付本合同项下的任何应付金额。

- e. The Buyer may, by notice in writing to the Supplier, set off any or all of the monies owing by the Buyer to the Supplier for the Goods or the Services against any amount owing from the Supplier to any Company (without prejudice to any other remedies of the Buyer in respect of any default by the Supplier).

买方经书面通知供应商后，可以从供应商应支付给任何公司的任何款项中抵消买方为货物或服务应支付给供应商的任何或全部金额（并且不影响买方针对供应商的违约行为享有的任何其他救济）。

#### 4 RISK AND TITLE 风险和所有权

- a. Risk in and title to the Goods shall pass to the Buyer on delivery to the Buyer (or, if appropriate, on receipt of the Goods by the Buyer's carriers) provided that where the Goods are transferred to the Buyer in connection with the Services, risk and title shall pass to the Buyer on substantial incorporation into or onto the premises or the property of the Buyer or on completion of the Services (whichever is earlier).

货物的风险和所有权应在交付给买方时（或，若适当，在买方的承运人收到货物时）转移至买方；但是，如果货物因服务而转让给买方，货物的风险和所有权则应在货物实质性纳入或进入买方的场所或财产中时、或在服务完成时（以时间在先者为准）转移至买方。

- b. Where the Buyer supplies to the Supplier materials and/or equipment on a free issue basis for use in the manufacture of the Goods for supply to the Buyer under the Contract, such materials and/or equipment shall at all times remain in the ownership of the Buyer but shall be at the Supplier's risk from point of receipt by the Supplier. The Supplier shall only use such materials and/or equipment for the purpose of manufacturing the Goods under the Contract, shall not subject such materials and/or equipment to any charge, lien or encumbrance and shall where reasonably practical keep such materials and/or equipment separate and clearly identified as the Buyer's property.

如果买方免费向供应商提供生产货物所需的材料和（或）设备，而生产的货物将根据本合同提供给买方，该等材料（或）设备始终属于买方所有，但是其风险应在供应商收到时转移至供应商。供应商仅可将该等材料（或）设备用于生产本合同项下的货物，不得在该等材料（或）设备上产生任何抵押、留置或产权负担，并且应在合理可行的情况下将该等材料（或）设备分开存放，并明确标明为买方的财产。

- c. The Supplier shall hold all materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Supplier ("Buyer Materials") in safe custody at its own risk, maintain the Buyer Materials in good condition until returned to the Buyer, and not dispose of or use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation.

供应商自行承担风险保管买方提供给供应商的所有材料、设备和工具、图纸、规格和数据（以下简称“买方材料”），确保买方材料处于良好状态，直至归还给买方。除非买方另有书面指示或授权，供应商不得擅自处置或使用买方材料。

- d. Title to all items provided to the Supplier for or in connection with the provision of the Services shall remain at all times with the Buyer and the Supplier shall not exercise, assert or purport to exercise or assert any lien of whatever nature in connection with such items and risk in them shall remain with the Supplier until completion of the Services and redelivery to the Buyer (when risk shall revert to the Buyer).

为提供服务或因提供服务而提供给供应商的所有物品的所有权始终归属于买方。对于该等物品，供应商不得行使、主张或意图行使或主张任何性质的留置权。该等物品的风险由供应商承担，直至服务完成并且该等物品归还给买方（届时该等物品的风险将重新转移至买方）。

#### 5 WARRANTY AND LIABILITIES 保证和责任

- a. In the case of the Goods the Supplier warrants to the Buyer that:

关于货物，供应商向买方保证如下：

- i. the Goods as delivered shall comply with all specifications and/or drawings supplied by the Buyer to the Supplier or, if none, with the Supplier's standard specifications and with any description or sample;

所交付的货物符合买方向供应商提供的所有规格和（或）图纸；如果没有该等规格和（或）图纸，则应符合供应商的标准规格以及任何描述或样品；

- ii. the Goods shall be of satisfactory quality, sound design, materials and workmanship and fit for any purpose held out by the Supplier or specified by the Buyer or as may be reasonably inferred from the Contract or dealings between the parties and the Supplier shall hold in custody at its own risk and treat with the highest degree of care and skill accepted within the trade all items or other materials of the Buyer (if any) provided to the Supplier for or in connection with the supply of the Goods; and

货物应具有令人满意的质量、合理的设计、材料和工艺，并且适合供应商提出的或买方指定的用途，或者从本合同或双方的交易中合理推断的任何用途，供应商应自行承担风险保管并且以行业内公认的最高程度的审慎和技能标准对待买方为货物的供应或因货物供应而向供应商提供的所有物品或其他材料（如有）；且

- iii. the Goods shall comply with all applicable laws, standards and regulations (and with any collection, quantity or other requirements stated on the Order) concerning the manufacture, packaging, labelling, storage, handling and delivery of the Goods, and with all relevant health and safety and environmental regulations and/or national standards, and with best accepted industry standards.

货物应符合与货物的制造、包装、标签、贮存、处理和交付相关的所有相关法律、标准和法规（以及订单上规定的任何收集、数量或其他要求）、所有相关健康和安全及环境法规和（或）国家标准、以及公认的最佳行业标准。

- b. In the case of the Services the Supplier warrants to the Buyer that:

关于服务，供应商向买方保证如下：

- i. the Services shall, on completion of their provision to the Buyer, comply with the agreed specification or, if none, with the Supplier's standard specification and with any description or demonstration and shall otherwise be the best of their kind provided in the trade and be to the Buyer's reasonable satisfaction;

服务在向买方提供并完成后，应符合约定的规范，或者，如果没有约定的，应符合供应商的标准规格以及任何描述或演示，并且应符合行业内最佳标准以及获得买方的合理认可；

- ii. the Services shall be provided with the highest standards of care, skill and workmanship accepted within the trade and the Supplier shall hold in safe custody at its own risk and treat with the highest degree of care and skill accepted within the trade all items or other materials of the Buyer (if any) provided to the Supplier for or in connection with the provision of the Services;

服务应以行业内公认的最高标准的审慎、技能和工艺要求提供，供应商应自行承担风险保管、并以行业内公认的最高程度的审慎和技能要求对待为提供服务或因提供服务而由买方向供应商提供的所有物品或其他材料（如有）；

- iii. it shall use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;

供应商应使用具备适当技能和经验的人员执行所分配给他们的任务，并且应使用足够数量的人员以确保按照本合同的要求履行供应商承担的义务；

- iv. it shall use the best quality goods, materials, standards and techniques, and ensure that the deliverables and all goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;

供应商应使用最优质的货物、材料、标准和技术，并确保服务中提供和使用或移交给买方的成果以及所有货物和材料均不存在工艺、安装和设计方面的缺陷；

- v. the Services shall be provided in accordance with all applicable standards, regulations and/or legal requirements, and best accepted industry practices; and

应根据所有适用的标准、法规和（或）法律要求以及公认的行业最佳操作规范提供服务；以及

vi. in the case of the Services provided on or at premises of the Buyer, the Supplier shall comply with all relevant Buyer policies (including health and safety policies and physical, systems and information security policies) and with the Buyer's site regulations in force from time to time and with other reasonable requests of the Buyer.

如果在买方的场地提供服务, 供应商应遵守买方的所有相关政策(包括健康和安全管理政策以及实体、系统和信息安全政策)、买方届时施行的现场规章制度、以及买方的其他合理要求。

c. The Supplier warrants that it shall not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Buyer may rely or act on the Services.

供应商保证, 其不会有可能导致买方丧失开展其业务所依赖的任何执照、授权、同意或许可的任何作为或不作为, 并且供应商确认买方可能依赖或根据服务采取行动。

d. If the Buyer finds that the Goods and/or the Services (or any of them) fail to comply with any of the Supplier's Warranties (however slight the breach) the Buyer may, by giving notice to the Supplier:

如果买方发现货物和(或)服务(或其中任何一种)不符合供应商的任何保证(无论违约程度), 买方可以通知供应商:

i. reject any of the Goods or any part thereof (including any or all of the Goods not affected by such failure to comply), and/or require the immediate refund of any monies already paid and/or cancel the Order and for the avoidance of doubt, such right shall still be available to the Buyer even if the Buyer has re-sold or otherwise dealt with the Goods;

拒收任何货物或其中任何部分(包括不受该不合格情况影响的任何或所有货物), 且(或)要求立即退还已支付的任何款项和(或)取消订单。为免歧义, 即使买方已转售或以其他方式处置货物, 买方仍有权行使该权利;

ii. refuse any further delivery of any Goods or the further provision of any Services (including under another Contract);

拒绝再交付货物或再提供任何服务(包括根据另一合同);

iii. require the Supplier (free of charge) to make good or replace the Goods or re-perform the Services to the Buyer's satisfaction (in either case within 30 days). Any demand to make good, repair, replace or re-perform shall not prevent the Buyer rejecting the Goods and/or the Services if the Supplier fails to comply or if the making good, repair or re-performance is unsatisfactory. Any replacement Goods or re-performed Services shall comply in all respects with the Supplier's Warranties; and/or

要求供应商(免费)修理或更换货物, 或重新履行服务, 以使买方满意(在任何情况下, 应在 30 天内完成)。如果供应商不遵守、或未按照买方的要求进行修理、维修货物或重新履行服务, 该等要求并不得阻止买方拒收货物和(或)服务。任何更换的货物或重新履行的服务均应在所有方面均遵守供应商的保证; 及(或)

iv. (by itself or through arrangements with a third party) make good, modify repair or otherwise correct the Goods or re-perform the Services at the Supplier's cost. The Supplier shall immediately on demand reimburse the Buyer its costs and expenses of such making good, modification, repair, correction or re-performance.

(自身或安排第三方)修理、修改、维修或以其他方式整改货物或重新履行服务, 且产生的费用应由供应商承担。供应商应立即按要求向买方偿还买方因修理、修改、维修、整改货物或重新履行服务产生的费用和支出。

e. The Goods which are alleged not to comply with the Supplier's Warranties shall as far as practicable be preserved by the Buyer for inspection by the Supplier (provided that the Supplier inspects the Goods within 14 days of being notified of the alleged defect by the Buyer), and shall, if reasonably practicable, be returned to the Supplier at the Supplier's cost.

买方应在切实可行的范围内尽可能保留其指称不符合供应商保证的货物, 以便由供应商进行检验(但是, 供应商应在收到买方的缺陷通知后 14 天内检验货物), 并且应在合理可行的情况下将该等货物退还给供应商, 产生的费用由供应商承担。

f. The Supplier shall take out and maintain insurance with a reputable insurance company against any loss or damage whatsoever to the Buyer, the Buyer's employees, the Buyer's property, and any third party, whether caused by the Supplier's (or its sub-contractors') default in providing the Services or supplying the Goods or otherwise through the Supplier's (or its sub-contractors') negligence in amounts adequate to cover any such potential loss or damage that may be incurred by the Buyer (or such other amounts as may be specified on the Order). The Supplier shall provide evidence of such cover to the Buyer upon the Buyer's request.

供应商应向声誉良好的保险公司投保和维持保险, 以承保由于供应商(或其分包商)在提供服务或货物时的违约行为、或由于供应商(或其分包商)的过失行为而导致买方、买方的员工、买方的财产和第三方遭受的任何损失或损害, 保险金额应足以赔偿买方可能遭受的该等损失或损害(或者订单中规定的其他金额)。经买方要求, 供应商应向买方提供该等保险的凭证。

## 6. FORCE MAJEURE 不可抗力

The Buyer has the right to defer the date of delivery or payment, cancel the Order, and/or otherwise vary the Contract if it is prevented from or delayed in the carrying on of its business through any circumstances beyond its reasonable control (including acts of God, flood, storm, drought, earthquake or other natural disaster, pandemic, epidemic, war, any law, or any action taken by a government or public authority, war, fire, breakdown of plant or machinery, unavailability of fuel or power, explosion and national emergencies).

如果买方由于其无法合理控制的任何情况(包括天灾、洪水、风暴、干旱、地震或其他自然灾害、大流行病、时疫、战争、任何法律、或政府或公共机关的任何行为、战争、火灾、工厂停产或机械故障、无法获取燃料或电力、爆炸和国家紧急情况), 而导致其无法或延误开展业务, 买方有权推迟交货或付款的日期、取消订单和(或)以其他方式变更本合同。

## 7. INTELLECTUAL PROPERTY; THIRD PARTY CLAIMS 知识产权; 第三方索赔

a. All designs, drawings, prints, samples, specifications and other materials prepared by the Buyer for the purposes of the Contract, and any such items prepared by the Supplier for the purposes of the Contract and representing, containing or embodying proprietary designs or other intellectual property (including patents, inventions, know-how, trade secrets, registered designs, copyrights, database rights, trade marks, service marks, logos, domain names, business names, trade names and design rights) of the Buyer or prepared by the Supplier in accordance with the Buyer's commission or specification shall remain or become the Buyer's property (as the case may be) and shall be returned to the Buyer upon completion or termination of the Contract. The Supplier undertakes, on request from the Buyer and at no cost to the Buyer to execute or procure the execution of (as the case may be) such documentation, authorisation or declarations as may be reasonably required to vest full right, title and interests in the rights concerned in the Buyer.

买方为本合同目的而制作的所有设计、图纸、印刷品、样品、规格和其他资料, 以及供应商为本合同目的而制作、或供应商根据买方的委托或规格而制作的代表、包含或体现买方的专有设计或其他知识产权(包括专利、发明、专有技术、商业秘密、注册外观设计、版权、数据库权利、商标、服务商标、徽标、域名、企业名称、商号和外观设计权)的任何该等物品均应属于或构成(视情况而定)买方的财产, 并且应在本合同完成或终止时归还给买方。经买方要求, 供应商应自行承担费用签署或促使签署(视情况而定)合理必要的文件、授权或声明, 以使买方能够完全获得上述物品中的完整权利、所有权和权益。

b. The Supplier shall not use or allow to be used in any manner not approved by the Buyer, any trade marks or trade names required by the Buyer to be applied or used by the Supplier in relation to the Goods or the Services.

供应商不得以未经买方批准的任何方式使用或允许使用买方要求供应商针对货物或服务应用或使用的任何商标或商号。

c. The Supplier shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any intellectual property rights of the Buyer and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect.

供应商不得实施、或授权任何第三方实施会导致或可能导致买方的知识产权无效或与买方的知识产权相抵触的任何行为, 也不得实施或授权任何第三方实施可能产生该等影响的任何不作为。

## 8. CONFIDENTIALITY 保密

The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives, or information relating to the business, affairs or property of the Buyer or any of the Goods or the Services which are of a confidential nature and have been disclosed to the Supplier by the Buyer, its employees, agents or sub-contractors, and any other confidential information concerning the Buyer's business or its products or its services that the Supplier may obtain (including any such information referred to in clause 7a without the Buyer's prior written consent). The Supplier shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Supplier's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Supplier. This clause 8 shall survive termination of the Contract.

供应商应严格保密与买方的业务、事务或财产、或任何货物或服务相关的、具有保密性质并且由买方、其员工、代理或分包商向供应商披露的所有技术或商业专有技术、规格、发明、工艺、倡议和信息、以及供应商取得的与买方的业务、其产品或服务相关的任何其他保密信息(包括第 7a 条中提到的未经买

方事先书面同意而取得的任何该等信息)。供应商只能向为履行其在本合同项下的义务而有必要知悉的其员工、代理或分包商披露上述保密信息, 并且应确保该等员工、代理或分包商遵守供应商承担的该等保密义务。本第 8 条的规定应在本合同终止后继续有效。

## 9. DATA PROTECTION 数据保护

For the purposes of this clause 9: (i) "**Data Protection Laws**" shall mean up to and including the Cybersecurity Law and/or other applicable data protection laws, regulations and national standards in force of the People's Republic of China and other jurisdictions if applicable; (ii) "**Process/Processing/Processed**", "**Controller**", "**Processor**", "**Data Subject**", "**Personal Data**" and "**Personal Data Breach**" shall have the same meanings as in the Data Protection Laws.

本第 9 条中: (i) “**数据保护法律**”是指且包括《中华人民共和国网络安全法》和(或)中华人民共和国以及其他国家或地区(若适用)现行有效的其他相关的数据保护法律、法规和国家标准; (ii) “**处理/处理中/已处理的**”、“**控制者**”、“**处理者**”、“**数据主体**”、“**个人数据**”和“**个人数据侵害**”应适用数据保护法律中规定的含义。

- a. The Supplier agrees not to provide or otherwise make available Personal Data to the Buyer, other than business contact information (for example, business telephone number and email address and job title or staff ID), unless otherwise required for the provision of the Services, in which case such additional Personal Data shall be specifically identified in advance by the Supplier and agreed to in writing by the Buyer.

供应商同意, 除了业务联系信息(例如, 业务电话号码、电子邮件地址以及职务或员工 ID)以外, 不会向买方提供或以其他方式给予任何其他个人数据, 除非在提供服务时另有需要, 在此情况下, 供应商应事先明确指明该等额外个人数据并取得买方的书面同意。

- b. In exercising its rights and performing its obligations under the Contract, the Supplier shall at all times comply with all legal obligations in respect of Personal Data including the Data Protection Laws. To the extent that any Personal Data is processed by the Supplier, the Supplier shall: (i) not Process, transfer, modify, amend or alter the Personal Data or disclose or permit the disclosure of the Personal Data to any third party other than in accordance with the documented instructions from the Buyer (which shall unless otherwise agreed be to process Personal Data as necessary to provide the Services pursuant to the terms of this Contract and in accordance with the Data Protection Laws), unless otherwise required by a law to which the Supplier is subject, provided that in such a case the Supplier shall inform the Buyer of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest; (ii) take all appropriate technical and organisational measures against unauthorised or unlawful processing of such Personal Data and against accidental loss or destruction of, or damage to, such Personal Data, such measures to comply with the Data Protection Laws and to take into account and be appropriate to the state of the art, nature, scope, context and purposes of processing and risk of harm which might result from unauthorised or unlawful processing or accidental loss, destruction or damage to Personal Data; (iii) not transfer the Personal Data to any country outside the People's Republic of China without the prior written consent of the Buyer, and in any event, without a proper data transfer agreement; (iv) ensure that its employees who may have access to the Personal Data are subject to appropriate confidentiality obligations or undertakings; (v) implement appropriate organisational and technical measures to assist the Buyer in meeting its obligations in relation to the Data Protection Laws taking into account the nature of processing; (vi) not authorise any sub-contractor to process the Personal Data ("**sub-processor**") other than with the prior written consent of the Buyer, which consent shall be conditional on the Supplier ensuring compliance with the Data Protection Laws; and (vii) cease Processing the Personal Data within ninety (90) days upon the termination or expiry of this Contract or, if sooner, the Service to which it relates and as soon as possible thereafter (at the Buyer's option), either return, or securely wipe from its systems, the Personal Data and any copies of it or of the information it contains, other than to the extent that, and for so long as, the Supplier is required to retain the Personal Data due to a legal or regulatory requirement.

供应商在行使和履行本合同项下的权利和义务时, 应始终遵守与个人数据相关的所有法律义务, 包括数据保护法律。在供应商处理任何个人数据的情况下, 供应商应当: (i) 除按照买方的书面指示进行的以外, 不得处理、转移、修改、变更或更改个人数据, 或向任何第三方披露或允许披露个人数据(除非另有约定, 以便为了提供服务而在必要时根据本合同和数据保护法律处理个人数据), 除非对供应商适用的法律另有要求, 但是在此情况下, 供应商应当在进行处理前向买方告知该法律要求, 除非法律基于公共利益的重要理由禁止进行告知; (ii) 采取一切适当的技术和组织措施, 以防止对该等个人数据进行未经授权的处理或非法处理, 以及防止该等个人数据的意外丢失、破坏或损坏, 同时该等措施应遵守数据保护法律并考虑且适合最新技术水平、处理的性质、范围、背景情况和目的、以及由于未经授权或非法处理或意外丢失、破坏或损坏个人数据而可能造成的损害风险; (iii) 未经买方事先书面同意, 以及在任何情况下, 如果没有适当的数据转移协议, 不得将个人数据转移至中华人民共和国境外的任何国家; (iv) 确保其可能访问个人数据的员工受到适当的保密义务或承诺的约束; (v) 根据处理的性质, 采取适当的组织和措施, 以协助买方履行其与数据保护法律相关的义务; (vi) 未经买方事先书面同意(作为给予此同意的条件, 供应商应确保遵守数据保护法律), 不得授权任何分包商(“**次级处理者**”)处理个人数据; 以及 (vii) 在本合同终止或到期后九十(90)天内, 停止处理个人数据, 或根据个人数据与服务相关, 则在服务完成后尽快按照买方的选择归还或以安全的方式从其系统中删除个人数据以及个人数据的任何复制版本或包含个人数据的信息, 但是供应商按照法律或法规要求必须保留的个人数据除外。

- c. If the Buyer receives a request from a Data Subject to exercise any of its rights pursuant to the Data Protection Laws, the Supplier shall notify the Buyer as soon as reasonably practicable and shall implement and maintain appropriate measures and provide all such assistance as the Buyer may reasonably require to enable the Buyer to timeously comply with the subject access request.

如果买方收到数据主体的要求, 以根据数据保护法律行使其任何权利, 供应商应在合理可行的情况下尽快通知买方, 并且应实施和保持适当的措施, 并提供买方合理要求的所有协助, 以使买方能够及时满足数据主体的访问要求。

- d. The Supplier shall notify the Buyer promptly and without undue delay (and in any event within 24 hours upon becoming aware) of a Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the Buyer with sufficient information and in a timescale which allows the Buyer to meet any obligations to report a Personal Data Breach under the Data Protection Laws and shall take such steps as are directed by the Buyer (acting reasonably) to assist in the investigation, mitigation and remediation of such Personal Data Breach.

如果发生个人数据侵害或发生可能导致个人数据侵害的情形, 供应商应及时(在任何情况下, 必须在得知后 24 小时内)通知买方, 向买方提供足够的信息, 以使买方能够根据数据保护法律履行个人数据侵害的报告义务, 并且还应当按照买方的合理指示采取措施, 以协助调查、缓解和补救该等个人数据侵害。

- e. The Supplier shall make available to the Buyer such further information and (as applicable) allow for and contribute to any audit or review exercise, conducted by the Buyer or an auditor mandated by the Buyer to provide assurance that the Supplier is in compliance with the obligations set out in this clause 9, provided always that this requirement shall not oblige the Supplier to provide or permit access to information concerning: (i) the Supplier's internal pricing information; or (ii) information relating to other clients of the Supplier (save where mandated or required by a supervisory data protection authority). The Supplier must immediately inform the Buyer if, in its opinion, an instruction provided by the Buyer pursuant to this Contract infringes the Data Protection Laws.

供应商应向买方提供其他信息、并应(若适用)允许和方便买方或买方委托的审计人员进行的任何审计或复核工作, 以确保供应商遵守本第 9 条规定的义务, 但是在任何情况下, 应确保此要求不会迫使供应商提供或允许访问关于以下方面的信息: (i) 供应商的内部定价信息; 或者 (ii) 与供应商其他客户相关的信息(除非数据保护监管部门另有规定或要求)。如果供应商认为买方根据本合同提供的指示违反数据保护法律, 则供应商必须立即通知买方。

- f. The subject matter, and the purpose, of Processing under this Contract is the provision of Services set out herein and such Processing may take place throughout the period during which such Services are provided, subject to clause 9(b)(vii). The nature of the Processing shall be those Processing operations that are necessary to enable the Supplier to provide the Services, which may be more particularly described in this Contract. This Processing shall be in relation to the Buyer's customers and/or employees (as appropriate) and may include, without limitation, names, contact details and identity information. The obligations and rights of the Buyer, as Controller, are as set out in this clause 9 and elsewhere in this Contract. The Buyer may make reasonable amendments to this clause 9(f) by written notice to the Supplier from time to time as the Buyer reasonably considers necessary to meet the requirements of the Data Protection Laws.

本合同项下的处理的标的事项和目的属于本合同中规定的服务提供, 并且在遵守第 9(b)(vii)条规定的前提下, 该等处理可以在提供该等服务的整个期间内进行。处理的性质应是使供应商能够提供服务所必需的处理操作, 该等处理操作可以在本合同中更详细地说明。该等处理应当与买方的客户和(或)员工(视情况而定)相关, 并且可以包括但不限于姓名、联系方式和身份信息。买方(作为控制者)的义务和权利在第 9 条以及本合同的其他条款中规定。在买方认为合理必要的情况下, 买方可以不时书面通知供应商修订本第 9(f)条的规定, 以符合数据保护法律的要求。

## 10. ANTI-CORRUPTION 反腐败

- a. The Supplier undertakes to comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including the relevant anti-corruption laws of the People's Republic of China and other relevant anti-corruption laws applicable in other jurisdictions ("**Anti-Corruption Laws**") and that it shall not do, nor omit to do, any act that will lead to the Buyer being in breach of any of the Anti-Corruption Laws. The Supplier shall comply with the Buyer's anti-corruption policies as may be notified to the Supplier and updated from time to time.

供应商承诺遵守与反贿赂和反腐败相关的所有有关法律、法规、规章和规范, 包括中华人民共和国的有关反腐败法律以及其他国家或地区的其他有关反腐败法律(以下简称“**反腐败法律**”), 并且供应商不得有会导致买方违反任何反腐败法律的任何作为或不作为。供应商应遵守买方已通知供应商且不时更新的反腐败政策。

- b. The Supplier shall promptly report to the Buyer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract.  
如果供应商在本合同履行过程中收到关于要求其提供任何不正当的经济利益或其它好处的任何请求或要求， 供应商及时向买方报告。
- 11. MODERN SLAVERY 现代奴役**
- a. In performing its obligations under the contract, the Supplier shall, and shall ensure that each of its subcontractors shall, comply with all applicable laws, statutes, regulations and codes relating to the prevention of slavery and human trafficking and shall notify the Buyer as soon as it becomes aware of any slavery or human trafficking incidents in its supply chains.
- a. 在履行合同义务的过程中， 供应商应遵守并确保其分包商遵守所有适用的有关于防止奴役以及人口贩卖的法律、法规、规章和规范， 并应在供应商知晓任何在其供应链过程中的奴役以及人口贩卖事项后， 立即告知买方。
- 12. INDEMNITY 赔偿**
- The Supplier shall indemnify the Buyer against any direct, indirect or consequential losses, damages, proceedings, liabilities, claims, costs and expenses (including reasonable legal expenses) which may be suffered or incurred by the Buyer as a result of or arising out of or in connection with:  
供应商应赔偿买方由于以下原因导致、引起或相关的任何直接、间接或附随的损失、损害、程序、责任、索赔、费用和支出（包括合理的法律费用）：
- i. any Goods and/or Services failing to comply with any of the Supplier's Warranties;  
任何货物和（或）服务未符合供应商的任何保证；
- ii. any Goods and/or Services being defective or failing to comply with any applicable laws or regulations;  
任何货物和（或）服务存在缺陷或不符合任何相关的法律或法规；
- iii. any late or incomplete delivery of the Goods or performance of the Services by the Supplier;  
供应商迟延或未完整交付货物， 或者迟延或未完整履行服务；
- iv. any other breach of the Contract by the Supplier or any negligent act of the Supplier, its employees, agents or contractors (whether or not causing or contributing to death and/or personal injury);  
供应商违反本合同的任何其他行为， 或者供应商、其员工、代理或承包商的任何过失行为（无论是否造成或导致死亡和（或）人身伤害）；
- v. any claim made against the Buyer in respect of any liability, loss, damage, cost or expense sustained by the Buyer's employees or agents by any customer or third party to the extent that such liability, loss, damage, cost or expense was caused by, relates to or arises from the Goods and/or the Services; or  
由于货物和（或）服务造成、涉及或导致买方的员工、代理、任何客户或第三方遭受任何责任、损失、损害、费用或支出， 从而对买方提出的任何索赔； 或
- vi. any actual or alleged infringement by the Supplier of the rights of a third party or the Buyer under any patent, registered design, copyright, design right, trade mark, service mark or trade-name or other intellectual property rights.  
供应商实际侵犯或被指控侵犯第三方或买方享有的任何专利权、注册外观设计权、版权、外观设计权、商标权、服务商标权、商号权或其他知识产权。
- 13. TERMINATION AND SUSPENSION 终止和暂停**
- a. The Buyer may terminate the Contract forthwith or suspend the whole or any outstanding part of the Order by written notice to the Supplier if:-  
如果发生以下情况， 买方可以书面通知供应商立即终止本合同或暂停执行订单的全部或任何未完成部分：
- i. the Supplier fails to deliver or despatch the Goods or commence or complete the Services on the date or within the period (as the case may be) required under clause 2a or breaches any other term of the Contract;  
供应商未能在第 2a 条要求的日期或期限内（视情况而定）交付或发送货物， 或者未开始或未提供服务， 或者违反本合同的任何其他条款；
- ii. the Supplier is unable to pay its debts as they fall due, ceases (or threatens to cease) to carry on its business, enters into any arrangement or composition with its creditors, commits any act of bankruptcy or an order is made or an effective resolution is passed for its winding up, or if a petition is presented to court, or if a receiver and manager, receiver, administrative receiver or administrator is appointed or suffers any foreign equivalent of the foregoing; or  
供应商无法偿还到期债务， 停止（或非常有可能停止）开展业务， 与债权人达成任何安排或和解， 进行任何破产行为， 或者已经就其解散作出相应的命令或通过有效的决议， 或者如果向法院提出申请， 或者已被任命破产接管和管理人、接管人、执行接管人或执行人， 或者在国外被任命任何同等人员； 或
- iii. the Buyer has reasonable grounds for suspecting that an event in clause 13a.ii has occurred or will occur, or that the Supplier will not deliver the Goods or provide the Services in accordance with the Contract.  
买方有合理的理由怀疑已发生或将会发生第 13a.ii 条中规定的事件， 或者供应商将不会根据本合同交付货物或提供服务。
- b. The Buyer reserves the right in the circumstances stated in clause 13a to remove from the premises where they are being made any the Goods in course of preparation for the Contract and to have the same completed elsewhere or to remove from the premises where they are being processed or otherwise dealt with in connection with the Services any materials provided to or on behalf of the Supplier in connection with the Services. The Buyer shall be entitled to charge the Supplier the costs incurred by the Buyer in having the Goods and/or the Services completed by others but shall credit to the Supplier a fair proportion of the price for any Services provided, the Goods or materials so removed or work in progress taken over by the Buyer.  
发生上述第 13a 条规定的情况时， 买方有权从生产货物的场所清除为履行本合同而准备的材料并且安排在其他地点完成相同货物的生产， 或者从货物加工地点或履行服务的地点清除向供应商提供的或代表供应商提供的与服务相关的任何材料。买方有权向供应商收取因由他人完成货物和（或）服务而使买方产生的费用， 但是对于已提供的服务、清除的货物或材料、或者买方接管的半成品， 买方应按照价格的公平比例向供应商付款。
- 14. MISCELLANEOUS 其他条款**
- a. Each right or remedy of the Buyer under the Contract is without prejudice to any other right or remedy of the Buyer under this Contract or any other contract.  
买方在本合同项下享有的各项权利或救济权不影响买方根据本合同或任何其他合同享有的任何其他权利或救济权。
- b. Nothing in this Contract shall create or be deemed to create a partnership between the parties.  
本合同并未在双方之间建立或视为建立合伙关系。
- c. The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Buyer.  
未经买方事先书面同意， 供应商不得转让、转移、抵押、分包或以其他方式处置本合同项下的全部或任何权利或义务。
- d. Any provision of these Conditions which is held by a competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the other provisions of these Conditions and the remainder of such provision shall not be affected.  
如果有管辖权的主管部门认定本条款的任何规定（全部或部分）无效、可撤销、无法执行或不合理， 该规定则应被视为可删除， 并且本条款的其他规定以及该规定的其余部分不受影响。
- e. Notices must be in writing, in both English and Chinese, to the Buyer's or the Supplier's address and may be delivered by hand, first class post, facsimile or by electronic mail. If delivered by hand, the notice shall be deemed delivered on the first working day after day of delivery. If delivered by post, the notice will be deemed delivered on the third working day after being placed prepaid in the first class post. If delivered by facsimile or electronic mail, the notice will be deemed delivered at the time of transmission.  
通知必须以书面形式采用英文和中文， 并发送到买方或供应商的地址， 并且可以使用专人递交、普通邮件、传真或电子邮件方式发送。如果以专人递交方式发送， 通知则应被视为在发送日之后的第一个工作日送达。如果以邮寄方式发送， 通知将被视为在预付邮资的普通邮件投递后的第三个工作日送达。如果以传真或电子邮件方式发送， 通知将在传输时视为送达。
- g. No failure or delay by the Buyer to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy. No remedy for the Buyer conferred by any of the provisions of the contract is intended to be exclusive of any other remedy, and every remedy will be cumulative and in addition to every other remedy.  
买方未行使、迟延履行、部分行使任何权利、权力或补救措施均不构成对该权利、权力或补救措施的放弃， 且不会妨碍买方此后行使该权利、权力或补救措施。本合同中任何条款赋予买方的任何救济权均不应排除其他任何救济权， 并且每一项救济权均可累积行使， 并且是其他各项救济权的补充。
- h. The provisions of these Conditions which expressly or impliedly have effect after termination of the Contract shall continue to be enforceable notwithstanding termination (including clauses 7, 8, 10, and 13b).  
本条款中明示或默示在本合同终止后有效的条款应在终止后继续可强制执行（包括第 7 条、第 8 条、第 10 条和第 13b 条）。

- i. The parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contract Law of the People's Republic of China by any person not a party to it. To avoid doubt, a person who is not a party to the Contract shall not have any rights under or in connection with it.  
除本合同双方以外，任何其他人均无权依据《中华人民共和国合同法》要求强制执行本合同的任何条款。为免歧义，不属于本合同一方的任何人不享有本合同规定的或与本合同相关的任何权利。
- j. The Contract shall be governed by and construed in accordance with the laws of the People's Republic of China. Any dispute arising from or in connection with this Contract will be resolved through friendly consultation between the parties. In case no settlement can be reached through friendly consultation within 30 days after either party delivers such dispute to the other party, the disputes will be submitted to the Shanghai International Economic and Trade Arbitration Commission by either party in accordance with the arbitration rules in force as at the date of this Contract. The award of arbitration shall be final and binding upon on both parties.  
本合同适用中华人民共和国法律，并且应当依据中华人民共和国法律进行解释。由履行本合同产生的或与本合同相关的任何争议应当由双方通过友好协商进行解决。如果任何争议在一方通知另一方后无法在 30 天内通过友好协商方式解决，任何一方可以将该争议提交上海国际经济贸易仲裁委员会，由该委员会根据本合同签订之日有效的仲裁规则进行处理解决。仲裁裁决为终局，对双方均具有约束力。