

**PO TERMS AND CONDITIONS FOR INDIRECT PURCHASE OF GOODS AND SERVICES**

**Form No. 1002-0116 (China)**

产品和服务间接采购  
之  
订单条款和条件  
文件号：1002-0116（中国）

**1. Definitions.** As used herein, the following terms have the meanings indicated:  
定义。在本条款和条件中，下列词语的定义如下：

- a. "Items" means goods and/or services ordered by Buyer from Seller pursuant to a Purchase Order.  
“物项”指买方根据一项采购订单从卖方处订购的产品和/或服务。
- b. "Purchase Order" means a Transmission by Buyer to Seller electronically through a computer network or otherwise, by mail of hard copy, or by such other means as may be agreed (each a "Transmission"), containing a purchase order number, supplier code number, item number, identification or specification number, engineering change number or material code number and/or such other information evidencing an offer to Seller by Buyer relating to the purchase of goods or services.  
“采购订单”指买方向卖方通过电脑网络或以其它电子方式、通过书面文件邮寄或通过双方商定的其它方式传送的订单（均称“采购订单文件传送”），其中包括采购订单编号、供应商编号、物项编号、识别或技术规范编号、工程变更编号或材料编码和/或其它证明买方就购买相关产品或服务向卖方提出要约的信息。
- c. "Purchase Order Release" means a Transmission specifying quantities and shipping or delivery dates.  
“采购订单发放”指具体载明采购数量和装运或交货日期的采购订单文件传送。
- d. "Purchase Order Revision" means a Transmission revising the information contained in a Purchase Order.  
“采购订单修正”指对一项采购订单中的信息进行修正的采购订单文件传送。

- e. "Buyer" means Caterpillar (China) Investment Co., Ltd. or its subsidiary or affiliate releasing the Purchase Order.  
“买方”指卡特彼勒（中国）投资有限公司或其发放采购订单的子公司或关联机构。
- f. "Seller" means the entity indicated as Supplier on the Purchase Order.  
“卖方”指在采购订单中明确作为供应商的实体。
- g. "Specifications" means the specifications, drawings and data as described on any Purchase Order.  
“技术规范”指任何采购订单上所描述的规格、图纸和数据。

**2. Acceptance of Purchase Order.** Any Purchase Order referencing these Terms and Conditions is an offer to Seller by Buyer to enter into the purchase agreement described by such Purchase Order. These Terms and Conditions along with any other specifications or requirements transmitted to Seller by Buyer in connection therewith shall be the complete and exclusive statement of such agreement. Seller shall be deemed to have agreed to the Purchase Order (including any specifications or requirements stated therein) and these Terms and Conditions when Seller:

**采购订单的接受。**任何参引本条款和条件的采购订单均属买方向卖方提出的一项要约，希望卖方根据该等采购订单与买方达成采购协议。本条款和条件以及任何其它由买方向卖方传送之相关技术规范或要求将构成该等协议之全部完整内容。当卖方采取下列行动时，卖方将被视为已经同意相关采购订单（包括订单中所述之任何技术规范或要求）以及本条款和条件：

- a. executes and returns a signed writing indicating its intent to be bound by the Purchase Order; or  
签署并交还一项书面文件，表明其愿意接受采购订单的约束；或
- b. submits to Buyer an invoice; or  
向买方提交发票；或
- c. delivers to Buyer any of the Items ordered; or  
向买方交付所订购之任何物项；或
- d. renders for Buyer any of the services ordered (where Items ordered are or include services).  
向买方提供所订购之任何服务（当订购之物项是服务或包括服务时）。

Any Items received by Buyer shall only be upon the terms of the Purchase Order (including these Terms and Conditions), notwithstanding any terms contained in any quotation, acknowledgment, invoice, or other document issued by Seller, or Buyer's act of accepting or paying for any shipment or any other act. Seller's acceptance of

any Purchase Order is unqualified, unconditional and subject only to these Terms and Conditions and any of Buyer's terms specifically set forth on the Purchase Order or any signed documents referenced in Buyer's Purchase Order. Buyer expressly rejects any additional or different terms and conditions, including those which appear in any quotation, acceptance, shipping documentation, invoice or acknowledgment of Seller. Seller may not assert, as a defense to the enforcement of these Terms and Conditions any conditions or limitations made in a quotation, acceptance, shipping documentation, invoice or acknowledgment. Upon Seller's acceptance of the applicable Purchase Order, these Terms and Conditions shall enter into force and constitute the entire agreement between Buyer and Seller. Seller waives signed acceptance of the Purchase Order by Buyer. Seller waives any right to contest the validity of these Terms and Conditions, or assert that they are void for any reason, upon Seller's acceptance of the Purchase Order(s) referencing these Terms and Conditions.

由买方接收的任何物项须完全根据采购订单（包括本条款和条件）之条款提供，而不受任何报价、收悉确认、发票或其它由卖方签发之文件所含之条款的影响，也不受买方接受任何装运物或支付任何装运物或其它行动的影响。卖方对任何采购订单的接受均系绝对的、无条件的、且仅仅受制于本条款和条件以及采购订单上特别规定的任何买方条款或任何买方采购订单中参引的任何已签署文件。买方明确拒绝任何额外的或不同的条款和条件，包括出现在卖方的任何报价、承诺、装运文件、发票或收悉确认中的条款和条件。卖方不得主张报价、承诺、装运文件、发票或收悉确认中所列的任何条件或限制以抗辩对本条款和条件的执行。卖方接受相应的采购订单之时，本条款和条件即生效并构成买方和卖方之间的全部协议。卖方不要求买方必须签署采购订单以示接受。卖方一经接受参引本条款和条件的采购订单，即放弃质疑本条款和条件之有效性的权利，亦放弃声称本条款和条件因任何原因而无效的主张。

- 3. Entire Agreement; Governing Law.** No agreement or understanding to modify or supplement any Purchase Order or these Terms and Conditions shall be binding upon Buyer unless in writing and signed by Buyer's authorized agent which writing must specifically acknowledge that these Terms and Conditions are superceded by such agreement or understanding. Any modifications proposed by Seller are not part of the agreement absent such written agreement. However all specifications, drawings, and data submitted to Seller by Buyer in connection with any Purchase Order are a part of the agreement of the parties relating to that Purchase Order. These Terms and Conditions and any Purchase Order shall be governed by and construed under the laws of the People's Republic of China ("PRC"), without regard to the conflict of laws provisions thereof. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.

**全部协议；适用法律。**对任何采购订单或本条款和条件进行修正或补充的任何协议或谅解，如果未采用书面形式并经买方正式授权之代理人签署（且该书面文件必须特别确认本条款和条件被该协议或谅解取代），均不对买方具有任何

约束力。在没有该等书面协议的情况下，卖方提出的任何修改意见均不构成协议的组成部分。但是所有买方就任何采购订单向卖方提供的技术规范、图纸和数据均属双方就该采购订单达成之协议的组成部分。本条款和条件以及任何采购订单须接受中华人民共和国（“中国”）法律（其冲突法除外）的管辖并按其解释。本条款和条件所提供的法律救济不得视为排除法律所允许的其它任何救济措施。

- 4. Quantities; No Quantity Guarantee.** Unless quantities and shipping schedules are specified, Buyer makes no representations or guarantees as to the quantity of Items it will purchase from Seller, and Purchase Orders are issued to cover the purchases of Items described thereon for an indefinite period or until canceled, with shipping schedules and quantities to be determined by Buyer and indicated to Seller via a Purchase Order Release.

**数量；无数量担保。**除非就采购数量和装运日程有明确的规定，否则买方就其将向卖方采购的物项的数量不作任何声明或担保，就采购相关物项所签发的采购订单涵盖一个不确定的期限或直至订单取消，且装运日期安排和数量将由买方确定，并通过采购订单发放的方式向卖方明确。

- 5. Termination.** Buyer may at any time terminate, cancel or suspend all or any part of undelivered Items or quantities on any outstanding Purchase Order, Purchase Order Revision or Purchase Order Release. Seller agrees that its sole remedy as a consequence of any such termination or cancellation is the reimbursement by Buyer of the reasonable costs of materials and labor actually and directly incurred by Seller on Items terminated or canceled by Buyer prior to Seller's knowledge of such termination or cancellation. Seller further agrees to take all steps reasonably possible to mitigate such charges.

**终止。**买方可在任何时间终止、取消或暂停任何未完成之采购订单、采购订单修正或采购订单发放等文件中所有或任何未交付的物项或数量。卖方同意，其因任何该等终止或取消可获得的唯一救济是买方合理地补偿其在获知该等终止或取消之前因被买方终止或取消的物项而已实际、直接地发生的合理的材料及人工成本。卖方进一步同意，将采取一切可能的步骤，尽可能减少该等赔偿金额。

Seller may only terminate a Purchase Order after giving Buyer reasonable notice of such termination and an opportunity to identify and set up an alternate supplier.

卖方只有在向买方提供合理通知并且给与买方寻找和选定替代供应商的机会后方可终止一项采购订单。

- 6. Shipping Instructions.**

**装运注意事项。**

- a. Freight -- Shipping will be as directed by Buyer on the Purchase Order, Purchase Order Release, or Purchase Order Revision or if not specified shall be DDP Buyer's receiving facility (INCOTERMS 2010). If a carrier or method of shipment is used that is not specified in the Purchase Order, a Purchase Order Release, a Purchase Order Revision or in these Terms and Conditions without the advance written approval of Buyer, Seller shall be debited for any increase in the cost of the shipment.  
货运- 装运将按买方在采购订单、采购订单发放或采购订单修正中的指示，或者，在无明确指示的情况下，应为 DDP 买方接收工厂 (INCOTERMS 2010)。如果最终所采用的承运人或装运方法并未在采购订单、采购订单发放或采购订单修正中或在本条款和条件中明确说明，且该等承运人或装运方法未经买方事先书面同意，则卖方须承担所有装运成本增加的部分。
- b. Packaging; Classification; Labeling -- If Buyer has provided Seller with a copy of Buyer's Materials Standard Practice No. 20, Seller must label the outside of all packages utilizing bar code labels in Buyer's AIAG format as described therein. Seller shall ensure that all Items are properly described, classified, packaged, marked and labeled and are in proper condition for transportation according to applicable laws and regulations.  
包装；分类；贴标 – 如果买方已向卖方提供“买方材料标准操作方式第20号”文件副本，则卖方必须在所有的包装外加贴标签，采用该文件中所述之买方AIAG格式的条型码标签。卖方应确保对所有物项均已适当地进行描述、分类、包装、打唛和贴标，且根据适用的法律法规其处于适于运输的恰当状态。
- c. Packing Slips -- Seller shall include the packing slip in a waterproof envelope secured to a package on all shipments. The packing slip must show the Purchase Order No., Supplier Code No., Item No., Quantity, Identification or Specification No. and Engineering Change No. or Material Code exactly as shown on the Purchase Order.  
包装签条 – 卖方须在所有的装运货物包装中包括一个带有包装签条的防水信封。包装签条中必须明确显示采购订单编号、供应商编号、物项编号、数量、识别或技术规范编号以及工程变更编号或材料编码，且上述信息必须和采购订单中所列之信息完全一致。
- d. Shipping Notices -- Seller shall send Buyer appropriate separate notice of shipment, including the same information as is contained on the packing slip plus all information relating to shipment date and handling.  
装运通知 – 卖方须向买方交送适当的单独的装运通知，通知中应包括包装签条中所载之全部信息以及与装运日期和搬运等相关的所有信息。

- e. Cargo Receipts/Bills of Lading -- Seller shall include the Purchase Order No. and the Supplier Code on all cargo receipts/bills of lading (as applicable).  
承运货物收据/提单 – 卖方应在所有的承运货物收据/提单（根据所适用的情形）中明确采购订单编号和供应商编码。
- f. Early Shipments; Overshipments -- On shipments made earlier than the period specified on the Purchase Order, Buyer, at its option, may return the Items at Seller's expense and/or withhold payment until the otherwise applicable payment date. Buyer may return overshipments to Seller at Seller's expense. In either case, if Buyer so returns Items, Seller's account shall be debited for the total amount of any invoices (including, but not limited to, shipping expenses and taxes) paid thereon.  
提前装运；超运 – 关于早于采购订单所示时间的装运，买方可选择将物项退回并由卖方承担费用和/或扣留相应付款至适用的支付日期。买方可将超运部份退回卖方并由卖方承担费用。无论哪一种情况，如果买方退回物项，则卖方的账目应将任何已支付的发票总金额（包括但不限于装运费用和税费）记入借方。
- g. Shipments of Hazardous Materials -- "Hazardous Materials" are defined for purposes of these Terms and Conditions as any substances regulated as contaminants, or as threats or potential threats to human health, safety or the environment, by any Environmental Requirements (as herein defined). In addition to Sections 6 (a)-(f) in this Section, Seller must comply with the following requirements for shipment of Hazardous Materials:  
危险物资的装运 – “危险物资”因本条款和条件之目的而定义为：任何环境要求（如本条款和条件所定义）将其作为污染物或作为人体健康、安全或环境之威胁或潜在威胁而加以规制的任何物质。除遵守本节（a）-（f）项的规定外，卖方还必须遵守下列有关危险物资的装运的要求：
- (1) The shipping term, risk of loss and title transfer shall be DDP Buyer's receiving facility (INCOTERMS 2010).  
装运条款、毁损和灭失风险以及所有权转移均应以 DDP 买方接收工厂 (INCOTERMS 2010) 为准。
  - (2) Seller shall ensure that all personnel shall receive Hazardous Materials training as required by applicable regulations. Seller shall further ensure that a valid 24-hour emergency response number (domestic and international) is supplied on the shipping documents for Hazardous Materials and that the appropriate material safety data sheet (MSDS) has been given to the proper emergency response organization prior to shipment. Seller shall be shown as the "shipper" on all documents relating to the shipment of any Hazardous Materials provided under the

Purchase Order. Buyer is not to be shown as the "shipper" on any such documents.

卖方须确保所有人员均根据适用法规的要求接受过危险物资方面的培训。卖方须进一步确保在危险物资装运文件中提供 24 小时有效的应急响应电话号码（国内和国际的），且确保已在该等危险物资装运之前将适当的安全技术说明书（MSDS）交送给相关的应急响应组织。卖方须在采购订单所涉及之任何危险物资的所有装运文件中作为“托运人”出现。买方在任何该等文件中均不作为“托运人”出现。

- (3) Seller may use Buyer designated carriers for the shipment of Hazardous Materials provided that all the conditions in this Section are met. Seller must use the "Buyer Straight Bill of Lading for Hazardous Material Shipments" for all shipments to non-Caterpillar facilities. The following fields must be completed on the bill of lading form: Fac., Dk. and Acct. Distribution. Questions regarding this information should be directed to the Buyer's purchasing representative. Upon shipment, Seller shall fax a copy of the completed bill of lading form to 001 309/675-1248.

卖方可使用买方指定的承运人运输危险物资，但须遵守本节所述的所有条件。卖方必须在运往非卡特彼勒厂区的所有货物运输中采用“危险物资运输买方记名提单”。下列各项必须在提单表格中完整填写：Fac., Dk. 及 Acct. Distribution。有关本项信息的任何疑问，应转达买方之采购代表。完成装运操作后，卖方须将填写完整的提单表格副本传真至 001 309/675-1248。

- (4) Hazard Communication. For all Items, Seller shall provide Buyer with the appropriate hazard classifications and warning messages that should appear on product labels as required by applicable Environmental Requirements, and other laws and regulations of PRC and non-PRC jurisdictions in which such Items will be distributed. Seller shall develop, revise, update and transmit an electronic copy of the current (prepared or revised not more than three years prior to the date of the relevant Purchase Order) MSDSs for all Items purchased, in the appropriate language and format that may be required by the laws of the jurisdictions in which the Items will be distributed. When applicable, Seller shall format such MSDSs and labels to identify the Item as a Caterpillar-branded product. "Environmental Requirements" means all PRC and foreign (non-PRC) state, provincial, or local laws, regulations, ordinances, orders, or other pronouncements now in effect or as hereafter amended, that have the force or effect of law, relating to human health or safety and the protection, preservation, or remediation of the environment.

危险警示。对所有物项卖方均应向买方提供适当的危险分类和警示信息，该等信息应按适用的环境要求以及中国和分销物项的非中国司法管辖区的其它法律法规的要求，显示于产品标签上。卖方应按分销物项的司法管辖区的要求，采用适当的语言和格式，为所有采购之物项编写、修订、更新并传递电子版本的现有的（指不早于相关采购订单日期之前三年编写或修订）安全技术说明书。适用的情况下，卖方应对该等安全技术说明书及标签采用适当格式以表明该物项系卡特彼勒品牌的产品。“环境要求”是指与人类健康或安全以及与环境之保护、维护或补救有关的、所有中国的或外国（非中国）的国家级、省级或地方性法律、法规、法案、命令或其它公告，此等规定具备法律的效力，并且现时有效或依其此后经修订的效力。

- (5) Seller warrants and represents that it shall observe and comply with all applicable statutory and regulatory requirements with respect to (i) storage and security, containerization and labeling/ hazard classifications and warning messages, handling, loading, transportation, escorting and unloading; (ii) emergency treatment in case of accidents and the availability of trained emergency treatment personnel and emergency equipment; (iii) records and reporting; (iv) approvals, permits, safety examinations, and business qualifications; (v) safety of personnel and use of equipment; (vi) safety and environmental conditions at Seller's facility including safety evaluation and maintenance.

卖方保证并声明其将遵守并服从与以下各项有关的所有适用的法定及监管要求：(i)存储与安全、集装箱装箱与贴标/危险分类与警示信息、搬运、装载、运输、护送以及卸载；(ii)出现事故时的紧急处理以及训练有素之紧急处理人员和紧急设备的提供；(iii)记录与报告；(iv)批准、许可证、安全审查以及从业资格；(v)人员及设备使用的安全；(vi)卖方厂区的安全与环境条件（包括安全评估与维护）。

- h. **Time for Performance.** All Items under any Purchase Order shall be delivered to Buyer according to the scheduled shipment date(s) contained in the relevant Purchase Order. Time is of the essence in the performance of all Purchase Orders. If Seller delays shipment after the scheduled shipment date, Buyer may consider the delay irreparable and a default of Seller under the relevant Purchase Order.

履行时间。任何采购订单项下的所有物项均须按照相关采购订单中安排好的装运日期向买方交付。时间在所有采购订单的履行中均极其重要。



如果卖方的装运迟于安排好的装运日期，买方可将此等延迟视为不可弥补且构成卖方在相关采购订单项下的不履行。

**7. Warranty.**  
保证。

- (a) Seller hereby warrants that all goods furnished under these Terms and Conditions, including any results of services (i) will be free from defects in material, workmanship, and design, (ii) will operate without error and conform to these Terms and Conditions and the applicable Order, (iii) will be merchantable and be fit for the intended use identified or reasonably inferred from all circumstances, and (iv) be free and clear of all liens, claims, encumbrances and other restrictions.

卖方特此保证根据本条款和条件所供应的所有产品，包括任何服务成果 (i) 将不存在材料、工艺和设计上的缺陷；(ii) 将无误差地运行并且符合本条款和条件和适用的订单；(iii) 将适销并适合确定的或者可在任何情况合理推断出的预期用途；且 (iv) 无任何抵押、索赔、负担以及其他限制条件。

- (b) Seller warrants that all services furnished under these Terms and Conditions will (i) be provided in a professional manner, (ii) be performed by appropriately knowledgeable and skilled personnel, (iii) conform to the standards generally observed in the industry for similar services, and (iv) be provided in a manner that does not infringe or misappropriate any third party's Intellectual Property Rights. Seller further warrants that it is properly licensed, certified, and trained (in compliance with the applicable standards set forth by relevant governmental or industry association authorities), and that such services will be provided with a degree of care and competence that, at minimum, accords with customary industry standards and practice.

卖方保证根据本条款和条件提供的所有服务将(i) 以专业的方式予以提供；(ii) 由具备适当知识和技能的人员予以提供；(iii) 符合就类似服务行业内普遍遵守的标准；且 (iv) 以不侵犯或滥用任何第三方知识产权的方式予以提供。卖方进一步保证其已（遵照相关政府部门或行业协会规定的适用的标准）获得适当的许可、认证和培训，且该等服务将以至少符合惯常的行业标准和实践的注意和胜任程度提供。

- (c) Seller, in addition to any express or implied warranties of additional scope given to Buyer by Seller or implied by law, hereby warrants that Items furnished by Seller will be in full conformity with Buyer's instructions, specifications, drawings and data, and Seller's samples or representations. Seller may not change any specifications, engineering processes, materials or design without the prior written consent of Buyer. Seller agrees that this warranty shall survive acceptance of the Items. Seller shall be responsible for every claim for compensation in respect of damage or injury that is based on a breach of the foregoing warranty, and, at

Buyer's option, Seller shall handle any such claims or shall provide all reasonable assistance to Buyer in Buyer's handling of such claims.

除卖方向买方作出的或法律所默示的额外范围的任何明示或默示保证之外，卖方特此保证，由卖方提供的所有物项将完全符合买方提出的指示说明、技术规范、图纸和数据等要求，并完全符合卖方的样品或陈述。未经买方事先的书面同意，卖方不得更改任何技术规范、工程工艺、材料或设计。卖方同意，本项保证在相关物项由买方验收后将依然有效。卖方对于因违反上述保证而导致的各项损失或损害索赔承担全部责任，且须根据买方的意愿，由卖方处理任何该等索赔，或在买方处理任何该等索赔的过程中向买方提供合理的帮助。

- 8. Specifications.** Seller shall ensure that any Item ordered conforms to the requirements set forth in the Specifications. A Purchase Order Revision from Buyer to Seller shall evidence any changes to the Specifications. Should Seller be unable to accept a Purchase Order Revision as written, Seller will notify Buyer within ten (10) working days of its receipt of such Purchase Order Revision.

**技术规范。** 卖方须确保任何订购物项均符合技术规范中所列的要求。买方发给卖方的采购订单修正应表明对技术规范所做的更改。若卖方不能接受某份书面的采购订单修正，卖方将在收到该采购订单修正后十（10）个工作日内通知买方。

- 9. Reserved.**  
不适用。

- 10. Product Regulations.** The term "Product Regulations," as used in these Terms and Conditions, shall mean Environmental Requirements, labeling, marking, license, authorization, certification, country of origin, hazard communication, and other PRC, non-PRC, and international entity regulatory requirements applicable to the import, export, manufacture, sale, or distribution of Items pursuant to Purchase Order(s). Seller is solely responsible for the compliance of the Items with applicable Product Regulations. Seller agrees to provide to Buyer all information and documentation, including but not limited to supply chain data, necessary for Buyer to comply with all Product Regulations applicable to Buyer.

**产品规定。** 本条款和条件中所用的“产品规定”一词应指环境要求、贴标、打唛、许可、授权、认证、原产国、危险警示、以及其它中国的、非中国的以及国际组织的监管要求，该等要求适用于依采购订单而进行的物项进口、出口、制造、销售或分销。卖方对物项符合相关的产品规定负全责。卖方同意向买方提供为使买方能够遵守适用于买方的所有产品规定所需的一切信息和文件，包括但不限于供应链数据。

- 11. Preshipment Trial, Inspection and Acceptance Test.** A preshipment trial shall be conducted pursuant to the Preshipment Trial and Acceptance Test if referenced on the

Purchase Order. Seller is not authorized to ship any Item under a Purchase Order until successful completion of such preshipment trial and approval by Buyer with respect to such Item. Items are subject to Buyer's inspection, testing and approval. In case installation is needed at Buyer's facility, the parties shall commence the acceptance test as referenced on the Purchase Order after installation. Acceptance of any Item under a Purchase Order shall not occur until successful completion of the acceptance test at Buyer's facility. Buyer, at its option, may reject or refuse acceptance of Items that do not meet the requirements of the Purchase Order or any applicable warranty. Items rejected or not accepted by Buyer shall be returned to Seller at Seller's expense, and Seller agrees to refund to Buyer any payments (including but not limited to shipping expenses and taxes) made by Buyer for such Items. Payment by Buyer for any Items shall not be deemed an acceptance thereof. Acceptance of any Item shall not relieve Seller from any of its obligations, representations or warranties hereunder or pursuant hereto.

**装运前试机，检验及验收测试。** 如果采购订单上提及“装运前试机与验收测试”，则装运前试机应遵照进行。在就物项的装运前试机成功完成并获得买方认可之前，卖方无权装运采购订单项下的任何物项。所有物项均须接受买方的检验、测试和批准。如需在买方工厂进行安装，双方应在安装完成后开始采购订单上所指的验收测试。只有在买方工厂的验收测试成功完成之后，采购订单项下的任何物项方可视为被买方接受。买方根据其判断，有权拒绝接受或发还不符合采购订单或任何相关保证的物项。买方拒绝或未接受的物项须返还给卖方，相关成本开支由卖方承担，且卖方同意将买方就该等物项支付的任何款项退还给买方（包括但不限于运费和税费）。买方就任何物项支付相关款项不得视为买方已经接受相关物项。买方接受任何物项并不意味着解除卖方根据本条款和条件之要求应履行的或在本条款和条件项下的相关义务、声明或保证。

- 12. Spare Parts and Drawings.** If required by Buyer, sixty (60) days prior to the scheduled shipment date of any Item, Seller agrees to give Buyer a recommended spare parts list that identifies standard and nonstandard parts for such Item and any part thereof. Seller agrees for a minimum period of five (5) years after shipment of any Item, to sell to Buyer all necessary spare parts manufactured by Seller, which are required for maintenance of such Item. Seller further agrees to use its best efforts to obtain a similar commitment from its parts subcontractors and vendors. Should Seller no longer support any Item beyond such five (5) year period, Seller agrees to give Buyer copies of all manufacturing drawings and to transfer to Buyer sufficient rights in such drawings and the design of the items therein so that Buyer can maintain all Items.

**备件与图纸。** 如果买方要求，在任何物项的安排装运日期之前六十（60）天，卖方同意向买方提供一份其推荐的备件清单，指明用于该物项或其任何部分的标准和非标准部件。卖方同意在任何物项装运后至少五（5）年的时间，向买方销售所有卖方生产的、维护该物项所必需的必要备件。卖方进一步同意尽最大的努力从其部件分包商和供应商处获得类似承诺。如果卖方在上述五（5）年之

后不再为任何物项提供支持，卖方同意向买方提供所有生产图纸的复制件，并向买方转让此等图纸中充分的权利以及其中的物项设计，使买方能对所有的物项进行维护。

- 13. Work in Process; Quality Program; Capacity.** Buyer shall have the right, at any reasonable time or times, to inspect materials, work in process, finished Items and parts, and records relating thereto, at any facilities at which Items are manufactured or such records are kept. Buyer assumes no responsibility and waives no rights as a result of any such inspection.

**在制品；质量方案；产能。** 买方有权在任何合理的时间，一次或多次在物项生产或相关记录存放的工厂对材料、在制品、物项及部件成品、以及与之相关的各种记录进行检查。买方不因该等检查而承担任何责任，也不因之而放弃任何权利。

Seller shall maintain a quality assurance program satisfactory to Buyer to ensure that Items consistently satisfy Buyer's quality requirements. Seller shall maintain sufficient production capacity to ensure that Buyer's firm orders for Items are promptly and regularly filled.

卖方应保持令买方满意的质量保证方案，确保物项始终满足买方的质量要求。卖方还应保持足够的产能，确保买方对物项的确定订单得以迅速、合格地履行。

- 14. Price, Payment Terms and Invoices.** Seller shall submit invoices to Buyer at the agreed upon payment schedule as set forth in the Purchase Order. Seller represents that the price charged to Buyer for Items is at least as low as the price charged by Seller to buyers of a class similar to Buyer under conditions similar to those specified in the Purchase Order and that prices comply with applicable government laws and regulations in effect at time of quotation, sale and delivery. Seller agrees that any price reduction regarding any Items that is implemented prior to shipment or rendering of such Items shall be applied to the Purchase Order for all shipments or rendering of Items following such price reduction. Buyer may withhold payment until proof of the absence of any liens or encumbrances on the Items is given to Buyer, upon Buyer's request. Further, in addition to any other rights or remedies available to Buyer, Buyer may withhold any payment for non-delivery of Items, or delivery of nonconforming or poor quality Items by Seller, its subcontractors or its agents.

**价格、支付条款和发票。** 卖方应按采购订单中双方约定的支付安排表向买方提交发票。卖方声明，就相关物项向买方收取的价格必须至少与卖方根据与采购订单类似的条件下与买方性质类似的其他购买者收取的价格水平一样低，且相关价格符合报价、销售及交货时有有效的政府法律和法规。卖方同意，任何在相关物项装运或提供之前作出的任何价格下调均将适用于降价后装运或提供的所有采购订单物项。在应买方要求将物项上不存在任何留置或权利限制的证据提供给

买方之前，买方可不付款。而且，除其它买方可获得的权利或救济之外，买方还可因卖方、其分包商或其代理未交付物项、或交付不符物项或劣质物项而不予付款。

Unless otherwise specified thereon, prices quoted on any Purchase Order or Purchase Order Revision include any and all charges for the Items ordered (including but not limited to, any charges for boxing, packing, crating, cartage, taxes or other additional charges).

除非其中另有明确规定，否则任何采购订单或采购订单修正文件中所报的价格均包括所订购物项的任何及所有费用（包括但不限于包装、装箱、车运、税费或其它额外的费用）。

Seller hereby waives any applicable lien over the Items, whether such Items are being supplied to Buyer or Buyer's subcontractors.

卖方在此放弃任何适用于物项的留置权，不论该物项是供应给买方还是买方的分包商。

Seller shall include on invoices the same information as is required on Packing Slips, and, unless otherwise instructed on a Purchase Order, shall send such invoices to Buyer's place of business. Where Buyer has agreed in writing to pay taxes relating to any Purchase Order, applicable taxes shall be listed separately on the invoice. Buyer shall pay all correct itemized invoices received from Seller pursuant to Buyer's then current "Standard Settlement Schedule" plus 30 days, a current version of which has been provided to Seller.

卖方须在发票中写明包装签条中要求写明的所有信息，除非采购订单另有明确规定，否则须将该等发票发送至买方营业地。如果买方以书面方式同意支付任何采购订单所涉及的税费，相关的税款应在发票中单独列明。买方将在届时适用的“标准结算程序”基础上另加三十（30）天内支付所有自卖方处收悉的正确的明细发票，目前版本的“标准结算程序”已经提供给卖方。

- 15. Resale Certification.** If a Purchase Order is marked "Resale," Buyer certifies that Items purchased thereunder are purchased for purpose of resale.

**转售证书。**如果一项采购订单标注“转售”，则买方证明该采购订单项下所采购的物项是用于转售。

- 16. Property Furnished to Seller by Buyer.** Except as specified below, all patterns, dies, molds, tools, models, jigs, core boxes, piece parts, samples, materials, drawings, specifications, test reports, technical material, advertising material, and any other personal property furnished to Seller by Buyer, or specifically paid for by Buyer for use in performance of a Purchase Order (collectively "Materials"), shall be and remain the property of Buyer, shall be subject to disposition according to Buyer's instruction, and shall be used only in filling orders from Buyer. Title to and full ownership of the

Materials shall remain with Buyer at all times. Seller shall not claim any rights of ownership in any of the Materials and shall not mortgage, encumber, transfer, dispose of, remove or allow the removal of any of the Materials from Seller's facility to which such Materials are initially delivered, except as permitted or instructed by Buyer in writing. Seller shall take all necessary precautions and actions to preserve and maintain the Materials in good working condition. Seller shall perform any further act and execute, acknowledge, and deliver any further documents that Buyer may reasonably request in order to protect Buyer's title to the Materials. Seller shall at all times clearly identify the Materials as the property of Buyer by labeling the Materials with distinctive markings, and to the extent reasonable, shall keep the same separate and apart from the property of others, including Seller, located in the same facility. Seller shall bear the risk of any damage to or loss of such Materials while in the possession of or under the control of Seller or Seller's agents. Any waste materials or byproducts generated by or resulting from operations on, use of or processing of Materials furnished to Seller by Buyer shall be and remain the property of Seller, and Buyer shall have no responsibility in connection therewith.

**由买方向卖方提供的财产。**除下文具体规定外，所有的式样、模具、模型、工具、夹具、芯盒、零部件、样品、材料、图纸、技术规范、测试报告、技术材料、广告材料以及任何其它由买方向卖方提供的个人财产，或买方为履行采购订单而支付款项购买的上述财产（统称为“物料”），均属买方的财产，须根据买方的指令进行处置，且仅能用于完成买方订单之目的。对物料的产权和完全所有权应一直归属买方。卖方不得主张对任何物料的任何所有权权益，并不得抵押任何物料，或在其上设置权利限制，或将其转让、处置或将其（或允许他人将其）从该等物料最初交付的卖方工厂移除，经买方书面允许或指示的除外。卖方应采取所有必要的防范措施和行动保护并维持物料的良好工作状态。卖方还应采取进一步行为，签署、承认并交付任何买方可能合理要求用以保护买方对物料之产权的进一步的文件。卖方在任何时候均应清楚地将物料标示为买方的财产（通过以独特的标记给物料贴标），并在合理的程度上将其与位于同一厂区的其他人（包括卖方）的财产分开存放。在该等物料由卖方或卖方代理占有或处于卖方或卖方代理控制之下的时候，卖方应承担其毁损或灭失的风险。由买方向卖方提供之物料的操作、使用或加工过程中产生的任何废料或副产品，应属卖方财产，买方不承担与之相关的任何责任。

Any Materials furnished to Seller by Buyer for use in connection with a Purchase Order are provided in AS-IS condition, and Buyer makes no representations or warranties of any kind, including warranties relating to the condition of such Materials or their suitability for the purposes required by Seller. BUYER DISCLAIMS ANY AND ALL WARRANTIES ASSOCIATED WITH SUCH MATERIALS, INCLUDING, BUT NOT LIMITED TO, EXPRESS OR IMPLIED WARRANTIES, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

买方因与采购订单相关而提供卖方使用的任何物料，均以“现状”提供，买方不作任何类型的声明或保证，包括与该等物料的状况有关的或其适于卖方要求用途的保证。买方否认与该等物料相关的任何及所有保证，包括但不限于明示或默示的保证、关于适销性和适合特定用途的保证。

- 17. Confidential Information; Proprietary Rights.** Seller shall take all necessary steps to protect Buyer Confidential Information (as defined below) with at least the same degree of care that Seller uses to protect its own confidential and proprietary information of like kind, but in no event less than reasonable care. "Buyer Confidential Information" means all information relating to Buyer's products or operations that is disclosed to Seller or created during the performance of any Purchase Order. Buyer Confidential Information includes all business or technical information that is disclosed to Seller, directly or indirectly, in writing, orally or visually, but does not include information that (a) was already in Seller's possession before its receipt from Buyer without restriction on its use or disclosure, (b) is or becomes available to the general public through no act or fault of Seller, or (c) is rightfully disclosed to Seller by a third party without restriction on its use or disclosure. Except as otherwise expressly agreed to in writing by Buyer, Seller shall not (i) use any Buyer Confidential Information except to conduct business with or on behalf of Buyer or (ii) disclose to any third party any Buyer Confidential Information except to conduct business with or on behalf of Buyer, in which event Seller shall (A) first ensure that such third party has signed a written confidentiality agreement having terms at least as restrictive as the terms of this Section and (B) Buyer has consented in writing to such disclosure. At any time upon Buyer's request, Seller shall promptly return or destroy any media containing any Buyer Confidential Information.

**保密信息；专有权利。** 卖方应采取所有必要步骤保护买方保密信息（定义如下），卖方行使的审慎至少应相当于其用以保护自身类似的保密和专有信息的审慎，且在任何情况下均不低于合理的审慎程度。“买方保密信息”是指向卖方披露的或在履行任何采购订单过程中创建的、与买方的产品或经营有关的所有信息。买方保密信息包括向卖方披露（不论直接地或间接地，采用书面形式、口头形式或可视形式）的所有业务或技术信息，但不包括：（a）在从买方处接收之前业已为卖方所占有的、且对其使用或披露不受限制的信息；（b）非因卖方的行为或过错而为公众普遍知悉的信息；或（c）由第三方向卖方正当披露的、且对其使用或披露不受限制的信息。除非买方以书面方式明确另行同意，否则卖方不得：（i）使用任何买方保密信息，除非与买方或代表买方开展业务；或（ii）向第三方披露任何买方保密信息，除非与买方或代表买方开展业务，在此情况下卖方应：（A）首先确保该第三方已签署书面保密协议，且该协议的条款至少应与本节规定一样严格；和（B）买方已书面同意该等披露。任何时候一经买方请求，卖方应立即归还或销毁任何包含买方保密信息的介质。

Except for Seller's Financial Statements (as defined in this paragraph), Seller shall not disclose any confidential or proprietary information to Buyer unless Buyer first agrees in writing to the receipt of such confidential or proprietary information. Seller's "Financial Statements" means independently audited financial statements (income statement, balance sheet, and cash flow statement) for the previous two (2) fiscal years and interim financial statements through the current fiscal year-to-date period. Upon Buyer's request, Seller will promptly provide its or Seller's ultimate parent company's, as required by Buyer, Financial Statements to Buyer. Buyer shall hold and safeguard such Financial Statements by using the same degree of care it uses to protect its own Financial Statements. Seller acknowledges that, except as otherwise expressly agreed to in writing by Buyer, all technical information previously or hereafter disclosed by Seller to Buyer in connection with any Purchase Order has been disclosed on a non-confidential basis.

除了卖方的财务报表（如本段所定义）外，卖方不应向买方披露任何保密或专有信息，除非买方事先书面同意接收该等保密或专有信息。卖方的“财务报表”是指经过独立审计的、以前两个财政年度的财务报表（损益表，资产负债表，现金流量表）以及当前财政年度迄今为止的中期财务报表。经买方要求，卖方应即刻按照买方的要求将其自己的或其最终母公司的财务报表提供给买方。买方应运用与其用以保护自身财务报表之同等程度的审慎持有并保护卖方的财务报表。卖方承认，除非经买方以书面方式另行明确同意，否则卖方先前或今后向买方披露的与任何采购订单相关的所有技术信息均系在非保密基础上提供。

Buyer may have valuable Intellectual Property Rights (as defined below) in tooling, documents, information, and other materials provided to Seller. Seller shall not acquire any right, title, or interest in any Intellectual Property Rights of Buyer. Seller may use the Intellectual Property Rights of Buyer only in the production and supply of Items to Buyer and affiliates of Buyer as Buyer may approve in writing. Without limiting the foregoing, Seller agrees that Items manufactured based on Buyer's Confidential Information, including drawings or specifications and other Confidential Information, may not be used for Seller's own use or sold to third parties without Buyer's prior express written consent. "Intellectual Property Rights" means patents, copyrights, trade secrets, and industrial design rights.

在向卖方提供的模具、文件、信息和其它材料中买方可能拥有珍贵的知识产权（定义如下）。卖方不应取得买方任何知识产权中的任何权利、所有权或权益。卖方将仅在为买方和买方关联机构生产和供应物项的过程中按买方可能书面批准的方式使用买方知识产权。在不限限制前述规定的前提下，卖方同意，基于买方的保密信息（包括图纸或规格以及其他保密信息）生产的物项非经买方事先明确的书面同意不得由卖方自用或向第三方销售。“知识产权”是指专利权、版权、商业秘密、以及工业设计权。



If a Purchase Order includes development services, such as the design of a unique product or modification of an existing Seller product, Seller grants to Buyer and its affiliates a perpetual, worldwide, paid-up, royalty-free, nonexclusive license, with the right to sublicense, to make, have made, use, offer to sell, sell, export and import all inventions or other results of Seller's development work that Seller conceives, develops, acquires, or reduces to practice in the course of performing work under the Purchase Order.

如果一项采购订单包含开发服务，例如独特产品的设计或对现有卖方产品的修改，则卖方授予买方及其关联机构一项永久的、全球范围的、各种费用已付清的、免特许权使用费的、非排他性的许可（带再许可权），许可其制造、已制造、使用、为其发出销售要约、销售、出口以及进口所有卖方开发工作的发明或其它成果，该等发明或其它成果系卖方在履行采购订单项下工作的过程中所构思、开发、获得或引入实践的。

Notwithstanding anything contained herein to the contrary, Buyer shall own all Intellectual Property Rights that derive from or incorporate any Buyer Confidential Information or Intellectual Property Rights owned by or licensed to Buyer. Seller shall promptly disclose and assign, and hereby does assign, all of Seller's right, title and interest in such Intellectual Property Rights to Buyer or shall cause the same to be so assigned. Further, Seller shall execute, or cause to be executed, at Buyer's expense, all applications, assignments, or other instruments that Buyer may deem necessary in connection with such Intellectual Property Rights.

尽管本条款和条件中可能包含任何相反规定，但买方应拥有从买方保密信息或其拥有或获得许可的知识产权中衍生的或将其并入其中的全部知识产权。卖方应立即向买方披露并转让（且特此转让）该等知识产权中所有的卖方权利、所有权以及权益，或促成上述转让的实现。并且，卖方应签署或促成签署与该等知识产权相关的、买方认为必要的所有申请、转让、或其它文书，相关费用由买方承担。

Seller grants to Buyer and its affiliates the right to repair and reconstruct any Item (including, for example, the right to rebuild the Item and the right to remanufacture any Item by disassembling its constituent components and reassembling old and new components into a remanufactured Item) and the right to have the same done by others on behalf of Buyer and its affiliates.

卖方授权买方及其关联机构修理和改造任何物项（举例而言，包括重建物项的权利，以及通过分解物项的构成部件然后将新旧部件重新组装成再造物项的再制造权利），卖方同时授权该等工作可由他人代表买方及其关联机构完成。

Seller grants to Buyer and its affiliates a perpetual, worldwide, paid-up, royalty-free, nonexclusive license under each copyright that Seller owns, controls, or has a right to license to reproduce, prepare derivatives of, sublicense, distribute, perform, and display any software that is embedded or loaded in the Items ("Embedded Software")

in conjunction with the use or sale of the Items. In addition, Seller grants to Buyer and its affiliates a perpetual, worldwide, paid-up, royalty-free, nonexclusive license under each copyright that Seller owns, controls, or has a right to license in any work of authorship other than Embedded Software fixed in any tangible medium of expression delivered by Seller under a Purchase Order (including, without limitation, drawings, prints, manuals, and specifications) to reproduce, prepare derivatives of, distribute, perform, and display such work.

卖方在其拥有、控制或有权许可的每个版权项下授予买方及其关联机构一项永久的、全球范围的、各种费用已付清的、免特许权使用费的、非排他性的许可，许可其对嵌入或载于物项的与物项之使用或销售关联的任何软件（“嵌入软件”）进行复制、编写衍生作品、再许可、分发、执行、以及展示。此外，对于固定于有形表达介质上的、由卖方在采购订单项下交付的、非嵌入软件的任何有作者权的作品（包括但不限于图纸、印刷品、手册和规范），卖方在其拥有、控制或有权许可的每个版权项下授予买方及其关联机构一项永久的、全球范围的、各种费用已付清的、免特许权使用费的、非排他性的许可，许可其对该等作品进行复制、编写衍生作品、分发、执行以及展示。

In each subcontract of Seller's work performed pursuant to a Purchase Order, Seller shall obtain for Buyer all of the rights and licenses granted to Buyer under this Section.

在将卖方依采购订单履行的工作进行分包的情况下，卖方应为买方获取本节项下授予买方的所有权利和许可。

Seller warrants that the Items do not infringe on any Intellectual Property Rights or other proprietary rights of any third party because or on account of the use, offer to sell, or sale of any such Items alone or in combination with other Items or materials, except and solely to the extent that such Items are specifically constructed in exact accordance with Buyer's designs or technical specifications. If any of the Items furnished to Buyer become the subject of an alleged infringement of any Intellectual Property Right of any third party, Seller shall, at its expense, either (i) procure for Buyer the right to continue using the Items; (ii) replace or modify the Items so that they are non-infringing; provided, however, that such replacement or modified Items must provide equal or greater functionality than the original Items; or (iii) if, after exhausting commercially reasonable efforts, Seller is unable to obtain either of the above two results, refund Buyer's full purchase price.

卖方保证物项不会因为单独或与其它物项或材料组合使用、为其发出销售要约、或进行销售而侵犯任何第三方的知识产权或其它专有权利，仅在该等物项完全根据买方的设计或技术规格而特别建造的情况下除外。如果任何向买方提供的物项被声称对任何第三方知识产权构成侵权，则卖方应自付费用采取以下措施之一：（i）为买方获得继续使用物项的权利；（ii）调换或者修改物项，使其不再侵权；但是该等调换或修改后的物项必须提供与原物项等同甚至更优

的功能；或者（iii）如果穷尽商业上合理的努力后卖方仍不能取得上述任何一种结果，则应全额退还买方的采购价款。

Seller shall have no right to apply and further shall not apply to Items any trademark, logo, or trade dress owned by Buyer, including without limitation CAT, CATERPILLAR, CAT & design and CATERPILLAR & design (hereinafter "Buyer's Trademarks"). Notwithstanding the foregoing, if Buyer desires for any of Buyer's Trademarks to be applied to an Item, the drawing or print that accompanies the Purchase Order shall so state or shall specifically call out the 1E0198 specification. Alternatively, Seller may be separately authorized to apply any of Buyer's Trademarks to an Item if such authorization is specifically set forth on the Purchase Order or otherwise authorized by Buyer in writing. Seller agrees and acknowledges that it shall obtain all design artwork for Buyer's Trademark from Buyer, that it will not recreate any design aspects of Buyer's Trademark, and that it will correctly apply Buyer's Trademarks to an Item according to the 1E0198. If Seller cannot correctly apply Buyer's Trademarks to an Item, it must reject the Purchase Order. Further, Seller shall only apply Buyer's Trademarks to those Items specifically referenced in the Purchase Order. Seller shall acquire no right whatsoever in Buyer's Trademarks, either express or implied, by estoppel or by implication, through its action in fulfilling a Purchase Order. Seller shall not apply any trademarks, logos, or trade dress of Seller or any third party to any Items that are specifically designed for Buyer without Buyer's prior express written consent. Seller shall have no right to apply and further shall not apply to any other goods sold by Seller any number, letter, symbol, or combination thereof that is affixed to or embedded in any Item, or that is affixed to or embedded in any part or drawing number associated with the Item (hereinafter "Buyer's Part Numbers"). Notwithstanding the foregoing, if Buyer desires for any of Buyer's Part Numbers to be applied to an Item, the drawing or print that accompanies the Purchase Order shall so state. Alternatively, Seller may be separately authorized to apply any of Buyer's Part Numbers to an Item if such authorization is specifically set forth on the Purchase Order or otherwise authorized by Buyer in writing. To the extent Seller lawfully offers goods to others similar to Items, Seller will not state or otherwise indicate that such goods of Seller are equivalent to Items unless provable without reference or reliance on Seller's sale of Items to Buyer or any Buyer Confidential Information.

卖方无权应用买方拥有的任何商标、标识 或商业外观，并且也不得将其应用于物项，包括但不限于 CAT 或卡特、CATERPILLAR 或卡特彼勒、CAT & design（CAT 及图案）以及 CATERPILLAR & design（CATERPILLAR 及图案）（下称“买方商标”）。尽管有前述规定，如果买方欲将任何买方商标应用于某物项，则与采购订单一起提供的图纸或印刷品应对此加以说明或明确提出1E0198规范。另一替代做法是买方通过在采购订单上列明的特别授权或其它方式的书面授权向卖方另行授予将买方商标应用于某物项的权利。卖方同意并确认，其应从买方获得买方商标的所有设计原图，其不会对买方商标的任何设计方面进行再创作，而且，其将按照1E0198正确地将买方商标应用于物项。如果卖方不能正确

地将买方商标应用于某物项，其不得接受采购订单。而且，卖方应仅将买方商标用于采购订单特别指明的物项。卖方不得通过履行采购订单的方式获取买方商标中的任何权利，不论明示的还是默示的，或通过禁止反言或默示。没有买方事先明确的书面同意，卖方不得将卖方的或任何第三方的商标、标识或商业外观应用于任何专为买方设计的物项。卖方无权而且也不得将附加在任何物项上或嵌入任何物项中的，或者附加在与任何物项相关的任何部件或图纸号上或嵌入该等部件或图纸号中的任何数字、字母、符号或其组合（下称“买方部件号”）应用于卖方销售的任何其他产品。尽管有前述规定，如果买方欲将任何买方部件号应用于某物项，则与采购订单一起提供的图纸或印刷品应对此加以说明。另一替代做法是买方通过在采购订单上列明的特别授权或其它方式的书面授权向卖方另行授予将买方部件号应用于某物项的权利。在卖方向他人合法提供与物项类似的货物的情况下，卖方将不会声明或者以其他方式指明卖方的该等货物与物项等同，除非这是在既不提及亦不依赖卖方对买方进行的物项出售或者任何买方保密信息的情况下即可证明的。

## **18. Indemnification.** **赔偿。**

Seller agrees to indemnify, defend and hold harmless Buyer, Buyer's affiliates, and Buyer's and Buyer's affiliates' respective directors, officers, employees, shareholders, agents, successors, assigns, consultants, and business invitees from and against any and all claims and demands, liabilities, losses, damages, costs, enforcement procedures and expenses, of whatsoever nature (including costs, litigation expenses and counsel fees incurred in connection therewith) arising out of injury to, or death of, any person whatsoever or injury or damage to property of any kind by whomsoever owned, or the environment, or any other damages permitted by applicable law, arising out of or related to, directly or indirectly, the following:

卖方同意，对于直接或间接地由于以下原因或与之相关而引起的任何人身伤亡、或任何人所拥有之财产的毁损、或环境的破坏、或适用法律所允许的任何其它损害，由此产生的任何及所有无论何种性质的索赔、要求、责任、损失、赔偿金、成本、执行程序与费用（包括成本、诉讼费用和与之相关而产生的律师费），卖方应赔偿买方、买方的关联机构、以及买方和买方关联机构各自的董事、高管人员、雇员、股东、代理、继承人、受让人、顾问及业务伙伴，为其抗辩，并且使其免受损害：

- a. the performance or nonperformance by Seller, Seller's subcontractors or Seller's agents of any work which is the subject of the Purchase Order;  
卖方、卖方的分包商或卖方的代理对采购订单标的工作的履行或不履行；
- b. Seller's non-compliance with Seller's obligations under any Purchase Order or these Terms and Conditions or any laws or regulations, including, without

limitation, those applicable to the packaging, classification, labeling, training, handling and transportation of Hazardous Materials, whether such action is brought by a governmental agency or other person or entity, except to the extent that such claims result from Buyer's gross negligence or willful misconduct;

卖方对任何采购订单或本条款和条件或任何法律法规项下之卖方义务的不履行，包括但不限于适用于包装、分类、贴标、培训、搬运和危险物资运输的各种义务，且不论相关法律程序是由政府机构还是其他个人或实体提起（该等权利要求由于买方的重大过失或故意不当行为而引起的除外）。

- c. Seller's noncompliance with Seller's obligations listed in Section 19(a) or any injury or illness to Buyer's employees, Seller's employees, Seller's subcontractors or agents, their respective employees, or any other person, caused by that noncompliance.

卖方不遵守第 19 节(a)项所列之卖方义务，或由于卖方不遵守该等义务导致买方雇员、卖方雇员、卖方的分包商或代理，他们各自的雇员，或任何其他人员的伤害或疾病。

- d. any claim of defect in the design, materials, manufacture or sale of the Items; 针对物项的设计、材质、生产或销售方面的缺陷而提出的任何权利要求；

- e. any recall caused by Items provided by Seller or its agents; 卖方或其代理所提供物项造成的任何召回；

- f. Seller's breach of any representation, warranty or covenant in these Terms and Conditions or in any Purchase Order; 卖方对本条款和条件中或任何采购订单中的声明、保证或承诺的违反；

- g. Seller's noncompliance with Environmental Requirements or Product Regulations; or 卖方对环境要求或产品规定的不遵守；或

- h. the EU Product Liability Directive 1999/34/EC of the European Parliament and of the Council of May 10, 1999. 欧洲议会和理事会 1999 年 5 月 10 日的欧盟产品责任指令（第 1999/34/EC 号）。

## **19. Safety and Insurance.** **安全与保险。**

- a. If Seller or its subcontractors or agents perform any work on Buyer's premises or use Buyer's property either on or away from Buyer's premises, Seller is expressly obligated to:  
如果卖方或其分包商或代理人在买方的场所履行任何工作、或不论在买方场所或不在买方场所使用买方的财产，卖方明示承担下列义务：
- (1) Comply with and ensure all of its subcontractors and agents comply with all requirements of Buyer's third party pre-qualification process, including ongoing requirements, e.g., maintaining a satisfactory grade as defined in that program.  
遵守并保证其所有的分包商和代理遵守买方对第三方资格预审程序的要求，包括持续性要求，如维持该计划中所定义的满意的资质等级。
  - (2) Comply with and ensure all of its employees and its subcontractors and agents, and their respective employees comply with all Health and Safety Requirements (as herein defined). "Health and Safety Requirements" means all applicable state, provincial, or local laws, regulations, ordinances, orders, or other pronouncements now in effect or as hereafter amended, that have the force or effect of law, relating to human health and safety, including but not limited to all applicable occupational safety and health regulations.  
遵守并保证其所有的雇员、分包商和代理及其各自的雇员遵守一切健康与安全要求（如此处所定义）。“健康与安全要求”是指适用的一切国家、省或地方的法律、规章、条例、命令或其他现行有效或经随后修订的、具有法律效力的、与人的健康和安全相关的公告，包括但不限于所有适用的职业安全与卫生规章。
  - (3) Control the manner and methods of its operations to ensure the safety of its employees, its subcontractors, agents, delegates, invitees and their respective employees.  
控制其运营的方式与方法，以保证其雇员、分包商、代理、代表、被邀请者及其各自雇员的安全。
  - (4) Designate to Buyer an employee or representative to ensure ongoing compliance with Buyer's expectations under this section.  
向买方指派一名雇员或代表以保证持续符合买方在本节项下的期待。
  - (5) Ensure that its employees and its subcontractors and agents, and their respective employees are adequately trained in all Health and Safety

Requirements (as defined in item (2) above) applicable to the work being performed for Buyer, prior to commencement of that work.

保证其雇员、分包商和代理及其各自的雇员在开始工作前充分接受适用于为买方执行的工作的健康与安全要求（如上述第（2）项所定义）的所有培训。

- (6) Ensure that its employees and its subcontractors and agents, and their respective employees know and are aware of all emergency response procedures and work-site hazards at the premises where work is performed, and use all required personal protective equipment.  
保证其雇员、分包商和代理及其各自的雇员了解所有的应急响应程序以及工作场所的现场危害，并使用要求的一切个人防护设备。
- (7) Arrange for and require its employees and its subcontractors and agents, and their respective employees to submit to pre-hire and post- accident drug and alcohol testing.  
安排并要求其雇员、分包商和代理及其各自的雇员进行雇佣前及事故后药物及酒精测试。
- (8) Cooperate with and ensure that its employees and its subcontractors and agents, and their respective employees who are involved cooperate with Buyer in all injury or incident or accident investigations and in responding to requests from occupational safety and health authorities or any other governmental authorities or agencies; complete post- accident investigations and take all steps necessary to improve workplace safety before work resumes.  
与买方合作，并保证卖方的雇员、分包商和代理及其各自的雇员在所有的伤害、事件及事故调查中与买方合作并响应职业安全与卫生部门或其他政府部门的要求；完成事故后调查并在重新开始工作前采取必要措施改善工作场所的安全状况。
- (9) Ensure that all Buyer facility-specific safety rules are strictly followed by its employees and its subcontractors and agents, and their respective employees, as set forth in such facility's Contractor Safety Manual, particularly, but not limited to those pertaining to aerial work, operation of motorized work vehicle within the facility, confined space, Hazardous Materials, hot work and lockout/tagout.  
保证所有买方工厂特定的安全规则得到其雇员、分包商和代理及其各自雇员的严格遵守，这些规则在各工厂的《承包商安全手册》中载明，尤其是但不限于那些与航空作业、工厂内机动作业 车辆的操作、限制空间、危险物资、高温作业以及挂牌上锁程序 相关的安全规则。

Seller acknowledges that failure to strictly comply with any one or more of the items (1) through (9), listed immediately above, can result in Buyer requiring Seller to remove one or more workers or Buyer terminating the Purchase Order or Purchase Order Release, without any liability of Buyer to Seller for Seller's costs or damages related to such termination.

卖方承认，未能遵守上列(1)至(9)中任何一项或几项将导致买方要求卖方将一名或多名工人清除出工厂或买方终止采购订单或采购订单发放，且买方不因与该终止有关的费用或损失向卖方承担任何责任。

- b. Seller and its subcontractors and agents, if any, at their sole cost, shall maintain insurance coverage as described below with insurance companies acceptable to Buyer. The limits set forth below are minimum limits and shall not be construed to limit Seller's liability. All cost and deductible amounts shall be for the sole account of Seller and its subcontractors and agents. All policies shall name Buyer as an additional insured per ISO Endorsement CG 2010 (or its equivalent, i.e., a company specific endorsement with the same wording as CG 2010 or a manuscript endorsement with the same wording as CG 2010) and waive subrogation rights in favor of Buyer. All policies required shall also be designated as primary coverage to any similar coverage carried by Buyer. At least seven (7) days prior to the start of work on the premises, Seller shall submit copies of Certificates of Insurance, acceptable to Buyer, to the Business Manager of Buyer.

卖方及其分包商和代理人（如有）须自负全部费用向买方所能接受的保险公司购买下文所列之各项保险。以下所列之限额为最低限额，不得被解释为限制卖方的责任。所有的成本和免赔额完全须由卖方及其分包商和代理人承担。所有保险单均须按照国际标准组织“ISO Endorsement CG 2010”文件（或与之等同的文件，例如和 CG 2010 文件措辞相同的特定公司批注或手书批注），将买方作为附加被保险人，并以有利于买方的方式放弃代位求偿权。此外，所有要求购买的保险单均须被指定为优先于买方购买之类似保险而主要承担保险责任。在买方场所开始工作前至少七（7）日，卖方须提交对买方而言可接受的保险证书副本至买方的业务经理。

- i. Worker's Compensation and Employers' Liability Insurance providing benefits as required by applicable law;  
工伤赔偿与雇主责任险（提供适用法律所要求的福利）；
- ii. Public Liability Insurance (Occurrence Coverage) including products, completed operations, contractual liability coverage for indemnities contained in any Purchase Order or these Terms and Conditions and Seller's contingent liability for subcontractors and agents with a



minimum combined single limit of liability of US\$1,000,000 per occurrence for bodily injury or death and property damage;

公共责任险（事故发生制），包括产品、完工责任、任何采购订单或本条款和条件中所涉及之赔偿的合约责任以及卖方对于分包商和代理的或然责任。对于出现人身伤害或死亡以及财产损失的每次事故，最低合计单项责任保额为一百万美元；

- iii. Commercial Automobile Liability Insurance (Occurrence Coverage) for owned, non-owned, and hired automotive equipment with a minimum combined single limit of liability of US\$ 100,000 for each occurrence for bodily injury and property damage; and

对于自己拥有、非自己拥有以及租赁的汽车等设备提供商业汽车责任险（事故发生制），对于出现人身伤害以及财产损失的每次事故，最低合计单项责任保额为十万美元；和

- iv. If the Items include design and/or engineering or other professional services, Seller shall maintain Errors or Omissions Liability and Professional Liability Insurance with a minimum limit of US\$1,000,000 each occurrence, and any other specialty policies with appropriate coverage limits as requested by Buyer.

如果物项包括设计和/或工程或其它专业服务，卖方须购买错误或疏忽责任险和专业服务责任险，每次事故最低限额为一百万美元，以及其它特种保险单（按买方提出的适当的投保限额）。

- c. Any policy of insurance covering Items, which include services to be performed under any Purchase Order or these Terms and Conditions, must be submitted by Seller and must be acceptable to Buyer.

任何为物项投保的保险单（包括在采购订单或本条款和条件项下将履行的服务）必须由卖方提交并获得买方的认可。

- d. Insurers must have a minimum rating of AVII (A7) as evaluated by the most current A.M. Best Rating Guide. If the insurer has a rating less than AVII (A7), Seller must receive specific written approval from Buyer prior to proceeding.

保险人的最低评级必须达到最新版《A.M. Best 评级指南》所评的 AVII (A7)。如果保险人的评级低于AVII (A7)，则卖方必须在着手办理保险之前获得买方的明确书面批准。

- e. Each insurance policy required by a Purchase Order or these Terms and Conditions shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Buyer. If Seller does not obtain insurance, or such insurance

is canceled, Buyer has the right, but not the obligation, to obtain insurance coverage on behalf of Seller, at Seller's sole expense.

采购订单或本条款和条件所要求的各保险单须背书说明，除非提前三十（30）日以挂号信方式（要求提供回执）向买方提交书面通知，否则任何一方均不得暂停、取消投保或使投保失效，或减少保险限额或范围。如果卖方未购买保险，或该等保险被取消，则买方有权（而非有义务）代表卖方进行投保，费用由卖方独自承担。

- f. Buyer shall not insure nor be responsible for any loss or damage to property of any kind brought onto Buyer's property or owned or leased by Seller or any subcontractors or agents, or its or their respective employees.

买方对于带至买方场所的、或卖方或其任何分包商或代理或其各自的雇员所拥有或租赁的任何种类财产可能出现的损失或毁坏不承担保险或其它责任。

- g. Irrespective of these insurance requirements, the insolvency, bankruptcy, or failure of any insurance company, or its failure to pay a claim, does not waive any of these provisions. All the above-described policies, together with all other insurance policies now owned or purchased in the future shall contain provisions wherein the insurance companies shall have no right of recovery or subrogation against Buyer or Buyer's affiliates, or their respective directors, officers, employees, and agents.

除了上述保险要求外，任何保险公司出现资不抵债、破产或无法正常经营等情况，或任何保险公司无法按保险单金额支付索赔等情况均不得豁免上述有关规定。所有上述保险单以及目前拥有或未来购买的所有其它保险单均须含有相关规定，即任何保险公司均无权要求买方或买方的关联机构、或其各自的董事、高管人员、雇员和代理承担任何清偿或代位清偿责任。

- h. It is Seller's responsibility to determine the adequacy of any subcontractors' or agents' insurance and indemnification obligations.

卖方负责确定任何分包商或代理是否已购买充分的保险及能够充分履行各项赔偿义务。

- 20. Compliance.** Seller represents and warrants that neither it nor any of its directors, officers, employees, or representatives have engaged or will engage in Bribery in connection with its performance under these Terms and Conditions or any other agreement with Buyer, its affiliates, or their respective directors, officers, employees, representatives, agents, successors, and assigns (collectively referred to in this Section as "Buyer"). Bribery means the offering, promising, giving, or authorizing of any payment or transfer of anything of value, directly or indirectly through third parties, to any person

for the purpose of influencing any act or decision of such person or securing an improper advantage to assist Buyer in obtaining, retaining or conducting business.

合规。卖方陈述并保证，卖方及其任何董事、高级管理人员、雇员或代表没有且不会从事与其履行本条款和条件项下义务，或任何其他与买方、其关联公司或各自的董事、高级管理人员、雇员、代表、代理人、继承人和受让人（本条款中统称为“买方”）订立的协议项下的义务有关的贿赂行为。贿赂是指直接或通过第三方间接向任何人员提供、许诺、给予或授权任何报酬或者转移任何有价值之物，以影响该等人员的任何行为或决定，或者获取不正当优势以协助买方取得、保留或开展业务。

To the extent Buyer permits the use of subcontractors under these Terms and Conditions, Seller agrees it (1) will instruct such subcontractors neither to engage in nor to tolerate any act of Bribery, (2) will not use such subcontractors as a conduit for Bribery, and (3) will ensure that such subcontractor complies with this Section in the same manner as Seller is required to comply.

在买方允许卖方依据本条款和条件使用分包商的范围内，卖方同意其（1）将指示该等分包商不得从事、也不得容忍任何贿赂行为，（2）不会使用该等分包商作为贿赂的渠道，以及（3）将保证该等分包商按照与卖方被要求的同样方式遵守本条款。

Upon Buyer's request, Seller shall at its expense provide to Buyer in a timely manner complete and accurate information requested through due diligence questionnaires and periodic compliance certifications. If Buyer has reason to believe that Seller is not in compliance with this Section, Buyer has the right to inquire, or to have Buyer's authorized representatives conduct inquiries, to ascertain the extent of the Seller's non-compliance with this Section, and Seller agrees to cooperate and provide all documentation and information related to these Terms and Conditions or any other agreement with Buyer that is reasonably requested by Buyer in connection with such inquiries. Seller agrees that a violation of this Section shall constitute a material breach of these Terms and Conditions and that Buyer may, in its discretion, either suspend the Purchase Order or terminate it. Seller agrees to indemnify, defend, and hold harmless Buyer against all demands, liabilities, fines, penalties, losses, and damages (including costs, investigation and litigation expenses and counsel fees incurred in connection therewith) arising out of or related to Seller's obligations under this Section.

一经买方要求，卖方应当自付费用，通过尽职调查问卷和定期合规认证，及时向买方提供买方所要求的完整和准确的信息。如果买方有理由相信卖方没有遵守本条款，买方有权质询，或者由买方的授权代表进行质询，以确定卖方未遵守本条款的程度，并且卖方同意合作并提供买方合理要求的、与该等质询相关的，所有与本条款和条件或与买方签订的任何其他协议有关的文件和信息。卖方同意对本条款的违反构成对本条款和条件的实质违约，并且买方可以自行决定暂停或终止采购订单。卖方同意就因卖方在本条款项下的义务产生的或与之有关的要求、责

任、罚金、处罚、损失和损害（包括相关的成本、调查和诉讼费用以及律师费）对买方进行赔偿、为其辩护并使其不受损害。

In the event Seller becomes the subject of an enforcement action or receives an information request from any government entity for Bribery relating to Seller's performance under these Terms and Conditions or any other agreement with Buyer, Seller shall provide to Buyer written notice not later than ten (10) business days following such enforcement action or information request, or the earliest date thereafter if prohibited from earlier disclosure by applicable law.

如果卖方成为强制执行的对象，或者收到来自任何政府机构的与卖方履行本条款和条件或与买方签订的任何其他协议项下的义务相关的贿赂信息请求，卖方应当在不晚于该等强制执行或信息请求后的十（10）个工作日，或者在适用法律禁止披露期限届满后的最早日期，向买方提供书面通知。

- 21. International Trade Reporting and Documentation.** Seller agrees to provide all information necessary for Buyer to comply with all applicable laws, regulations and any related legal reporting, notification or other types of approval obligations in the country(ies) of origin and destination, including, without limitation, permits, authorization, licensing, reporting, disclosure or certification information required under the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, the sanctions regulations administered by the U.S. Treasury Department Office of Foreign Assets Control, Product Regulations, and Hazard Communication information (see Section 6 (g) (4) of these Terms and Conditions). Seller agrees to provide all documentation and/or electronic transaction records to allow Buyer to meet all Customs or export-related obligations, any local content/origin requirements, and to obtain all tariff and trade program duty avoidance(s) and/or refund benefits, where applicable.

**国际贸易报告及文件。** 卖方同意向买方提供所有必要的信息，使其能遵守原产地国和目的地国所有适用的法律、法规和任何相关的法律报告、申报或其他类型的报批义务，包括但不限于《美国出口管理条例》、《国际武器贸易条例》、美国财政部外国资产控制办公室实施的制裁规定、产品规定项下要求的许可、授权、证照、报告、披露和认证信息，以及危险警示信息（见本条款和条件之6(g)(4)条）。卖方同意，提供所有的文件和/或电子交易记录，使得买方能够履行与海关或出口相关的所有义务、任何本地成分/原产地要求，并获取所有关税及贸易税费减免和/或退税待遇（如果适用）。

Seller agrees to assume, and to indemnify Buyer against, any and all financial responsibility arising from Seller's failure to comply with these requirements and/or to supply Buyer with the information required to meet legal reporting obligations, including, without limitation, any fines, penalties, forfeitures, settlement amounts, unnecessary duties or counsel fees incurred or imposed as a result of actions taken by the importing or exporting country's government.

卖方同意承担任何及所有经济上的责任，并保证买方不会由于卖方未能遵守上述要求和/或向买方提供满足法定报告义务所需的信息而使买方承担任何经济上的责任，其中包括但不限于由于进口国或出口国政府采取行动而发生或征收的罚款、处罚、没收财产、和解款项、不必要的关税或律师费。

- 22.** On an annual basis or more frequently if requested by Buyer, Seller shall disclose to Buyer any Items Seller delivered to Buyer that contain tin, tantalum, tungsten, gold, or other materials that may be designated as a conflict mineral by the U.S. government (“Conflict Minerals”). Seller shall have a supply chain policy for Conflict Minerals and shall undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into Items it provides Buyer; (2) due diligence of its supply chain, as necessary, to determine (i) if Conflict Minerals incorporated into Items it provides Buyer are sourced from the Democratic Republic of the Congo or adjoining countries and if so, (ii) whether such Conflict Minerals directly or indirectly support conflict in these countries, and (3) risk assessment and mitigation actions as may be necessary to implement the reasonable country of origin inquiry and due diligence procedures. Seller agrees to provide to Buyer all supporting information and documentation substantially in the format requested by Buyer, including, but not limited to, supply chain data necessary or desirable for Buyer to comply with its obligations under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and its implementing regulations. All such supporting information and documentation shall be retained by Seller for a minimum of five years and be subject to audit by Buyer upon reasonable notice. Seller shall include the substance of this Section 22 in all subcontracts awarded by Seller for work under this Purchase Order.

卖方应每年一次或更为频繁地（如买方要求），向买方披露卖方向买方交付的任何含有锡、钽、钨、金或可能被美国政府指定为冲突矿物的其他物质（“冲突矿物”）的物项。卖方应制定有冲突矿物的供应链政策，并应：(1)对其提供给买方的物项中纳入的冲突矿物的原产国为何地进行合理的查询；(2)如必要，对其供应链进行尽职调查，以确定：(i)其提供给买方的物项中纳入的冲突矿物是否源自于刚果民主共和国或其临近国家，如果确实如此，(ii)该等冲突矿物是否直接或间接支持了该等国家的冲突，及(3)采取实施合理的原产国查询和尽职调查程序所必需的风险评估和缓解行动。卖方同意基本上以买方要求的格式向买方提供所有证明性信息和文件，包括但不限于使买方遵守其在《多德-弗兰克华尔街改革和消费者保护法》第1502条及该法的实施法规项下义务所必需或宜取得的供应链数据。所有该等证明性信息和文件必须由卖方至少保留五年，并可由买方在合理通知后予以审查。卖方应在就本购买订单项下工作授予的所有分包合同中纳入本第22条的内容。

- 23. Assignment.** Any Purchase Order(s) accepted by Seller shall not be assigned by transfer, disposition, sale or otherwise, without the written consent of Buyer. It is understood and agreed that these Terms and Conditions shall be binding upon and

inure to the benefit of the parties and their respective parent(s), subsidiaries, representatives, attorneys, agents, successors and permitted assigns.

**转让。**未经买方书面同意，不得通过让渡、处置、销售或以其它方式对卖方已接受的任何采购订单进行转让。双方理解并同意本条款和条件应对双方及其各自的母公司、子公司、代表人、律师、代理、继承人和允许的受让人具有约束力并为其利益而制定。

- 24. Set Off.** In addition to any right of setoff or recoupment provided by law, Buyer may at any time and without notice recoup, deduct or set-off claims by Seller or Seller's affiliates (or its assignee or financing institution) for amounts due or to become due from Buyer against any claims that Buyer or any Buyer affiliate has or may have arising out of this or any other transaction between Buyer or Buyer's affiliates and Seller or Seller's affiliates.

**抵销。**除了法律规定的任何抵销或扣除权外，买方可在任何时候且不经通知，以买方或买方的关联机构和卖方或卖方的关联机构之间因本交易或任何其它交易而引起的、买方或买方的任何关联机构所拥有或可能拥有的任何请求权，对卖方或卖方的关联机构（或其受让人或融资机构）要求买方支付任何已到期或即将到期款额的请求权进行补偿、扣抵或抵销。

- 25. Change in Ownership and Control.** During the term of the applicable Purchase Order(s), if there is a change in the ownership or control of Seller, Buyer shall have the option of terminating the Purchase Order(s) immediately by giving written notice thereof. For purposes of this Section, a change in the ownership and control of Seller or a parent company of Seller, as appropriate, shall be deemed to have occurred if and when any one or more persons acting individually or jointly purchases substantially all of the assets of Seller or is or becomes a beneficial owner, directly or indirectly, of securities/equity representing twenty-five percent (25%) or more of the combined voting power of the then outstanding securities/equity of Seller or the parent company of Seller.

**所有权和控制权的变更。**在相关的采购订单期限内，如果卖方的所有权或控制权发生变更，买方应当有权选择通过发出书面通知而立即终止采购订单。为本节之目的，如果并且当一个或一个以上的人单独或共同地实质上购买了卖方的全部资产，或者直接或间接地成为代表着卖方或卖方的母公司当时发行在外的有价证券/股权之联合表决权的百分之二十五（25%）或以上的有价证券/股权的实益所有人，则应视为卖方或卖方母公司（依具体情况）的所有权或控制权已发生变更。

- 26. Severability; No Waiver.** Invalidation of any of the provisions contained in these Terms and Conditions, or the application of such invalidation thereof to any person, by legislation, judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person, and the same shall remain in full force and effect, unless enforcement as so modified would be

unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes hereof.

**可分性；无弃权。**本条款和条件中包含的任何规定的无效，或者立法、判决或法院命令将该等无效对任何人的适用，均不影响本条款和条件中的任何其它规定或其对任何其他人的适用，且该其它规定和对其他人的适用仍具有完全的效力，除非如此修改后的执行在所有情况下均不合理或显失公平，或者将使本条款和条件的目的落空。

No failure of either party to enforce at any time any of the provisions of any Purchase Order or these Terms and Conditions, or any rights or remedies with respect thereto, or to exercise any election herein provided, shall constitute a waiver of any such provision, right, remedy or election or in any way affect the validity thereof or of these Terms and Conditions. The exercise by either party of any of its rights, remedies or elections under a Purchase Order or these Terms and Conditions shall not preclude or prejudice such party's right to exercise at any other time the same or any other right, remedy or election it may have. The rights of termination provided herein are in addition to any other right, remedy or election a party may have hereunder or at law.

任何一方在任何时候未能执行任何采购订单或本条款和条件的任何规定或与之相关的任何权利或救济，或未能行使本条款和条件中规定的任何选择权，均不构成对任何该规定、权利、救济或选择权的放弃或以任何方式影响采购订单或本条款和条件的效力。任何一方行使其在一项采购订单或本条款和条件中的任何权利、救济或选择权不得排除或损害该方在任何其它时候行使上述各项的权利或该方可能拥有的任何其它权利、救济或选择权。本条款和条件中规定的终止权是对一方根据本条款和条件或在法律上可能拥有的任何其它权利、救济或选择权的补充。

- 27. Headings.** The headings to sections of these Terms and Conditions are solely for convenience of reference, and shall not govern, limit or aid in the interpretation of any terms or provisions hereof or of any Purchase Order.

**标题。**本条款和条件各节中的标题仅为便于查找而设，不得规范、限制本条款和条件或任何采购订单中的任何条款或规定，也不得用于帮助对上述内容的解释。

- 28. UN Convention on Contracts for International Sale of Goods.** The United Nations Convention on Contracts for the International Sale of Goods, the United Nations Convention on the Limitation Period in the International Sale of Goods of 1974 and Protocol of 1988 (amending the Limitation Period Convention) shall not be applicable to any transaction pursuant to these Terms and Conditions.

**《联合国国际货物销售合同公约》。**《联合国国际货物销售合同公约》、《1974年联合国国际货物销售时效公约》和（修订时效公约的）《1988年议定书》不适用于根据本条款和条件进行的任何交易。

- 29. Language.** These Terms and Conditions are prepared in both the English and Chinese languages. In the event of any discrepancy, the English version shall prevail.  
语言。本条款和条件以英文和中文两种语言书就。中英文版本有歧义时，以英文版本为准。