



GENERAL CONDITIONS OF PURCHASE OF SERVICES

服务采购合同通用条款

ARTICLE 1 DEFINITIONS 定义

"ACCEPTANCE" means:	as defined in Article 17.
“验收” 系指:	在第 17 条中有说明。
"CONTRACT" means:	this CONTRACT, consisting of these Articles 1 to 23, the Special Conditions of Purchase of Services and the Annexes attached thereto and any other documents referred to herein.
“合同” 系指:	本合同，由第 1 条到第 23 条、服务采购合同特殊条款及其附件和任何其它提及的文件组成。
"EQUIPMENT" means:	the equipment including spare parts OWNER purchased from CONTRACTOR or any third party which need the SERVICES from the CONTRACTOR for its industrial operation.
“设备” 系指	业主从承包商或者第三方所采购的设备（含备件），其需要承包的服务以投入工业运行。
"SERVICES" means:	all the works, services and materials which the CONTRACTOR shall provide to OWNER in accordance with Article 2 as well as any works, services or materials not so described but which would, to a contractor exercising GOOD INDUSTRY PRACTICE, clearly be required to complete the SERVICES.
“服务” 系指:	所有承包商按照第 2 条应该提供给业主的工作、服务和材料，以及其它未曾明示，但承包商按照“良好的工业惯例”的明确要求完成服务时所需提供的任何工作、服务和材料。
"SITE" means:	the Covestro Integrated Site, Shanghai in Shanghai Chemical Industry Park, or the location otherwise specified in this CONTRACT.
“现场” 系指:	位于上海化学工业区的科思创上海一体化基地，或本合同另行规定的其它地方。
"WORKING DAY" means:	Monday to Friday excluding designated public holidays as specified by PRC regulations.
“工作日” 系指:	星期一到星期五，不包括中华人民共和国指定的法定节假日。

ARTICLE 2 SCOPE OF SERVICES 服务的范围

2.1 Scope of Services 服务范围

CONTRACTOR shall conduct the supervision on SITE for assembly, installation, commissioning and tests of EQUIPMENT, and training of OWNER's personnel as well as other services as required at Site for the EQUIPMENT.

承包商应当进行设备的现场组装、安装、试车和测试的监督服务，业主操作人员培训以及其它现场要求的

服务。

2.2 Changes in Scope of Services 服务范围的变更

OWNER is entitled at any time by written notice to CONTRACTOR to change, modify, add to or delete from the scope of SERVICES as set forth in the CONTRACT. CONTRACTOR shall accept such changes and shall perform the SERVICES as changed in accordance with the CONTRACT. Both Parties shall enter into a change order to confirm the changes in scope of SERVICES and possible changes of remuneration with other terms and conditions of SERVICES remain as unchanged.



业主有权在任何时候变更、修改、补充或者删除本合同中规定的服务范围，但须向承包商发出书面通知。承包商应接受此种变更，并按照本合同完成变更后的服务。双方将就此行另行签署变更订单以确认变更后的服务范围及可能的报酬变化，其他条款应予本合同保持不变。

ARTICLE 3 CONTRACTOR's and OWNER's OBLIGATIONS 承包商和业主的义务

3.1 CONTRACTOR's Obligations 承包商的义务

CONTRACTOR shall perform the SERVICES as described in this CONTRACT and any changes in the scope of SERVICES as per Article 2.2 (Changes in Scope of SERVICES), and according to any design documents, specifications and codes and standards provided by OWNER. In the event no such design documents, specifications and codes and standards are given, the SERVICES shall be performed in accordance with the GOOD INDUSTRY PRACTICE and the national codes and standards, whichever is more prudent.

承包商应根据业主提供的任何设计文件、规格、规范和标准履行本合同所描述的服务，以及根据第 2.2 条（服务范围的变更）所作的服务范围的任何变更。若没有提供该设计文件、规格、规范和标准，服务应按照“良好的工业惯例”与国家规范和标准（以两者中更为谨慎者为准）履行。

The CONTRACTOR shall notify the OWNER immediately if any error, discrepancy or ambiguity is found in or between any of the documents supplied by the OWNER to the CONTRACTOR for the purposes of the CONTRACT and obtain from and follow instructions of the OWNER on the action to be taken to rectify such error, discrepancy or ambiguity.

若业主为合同目的提供给承包商的任何文件中或文件之间存在错误、不一致或模糊的地方，承包商应及时通知业主，取得业主指示，并遵守业主指示去修复该错误、不一致或模糊。

To carry out the SERVICES, CONTRACTOR shall, among other things, in particular:

为了履行服务，承包商在其所有义务中，尤其应该：

- (a) request in reasonable time that the OWNER provides such information, assistance, review or approval it considers necessary for the timely performance of the SERVICES;
在合理期限内要求业主提供其认为及时履行服务所需的信息、协助、检查或者批准；
- (b) notify OWNER without delay of any condition which might endanger a due and timely carrying out of the SERVICES or which might lead to additional costs for OWNER;and
将可能影响服务按期履行或可能增加业主额外费用的任何情况立即通知业主；且
- (c) take full responsibility for the stability and safety of all operations, methods and working practices of whatsoever nature carried out or employed by it or its agents, affiliates and Subcontractors on the SITE.
对承包商、其代理商、关联机构、分包商在现场采用的各种性质的操作、方法和工作惯例的稳定性和安全性承担全部责任。

The CONTRACTOR shall in performing its obligations under this CONTRACT comply with the laws of the PRC and shall obtain all necessary licenses, approvals qualifications and permits for the same. If any breaches, the CONTRACTOR shall indemnify all the direct losses suffered by the OWNER including the fines imposed to the OWNER by the government agencies.

在履行本合同项下义务时，承包商应遵守中华人民共和国法律，同时还应获得所有必要的资质、批准和许可。如有违反，则承包商应当赔偿业主由此所遭受的直接损失，包括政府对业主的罚款。

The CONTRACTOR shall not subcontract parts or the whole of the SERVICES without OWNER's prior written consent.

未经业主事先书面同意，承包商不得分包服务或其任何一部分。

The CONTRACTOR shall give and deliver clear and accurate guidance and instructions to the workers from the installation contractor as appointed by the OWNER. The CONTRACTOR shall inform the OWNER immediately in case the workers do not follow the guidance and instruction made by the CONTRACTOR during the performance of this CONTRACT.

承包商应当对业主所指定的设备安装承包商的工人清晰、准确的指导和指示。在履行合同中，若工人不服从承包商指导和指示的，则应当立即通知业主。



3.2 OWNER's Obligations 业主的义务

OWNER shall provide all information in its possession that it considers necessary for the performance of the SERVICES and is not accessible to the general public, particularly information about materials, regulations and standards.

业主应该提供所有业主拥有的且其认为是履行服务所必需而一般公众无法获得的信息，尤其是有关材料、规定和标准的信息。

3.3 CONTRACTOR's and OWNER's Staff 承包商和业主雇员

From the date of this CONTRACT until six months from ACCEPTANCE or earlier termination of the CONTRACT for any reason, neither party shall, unless with the agreement of the other party, directly or indirectly employ or offer employment to any person employed by, or acting on behalf of, the other party or any agent, affiliate or contractor of the other party whose work relates to the SITE, entirely or in part, regardless of whether the person in question works at the SITE. If either party is in breach of this provision, the party in breach shall pay to the other party a sum equal to five times the gross annual salary paid to the person by the other party in the immediately preceding twelve months.

自本合同签署之日起至验收或合同因任何原因先期终止后六个月内，除非经另一方同意，任一方均不得直接或间接聘用对方雇员或代表对方行事、代表与本合同有关的对方的任何代理、关联机构或承包商行事的人员，也不得向这类人员发出聘用意向，只要该雇员的全部或部分工作是与现场有关的，而无论该雇员是否在现场工作。若任一方违反了此条款，违约方应立即向另一方支付相当于其此前 12 个月支付给该雇员的年总工资 5 倍的金额。

ARTICLE 4 NOT USED 不适用

ARTICLE 5 REMUNERATION 报酬

The rates and prices contained in this Contract form the basis of the remuneration payable to the CONTRACTOR for the execution of the SERVICES. The rates and prices include labor consumable materials, transportation, accommodation and meals, mobilization and demobilization, overhead, profit and all other direct and indirect costs incurred by CONTRACTOR in connection with the performance of the SERVICES.

本合同所指的费率和价格为承包商履行服务而应支付给承包商的基础报酬，该费率和价格包括人工消耗材料、交通、住宿和餐饮、安置和遣散费用、管理费用、利润和所有其它承包商为履行服务而发生的直接或间接费用。

The rates and prices shall include all taxes, levies, duties and fees imposed by reason of the performance of SERVICES by CONTRACTOR including, but not limited to, business tax, value added tax etc. Any refunds of value added tax shall be to the account of the OWNER and CONTRACTOR shall provide all reasonable assistance to OWNER in obtaining any such refunds.

该费率和价格应包括承包商履行该服务所应支付的一切税费，包括但不限于营业税和增值税等。任何增值税退税均归业主所有，承包商应为业主取得此类退税提供所有合理的帮助。

Unless expressly provided in the CONTRACT, the aforementioned rates and prices are fixed for the duration of the SERVICES and shall not be adjusted to take account of any circumstances whatsoever.

除非本合同中明确规定，上述费率和价格在服务期间是固定不变的，且任何情形下均不得调整。

ARTICLE 6 TIME SCHEDULE 时间进度

The CONTRACTOR shall provide the SERVICES at such times and for such duration(s) as specified in this CONTRACT.

承包商应根据本合同所规定的时间和期限提供服务。

If any date for completion of the SERVICES is not achieved, the CONTRACTOR shall pay the OWNER the liquidated damages, if any, stipulated in this Contract.



若未能在完工日期前完成服务，承包商应根据本合同的规定向业主支付违约金（若有的话）。

ARTICLE 7 **Not Used 不适用**

ARTICLE 8 **PAYMENTS 付款**

8.1 **Not Used 不适用**

8.2 **Progress Payments 进度付款**

The OWNER shall pay the CONTRACTOR in accordance with the rates and prices set out in this CONTRACT. The CONTRACTOR shall submit a payment request for work completed, together with all the substantiating documents, at the time(s) set out in this CONTRACT.

业主应按照本合同规定的费率和价格向承包商支付合同价格。承包商应在本合同规定的时间提交已完成工作的进度付款申请以及所有支持文件。

8.3 **Not Used 不适用**

8.4 **Final Payment 最终付款**

The final payment including release of the retention, if any, shall be made upon:
包括保留金（如有的话）在内的最终付款应在下列条件满足后支付：

- (i) ACCEPTANCE as per Article 17 (ACCEPTANCE);
 根据第 17 条（验收）规定通过了验收；
- (ii) CONTRACTOR's submission of a final release as set forth in Annex A5 (Final Release, Waiver of Lien and Indemnity), if required in this CONTRACT; and
 若本合同要求的话，承包商按附件 A5（弃权 and 赔偿声明）的格式递交弃权和赔偿声明；以及
- (ii) a payment request from the CONTRACTOR.
 承包商递交付款申请。

8.5 **Terms of Payment 付款条件**

The CONTRACTOR's payment requests shall be checked, revised as necessary and approved by the OWNER by the issue of a payment certificate to the CONTRACTOR within 14 days of receipt of the CONTRACTOR's payment request.

业主应在收到承包商提交的付款请求之后的 14 天内核查承包商的付款请求，必要时予以更正，并在批准该付款请求时向承包商签发付款证明。

Payment shall be made within 60 calendar days of receipt of CONTRACTOR's official invoice (issued after the issuance of the payment certificate mentioned above) in the amount certified by the OWNER.

业主应该在收到承包商提交正式发票（在上述付款证明签发后开具的）后的 60 个日历日内向承包商支付应付款项，发票金额为业主确认的金额。

All payments shall be made in the currency specified in this CONTRACT to the bank account(s) directed by the CONTRACTOR.

所有付款应以本合同指定的货币付至承包商指定的银行帐户。

In no case shall such payments be construed as OWNER's acceptance of all or part of the SERVICES.
这些付款在任何情况下都不能视为业主对服务的全部或者部分的验收。

ARTICLE 9 **ORGANIZATION 组织**

9.1 **CONTRACTOR's Organization 承包商的组织**



The CONTRACTOR shall employ or cause to be employed in connection with this CONTRACT only such persons as are suitably qualified, skilled and experienced in their respective disciplines. The OWNER, with reasonable grounds, shall have the right to require the CONTRACTOR to remove from the SITE any person who, in the OWNER's opinion, is incompetent or negligent in the performance of his duties or otherwise not conforming to the requirements of this CONTRACT. Such a person shall not thereafter be employed in connection with this CONTRACT.

在与本合同有关的人员雇佣方面，承包商应仅雇佣或促成雇佣那些在其各自专业内有资质、有技能、有经验的人员。若有合理的理由，业主应有权要求承包商从现场撤离任何业主认为不合格的或在履行职责时有过失的或者不符合本合同其它要求的人员。该等人员此后不得再因本合同而被雇佣。

CONTRACTOR shall appoint a representative skilled in English language and available at all times on SITE, who is authorized to act on CONTRACTOR's behalf and whom OWNER may consult whenever necessary and whose notices, instructions, demands, decisions and other communications shall be binding on CONTRACTOR in respect of all matters pertaining to the implementation of this Contract and the SERVICES to be carried out.

承包商应任命一名精通英语、可在现场随时找到的代表，并授权此人代表承包商行事。业主可以在任何需要的时候与他商议。他发布的关于执行本合同及服务的所有事项的通知、指令、要求和决定均对承包商具有约束力。

9.2 OWNER's Organization 业主的组织

OWNER shall appoint a representative who is authorized to act on OWNER's behalf and whom CONTRACTOR may consult whenever necessary and whose instructions, demands and decisions shall be binding on OWNER in respect of all matters pertaining to the implementation of this CONTRACT and the SERVICES to be carried out, provided they are in writing. OWNER's representative shall have no authority to amend the CONTRACT.

业主应任命一名代表，并授权此人代表业主行事。承包商可以在任何需要的时候与其商议。他发布的关于执行本合同及服务的所有事项的指令、要求和决定对业主具有约束力，前提是这些指令、要求和决定必须是书面的。业主代表无权修改本合同。

ARTICLE 10 PROCUREMENT AND SCHEDULING 采购及进度

The CONTRACTOR shall submit reports to the OWNER in accordance with the requirements specified in this CONTRACT or as otherwise requested by the OWNER during the provision of the SERVICES.

履行服务期间，承包商应根据本合同规定的要求或业主另行提出的要求向业主提交报告。

ARTICLE 11 INTERFACE MANAGEMENT 界面管理

The CONTRACTOR shall provide the SERVICES in a manner which will not disrupt the work of other contractors on the SITE. The CONTRACTOR shall make good at its own cost and at no cost to the OWNER any damage or loss to the work or property of others arising out of or in connection with the SERVICES.

承包商应以不影响其它在现场的承包商工作的方式提供服务。如因本合同项下的服务引起其它承包商的工作或财产损失、损害，承包商应负责赔偿，且不得增加业主的费用。

ARTICLE 12 WARRANTY 保证

12.1 Scope of Warranty 保证的范围

(a) The CONTRACTOR warrants that the SERVICES shall be provided to the highest professional standards and meet the requirements specified in the CONTRACT.

承包商保证以最高的专业标准提供服务，并符合本合同规定的要求。

(b) CONTRACTOR shall, as its own responsibility, check for accuracy and completeness of all documents, specifications and technical descriptions which OWNER provides to CONTRACTOR after the signing of this CONTRACT for the performance of the SERVICES, and, by using them, shall adopt them as its own.

承包商应该自负责任检查业主在签署本合同后、为履行本服务而提供给承包商的所有文件、规范和技术说明的准确性和完整性，并且取为己用，如同己出。



- (c) CONTRACTOR warrants that it is appropriately qualified and has full power and legal capacity to enter into and perform the obligations under this CONTRACT and that it has obtained the necessary approvals, permits, licenses or certificates of qualification for the performance of its obligations under this CONTRACT.

承包商保证其具有合适的资质，具有完全的权力和法律能力缔结合同及履行合同项下的义务，并已经持有为履行合同义务所必需的所有批准、执照、许可或资质证书。

- (d) CONTRACTOR warrants that, with the SERVICES, the EQUIPMENT shall be in good industrial operation under an ordinary course; if CONTRACTOR is also the supplier of the EQUIPMENT, it shall further warrant the EQUIPMENT shall be in line with the performance ascribed in EQUIPMENT descriptions, operational manual or other documents, gurantees as provided by CONTRACTOR, if any.

承包商保证其所提供的服务能够使得设备能够在正常条件下投入到良好的工业运行中；若承包商同时亦是设备的供应商，则还应当进一步保证设备的运行符合其所提供的产品说明、操作说明、其他文件或者保证中所载明的性能，如有的话。

12.2 Warranty Period and Removal of Defects 质保期间和缺陷排除

If the CONTRACTOR is the supplier of the EQUIPMENT, the warranty period of the SERVICES shall be the same as the warranty period of the EQUIPMENT as set forth in the Purchase Order. During the warranty period, no matter the defects caused by the EQUIPMENT or the SERVICES, the CONTRACTOR shall perform its warranty obligations in accordance with the relevant stipulations in the Purchase Order.

若承包商同时亦是设备的供应商，则服务的质保期间与在设备采购订单中所规定的设备质保期间保持一致。在质保期间，无论缺陷是由服务所致或者设备所致，承包商均应当按照按照设备订单中所规定的有关质保条款履行其质保义务。

If the CONTRACTOR is not the supplier of the EQUIPMENT, in case of defects in the SERVICES due to the CONTRACTOR that are notified and documented at any time prior to the expiry of 24 months after ACCEPTANCE or such other duration(s) as may be specified in this CONTRACT, such defects shall be remedied by CONTRACTOR immediately at its own cost. If CONTRACTOR fails in or defaults on the remedy of any such defects within a reasonable period having regard to the nature of the defect, OWNER may procure the remedy of such defects at CONTRACTOR's expense.

若承包商并非设备的供应商，则由于承包商的原因所导致的服务缺陷，只要在验收后 24 个月或本合同可能另行规定的其它期限过期之前的任何时候通知并记录，承包商应立即自费修复该缺陷。如果承包商在合理期限（该合理期限视缺陷性质而定）内未能或不履行责任修补上述缺陷，业主可以另行修补该缺陷，费用由承包商承担。

12.3 OWNER's Assistance 业主的协助

Any approval or assistance from OWNER in the performance of the SERVICES shall be qualified as being merely advice or recommendations and shall in no way affect CONTRACTOR's obligations under the warranties or constitute grounds for any liability claims of CONTRACTOR against OWNER.

在服务履行过程中，任何来自业主的批准或协助应仅被视为建议或者推荐，无论如何均不得影响承包商的保证义务，承包商也不得因此向业主提出任何责任索赔。

ARTICLE 13 INSURANCE 保险

CONTRACTOR shall take out and maintain and shall further procure all Subcontractors (if any) totake out and maintain the following insurance:

承包商应，并确保其所有分包商（如有）应，购买并维持下列保险：

- a) Social Security as required by PRC law
中国法律要求的社会保障保险。
- b) Personal Accident Insurance as required by PRC law for their construction employees with a limit of liability for any one occurrence of not less than RMB 150,000 per person covering the employees of the CONTRACTOR and their subcontractors/suppliers who work at the SITE during their term of services at the SITE.



中国法律要求雇主为其施工人员投保的人身意外伤害险，责任限额为任何一起事故不少于每人人民币 150,000 元，承保范围包括承包商和分包商/供应商在现场工作的员工，承保期限为这些员工在现场服务的期限。

- c) Insurance of the CONTRACTOR's and subcontractors' vehicles with a third party liability limit of RMB 1,000,000 and equipment and tools on SITE that do not form part of the WORKS.
承包商和分包商的车辆险，第三方责任限额为人民币 1,000,000.00 元，以及在现场的但并不构成工程组成部分的承包商和分包商施工机械险。
- d) Transport insurance on an "All Risk's" basis covering all transport to the SITE for all materials and equipment ordered by the CONTRACTOR and subcontractors in their own name.
运输险，以一切险为基础，承保范围包括以承包商和分包商自己名义采购的所有材料和设备至现场的运输。

ARTICLE 14 THE SITE 现场

14.1 SITE Conditions 现场条件

At an appropriate timing point during the performance of this CONTRACT, CONTRACTOR shall inspect the SITE and availability of access routes to prepare for its SERVICES to be delivered. CONTRACTOR shall be fully responsible for the consequence to fail to comply with this obligation.
在履行本合同的适当时间内，承包商应当考察现场以及通行路径的可用情况以为其将提供的服务作出准备。承包商应当自行承担全部后果若其怠于履行此项义务。

14.2 Not Used 不适用

14.3 Health, Safety and Environment (HSE) and Security 健康、安全、环保和保安

The CONTRACTOR is aware of, and shall comply with, and ensure that all its employees comply with, all the relevant SITE regulations including but not limited to health, safety, environmental and security regulations issued by the OWNER and any amendments, changes, supplements or updates thereof made from time to time after the signing of this CONTRACT.

承包商意识到并应遵守，同时应确保其所有员工也遵守业主签发的所有相关的现场规定，包括但不限于健康、安全、环保规定，以及安全规定，及其在合同签订后的所有修改、补充和更新。

ARTICLE 15 NOT USED 不适用

ARTICLE 16 NOT USED 不适用

ARTICLE 17 ACCEPTANCE 验收

The CONTRACTOR shall notify the OWNER when the SERVICES have been completed and are ready for ACCEPTANCE. If, after inspection, the OWNER is satisfied that the SERVICES have been completed in accordance with the CONTRACT, the OWNER shall accept the SERVICES and confirm the same in writing to the CONTRACTOR. The OWNER shall not be obliged to accept the SERVICES until any defects have been fully rectified.

当服务完成并可以验收时，承包商应通知业主。经过检测，如果业主认为服务符合合同要求，业主应接收该服务，并向承包商书面确认。在任何缺陷被全部修复之前，业主没有义务接收服务。

This procedures shall apply to each and every individual SERVICES if the SERVICES are to be provided individually.

若服务是分项单独提供的，则上述程序应适用于每一项和所有各项服务。

ARTICLE 18 NOT USED 不适用

ARTICLE 19 NOT USED 不适用



ARTICLE 20 NOT USED 不适用

ARTICLE 21 TERMINATION 终止

OWNER may terminate this CONTRACT with immediate effect without giving any reasons. In this case, CONTRACTOR is entitled to payment of:

业主可以无需说明原因而立即终止本合同。在这种情况下，承包商有权获得以下各项的付款：

- (i) the value of SERVICES performed but for which the CONTRACTOR has not been remunerated as at the date of termination; and
承包商已经完成但在合同终止时尚未得到报酬的服务价值；以及
- (ii) any reasonable direct costs arising out of such termination provided that the CONTRACTOR has explored every possibility to eliminate or minimize such costs.
因合同终止而造成的任何合理的、直接的费用，但承包商必须已尽其所能消除或使此类费用最小化。

Provided that CONTRACTOR is only entitled to be paid such sums if the termination by OWNER is not due to CONTRACTOR's fault or breach of the CONTRACT.

然而承包商有权获得上述款项的前提是，并非由于承包商的错误或违约而导致业主终止合同。

Once notice of termination has been given by OWNER, CONTRACTOR shall after consultation with OWNER, immediately:

一旦业主发出终止通知，承包商在和业主协商后应立即：

- discontinue all current SERVICES with the exception of SERVICES that, at OWNER's written request, are to be completed;
除业主书面要求必须完成的服务外，承包商应终止所有正在履行的服务；
- remove CONTRACTOR's equipment and personnel from the SITE; and
从现场移走承包商的设备和人员；以及
- surrender to OWNER all DOCUMENTS provided by the OWNER or prepared by the CONTRACTOR, properly arranged and in usable condition.
向业主移交所有业主提供的或承包商准备的文件，该文件应是合理编排并能够使用的。

If CONTRACTOR is responsible for the ground for the termination, it shall indemnify and hold harmless OWNER for all costs and losses (including legal expenses) resulting therefrom (including the additional cost of completing the SERVICES, if any). Such grounds include in particular: the CONTRACTOR becomes insolvent or bankrupt, or it breaches any of its obligations under this CONTRACT and fails to remedy or to begin remedying the breach immediately after having received a written request to do so from OWNER or the CONTRACTOR is responsible for any other circumstances which makes it unreasonable or impracticable for the OWNER to continue the contractual relationship.

如果因承包商的原因导致合同终止，承包商应赔偿并使业主免受所有由此（包括为完成服务所发生的额外费用，如果有的话）而产生的费用和损失（包括法律费用）。可导致本合同终止的原因尤其应包括承包商破产或倒闭，或违反了本合同项下义务且收到业主书面补救要求后未能立即对违约行为进行补救或未能立即开始补救违约行为并迅速补救成功，或者出现承包商应当负责的其它情形，导致业主认为维持合同关系已经不现实或不合理。

ARTICLE 22 COMMUNICATION 通信

All correspondence must be in writing and be addressed to the representatives named in this CONTRACT or, in the case of correspondence relating to invoices, in accordance with OWNER's invoicing instructions.

所有的通信必须以书面形式发送给本合同指定的代表，在通信涉及发票时，依照业主的发票指导书。

ARTICLE 23 GENERAL PROVISIONS 通用条款



23.1 Interpretation of CONTRACT 合同的解释

This CONTRACT is the entire agreement between the parties for the performance of the SERVICES and supersedes any prior understanding between the parties in respect of the SERVICES before the date of this CONTRACT. No written or verbal collateral agreements exist.

本合同是合同签署双方之间为履行服务的完整协议。本合同将代替任何在本合同签订之前双方之间与服务有关的谅解。此外，不存在任何书面的或者是口头的附属协议。

23.2 Marshalling of Documents 合同文件的优先顺序

Unless otherwise specified, the CONTRACT comprises the following documents and shall be construed in the following descending order of precedence where there is any discrepancy or conflicts between these documents:

除非另有规定，本合同由下列文件组成，若这些文件之间存在任何不一致或冲突，将按下列顺序优先适用：

- (i) Purchase Order Face;
采购订单封面；
- (ii) Special Conditions of Purchase of Services and all annexes attached thereto;
服务采购合同特殊条款及其所有附件；
- (iii) these General Conditions; and
本通用条款；和
- (iv) the CONTRACTOR's bid.
承包商的投标书。

If any information in the CONTRACTOR's bid is inconsistent with, or in addition to, these General Conditions or the Special Conditions of Purchase of Services and any annexes attached thereto, the OWNER shall in its complete discretion determine which shall prevail or, as the case may be, shall not be binding on the parties.

如果承包商投标书中的任何信息与本通用条款或服务采购合同特殊条款及其所有附件不符，或未列于本通用条款或服务采购合同特殊条款及其所有附件中，则业主有权全权决定这些信息是否优先适用或是否对双方具有约束力。

23.3 Indemnity 赔偿

The CONTRACTOR shall indemnify and hold the OWNER harmless from and against any and all liabilities and causes of action for any property damages and/or bodily injury or death arising out of or in any way connected with the performance or non-performance (whether negligent or otherwise and howsoever a head of damage may be formulated) by or on behalf of the CONTRACTOR of its obligations under this CONTRACT, where such liabilities or causes of action are suffered or brought by any third party. The CONTRACTOR's liability under this Clause 23.3 shall be reduced to the extent (if any) to which any negligence on the part of the OWNER caused or contributed to such liabilities or causes of action.

承包商应赔偿并使业主免于承担任何及所有责任和无论以何种方式因承包商或承包商代表履行或不履行本合同义务（无论因过失或其它，也无论损害是如何形成的）而产生的对任何财产损坏和/或人身损害或死亡的诉讼事由，且该等责任或诉讼事由是由任一第三方遭受的或提起的。承包商在第23.3条项下的责任不包括因业主过失而导致或造成该等责任或诉讼事由的范围（如果有的话）。

Notwithstanding above, the total liabilities of the CONTRACTOR under this CONTRACT shall be limited within :
尽管有上述规定，承包商在本合同项下的责任将不超过：

- (a) the total contract price of the Purchase Order for the EQUIPMENT plus the total contract price of the SERVICES if the CONTRACTOR is the supplier of the EQUIPMENT; or
若承包商亦是设备供应商，则为设备订单下的合同总价加上服务的总价；或
- (b) ten (10) times to the contract price of the SERVICES if the CONTRACTOR is not the supplier of the EQUIPMENT.
若承包商并非设备供应商，则为服务总价的 10 倍。

Neither party shall be liable to the other for any consequential or indirect damages and losses of any type or kind. However, the above limitations of liabilities shall not apply to any damages, losses or liabilities arising out of or



otherwise in connection with any injury or death to persons, wilfull misconduct, gross negligence or infringement of third party rights.

任何一方均不对对方的后果性或者间接性的损失负责。但是，上述责任限制不适用于任何的损害、损失或责任是由于人身伤害、故意、重大过失或者侵犯第三方权利所引起的或者与之有关的。

23.4 Not Used 不适用

23.5 Not Used 不适用

23.6 Not Used 不适用

23.7 Independent Contractor 独立承包商

Nothing in this CONTRACT shall have the effect of creating any legal relationship between the parties other than that of independent contractors. Neither CONTRACTOR nor its subcontractors and suppliers or their personnel are employees or agents of OWNER.

除承包商是业主的独立承包商外，本合同并未在业主和承包商之间建立任何其它法律关系。承包商、其分包商和供应商或他们的员工都不是业主的雇员或代理。

23.8 Assignment and Set Off 合同转让和抵扣

This CONTRACT may only be assigned to a third party by the CONTRACTOR with the prior written consent of the OWNER. OWNER may assign the CONTRACT to a third party who is an affiliate of the OWNER without the consent of the CONTRACTOR.

未经业主事先书面同意，承包商不得将本合同转让给第三方，而业主可以不经承包商的同意把合同转让给业主的关联公司。

All damages, costs, charges, expenses, debts or sums for which the CONTRACTOR is liable to the OWNER in accordance with any provision of the CONTRACT may be deducted by the OWNER from moneys due to the CONTRACTOR in accordance with the CONTRACT.

承包商根据合同条款应对业主承担的所有损害、费用、收费、支出、债务或其它金额，可以由业主从根据合同应付给承包商的任何款项中扣除。

23.9 Supply of Services and Materials 提供服务和材料

In the event CONTRACTOR fails to make payment to its employees or workmen or any subcontractor or supplier, which failure may lead to the delay, suspension or threatened suspension of the SERVICES or any part thereof, OWNER may pay such sums due directly to CONTRACTOR's employees or workmen or subcontractors or suppliers. Any such costs as are incurred by OWNER arising from such failure of CONTRACTOR or such payments by OWNER shall be payable by CONTRACTOR to OWNER or shall be set off against any payments due to CONTRACTOR by OWNER.

如果承包商未能向其雇员、工人或分包商或供应商付款，并因此可能导致服务或其中相关部分的延误、停工或有停工威胁，业主可以直接向这些雇员、工人、分包商或供应商支付这些应付款项。因承包商未能付款或业主代为付款而产生的费用应由承包商支付给业主或由业主在其应付给承包商的款项中扣除。

23.10 Ownership of Plans and Specifications 图纸和规范的所有权

All documents, models and software furnished to CONTRACTOR for performance of the SERVICES shall remain the absolute property of OWNER. They shall be returned in full to OWNER upon termination of the CONTRACT or ACCEPTANCE pursuant to Article 17 (ACCEPTANCE), whichever occurs earlier. CONTRACTOR shall be barred from asserting any rights of retention.

为履行服务而提供给承包商的所有文件、模型以及软件都是业主的专有财产。在合同终止之后，或者在按照第17条（验收）验收之后（以时间在先者为准），这些财产应立即全部归还给业主。承包商不得在其上保留任何权利。



All DOCUMENTS, models and software created by CONTRACTOR for performance of the SERVICES shall become the property of OWNER. However, if the models and software incorporated any intellectual property rights as created by the CONTRACTOR, such models and software shall remain as the property of CONTRACTOR but OWNER shall have the rights to use them free of charges during the entire life time of the EQUIPMENT.

所有为履行服务而由承包商制作的文件、模型以及软件都应成为业主的财产。但，若该模型以及软件中嵌入了承包商所创造的知识产权的，则该模型及软件的所有权仍归承包商所有，但业主在设备的使用期限内有权免费使用。

23.11 Third-party Rights 第三方的权利

The CONTRACTOR shall fully indemnify the OWNER against any action, claim, demand, costs, damages or expenses, arising from or incurred by reason of any infringement or alleged infringement of any letters patent, trademark or name, copyright, design right or other protected rights by the CONTRACTOR, its employees, agents, suppliers or sub-contractors.

承包商应全额赔偿业主任何由于承包商，及其雇员、代理商、供应商或分包商侵权或被声称侵犯任何专利许可证、商标或名称、著作权、设计权或其它受保护的权利要求而引起的任何诉讼、索赔、要求、成本、损失或费用。

23.12 Secrecy 保密

Without prejudice to any prior secrecy agreement entered into between the CONTRACTOR and the OWNER, all information, drawings and other documentation ("Information") disclosed by one Party to the other Party in connection with the CONTRACT is confidential and shall not be used for any purpose other than the performance of the one Party's obligations under the CONTRACT or disclosed to any third party without the prior consent of the other Party in writing. The Party shall procure that its employees, agents, suppliers and sub-contractors and their employees comply with this confidentiality obligation. If required by the one Party, the other Party shall ensure that each such employee, agent, sub-contractor and/or its employees shall prior to the commencement of the SERVICES or at any time before its completion, sign a confidentiality agreement not less stringent than the ones set out in this CONTRACT.

在不影响承包商和业主之间先前签订的任何保密协议的前提下，所有一方向另一方披露的有关本合同的信息、设计图和其它文件（以下称为“信息”）是保密的，且不应用于除履行本合同下承包商义务外的任何其它目的，或没有一方的事先书面许可不得让第三方知晓。一方应保证其员工、代理商、供应商和分包商及其员工遵守本保密义务。若一方要求，另一方应保证在服务开始之前或完工之前的任何时候，任何上述员工、代理商、供应商或分包商和/或其员工均应签署一份严格程度不低于本合同的保密协议。

The above shall not apply to information which at the time of disclosure to the Party was public knowledge, or thereafter shall become public knowledge through no fault of the one Party, or at the time of disclosure was already in the other Party's possession or is obtained by the one Party from a third party who is lawfully in possession and free to dispose thereof, provided that the other Party can prove that the information concerned falls within the scope of one or more of such exclusions.

上述规定不适用于在一方提供给另一方以前已经是公共信息领域的信息，或此后并非由于一方的过失而泄漏到公共信息领域的信息，或在一方提供给另一方时已经为另一方所有，或随后由任何合法拥有的第三方透露给承包商的信息，前提是另一方能够证明这些信息属于这些例外中的一个或多个。

This Article shall survive the completion of the SERVICES and termination of the CONTRACT.

本条款在服务完成后和合同终止后继续有效。

23.13 Intellectual Property 知识产权

All reports and other deliverables required under the CONTRACT and all the intellectual property rights in such reports and deliverables shall become the property of the OWNER as soon as such reports and other deliverables have come into existence and the OWNER shall be entitled to develop, adjust or modify such reports and deliverables without the CONTRACTOR's consent. If any of such reports or other deliverables are lost or destroyed (wholly or partially) before they are received by the OWNER, they shall be replaced by the CONTRACTOR with all speed and at its cost.



一旦形成，所有本合同要求的报告和其它交付物，以及所有该报告和交付物中所涉及的知识产权应归属于业主。业主有权不经过承包商的同意，发展、调整或者修改这些报告和交付物。若任何该报告或交付物在业主收到之前丢失或损坏（整体或部分），承包商应尽快自费重新提供。

23.14 SERVICES Viewings, Advertising 工程参观及广告

The SITE or SERVICES may not be viewed by third parties or used for advertising purposes without OWNER's written authorization. CONTRACTOR shall not be allowed to name OWNER in printed or other promotional matter in referring to the business relationship regarding the SITE or SERVICES without OWNER's prior consent. CONTRACTOR shall enjoin its subcontractors and suppliers in the same manner.

没有业主的书面授权，第三方不能参观现场或服务或者将之用作广告目的。没有业主的事先许可，在言及与服务有关的商业关系时，不允许承包商以印刷的形式或在其它宣传中提及业主的名称。同时，承包商也应要求其分包商和供应商遵守本条款。

23.15 Audit 发票核查

For the duration of the SERVICES and for three (3) years thereafter the CONTRACTOR shall maintain full records of all matters connected with the performance of the SERVICES. At any time during such period the OWNER may enter the CONTRACTOR's premises and audit such records. For the purposes of such audit the OWNER may take copies of any of such records and shall be entitled to require a certificate from the CONTRACTOR in respect of anything contained in such records. The CONTRACTOR shall co-operate with the OWNER to ensure that any such audit shall be carried out to the satisfaction of the OWNER. No auditing by the OWNER under this Article shall relieve the CONTRACTOR of the responsibility for the performance of any of his obligations under the CONTRACT nor shall it constitute any admission by the OWNER as to the performance of the CONTRACTOR of such obligations.

在服务期间以及此后的三年内，承包商应维护履行服务所涉所有事项的完整记录。该期间内的任何时候，业主有权进入承包商的场所审计该记录。为审计目的，业主可以复印任何该记录，并有权要求承包商提供该记录中所包含的任何事项的凭证。承包商应协助业主，并保证任何审计满足业主要求。本条款下业主的审计不免除承包商本合同下的任何义务和责任，也不能认为是业主对承包商履行该义务的认可。

23.16 Applicable Law 适用的法律

The laws of the PRC shall apply to the interpretation of the CONTRACT.
本合同的解释适用中华人民共和国的法律。

23.17 Arbitration 仲裁

Any dispute or claim arising out of or in connection with this CONTRACT including any question regarding existence, validity or termination of the CONTRACT that cannot be resolved through amicable consultations within a reasonable period of time shall be submitted by either Party to and finally settled by the China International Economic and Trade Arbitration Commission for arbitration and shall be conducted in Shanghai in accordance with the Commission's arbitration rules in effect at the time of the request for arbitration. The third arbitrator/chairman of the Tribunal shall not be a national of the country of domicile of either of the Parties to this CONTRACT. The language of the Arbitration shall be English. The arbitral award shall be final and binding upon both Parties.

任何由合同引起的或与合同有关的争议，包括关于合同的存在性、有效性和终止的任何问题，如未能在合理的时间内通过友好协商的方式解决，应提交给中国国际经济贸易仲裁委员会加以仲裁并最终判定，并按照仲裁提请时有效的该仲裁委员会的仲裁规则在上海进行仲裁。仲裁庭的第三个仲裁员 / 首席仲裁员不得是具有本合同任何一方所属国家国籍的国民。仲裁语言是英语。仲裁裁决是最终的裁决，对合同双方都具有约束力。

In respect of each such dispute or claim, pending resolution of the same in accordance with this Article 23.17 (Arbitration), the OWNER shall make an interim decision on such dispute or claim which shall be binding on the Parties and unless the CONTRACT has already been terminated, the OWNER and the CONTRACTOR shall continue to perform their respective obligations under the CONTRACT.

关于每项此类争议或权利要求，在按照第23.17条（仲裁）仲裁的悬而未决期间，业主可以对该争议或权利要求作出临时决定，该决定对合同双方都具有约束力，而且除非合同已经终止，业主以及承包商应该继续履行各自在本合同项下的义务。



23.18 Language of the CONTRACT 合同语言

Where the CONTRACT is written in English and any other language and there is any discrepancy or conflicts between these two language versions, the English language version shall prevail.

若合同以英文和任何其它语言书写，如有冲突，以英文为准。

23.19 Anti-Corruption 反腐败

If the CONTRACTOR shall offer, give or agree to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the CONTRACT or for showing or forbearing to show favour or disfavour to any person in relation the CONTRACT or any other contract with the OWNER or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the CONTRACTOR), it shall be lawful for the OWNER to cancel this CONTRACT and to recover from the CONTRACTOR the amount of any loss resulting from such cancellation.

如果承包商向任何人许诺、给予或同意给予任何礼物或任何形式的对价以作为对其实施或不实施或者是已经实施或未实施与合同授予或执行相关的行为的报酬；或者作为对与本合同或与业主签署的其它合同有关的任何人表示或不表示支持或不支持的报酬；或者承包商雇员或其他代表承包商的人（无论承包商是否知悉）实施了此类行为，业主有权取消本合同，并要求承包商赔偿因合同解除而产生的损失。