

Syngenta China Investment Company Limited
先正达(中国)投资有限公司

Standard Terms and Conditions of Purchase for Goods and/or Services
产品和/或服务标准采购条款和条件

Syngenta is committed to doing business with the highest possible standards of ethics and integrity. By accepting this order, the Supplier confirms having read the full version of "Compliance: A guide for third parties". You can find the full version on the internet

(www.compliance.syngenta.com)

先正达致力于以尽可能高的道德和诚信标准经营业务。供应商接受本订单的行为即意味着供应商确认其已完整阅读《合规性：第三方指导手册》。《合规性：第三方指导手册》的完整版可在网上获取

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1. Interpretation and Definitions 1

、解释和定义

1.1 In these

Conditions: 1.1 在本条件

下：

'BUYER' means Syngenta China Investment Company Limited whose office is located at Pudong New Area, No.999 Pudong Road South, Shanghai, P.R.China.

，买方`指先正达中国投资有限公司，位于上海市浦东新区浦东南路 999 号新梅联合广场 21 楼。

'CONDITIONS' means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special term and conditions set forth in the appendice and Order and any applicable Specification pursuant to Clause 3, if any. Certain provisions in the Conditions may not be applicable in particular transaction situations.

，条件`指本文件所述的标准采购条款和条件，并且（除非上下文内容有其他要求）包括订单和附件中的 Updated [November 1 2018]

任何特殊条款和条件，以及任何依照第三条可适用的书面形式的规格说明书。本条件中的个别条款根据具体交易的情况不同，可能不予适用。

'CONTRACT' means each Order, together with these Conditions and its appendices hereto

，合同`指每份订单、以及本条件和本条件的附件。

'DELIVERY ADDRESS' means the address stated on the Order

，交付地址`指订单上载明的地址

'GOODS' means the goods (if any, including any installment of any goods or any part of them) described in the Order

，货物`指订单描述的货物（包括任何货物的任何批次或其任何部分，如有）

'ORDER' means the Buyer's purchase order to which these Conditions are annexed and any order that includes the delivery of Goods and/or the performance of Services in several installments or phases shall be deemed a single order

，订单`指附带本条件的买方的采购订单，任何货物运输和/或服务履行分几个批次或分几个阶段的任何订单应被视为一个单独的订单。

'PRICE' means the price of the Goods and/or the charge for the Services

，价款`指货物的价格和/或服务费用。

'SELLER' means the person so described in the Appendix I to this Condition

，卖方`指订单中描述的主体，并列入本条件的附件一。

'SERVICES' means the services (if any) described in the Order or Appendix I to this Condition

，服务`指订单或者本条件附件一中描述的服务（如有）。

'SPECIFICATION' includes any plans, drawings, data or other information relating to the Goods or Services

，规格说明`包括任何计划，图表，数据或与货物或服务有关的其他信息。

'WRITING' includes but is not limited to facsimile transmission and comparable means of communication.

，书面形式`包括但不限于传真以及类似沟通方法。

1.2 Any reference in these Conditions to a law, regulation, or legal requirement shall be construed as a reference to that law, regulation or legal requirement as amended, re-enacted or extended at the relevant time.

1.2 本条件中任何提及的法律、法规或法律要求应该被解释为在相关时间修订、重新颁布和扩大解释的法律、法规或法律要求。

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.3 本条件中标题仅为阅读方便，不应影响其解释。

2. Basis of purchase 2

采购基础

2.1 The Order constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services from the Seller subject to these Conditions.

2.1 订单构成买方依据本条件向卖方采购货物或获取服务的要约。

2.2 These Conditions shall apply to the Contract to the exclusion of any other terms or conditions (1) on which any quotation has been given to the Buyer by the Seller or its agent or employee or (2) subject to which the Order is accepted or purported to be accepted by the Seller its agent, or employee.

2.2 本条件应适用于合同并排除其他任何条款，而此等其他任何条款为（1）卖方或卖方代理或卖方雇员提供给买方任何报价单所基于的条款，或（2）订单被卖方或卖方代理或卖方雇员依照此条款接受或假设被接受。

2.3 The Order will be deemed unconditionally accepted by the Seller unless Seller notifies Buyer otherwise in writing within 7 days of its receipt date.

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2.3 订单应被认为无条件被卖方接受,除非卖方在收到订单日起7日内书面通知买方。

2.4 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorized representatives of the Buyer and the Seller.

2.4 除买卖双方授权代表书面同意外,任何对订单或本条件的变更都无约束力。

3. Specification

3 规格说明

3.1 The quantity, quality and description of the Goods and/or the Services shall, subject as provided in these

Conditions, be (i) as specified in the Order or Appendix I to this Condition, (ii) as specified in any applicable Specification supplied by the Buyer to the Seller or prepared by the Seller and agreed to by Buyer in writing (iii) as otherwise approved in Writing by the Buyer subsequent to the placement of the Order, whichever is applicable.

3.1 货物或服务的数量、质量和描述应按照本条件的规定,在适用的情况下,可以(i)在订单或者本条件附件一中明确,(ii)在任何买方提供给卖方或由卖方准备且经卖方书面同意的可适用的规格说明中明确,(iii)在订单下达后,经买方书面同意。

3.2 Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required by law or for the purpose of the Contract.

3.2 任何买方提供给卖方的,或者卖方特别为买方制作的规格说明,连同合同,与规格说明中的著作权、设计权或其他任何知识产权一起,应是买方独占的财产。卖方不应向任何第三人披露或使用任何此类规格说明,除非它在完全无卖方过错的情况下或者

根据法律要求或为合同目的,成为或变成公共知识。

3.3 The Seller shall comply with all applicable laws regulations, and legal requirements concerning the manufacture packaging, packing and delivery of the Goods and/or the performance of the Services.

3.3 卖方应遵守现行与产品制造加工、包装、运输和/或服务履行相关的法律、法规和法律要求。

3.4 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to delivery, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.

3.4 卖方不应不合理拒绝在交货之前在卖方或任何第三方的场所之内,买方对生产中、处理中或库存中货物的检查和检验的任何要求,并且卖方应向买方提供所有检查和检验所需的合理的设施。

3.5 If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the Contract and the Buyer so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance. The Seller's failure in such compliance shall entitle the Buyer to terminate the Contract.

3.5 若买方对检查或检验结果不满意,货物不符合合同的全部要求,买方将在检查或检验日起7日内通知卖方,卖方应采取措施确保符合要求。卖方无法实现该要求的,买方有权终止合同。

3.6 The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

3.6 货物的标识应符合买方指示,并符合任何现行法规,海关和商品检验检疫规定以及承运人的要求。货物的包装应妥善和安全,确保在通常情况下,货物无损害的到达目的地。

4. Price of the goods and services

4 货物和服务的价款

4.1 The Price of the Goods and/or the Services shall be as stated in the Order or Appendix II to this Condition and, unless otherwise so stated, shall be inclusive of all packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies.

4.1 货物和/服务的价款应在订单或者在本条件附件二中载明,除非另有约定,应包括将货物交付到交付地点的所有包装、装卸、运输、保险的费用以及任何关税或费用。

4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing.

4.2 除非买方事先书面同意,(不论原材料、劳动力或运费上涨,汇率变动或其他)价款均不得增加。

4.3 The Buyer shall be entitled to vary the Specification and/or quantity of any Order by paying a reasonable proportionate adjustment (increase or decrease) in the Price.

4.3 买方有权通过合理的价格比例调整(增加或者减少)支付价款的方式变更规格说明和/或任何订单的数量。

4.4 Subject to legal requirement, Buyer is entitled to deduct and withhold any payable income tax prior to the payment of the final Price. Seller shall pay, subject to applicable laws and regulations, all the tax it is obliged to.

4.4 买方在法律规定的要求下,有权在向卖方支付最终的价款里扣除任何需要预先扣除的预提所得税。卖方需要自行支付按照可适用的法律规定而应当支付的各项税款。

5. Terms of payment

5 付款条款

5.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.

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- 5.1 卖方有权视具体情况于货物交付后或服务履行后任何时间向买方开具发票和帐单, 每张发票和帐单应提供订单号码以及买方认为需要的其它信息。
- 5.2 Payment terms will be as stated in the Order
- 5.2 付款条款以订单中的规定为准
- 5.3 The Buyer shall be entitled, upon notification to Seller, to set off against the Price any sums owed to the Buyer by the Seller.
- 5.3 买方有权在通知卖方后在价款中抵扣卖方欠买方的款项。
6. Delivery
- 6 交付
- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order or in the Appendix I to this Condition, in either case during the Buyer's usual business hours.
- 6.1 货物和服务均应在订单或者本条件附件一约定的日期或时间段, 在买方的通常营业时间内, 在订单约定的交付地点被交付或被履行。
- 6.2 The date of delivery of the Goods or of performance of the Services may be specified after the placement of Order, in which case Buyer shall give the Seller reasonable notice of the specified date.
- 6.2 货物交付日期或服务履行日期, 可能在订单下达后确定。买方应合理的告知卖方确定的日期。
- 6.3 The time of delivery of the Goods and of performance of the Services is of the essence and the Seller's failure to meet the delivery time specified shall constitute a material breach of the Contract under Clause 9.2.5 and not withstanding Clause 6.9 and any other provision herein, shall be grounds for immediate termination of the Contract by Buyer.
- 6.3 货物交付和服务履行的时间是实质性的, 卖方未能按确定的交付时间履行构成重大违约, 且不受本条件第6.9条和其他任何规定的限制, 将成为买方立即终止合同的理由。若交付货物数量多于订单确定数量或其他经双方同意的数量, 买方有权(1)拒收多交部分, 并通过抵扣价款的方式, 向卖方收取包括多交部分的仓储、处理和重新运输的费用, 或者(2)接受多交部分或者其中部分, 并支付部分价
- 何其他在本条件下的条款, 买方仍有权立即终止合同。
- 6.4 A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently.
- 6.4 注明订单号的包装记录单必须与每次运输或运送的货物一致, 并且必须标识显著。
- 6.5 If the Goods are to be delivered, or the Services are to be performed, by installments, the Contract will be treated as a single contract and not severable.
- 6.5 若货物是分批交付, 或者服务是分期履行, 合同应被认为是一份不可分割的单独的合同。
- 6.6 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them for visible and obvious defects following delivery but in any case not less than 10 days after delivery; provided, however, that any such acceptance by Buyer shall not impair Buyer's rights nor diminish Seller's obligations under the warranty and indemnity provisions of Clause 8 with respect to any other defect (latent or otherwise).
- 6.6 买方有权拒收任何与合同不相符的交付货物, 并且买方不应被认为已经接受任何货物, 直到买方有合理时间在货物交付后对货物的可视的及显著的缺陷进行检查, 在任何情况下, 均不得少于交付后 10 天; 但是, 倘若涉及任何其他缺陷(潜在的或其他), 买方的任何接受不应削弱条款 8 担保和保证条款项下的买方的权利或减少该条款项下卖方的义务。
- 6.7 The Seller shall supply the Buyer at the time of delivery or promptly thereafter (but in any case no later than within 7 days of delivery) with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.
- 6.7 卖方应在交付时或交付后及时(但在任何情况下均不得超过交付后 7 天)向买方提供任何用指导或其他必需的使买方能够接受货物或履行服务的说明或信息, 这些说明或信息应由卖方或卖方已知晓的, 在订单被放置时;
- 8.1.1 品质良好并且符合卖方在订单下达时被提供或告知的目的
- 物交付和服务履行的信息。
- 6.8 The Buyer shall not be obliged to return to the Seller any packaging, or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.
- 6.8 买方无义务向卖方返还任何货物包装或者包装材料, 无论任何货物是否被买方接受。
- 6.9 If less than the quantity of Goods specified in the Order or otherwise agreed is delivered, in addition to other remedies available to it under Clauses 6.3 and 6.9, the Buyer shall be entitled to demand immediate delivery of the outstanding quantity of Goods or a portion thereof and/or reject future delivery of the outstanding Goods or portion thereof and reduce the Price accordingly for any outstanding quantity rejected. If more than the quantity of Goods specified in the Order or otherwise agreed is delivered, the Buyer shall be entitled to (1) reject such oversupply and charge the Seller, including by set-off against payment of the Price, its cost of storage, handling and redelivery to the Seller of such oversupply, and/or (2) accept such oversupply or any portion thereof and pay that portion of the Price equal to the oversupply in proportion to the quantity of Goods ordered or otherwise agreed. The Buyer shall not be obligated to return any oversupply rejected and if the Seller does not remove such oversupply within 10 days of notification by the Buyer of rejection, the Buyer shall be entitled to treat such oversupply as forfeited by the Seller and to dispose of them at will or store them at the Seller's expense, with the right to treat them as forfeited at any time thereafter with notice to the Seller.
- 6.9 若交付货物数量少于订单确定数量或其他经双方同意的数量, 除依照条款 6.3 和 6.9 规定的可获得的其他救济外, 买方有权要求卖方立即交付 应交未交数量货物或者其中的部分, 和/或拒绝领受任何将来交付的货物。若交付货物数量多于订单确定数量或其他经双方同意的数量, 除依照条款 6.3 和 6.9 规定的可获得的其他救济外, 买方有权要求卖方立即交付 应交未交数量货物或者其中的部分, 和/或拒绝领受任何将来交付的货物。若交付货物数量多于订单确定数量或其他经双方同意的数量, 买方有权(1)拒收多交部分, 并通过抵扣价款的方式, 向卖方收取包括多交部分的仓储、处理和重新运输的费用, 或者(2)接受多交部分或者其中部分, 并支付部分价

period of 12 months from the date of delivery unless a longer period is specified in the Order or offered by Seller (whichever is longer), that the Goods delivered under the Contract:

8.1 卖方向买方担保,自货物交付之日起一年内,除非订单约定或卖方提供更长的时间(任一较长者),根据合同交付的货物

Seller and (iii) use due care to ensure that Seller's employees or agents will keep confidential any information disclosed or made available to or observed by (whether orally, in writing or in any other way) such employees or agents while on Buyer's premises.

7.1 货物损害或丢失的风险(由货物存在的任何缺陷引起的、先于交付完成的存在的任何损害或丢失除外)在买方根据合同的规定领受货物时转移至买方。

7.2 Title to the Goods shall pass to the Buyer upon delivery, unless payment for the Goods is made prior to delivery, in which case title to the Goods shall pass to the Buyer upon payment.

7.2 货物的所有权应在交付时转移至买方,除非货物款项的支付先于交付,在此情形下,货物的所有权自付款时转移至买方。

8. Warranties and liability

8 担保和责任

8.1 The Seller warrants to the

Updated [November 1 2018]

Buyer that the Goods, for a

8.2 The Seller warrants to the Buyer that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all circumstances, in compliance with all applicable laws, regulations and legal requirements, and if the Services will be performed at Buyer's premises, Seller shall (i) carry all risks insurance in an amount sufficient to cover any damages or losses caused to Buyer, its property or employees or to Seller's own employees or agents in connection with the performance of the Services, (ii) comply with Buyer's health, safety and environmental policy and rules, which will be provided to the

Contract within 7 days; or

8.3.1 要求卖方修理货物或在 7 日内提供符合合同约定的替代货物或服务；或

8.3.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as terminated due to the Seller's breach and (1) require the repayment of any part of the Price which has been paid or (2) have the defective Goods and/or Services replaced, repaired and/or remedied by a third party, the cost of which the Buyer shall be entitled to charge to Seller including by

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set-off against payment of any unpaid portion of the Price.

8.3.2 在完全由买方选择的情况下,无论买方是否已经要求卖方修理货物或提供任何替代货物或服务,因卖方违约而终止合同并且(1)要求卖方偿还已支付价款的任何部分或(2)由第三方更换、修复或者弥补缺陷货物和/或服务,如上费用,买方有权向卖方收取并可在未支付部分价款中扣除。

8.4 The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

8.4 卖方应足额赔偿因如下事项给买方造成的所有债务、损害、损失,或买方因此产生或支付的成本、费用(包括法律费用):

8.4.1 breach of any warranty given by the Seller in relation to the Goods or the Services:

8.4.1 违背卖方作出的关于货物或服务的任何担保

8.4.2 any claim that the Goods or Services infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises directly from compliance with any Specification supplied by the Buyer;

8.4.2 任何货物或服务侵权、或它们的进口、使用、转售侵犯了任何其他人的专利权、著作权、设计权、商标权或其他知识产权权利的主张,但此等主张直接由卖方遵照买方提供给卖方的说明引起的除外。

8.4.3 any liability under any applicable consumer protection laws or regulations in respect of the Goods or Services;

8.4.3 与货物或服务有关的,任何现行消费者保护法律规定的责任

8.4.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods; and

8.4.4 卖方或卖方雇员或代理或分包商在供货、运输和安装货物过程中的任何行为或疏忽,以及

8.4.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services.

8.4.5 卖方雇员在服务履行过程中的任何行为或疏忽

8.5 Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

8.5 由于超出合同主体的合理控制的任何与货物和服务有关的义务履行中的迟延或任何履行失败,买方或卖方均无需对方负责或被认定为违反合同。在不违背前述一般性规定的前提下,如下情况应被视为超出任一合同主体的合理控制:

8.5.1 Act of God, explosion, flood, tempest, fire or accident;

8.5.1 不可抗力,爆炸,洪水,暴风雨,火灾或事故;

8.5.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition

8.5.2 战争或战争威胁,破坏,起义,国内动乱或征用

8.5.3 import or export regulations or embargoes;

8.5.3 进出口规定或禁运

8.5.4 strikes, lockouts or other industrial actions or trade disputes (whether involving employees or either the Seller or the Buyer or of a third party);

8.5.4 罢工,停工,或其他劳工行为或公会争议(不论雇员或卖方、买方或第三方)

However, mechanical breakdown or failure in the supply of utilities shall not be deemed causes beyond either party's reasonable control.

但是,机械停工或公共设施供应的失败不应被认为超出任一合同主体的合理控制。

9. Termination

9 终止

9.1 The Buyer shall be entitled to cancel any Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event, if the Goods and/or Services are generic and it is transferable and merchandisable to any third party in the market, the Buyer shall not be liable for any of the cost incurred by Seller for such Goods and /or Services, otherwise the Buyer's sole liability shall be to pay to the Seller any cost actually incurred to date by Seller due to Buyer's placement of such Order; provided, however, that such cost is properly documented in writing by paid receipts or the like to Buyer's reasonable satisfaction.

9.1 买方有权在装运或履行前的任何时间书面通知卖方取消与全部或部分货物或服务相关的订单,在此情形下,如果此等货物或服务为通用性的货物或服务且货物或服务的结果可以在市场上转售给第三方,买方无须向卖方承担任何责任。否则买方承担的全部责任是向卖方支付从买方下达该订单之日到通知取消时间为止的卖方任何实际成本;此费用应提供适当的已支付收据或者其他满足买方合理要求的书面文件证明。

9.2 The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:

9.2 在下列情况下,买方有权通知卖方终止合同而无需向卖方承担责任:

Syngenta China Investment Company Limited
先正达(中国)投资有限公司

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产品和/或服务标准采购条款和条件

9.2.1 the Seller makes any voluntary arrangement with its creditors or becomes bankrupt or becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

9.2.1 卖方与其债权人达成任何自愿协议或破产或遵从行政命令或停业整顿(为合并或重建的目的除外),或

9.2.2 a receiver is appointed for any of the property or assets of the Seller; or

9.2.2 卖方任何财产或资产被指定接收,或

9.2.3 the Seller ceases, or threatens to cease, to carry on business; or

9.2.3 卖方停业,或有停业或停止运营的威胁,或

9.2.4 the Buyer reasonably believes that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

9.2.4 买方合理相信如上任何事件将发生,并与卖方有关,从而通知卖方

9.2.5 if the Seller commits a material breach of any provision of the Contract.

9.2.5 卖方根本违反了合同的任何约定。

10. General

10 一般性规定

10.1 The Buyer is a member of the group of companies whose holding company is Syngenta AG, and accordingly the Buyer may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Buyer.

10.1 买方是集团企业的成员,先正达股份有限公司(Syngenta AG)是其控股公司,因此,买方可能亲自或者通过任何其他集团成员履行其在本条件项下的任何义务或任何权利,在此情

形下,此任何集团成员的任何行为或疏忽被认定为买方的行为和疏忽。

10.2 The Contract is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract without the prior written consent of the Buyer.

10.2 本合同专属于卖方,在未经买方事先书面同意的情况下,卖方不得将其在本合同下的任何权利转让或声称转让给任何其他主体或将其在本合同下的任何义务分包。

10.3 Any notice required or permitted to be given by either party to the other under the Contract shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

10.3 合同项下任一一方给出的任何必需的通知或许可应采用书面形式,送至对方的注册地址或主要营业地址或其他在相应时间依照本条款通报给通知作出方的地址。

10.4 Seller shall (i) keep confidential any information provided by or on behalf of Buyer (whether orally or in writing) in connection with this Contract, including but not limited to any Specification provided by or on behalf of Buyer, (ii) keep confidential any Specification specially prepared by Seller in accordance with Buyer's requirements, (iii) disclose such information only to those employees or agents of Seller who need to have such information to perform Seller's obligations under the Contract, and (iv) use due care and take appropriate measures so as to ensure the confidential treatment of such information by such employees or agents of Seller. This Clause

10.4 shall survive the termination of the Contract for 5 years and any breach of this Clause shall be deemed a material breach of this Contract under Clause 9.2.5. This obligation shall not be preconditioned that such information has been marked as

, Confidential Information' by Buyer.

10.4 卖方应(i)保守与合同相关的买方提供的或代表买方提供的任何信息(无论书面或口头)的机密性,但不限于买方提供或代表买方的任何说明,(ii)按照买方要求由卖方特别准备的任何说明;(iii)仅向履行合同项下卖方义务所必需的卖方雇员或代理揭露信息;(iv)该雇员或代理应尽合理的注意及采取适当的措施确保如上信息的机密性。条款 10.4 在合同终止后 5 年内仍然有效,任何对本条款的违反应被认定为条款 9.2.5 项下的对合同的根本违反。此等信息不以买方标明,保密信息'为前提条件。

10.5 No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.5 买方对卖方任何违约行为不追究不应被认定为对后续相同违约行为或其他任何条款的不追究。

10.6 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

10.6 若合同中任何条款被任何主管当局认定为无效或全部或部分不可执行,本条件下的其他条款和该有问题条款的剩余部分效力不应因此受影响。

10.7 The Contract shall be governed by the laws of the People's Republic of China, the application of Convention of International Sales of Goods (CISG) shall be hereby explicated excluded and the exclusive jurisdiction shall be vested with the Courts of People's Court of Shanghai Pudong New District. This provision for applicable law and dispute resolution shall be independent from the Condition with respect to its validity; it shall be still valid even the Condition is

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held as void and null, or unenforceable.

10.7 本合同应当受中华人民共和国法律管辖,明示排除上联合国国际货物买卖合同公约的适用,上海市浦东新区人民法院具有任何争议的专属管辖权。本法律适用和争议解决条款的效力独立于本条件,在本条件被判无效或者无法执行的条件下仍然有效。

10.8 Subject to stipulations otherwise in other provisions in the Condition, the Contract with respect to the Goods shall be governed by Incoterms 2000 to the extent not in conflict with any other provision(s) of the Contract.

10.8 在与合同其他条款不冲突的范围内。与货物相关的合同同时受国际商会国际贸易术语解释规则 2000 版的调整,

10.9 The Contract shall be the complete and final agreement between the parties and any prior agreement, understanding or discussion between the parties (whether oral or written) shall be superseded by this Contract. The appendices to the Contract, if in conflict, shall prevail.

10.9 合同取代双方之前的任何协议、共识或讨论(无论口头或书面),构成双方间完整和全部的协议。本协议的附件如果与本协议发生冲突,本协议的附件中的内容应当优先适用。

11. Intellectual Property Rights

Seller duly argees that all the intellectual property rights as copyright, patent, trade secrete, trademarks shall be the sole property of Buyer which is generated during the delivery of Goods or performance of Service as works, inventions, improvements, developments and findings. Seller argees to promptly assist Buyer or any third party as appointed by Buyer, by proper means and in fulfillment of legally prescribed procedures, to enable Buyer to acqurie all the entitlement embodied in the afore-mentioned intellecutal property including free disclosure of all the related materials and data, as well as other application software, files, technical specifications for the

implementation of the above intellectual property, as well as other documents and materials to enable Buyer substantially acquire the above intellectual property. If any of Seller' s intellectual property right are combined in the delivered Goods or performed Services in its fulfillment of its obligation, any of which , after obtaining of ownership of Goods delivered or reception of service performed shall be automatically licensed to Buyer on a non-exclusive, royalty-free, perpetual , irrevocable and worldwide basis.

11 # 知识产权 卖方同意在为买方交付产品或者履行服务时单独的或与第三方合作而构想,完成或发现并形成的所有著作,发明,改进,开发及发现,以及其中所包含和体现的任何著作权,专利,商业秘密,商标以及其他的知识产权都是买方的独有财产。卖方同意在买方支付相关费用的情况下,在需要时及时协助买方或者其指定的第三方以恰当的方式,并履行相应的法律所规定的程序,使买方获得上述知识产权的权利,包括向买方免费披露全部相关资料和数据,以及所有为实施上述知识产权所需的应用软件,文档,技术规范,以及其它相关的文件和材料以便买方实质取得上述知识产权。如果在交付产品或者提供服务的过程中,买方在履行其义务的过程中结合了属于卖方的知识产权,则对于最终产品中所含的卖方的知识产权,买方在获得服务和货物的所有权后,则自动取得非专有的,无需支付任何费用的,永久性的不可撤销的全球范围内的许可和再许可权利。

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Appendix I