



## CHINA TERMS AND CONDITIONS OF PURCHASE

### 中国采购条款和条件

#### 1. Applicability; Definitions

适用性；定义

These Chinese Terms and Conditions of Purchase (these “Terms”) govern all purchase of goods and services made by PMG entities located in China, irrespective of the location of origin of goods and services purchased by PMG. As used in these Terms, “Order” means any purchase order, release, requisition, work order, shipping instruction, specification, drawing, oral request, and any other associated document issued by PMG in connection with the purchase of goods and services, whether delivered electronically, orally, or via hard copy or facsimile. “PMG” means the PMG entity identified on the Order issued to Supplier. “Supplier” means the person or entity identified on any Order that is responsible for providing goods or services to PMG. Supplier always may access and reference these Terms at <http://www.pmgsinter.com/suppliers.htm>.

下列《中国采购条款和条件》（下文“条款”）管辖中国境内的 PMG 机构所做全部货物、服务的采购，与 PMG 采购的货物和服务原产地无关。根据上述条款的使用，“订单”表示任何采购订单、公布、收购、工作订单、货运指示、规格、图纸、口头请求和任何其它 PMG 出具的，与货物和服务采购相关的文件，无论是电子、口头，或者复制件或传真方式交付。“PMG”表示在向供应商所出具订单中确认的 PMG 机构。“供应商”表示任何订单中确认的，对向 PMG 提供货物或服务负责的人员或机构。供应商始终可以在下列网址后去并参照下列条款：<http://www.pmgsinter.com/suppliers.htm>.

#### 2. Offer and Acceptance

订单要约和接受

These Terms are incorporated into and govern all Orders issue by PMG to Supplier for the supply of goods or services. Issuance of each Order by PMG shall constitute an offer, which PMG may revoke at any time prior to acceptance by Supplier. Supplier shall be deemed to have accepted an Order by expression of acceptance to PMG, issuing a written confirmation, or by shipping goods or commencing the performance of services or there is no response in 5 working days. Once Supplier accepts an Order, Supplier is strictly bound to comply



with all terms of the Order and these Terms. PMG expressly limits acceptance of any Order to these Terms and the terms of the Order. PMG hereby notifies Supplier of its objection to and rejection of any additional or different terms proposed by Supplier. Supplier acknowledges and agrees that only these Terms and the terms of any Order shall govern the purchase by PMG of goods or services from Supplier.

下述条款适用于在 PMG 向供应商所出具的货物或服务供应的全部订单。PMG 每份订单的出具均构成一项订单要约，PMG 可在供应商接受前的任何时间撤销上述订单要约。供应商表述对 PMG 的接受、出具书面确认，或者通过运输货物或开始执行服务，或者在 5 个工作日内没有回应的，应被认为已经接受订单。一旦供应商接受意向订单，供应商严格受到约束，应遵守订单全部条款和上述条款的要求。PMG 明确表示其限制的接收对上述条款下任何订单及订单条款的订单。PMG 在此通知供应商 PMG 对任何供应商建议的额外或不同条款的异议和拒绝。供应商认可并同意仅上述条款和任何订单的条款适用 PMG 从供应商处的货物或服务采购。

### **3. Prices; Payment; Taxes**

价格；付款；税务

The price for the goods or services shall be set forth on the applicable Order. Supplier shall not at any time sell the same goods or services to a different buyer at prices below those offered to PMG. If Supplier charges a different buyer a lower price for goods or services, Supplier must immediately apply the lower price for the goods or services under the applicable Order. Unless otherwise stated on the Order, PMG shall issue payment to Supplier after receipt of a valid invoice from or delivery by Supplier, whichever is later (the "Invoice Date"), on the following terms: three percent (3%) discount on the invoice amount if PMG issues payment within fourteen (14) days from the Invoice Date, two percent (2%) discount on the invoice amount if PMG issues payment within thirty (30) days from the Invoice Date, and otherwise net ninety (90) . All invoices from Supplier shall reference the Order number, state the quantity, type, and amount of goods shipped or services provided, and state price and payment terms consistent with the Order. Payment by PMG shall not constitute acceptance by PMG of any goods or services supplied by Supplier, nor shall payment relieve Supplier of any obligations it has under these Terms or any Order. Supplier waives its right to payment and the obligation of PMG to pay for goods and services if Supplier fails to invoice PMG for goods or services within one-hundred eighty (180) days after delivery or performance.

商品或服务的价格应在适用订单中设定。供应商不得在任何时间以低于对 PMG 所做报价的价格向不同的



采购方销售相同的商品或服务。如供应商对采购商就其货物或服务收取更低价格，供应商在订单下的货物或服务立即适用更低的价格。除非订单中另有说明，否则 PMG 应在收到供应商有效发票或供应商交付其中较晚的一个时间后，根据下列条款做出付款：如 PMG 在收到发票日期后十四（14）天内做出支付，在发票金额上有百分之三（3%）的折扣，如 PMG 在发票日期后三十（30）天内作出支付，在发票金额上有百分之二（2%）的折扣，其它情况为九十（90）天付讫。所有供应商的发票均参考订单编号，说明数量、类型、装运货物或提供服务金额，并按照订单说明价格和付款条件。PMG 的付款不构成 PMG 对供应商所提供任何货物或服务的接受，付款也不对供应商免除上述条款或订单下任何义务的免除。如供应商未在交付或履行后一百八十（180）天内向 PMG 出具发票，则供应商就货物和服务放弃要求 PMG 向其付款且 PMG 无义务付款。

#### **4. Delivery; Title and Risk of Loss**

交付；所有权和损失的风险

Delivery of goods and services shall be made in strict accordance with the delivery and performance requirements set forth in the Order. Time is of the essence with respect to any delivery and performance requirements set forth in the Order, and if expedited shipping is available and necessary to meet a delivery requirement, Supplier shall use such expedited shipping method at its sole cost and expense. Unless otherwise set forth in the Order, delivery of goods by Supplier shall be DDP (Incoterms 2010) PMG's designated location. All bills of lading and other shipping documents shall expressly reference the Order number, and shall set forth the total quantity and type of goods shipped. Notwithstanding the passage of title, risk of loss shall not pass to PMG until goods are unloaded at PMG facilities. PMG shall have no obligation to accept or pay for any goods that are delivered early, late, or in excess of the quantities set forth on the Order.

货物和服务的交付应严格按照订单所设执行及交付要求完成。时间对于订单所设任何交付和执行要求都是重要的，如加快装运可实现并对满足交付要求是必要的，供应商应采用加快装运方式，并自行承担成本和费用。除非订单设定其它说明，否则供应商交付货物应为完税后交付（DDP）（《国际贸易术语 2010》）到 PMG 指定地点。所有提单和其它装运单证均应明确参考订单编号，并应设定所装运货物的总数量和类型。即使所有权发生转移，损失风险仍不得转移给 PMG，直到在 PMG 场地处卸下货物。PMG 不对任何过早、过晚交付，或者超出订单所设数量所交付任何货物的接受或付款，具有义务。



## 5. Order Changes; Forecasts

### 订单修改；预测

PMG may at any time require Supplier to implement changes to the requirements for goods or to the scope of any services to be provided under any Order. Supplier shall promptly implement any such changes. PMG shall equitably adjust any price or delivery schedule in connection with such changes, provided that within ten (10) days of receiving notice of such change request from PMG, Supplier notifies PMG of any increase in cost to Supplier or lead times arising from such changes and provides to PMG any documentation that PMG requests to substantiate any such increases. In the event that Supplier disagrees with any equitable change made by PMG, Supplier shall continue to perform under the Order, including prompt implementation of any changes, pending resolution of such disagreement. Supplier shall not make any change to the requirements for goods or to the scope of any services provided under any Order without obtaining the prior written consent of PMG.

PMG may provide Supplier with forecasts indicating its future anticipated requirements for goods or services. Supplier acknowledges that any such forecasts are provided for information purposes only, are not binding on PMG, and may change at any time. Supplier acknowledges that forecasts provided by PMG are based on factors outside of the control of PMG, including the requirements of PMG's customers, and therefore Supplier agrees that it will not claim reliance on any forecast, estimate of requirements, or amount set forth in any blanket purchase order, or attempt to hold PMG liable for any materials purchase, capital expenditure, labor expense, or other cost incurred by Supplier. PMG makes no commitment of any kind regarding any forecasts it provides to Supplier.

PMG 可随时要求供应商按照订单下所提供货物或任何服务范围的要求进行修改。供应商应及时做出任何上述修改。PMG 应公正地调整与上述修改相关的任何价格或交付日程表，前提是在接收到 PMG 所做上述变更通知十（10）天内，供应商向 PMG 通知任何供应商成本增加或因上述修改产生的交货期延长，并向 PMG 提供 PMG 要求证明任何上述增加或延长的任何文件。如供应商不同意 PMG 所做的任何公正修改，供应商应继续在订单下履职，包括及时履行任何修改，等待争议的解决。供应商不得在未取得 PMG 事先书面同意下，对任何订单下提供的货物要求或任何服务范围，做出任何修改。

PMG 可向供应商提供预测，说明其对货物或服务的未来预期要求。供应商认可任何上述预测仅针对信息目的提供，不对 PMG 构成约束，可能随时变化。供应商认可 PMG 所提供的预测是基于 PMG 控制能力以外的因素，包括 PMG 客户的要求，因此供应商同意不要求依赖于任何总采购订单总所设定的任何预



测、要求评估或金额，或者尝试使 PMG 保持对供应商产生的任何材料采购、资本支出、劳务费用或其它成本负有义务。PMG 不做出与其向供应商所提供的任何预测相关的任何类型承诺。

## **6. Requirements; Non-Exclusive Source**

要求；非排他性来源

Unless an Order expressly states otherwise, any Order issued by PMG that indicates it is a blanket order or otherwise does not expressly state a quantity of goods or duration of service shall obligate Supplier to provide all requirements of PMG for such goods or services set forth in such Order. The requirements of PMG shall be determined solely by releases or requests issued by PMG under such Order. Notwithstanding the obligation of Supplier to provide all requirements of PMG, PMG shall have no obligation to purchase all of its requirements from Supplier or to use Supplier as its sole or exclusive source for any good or service supplied by Supplier. PMG shall be free at all times to obtain goods and services from any other supplier.

除非订单另外明确表示，PMG 所出具的表明是总订单，或者未明确表示货物数量或服务期限的任何订单，应使供应商产生对上述订单中所设定的关于货物或服务提供满足 PMG 需求的义务。PMG 的要求应仅以上述订单下 PMG 所做任何公布或要求为准。即使供应商有提供 PMG 全部所需的义务，PMG 也不对从供应商处采购其全部所需，或者将供应商作为 PMG 就供应商所提供任何货物或服务的唯一或排他性来源，承担任何义务。PMG 应在全部时间，有从任何其它供应商处取得货物和服务的自由。

## **7. Performance Disruptions**

执行干扰

If Supplier becomes aware of facts that suggest timely performance by Supplier might become delayed, interrupted, or impracticable for any reason whatsoever, including but not limited to labor or employee difficulty, material or supply delays, interruptions, or shortages, a Force Majeure Event, or any other cause (each, a "Performance Disruption"), Supplier shall notify PMG immediately of such Performance Disruption. Each Performance Disruption notice shall identify the cause(s) or anticipated cause(s) of such Performance Disruption, the effect on performance that Supplier reasonably believes that the Performance Disruption will cause, the anticipated duration of the Performance Disruption, and an action plan for minimizing the effect of the



Performance Disruption. Supplier shall, at Supplier's sole cost and expense, take such actions as are necessary or appropriate to ensure the uninterrupted supply of goods and services to PMG during any Performance Disruption.

如供应商已获知表明供应商按时执行可能会因无论何种原因而延误、中断或不可实施的事实，包括但不限于劳工或员工困难、材料或供应物资延迟、中断或短缺、不可抗力事件，或者任何其它原因（每一种均是“执行干扰”），供应商应就上述执行干扰，立即通知 PMG。每项执行干扰通知应明确上述执行干扰的原因或预计原因，供应商合理相信执行干扰将导致的执行效应、执行干扰的预计期限，以及使执行干扰效应最小化的行动方案。供应商应自行承担成本和费用，采取对确保在任何执行干扰期间，向 PMG 不中断提供货物和服务的必要或合适的行动。

## **8. Service and Replacement**

### 服务和替换

Supplier shall continue to make goods and services available for purchase by PMG to fulfill PMG's and its customers' service and replacement requirements ("Service and Replacement Work") for ten (10) years following the last delivery of goods or services under any Order. The price(s) for Service and Replacement Work during the first five (5) year period after the last delivery of goods or services under any Order shall be the price stated in the last Order issued for such goods or services. Supplier agrees to maintain in good repair and useable condition, at no cost to PMG, all dies, equipment, materials and tooling necessary to perform all Service and Replacement Work.

供应商应在任何订单下最迟交付货物或服务后的十（10）年内，针对 PMG 的采购，提供货物和服务的可获取性，完成 PMG 及其客户的服务和替换要求（“服务和替换工作”）。在任何订单下最后批次交付货物或服务的五（5）年内，服务和替换工作的价格应在针对上述货物或服务所出具的最后一份订单中说明的价格。供应商同意维护所有执行全部服务和替换工作必要的模具、材料和工具在良好的修理和可使用状态，不要求 PMG 承担成本。

## **9. Customer-Required Supply**

### 客户要求供应



If a customer of or purchaser from PMG requires that PMG use Supplier for any good or service provided by Supplier, then PMG shall pay Supplier for Supplier goods or services only upon actual receipt of payment by customer for the PMG goods into which Supplier's goods or services are incorporated.

如 PMG 的客户或采购商要求 PMG 就供应商所提供任何货物或服务向供应商采购，PMG 应仅在实际已收取客户针对已纳入 PMG 货物的供应商货物或服务款项时，才向供应商支付货物或服务。

## 10. Customer Flow-Down

### 客户约束传递

Supplier understands and acknowledges that PMG is bound to certain terms and conditions imposed by its customers and purchasers. Supplier agrees to be bound to any such terms and conditions about which PMG makes Supplier aware to the same extent that PMG is bound to such terms and conditions.

供应理解并认可 PMG 受到其客户和采购商某些强制性条款和条件的约束。供应商同意接受 PMG 使供应商知晓的 PMG 接受上述条款和条件约束的相同程度的约束。

## 11. Tooling

### 工装

Supplier, at its sole cost and expense, shall maintain all dies, equipment, molds, and tooling it uses to supply goods or services to PMG ("Tooling") in good working order. To the extent Supplier has possession of any Tooling owned or paid for by PMG ("PMG Tooling"), Supplier, at its sole cost and expense, shall maintain such PMG Tooling in good working order. Supplier shall not use PMG Tooling for any purpose other than performance of Orders issued by PMG. Supplier shall immediately: (a) upon request return PMG Tooling; (b) permit PMG access to Supplier's facilities during normal business hours to inspect PMG Tooling; (c) conspicuously label with placard, engraving, or other appropriate means all PMG Tooling in order to evidence PMG ownership thereof; and (d) shall not permit any lien, claim, or encumbrance to be placed on any PMG Tooling.

供应商应自行单独承担成本和费用，维护其所使用的所有模具、设备、模型和工具（“工装”），以良好的工作秩序向 PMG 提供货物或服务。在供应商占用 PMG 所有或支付的任何工具（“PMG 的工装”）的情况





下，供应商应自付费用维护该 PMG 工装处于良好工作状态。供应商不得为除执行 PMG 订单外的任何目的，使用 PMG 的工具。供应商应立即：(a)在 PMG 请求下返还工装；(b)在正常工作时间允许 PMG 进入供应场地检验工具；(c)采用张贴、刻印或其它合适方式显著标记表示所有 PMG 工具，证明 PMG 对上述工具的所有权；以及(d)不得允许任何 PMG 工具上出现任何留置权、权利要求或妨碍。

## 12. Warranty

担保

Supplier warrants to PMG that for a period of forty-eight (48) months from the delivery date (or such later date as customers of PMG shall require from PMG), all goods and services will: (a) be free from any defects in workmanship, material and design; (b) conform to all applicable specifications; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the goods or services. These warranties are cumulative and in addition to any other warranty provided by law or equity.

供应商向 PMG 担保交付日（或者 PMG 客户要求 PMG 的此类将来日期）后四十八（48）个月期间，所有货物和服务均会：(a)在工艺、材料和设计上不存在任何缺陷；(b)符合全部适用规格；(c)适于其设计目的，并按照预设意图运行；(d)可交易；(e)免于或没有所有留置权、担保物权或其它妨碍；以及(f)不对任何第三方的专利或其它知识产权构成损害或侵占。上述担保适用于货物或服务，或者为了货物或服务的交付、检验、接收或付款。上述担保是累积性的，此外还存在法律或股权规定的任何其它担保。

## 13. Recalls

召回

If any goods or services provided by Supplier become subject to any action by PMG, its customer, any third party, or any governmental agency to repair or remove such good or service to correct for reasons related to function, safety, or compliance with laws or regulations (a "Recall"), Supplier shall be liable for all costs, expenses, and losses that PMG incurs related to such Recall. This Recall obligation shall survive any termination of the relationship between PMG and Supplier and the expiration of any warranty provided by Supplier.





如供应商所提供任何货物或服务，成为 PMG、PMG 的客户、任何第三方，或者任何政府机构，就修复或取消上述货物或服务，以便为与功能、安全性，或者因遵照法律或法规规定原因而纠正的议题时（“召回”），供应商应负责上述与召回相关的 PMG 所产生的全部成本、费用和损失。上述召回义务应存续至 PMG 与供应商之间的任何关系终止，以及供应商所提供任何担保失效期前。

#### 14. Remedies

##### 补偿

If the goods or services provided by Supplier do not comply with the requirements of any applicable Order or the warranties contained in these Terms (“Defective Supply”), in addition to other remedies available in these Terms, at law or in equity, Supplier shall, at PMG’s election: (a) repair or replace such defective goods or services, or (b) credit or refund the price of such defective goods or services plus any incidental and consequential damages, including but not limited to inspection, test, transportation or customer charges incurred or paid by PMG. If Supplier delivers Defective Supply, PMG shall also have the right to obtain cover goods or services from a third party, and to collect from Supplier the difference between the cost of such cover goods or services and the Order price for the Defective Supply, and all incidental and consequential damages related thereto, including but not limited to costs or charges imposed on PMG by its customer. Any return by PMG of Defective Supply shall be at Supplier's expense and risk of loss.

如供应商所提供货物或服务不符合任何适用订单要求或上述条款中所含担保要求时（“有缺陷的供应”），除上述条款、法律或依衡平法中可实现的其它补偿外，供应商还应根据 PMG 的选择：(a)修理或替换上述有缺陷的货物或服务，或者(b)记贷或返还上述有缺陷的货物或服务价格，加上任何附带和间接损失，包括但不限于 PMG 产生或支付的检验、测试、运输或客户费用。如供应商交付有缺陷的供应货物或服务，PMG 还有权从第三方处取得货物或服务保险，并向供应商收取针对有缺陷的供应的，上述货物或服务保险和订单价格，与所有与此相关的附带和间接损失，包括但不限于 PMG 的客户加在 PMG 上的成本和费用，之间的差值。任何 PMG 退回有缺陷的供应应由供应商承担费用和损失风险。



## 15. Indemnification

### 豁免

Supplier shall defend, indemnify, and hold harmless PMG, its affiliates, subsidiaries, customers, and each other third party to which goods or services are provided, and each of their respective shareholders, members, directors, officers, attorneys, employees, agents, successors and assigns from and against any and all causes of action, claims, liabilities, or losses arising out of or relating to: (a) any breach by Supplier of these Terms or any Order; (b) any defect in or non-compliance with specification of any good or service provided by Supplier; (c) Supplier's negligent or more culpable conduct; (d) any personal injury, death, or property damage arising from the performance by Supplier under any Order, irrespective of whether PMG is alleged to be or is negligent; (e) any Recall relating to the goods or services of Supplier; and (f) any claim that the goods or services provided by Supplier infringe the intellectual property rights of any third party. The indemnification obligations under this Section shall survive any termination of these Terms or any Order. In no event shall Supplier enter into any settlement without PMG's prior written consent.

供应商应保护、豁免并保持 PMG、PMG 的下属机构、子公司、客户及所提供货物或服务的每个其它第三方，以及其各股东、成员、董事、官员、律师、雇员、代理人、继任人及受让人，免于并抗制下列产生或相关的任何和全部诉因、索赔、义务或损失：(a) 供应商对上述任何条款或任何订单的违反；(b) 违背或不遵照供应商所提供任何货物或服务规格；(c) 供应商的疏忽或有更多应责备之处的行为；(d) 因供应商在订单下执行而导致的人员伤害、死亡或财产损失，与 PMG 是否被指称或实际上存在的疏忽无关；(e) 任何与供应商货物或服务相关的召回；以及 (f) 任何就供应商所提供货物或服务侵害了任何第三方知识产权的声明。本章下的豁免义务应存续至上述条款或任何订单的任何终止期。在任何情况下，供应商均不得在缺少 PMG 事先书面同意下，签订和解协议。

## 16. Insurance

### 保险

During the Term and for a period of sixty (60) months after the last provision of goods or services under any Order, Supplier shall, at its own expense, maintain and carry in full force and effect at least the following types and amounts of insurance coverage, subject to the requirements set forth in this Section: (a) Commer-



cial General Liability with limits no less than RMB 30,000,000 for each occurrence and \$5,000,000 in the aggregate, including bodily injury and property damage and products and completed operations and advertising liability; (b) Commercial Automobile Liability with limits no less than \$1,000,000, combined single limit for each occurrence involving personal injuries and/or property damage; (c) Product Recall with limits no less than \$5,000,000 per occurrence covering a voluntarily recall by PMG or imposed upon PMG by any customer, third party, or governmental agency.

Supplier shall ensure that all insurance policies required pursuant to this Section: (a) be issued by insurance companies reasonably acceptable to PMG; (b) provide that such insurance carriers to PMG at least 30 days' prior written notice of cancellation or non-renewal of policy coverage; (c) provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of PMG shall be excess and non-contributory; (d) name PMG and PMG's affiliates, including, in each case, all successors and permitted assigns, as additional insureds and (e) waive any right of subrogation of the insurers against PMG or any of its affiliates.

Upon the written request of PMG, Supplier shall provide PMG with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section, and shall not do anything to invalidate such insurance. This Section shall not be construed in any manner as waiving, restricting or limiting the liability of Supplier for any obligations imposed under this Agreement (including but not limited to any provisions requiring Supplier to indemnify, defend and hold PMG harmless under this Agreement).

Once PMG proposes written requirement, the supplier shall provide PMG with duplicate of insurance policy and insurance clause that covers all insurance scopes required in this sector, and shall not have any behavior that makes the insurance invalid. The regulation of this sector shall not be interpreted as waiver, restriction of any responsibility that the supplier shall bear under the Agreement in any form (including but not be limited to, requiring the supplier to defend PMG and exempt PMG from compensating).

在条款有效期及任何订单下最后供应批次货物或提供服务后六十（60）个月期限内，供应商应根据本章所设要求，自行承担费用，购买至少下列类型和金额的保险覆盖品种并保证其始终有效：(a)综合商业责任险，每次出现限度不低于 5,000,000 美元或 3 千万人民币，合计不低于 5,000,000 美元或 3 千万人民币，包括身体伤害、财产和产品损失、完成营运和广告的责任；(b)商务汽车责任险，结合每次出现的单次限度，包括人员伤害和/或财产损失，限度不低于 1,000,000 美元或 1 千万人民币；(c)产品召回险，每



次出现限度不低于 5,000,000 美元或 3 千万人民币，覆盖 PMG 的主动召回，或者任何客户、第三方或政府机构强制 PMG 的召回。

供应商应按照本章要求确保全部保险政策：(a) 由被 PMG 接受的保险公司出具并；(b) 在保险取消或终止延续时至少提前 30 天书面通知 PMG 并向 PMG 提供上述保险的承保单位；(c) 保险是优先保险，且以 PMG 为受益人和/或为 PMG 利益的任何类似保险，额度应为超额且非共享的；(d) 提名 PMG 和 PMG 下属机构，包括各个情况中的所有继任人和许可受让人，作为附加被保险人，并且(e) 免除投保人代位 PMG 或任何 PMG 下属机构取得的任何权利。

一旦 PMG 提出书面要求，供应商应当向 PMG 提供保单副本和本节要求的涵盖全部保险范围的保险条款，且不得有任何使得该保险无效的行为。本节规定不得以任何方式被解释为放弃、限制供应商在本协议项下应承担的任何责任（包括但不限于，要求供应商为 PMG 辩护使得 PMG 免于赔偿）。

## 17. Limitation of Liability

### 责任限制

In no event shall PMG have liability to supplier or to any third party for any consequential, incidental, exemplary, special, or punitive damages, including but not limited to lost profits, capital expenditure, research and development, engineering costs, facilities and equipment rental or purchase, line mobilization or demobilization costs, or administrative expenses, whether incurred directly or indirectly by supplier, and irrespective of whether supplier made PMG aware of such costs, damages, or expenses. Supplier acknowledges and agrees that the total liability of PMG to supplier shall not exceed the price to be paid by PMG under the order at issue.

在任何情况下，PMG 均不对供应商或任何第三方，就任何间接、附带、惩罚性、特殊或处罚性损失，承担责任，包括但不限于利润损失、资本开支、研发、工程成本、设施和设备租赁或采购、生产线动员或遣散成本，或者行政开支，无论是否由供应商直接或间接引发，与供应商是否使 PMG 了解上述成本、损失或开支无关。供应商认可并同意 PMG 对供应商的全部责任不得超过 PMG 在出具订单下支付的价格。



## 18. Set-off

抵消

PMG may at any time deduct from any payment it owes to Supplier all or any part of any cost, damage, or loss related to any delivery of Defective Supply or other breach by Supplier of these Terms or any Order. PMG will advise Supplier prior to or contemporaneously with its exercise of such setoff or deduction, including to advise Supplier of the basis for such deduction or setoff.

PMG 可在任何时间从应付给供应商的款项中直接扣减与缺陷供应交付或者供应商其它违反上述条款或订单相关的全部或部分成本、损坏或损失。PMG 将在其执行上述抵消或减计之前或同时告知供应商，包括告知供应商上述减计或抵消的根据。

## 19. Technical Data; Intellectual Property

技术数据；知识产权

Supplier shall create, maintain, update, and provide to PMG, in compliance with PMG's requirements, all technical information about the goods and services as reasonably requested by PMG, including, without limitation, the engineering validation and qualification of the goods for production and use and compliance with any legal or regulatory requirements. Such technical information shall not be subject to any use or disclosure restrictions imposed upon PMG.

PMG is and shall be the sole and exclusive owner of all right, title and interest throughout the world in and to all the results and proceeds of the goods delivered or services provided under any Order, including all patents, copyrights, trademarks, trade secrets and other intellectual property rights (collectively "Intellectual Property Rights") therein. All goods and services provided by Supplier to PMG are "works made for hire" as defined in Chinese Patent Law and its Implementation Rules. If, for any reason, any goods or services do not constitute "works made for hire," Supplier irrevocably assigns to PMG, without additional consideration, all right, title and interest throughout the world in and to the goods and services, including all Intellectual Property Rights therein.



Supplier shall make full and prompt disclosure to PMG of any inventions or improvements made in connection with performance of any Order, whether or not such inventions or improvements are patentable or protected as trade secrets. Supplier shall, when requested by PMG, promptly take such further actions, including execution and delivery of all appropriate instruments, as may be necessary to assist PMG to prosecute, register, perfect, record or enforce its rights in any goods or services. In the event PMG is unable to obtain Supplier signature on any such documents, Supplier hereby irrevocably designates and appoints PMG as its attorney-in-fact, to act for and on behalf of Supplier solely to execute and file any such document and do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other Intellectual Property Rights related to the goods and services. This power of attorney is coupled with an interest.

To the extent that any pre-existing Intellectual Property Rights of Supplier are contained in the goods or services, Supplier retains ownership of such preexisting Intellectual Property Rights and hereby grants to PMG an irrevocable, worldwide, unlimited, royalty-free license to use, publish, reproduce, display, distribute copies of, prepare derivative works based upon, assign, transfer, and sublicense through multiple levels of sublicenses such preexisting Intellectual Property Rights and derivative works thereof. Except for such pre-existing Intellectual Property Rights Supplier has no right or license to use, publish, reproduce, prepare derivative works based upon, distribute, perform, or display any goods or services prepared for PMG under any Order.

Supplier agrees not to assert any claim, including, without limitation, breach of confidentiality or misappropriation of trade secrets, against PMG, its customers, its affiliates, or each of their respective suppliers with respect to any technical information that Supplier disclosed or may disclose in connection with the goods or services provided by Supplier to PMG.

供应商应按照 PMG 的要求，创建、维护、更新并向 PMG 提供 PMG 合理请求的货物和服务相关全部技术信息，包括但不限于生产和使用货物的工程批准和资质，以及与任何法律或法规要求的一致性。上述技术信息不受 PMG 强制任何使用或披露约束的限制。

PMG 是且应是全世界范围内，在任何订单下所交付货物或所提供服务全部结果和进程中，及对此的，全部权利、所有权和利益唯一和排他性的所有者，包括协议全部专利、版权、商标、商业机密和其它知识产权（一并称为“知识产权”）。供应商向 PMG 所提供全部货物和服务为中国专利法及其实施细则中定义的“为受雇而工作”。如因任何原因，任何货物或服务不构成“为受雇而工作”，供应商毫无保留且不可撤销



地将全世界内的货物和服务中，及对此的所有权利、所有权和利益，分派给 PMG。

供应商应向 PMG 完全并及时地披露与执行任何订单有关的任何发明或改进，无论上述发明或改进是否可取得专利或按照商业机密得到保护。供应商应在 PMG 要求时，及时采取上述进一步的行动，包括执行并交付对协助 PMG 贯彻、登记、完善、记录或执行其在任何货物或服务中的权利，全部合适的说明。如 PMG 无法取得供应商对任何上述文件的签字，供应商再次不可撤销地指定并委托 PMG 作为其法律代理人，代理并代表供应商唯一执行并编制任何上述文件，并做出全部其它法律许可的行动，促进货物和服务相关专利、版权或其它知识产权的贯彻并颁发。本委托书附有权益。

在任何预先存在的供应商知识产权包含在货物或服务中的程度内，供应商保留上述预先存在知识产权的所有权，在此将上述预先存在的知识产权及其衍生作业的，使用、公布、复制、展示、分配复件、其基础上的衍生作业准备、分派、转让、多层分领执照人之间的执照分领的，不可撤销、全球性、不受限制、免版税许可证，赠予 PMG。除上述预先存在的知识产权之外，供应商无权或不被许可使用、公布、复制、准备其基础上的衍生作业、分派、执行，或者展示为 PMG 在任何订单下准备的任何货物或服务。

供应商同意不对 PMG、PMG 的客户、PMG 下属机构，或者与供应商已披露或可能披露的，与供应商向 PMG 所供应货物或服务有联系的，任何技术信息相关的每名上述机构，提出任何权利主张，包括但不限于商业机密的保密条款违反或滥用。

## **20. Confidentiality**

### **保密条款**

All information of PMG, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, customer lists, or pricing information that PMG discloses or makes available to Supplier, whether orally or disclosed or in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential," is confidential, to be used solely for performing the Order, and may not be disclosed or copied unless authorized by PMG in writing. Upon PMG's request, Supplier shall promptly return all documents and other materials received from PMG. PMG shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Supplier at the time of disclosure; or (c) rightfully obtained by the Supplier on a non-confidential basis from a third party with no obligation to maintain the confidentiality of such information. Supplier is liable for all losses which PMG suffers as a result of a breach of these confidentiality obligations,





including losses caused by the employees of Supplier or by any party to which Supplier or any of its employees disclosed or made available confidential information of PMG.

PMG 的全部信息，包括但不限于 PMG 向供应商披露或使供应商可获取的规格、样品、款式、设计、计划、图纸、文件、数据、客户列表或定价信息，无论是口头或披露，或者以书面、电子或其它媒体方式，并且无论是否标注、指定或特别标识为“保密”的，均属保密范围，仅限用于执行订单，除非 PMG 书面授权，否则不得披露或复制。在 PMG 要求时，供应商应及时返还从 PMG 处收到的全部文件和其它材料。PMG 有权对任何本章的违反行为做出禁令性救济。本章不适用于下列信息：(a)在公共领域内；(b)在披露时已被供应商知晓；或者(c)供应商从第三方处基于不需保密基础的正当取得，对维护上述信息的保密性没有责任。供应商对 PMG 因破坏上述保密性义务所导致的全部损失负有责任，包括因供应商雇员，或者供应商或其任何雇员所披露的任何其它方，或者使 PMG 保密信息可被任何其它方获取，所导致的损失。

## **21. No Solicitation of Employees**

### **禁止招揽对方雇员**

Supplier understands and acknowledges that PMG has expended and continues to expend significant time and expense in recruiting and training its employees and that the loss of employees would cause significant and irreparable harm to PMG, and that in performance of Orders Supplier will become aware of the identities, knowledge, and skills of the employees of PMG. Accordingly, Supplier agrees and covenants not to directly or indirectly solicit, hire, recruit, or attempt to hire or recruit, or induce the termination of employment of any employee of PMG during the performance of any Order and for one (1) year thereafter. Notwithstanding the foregoing, Supplier shall be free to hire any employee of PMG that responds to a general solicitation for employment made by Supplier that is not specifically directed toward any employee of PMG.

供应商理解并认可 PMG 已花费并继续花费重要时间和开支于招聘、培训其雇员上，雇员的损失会导致对 PMG 显著和不可恢复的伤害，且在执行订单时，供应商已变为了解 PMG 雇员的身份、知识和技术。相应地，供应商同意并订立契约，在任何订单的执行期及此后一（1）年内，不直接或间接招揽、雇佣、招聘，或者尝试雇佣或招聘，或者促使任何 PMG 雇员雇佣期终止。尽管有上述规定，供应商也有自由可以在不特定指向 PMG 任何雇员的供应商所做的一般性雇佣招揽中，招揽任何 PMG 雇员。



## 22. Non-Circumvention

### 竞业禁止

Supplier understands and acknowledges that the scope of Confidential Information to be disclosed by PMG will include customer information and business opportunity information about which Supplier would be unaware absent disclosure of such Confidential Information by PMG. Accordingly, Supplier agrees that during the course of any negotiation or business relationship between PMG and Supplier, and for one (1) year after the conclusion of any Order, or the last disclosure of Confidential Information by PMG, whichever is later, Supplier will not induce, influence, encourage, or attempt to induce, influence, or encourage, any actual or prospective customer or supplier of PMG to: (a) engage in a transaction directly with Supplier for products or services competitive with those offered by PMG, or (b) alter or terminate any actual or prospective business relationship with PMG.

供应商理解并认 PMG 披露的保密信息范围，将包括与供应商可能不知道但 PMG 无意间所披露的有关客户信息和商业机会信息的保密信息。相应地，供应商同意在 PMG 与供应商之间任何协商或商业关系过程中，以及任何订单结束或 PMG 最后披露保密信息之间较迟时间后一（1）年内，供应商不会引诱、影响、鼓励，或者试图引诱、影响或鼓励任何实际或潜在的 PMG 客户或供应商：(a)直接参与与供应商就与 PMG 所提供产品或服务有竞争关系的产品或服务交易，或者(b)改变或终止与 PMG 的任何实际或潜在商业关系。

## 23. Term; Termination

### 条款；终止

These Terms shall remain in effect for so long as any Order is in effect. PMG may provide to Supplier at any time updated terms and conditions of purchase, which shall govern all performance by Supplier after the date of issuance of such updated terms and conditions, irrespective of when the Order was issued by PMG. PMG may terminate for cause any Order or its relationship with Supplier immediately upon (a) breach by Supplier of these Terms or any Order; (b) any voluntary or involuntary bankruptcy petition filed by or against Supplier; or (c) any appointment of a receiver for or assignment for the benefit of creditors of Supplier. PMG may terminate for convenience any Order or its relationship with Supplier upon thirty (30) days prior written notice to Supplier.



If PMG terminates any Order its relationship with Supplier for any reason, Supplier shall: (a) promptly cease all work for PMG for such Order or in its entirety, (b) protect any goods or equipment of PMG in the possession of Supplier, and (c) provide such assistance to PMG as is reasonably required to accomplish an orderly and non - disruptive transition of supply to another supplier. If PMG terminates any Order or its relationship with Supplier for convenience, PMG shall: (a) pay the Order price for all goods and services that have been completed and delivered to and accepted by PMG, and (b) purchase from Supplier any work-in-progress which are useable and merchantable, at a price in proportion to the completeness of the work-in-progress and the Order price for such finished goods.

上述条款应在任何订单生效期间维持效力。PMG 可在任何时间向供应商提出更新后的采购条款和条件，上述更新后的条款和条件应管辖其出具日后，供应商的全部执行，与 PMG 何时出具订单无关。PMG 可在下列情况中，根据原因立即终止任何订单或其与供应商之间的关系：(a)供应商违反上述条款或任何订单；(b)供应商提出或针对供应商提出的任何主动或非自愿破产申请；或者(c)为供应商债权人的利益所做的任何接收者任命或委托。PMG 可在提前三十（30）天事先书面通知供应商时，出于便利条件，终止任何订单或其与供应商之间的关系。

如 PMG 因任何原因终止任何订单或其余供应商的关系，供应商应：(1)及时中止因上述订单或总订单为 PMG 所做的所有作业，(b)保护供应商所占用的 PMG 的任何货物或设备，并且(c)向 PMG 提供对完成供应货物或服务有序、不中断地转移给另一家供应商，所合理要求的协助。如 PMG 因便利条件终止任何订单或其与供应商之间的关系，PMG 应：(a)支付已完成并已交付至 PMG 的，且 PMG 已经接受的，全部货物和服务的订单价格，并且(b)按照进程中作业完成比例和上述完成货物的订单价格，从供应商处采购可使用和可交易的任何进程中作业。

## **24. Cessation of Supply**

### **停止供应**

Disruptions in PMG's supply chain are deleterious to its business operations and ability to compete. If any Order accepted by Supplier requires performance for twelve months or longer, Supplier shall provide to PMG at least nine (9) months prior to the end of such Order written notice that Supplier does not intend or will not continue to supply goods or services to PMG after completion of such Order. Supplier understands and acknowledges that failure to provide such notice to PMG will cause irreparable harm to PMG's business and



customer relationships. Nothing in this Section gives Supplier any ability to excuse performance under any Order accepted by Supplier. Supplier is contractually committed to perform fully under any accepted Order.

PMG 供应链的间断对其商业营运和完成能力是不利的。如供应商接受的任何订单要求执行十二个月或以上，供应商应在结束上述订单前至少九（9）个月向 PMG 发出供应商在上述订单完成后，不希望或不会继续向 PMG 供应货物或服务的书面通知。供应商理解并认可未向 PMG 提供上述通知将导致对 PMG 商业和客户关系的不可修复的伤害。本章中的任何内容均不构成供应商在其所接受任何订单下，为执行差错找借口的任何能力。供应商根据合同，承诺任何已接受订单下的履行全部义务。

## **25. Compliance with Laws**

### **遵守法律**

The suppliers is requested to comply with the PMG Supplier Code of Conduct and to confirm this by signing the Supplier Declaration.

The supplier is in compliance with and shall comply with all applicable laws, regulations, and ordinances applicable to the goods, services, and business of the supplier. The supplier has and shall maintain in effect all the licenses, authorizations, and permits that it needs to carry out its obligations under any Order. The supplier shall comply with all import and export laws of all countries involved in the sale of goods under this Order. If the supplier engages third parties to fulfil its duties, it shall ensure that any third party complies with the PMG Suppliers Code of Conduct. Any such engagement of any third party is in all events subject to the express prior written approval of purchaser. Neither the supplier nor any person acting on its behalf has violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, and the supplier has instituted and maintains policies and procedures reasonably designed to promote and achieve compliance with all applicable laws.

Supplier shall provide to PMG upon request evidence of its continued compliance with this Section. If the supplier does not comply with the principles stipulated in the PMG Suppliers Code of Conduct, purchaser has the right to terminate the contract for good cause with immediate effect.

供应商应遵守 PMG 供应商行为准则，并通过签署供应商声明予以确认。

供应商遵守并应遵守适用于供应商货物、服务和业务的所有适用法律、法规和条例。供应商拥有并应保持其履行任何订单下义务所需的所有许可证、授权和许可证的有效性。供应商应遵守与本订单项下货物



销售有关的所有国家的所有进出口法律。如果供应商雇佣第三方履行其职责，则应确保任何第三方遵守 PMG 供应商行为准则。任何第三方的任何此类聘用在任何情况下均须事先获得买方的明确书面批准。供应商或代表其行事的任何人均未违反或正在违反 1977 年《反海外腐败法》的任何规定，供应商已制定并维持合理设计的政策和程序，以促进和实现对所有适用法律的遵守。

供应商应根据要求向 PMG 提供其继续遵守本节规定的证据。如果供应商不遵守 PMG 供应商行为准则中规定的原则，买方有权以正当理由终止合同，并立即生效。

## **26. Relationship of Parties**

### 各方关系

The relationship of Supplier and PMG is that of independent contracting parties. Nothing in these Terms or any Order creates any form of joint venture, partnership, principal-agent, or employer-employee relationship between Supplier and PMG. Supplier has no authority to assume or create any obligation on behalf of or in the name of PMG.

供应商与 PMG 之间的关系是独立签约方之间的关系。上述条款或任何订单中的任何内容均不构成供应商与 PMG 间的，任何形式的联营、合伙、委托代理或者雇主雇员间的关系。供应商无权代表 PMG 或以 PMG 的名义承担或履行任何义务。

## **27. Ownership of Tooling**

### 工装所有权

All tooling (including patterns, fixtures, or jigs) paid for by PMG and used by Supplier to perform under any Order is the property of PMG. PMG shall have sole ownership of the tools. All modifications to tools must be approved by PMG in writing. Prototypes must be provided for inspection and approval following each modification.

PMG 已支付且被供应商使用的，为任何订单下执行的全部工装（包括图案、固定装置或钻模）属于 PMG 的财产。PMG 有权要求占用上述工装。对工具的所有修改必须获得 PMG 的书面批准。每次修改后，必须提供原型以供检查和批准。



## 28. Force Majeure

### 不可抗力

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under any Order or breached these Terms, for any failure or delay in performance, when and to the extent such failure or delay is caused by or results from the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government action, order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement. Within three (3) days of the Force Majeure Event the impacted party shall give notice to the other party, stating the period of time the occurrence is expected to continue. The impacted party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the impacted party's failure or delay remains uncured for a period of thirty (30) days following written notice given by it under this Section, the other party may thereafter terminate this Agreement for cause. To the extent force majeure is invoked by Supplier due to circumstances that result in a shortage of goods or services, Supplier shall allocate its reserves of such goods or provision of such services to PMG as is proportionate to PMG's annual volume purchases of goods or services when compared to total annual volume of goods or services sold by Supplier in China.

任何一方均不对另一方，也不认为在任何订单默认或违反上述条款情况下的任何不履行或延迟履行，在上述不履行或延迟履行是因下列不可抗力事件（“不可抗力事件”）所导致或产生的结果时，负有义务或责任：(a)天灾；(b)洪水、火灾、地震或爆炸；(c)战争、侵略、敌对（无论是否宣战）、恐怖主义威胁或行为、暴动或其它国内动乱；(d)政府行动、指令或法律；(e)本《协议》生效日时或之后的行动、出入港口禁令或封锁。在不可抗力事件出现三（3）天内，受影响的一方应对另一方提出通知，说明时间出现预计延续的时间期限。受影响一方应在上述原因消除后合理可实施时，恢复履行其义务。如受影响一方不履行或延迟履行，在本章下其做出书面通知后三十（30）天期限时，仍维持不变，另一方可随后据此终止本《协议》。在供应商因环境导致缺少货物或服务而诉求于不可抗力的范围内，供应商应向 PMG 分配，对于相比中国境内供应商所销售货物或服务年度总量而言，在 PMG 年度货物或服务采购量中成比例的，供应商所储备的，上述货物或上述服务供应。



## 29. Miscellaneous

### 其它事项

These Terms, all Orders, and the parties relationship are governed by the laws of China in which the PMG facility issuing the Order is located, excluding the provisions of the United Nations Convention on Contracts for the International Sale of goods and any choice of law provisions that require application of any other law. Each party hereby irrevocably submits to the personal jurisdiction of, and agrees that all disputes arising out of or relating to the relationship of the parties, any Order, or these Terms shall be heard exclusively in courts located in or most proximate to the PMG facility issuing the Order is located.

Should one or more of the provisions of these Terms become invalid or unenforceable, the remaining provisions of these Terms shall remain in full force and effect.

Amendments and additions to these Terms must be in writing (email excluded) and signed by both parties. The failure of PMG to require performance by Supplier shall not affect PMG's right to require such performance at any later time, nor shall the waiver by PMG of a breach by Supplier constitute a waiver of any succeeding breach of the same or any other provision. No failure or delay by PMG in exercising any right or remedy shall operate as a waiver thereof. No course of dealing or course of performance may be used to evidence a waiver or limitation of Supplier's obligations under this Contract.

PMG may assign its rights and obligations under this Contract without Supplier's prior consent. Supplier may not assign or delegate its rights or obligations under this Contract without the prior written consent of an authorized representative of PMG.

Supplier shall not, in any manner, advertise or publish that Supplier has contracted to furnish PMG the goods or services or use any trademarks or trade names of PMG in, or on, Supplier's goods, advertising or promotional materials unless an authorized representative of PMG consents in writing.





PMG has the right, at PMG's expense, to audit and review all relevant documents and information relating to Supplier's performance under any Order. Supplier shall maintain and preserve all such documents and information for a period of five (5) years following final payment under each Order. Supplier shall provide PMG with reasonable access to its facilities and otherwise cooperate and facilitate any such audits by PMG.

Should any conflict arise between an Order and these Terms, the more specific document shall govern. These Terms and any Order issued by PMG hereunder, together with the attachments, exhibits, supplements, or other terms of PMG specifically referenced in any Order, constitute the entire agreement between PMG and the Supplier with respect to the matters contained therein and supersede all prior oral or written understandings, representations, and agreements.

上述条款、全部订单和各方关系均受到 PMG 场地出具订单所在地的法律管辖，此外还有《联合国国际货物销售合同公约》和要求采用任何其它法律的任何法律条件选择。各方在此不可撤销地向人员管辖地提交并同意因各方关系、任何订单或上述条款而产生或与之相关的全部争议，均应在位于或最接近于 PMG 场地出具订单所在地的法院。

如上述条款的一项或多项条件失去效力或不可执行，上述条款的剩余条件仍维持全部效力和效应。

对上述条款的修订或增补必须有双方的书面（不包括电子邮件）签字。PMG 未要求供应商履约不影响 PMG 的在任何较晚时间提出上述履约的要求，PMG 对供应商违约的责任免除也不构成对上述条件或任何其它条件的任何后续违反的责任免除。任何 PMG 在行使任何权利或补偿中的未履行或延迟履行均不得作为相关责任免除来操作。任何交易过程或履约过程均不能被用作对供应商在本《合同》下责任免除或限制的证据。

PMG 可在缺少供应商事先同意下，分配其在本《合同》下的权利和义务。供应商不得在缺少 PMG 授权代表的事先书面同意下，分配其在本《合同》下的权利和义务。

供应商不得以任何方式，在供应商的货物、广告或宣传材料中或在此基础上，发布广告或公布，称供应商已订立合同向 PMG 供应货物或服务，或者使用 PMG 的任何商标或商品名，除非 PMG 授权代表书面同意。



PMG 有权自行承担费用，审计并审核任何订单下，与供应商履约相关的全部有关文件和信息。供应商应将全部上述文件或信息，维护并保持到每份订单下最终付款后十（10）年时期。供应商应向 PMG 提供进入供应商场地，与 PMG 任何上述审计配合并促进上述审计。

如一份订单与上述条款间产生任何冲突，应受到更特定文件的约束。PMG 在协议下出具的上述条款和任何订单，连同任何订单中 PMG 特别参考的复件、展示、补充或其它条款，均一并构成 PMG 和供应商间，就协议所含问题，所达成完整合同，并应始终优先于口头或书面的理解、陈述和协议。