

General Terms and Conditions

一般条款和条件

1. DEFINITIONS 定义

In this Agreement, unless inconsistent with the context or otherwise specified, the following terms shall have the following meanings:

在本协议中，除非与上下文不一致或文中另有所指，下列文字应具有以下的含义：

“**PRC**” means the People’s Republic of China (for purpose of this Agreement, refers to the Chinese Mainland, and excludes Hong Kong SAR, Macao SAR and Taiwan district);

“**中国**”是指中华人民共和国（为本协议之目的，特指中国大陆地区，不包括香港特别行政区、澳门特别行政区以及台湾地区）；

“**RMB**” means Renminbi, the lawful currency of the PRC;

“**人民币**”是指中国的法定货币；

“**Agreement**” means this General Terms and Conditions, together with Purchasing Order/ Purchasing Agreement signed by Buyer and Vendor and all the Appendices hereof;

“**本协议**”是指本一般条款和条件、由买方和卖方签署的采购订单/采购协议以及所有附件；

“**Services**” means any services to be supplied to Buyer by Vendor in relation to this Agreement, as specified in details in the Purchasing Order/ Purchasing Agreement;

“**服务**”是指采购订单/采购协议中列明的与本协议相关的、由卖方提供给买方的服务；

“**Goods**” means any goods to be purchased by Buyer from Vendor in relation to this Agreement, as specified in details in the Purchasing Order/ Purchasing Agreement;

“**商品**”是指采购订单/采购协议中列明的、与本协议相关的、由卖方提供给买方的商品；

“**Contract Price/Fees and Expenses**” means the subtotal referred to in the Purchasing Order/ Purchasing Agreement for Vendor’s provision of Services and/or Goods;

“**合同价格/费用**”是指在采购订单/采购协议

中列明的买方向卖方支付的服务和/或商品的费用；

“**Working Staff**” means in respect of either party, any personnel engaged by such party (including without limitation to the employees, agents and sub-contractors) in connection with this Agreement;

“**工作人员**”是指为本协议之目的，任何一方雇佣的任何人员（包括但不限于员工、代理人以及承包商）；

“**Taxes**” means all taxes, duties or charges levied or imposed by any governmental authority (other than taxes imposed on either party’s income) and includes, without limitation, value-added tax or similar broad based consumption tax or withholding taxes involved in the overseas payments; and

“**税**”是指任何相关的政府机构征收的税、关税或费用（但不包括所得税），包括但不限于增值税、消费税或在海外付款中涉及的代扣代缴税款；以及

“**Affiliate**” means any entity, directly or indirectly, controlling, controlled by, or under common control with such entity, in each case on, or at any time after, the date of this Agreement (as defined below), where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management of a person or entity, whether through the ownership of securities, by contract or otherwise;

“**关联企业**”是指在本协议签订之日（详见下文之定义）之后的任何时间直接或间接地控制、被控制、或与该实体同属于一个控制人的任何实体。“**控制**”是指直接或间接地通过持股、合同或其他方式拥有管理另一人或实体的权力；

“**Effective Date**” means the date on which Buyer and Vendor signs the Purchasing Order/ Purchasing Agreement. In the case Buyer and Vendor does not sign the Purchasing Order/ Purchasing Agreement at the same date, Effective Date means the later signature date;

“**生效日**”是指买方和卖方签署采购订单/采购协议的日期。在买方和卖方不在同一日期签署采购订单/采购协议的情况下，生效日是指日期较后的签署日期；

“**Business Day**” or “**Working Day**” means any day other than the national holidays on which the commercial banks are generally

open for business in PRC;
“营业日”或“工作日”是指除中国国家公众假日外的中国商业银行通常营业的日期;

“Confidential Information” means, any and all proprietary and other information concerning Buyer's business and operation or related to this Agreement, which becomes known to Vendor as a result of performance of this Agreement. Proprietary information includes, but is not limited to, corporate plans and strategies, new product samples, specifications, formulations and pricing information as well as the existence, contents and results of this Agreement; but shall not include any such information or material insofar as it is proven that it:

“保密信息”是指卖方履行本协议而知悉的、关于买方的商业及其运营、或与本协议相关的任何及所有专有信息及其他信息。专有的信息包括，但不限于企业计划和战略、新产品的样品、说明、规划以及定价信息和关于本协议的存在、其内容和结果的信息；但是不包括：

- a. was in the receiving party's possession prior to receipt from the other party;
卖方在接受之前就已经拥有的信息和材料;
- b. was received by a party in good faith from a third party not subject to a confidentiality obligation;
卖方从第三方合法获得的无需承担保密义务的信息和材料;
- c. now is or later becomes publicly known through no breach of the confidentiality obligations of the receiving party;
非因卖方违反保密义务，目前或今后为公众所知的信息和材料;
- d. was developed by the receiving party without the developing persons having had access to any of the Confidential Information of the other party; or
未接触买方机密信息的开发人员独自开发的信息和材料；或
- e. is authorised in writing by the party to whom the information relates to be released or is designated in writing by the party to whom the information relates as no longer being confidential or proprietary.
经买方书面授权公开或经买方书面指定

为不再保密或不再拥有的任何信息或材料。

2. INTERPRETATIONS 释义

2.1 A reference to any statute, enactment, ordinance, order, regulation or other similar instrument includes a reference to the statute, enactment, ordinance, order, regulation or instrument as from time to time amended, extended, re-enacted or consolidated and all statutory instruments, orders, regulations or instruments made pursuant to it.

在提到任何法律、法规、条例、命令、规章或其他类似文件时应包括在不同时间内对上述法律、法规、条例、命令、规章或文件所作的修订、扩展、重新制定或合并，以及依据其各种法律文书、命令、规章或文件。

2.2 Clause headings are for ease of reference only and are not intended to be part of or to affect the meaning, interpretation or construction of any of the terms and conditions of the Agreement.

条款标题仅供参考，不得当作本协议任何条款或条件的组成部分且不能对其涵义、解释或构成产生任何影响。

2.3 A reference to any gender includes any other gender and the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.

在提到任何一种性别时应同时包含另一性别；在使用复数时应同时包含单数；在提到法人团体时应同时包含非法人团体。在上述各种情况中反之亦然。

2.4 Unless the context otherwise requires, those provisions contained in the Agreement which relate to any subject matter of which there are more than one shall apply severally to each.

除非上下文另有说明，否则本协议

中与一项以上任何事务有关的条款均应分别适用。

并且自本协议生效日起，本协议的条款对其有法律约束力；

2.5 Clauses, Sections, Pages, and the Schedules referenced by name shall refer to the Clause, Section, Page, or the Schedule having the title referred to.
引用名称的条款、章节、页码及附录是指该引用名称下的条款、章节、页码及附录。

d. Its execution of this Agreement and its performance of its obligations hereunder: (i) will not violate any provision of its business license, articles of incorporation, articles of association or similar organizational documents; (ii) will not violate any applicable law or any governmental authorization or approval, and (iii) will not violate or result in a default under any contract to which it is a party or to which it is subject;

2.6 The meaning of general words is not limited by specific examples introduced by "including", "for example" or "such as" or their derivatives.
通用文字的涵意不仅限于“包括”、“例如”或“譬如”或其派生词所列举的特定例子。

其签署和履行本协议：（i）不会违反其营业执照、公司章程或类似的组织文件；（ii）不会违反任何可适用的法律或任何政府授权或批准；和（iii）不会违反或导致其不能履行其作为合同一方或对其具有约束力的合同；

3. REPRESENTATIONS AND WARRANTIES
陈述与保证

3.1 Each party represents and warrants to the other party that as of Effective Date of this Agreement:
本协议项下的一方向另一方陈述与保证，自生效日起：

e. No lawsuit, arbitration or other legal or governmental proceeding is pending or, to its knowledge, threatened against it that would adversely affect its ability to perform its obligations under this Agreement; and

a. It is duly organized and validly existing in good standing under the laws of the place of its establishment and principal place of business, possessing full capacity for civil rights and capacity for civil conductions;
其依据其设立地和主要营业地的法律有效设立和合法存续, 具有完全的民事权利能力和民事行为能力；

其无未决的诉讼、仲裁或其它法律或政府程序，或就其所知，将对其履行本协议项下的义务产生负面影响的上述程序；和

b. It has full authority to enter into this Agreement and to perform its obligations hereunder;
其具有完整的权力签署本协议并且履行其在本协议项下之义务；

f. It has disclosed to the other party all documents issued by any governmental authority that may have a material adverse effect on its ability to fully perform its obligations under this Agreement, and the documents previously provided by it to the other party do not contain any misstatements or omission of material facts.

c. It has duly authorized its representative to sign this Agreement, and from and after the Effective Date the provisions of this Agreement shall be legally binding upon it;
其已适当授权其代表签署本协议，

其已向另一方披露所有由政府部门发出的、可能对其完全履行其在本协议项下的义务产生重大负面影响的文件，且所有其此前向另一方提供的文件并无包含虚假陈述或遗漏重要事实。

3.2 Consequences of Inaccuracy in

Representations and Warranties
不实陈述的后果

If any of the above representations and warranties of a party is inaccurate in material aspects as of the Effective Date, such party shall be in material breach of this Agreement.

如果上述任何一方的陈述与保证自生效日起在任何实质方面是不准确的，该协议方将视为根本性违反本协议。

4. RELATIONSHIP
关系

4.1 This Agreement does not form an authorization granted by Buyer to Vendor for exclusively rendering the Services and/or Goods as specified in the Purchasing Order/Purchasing Agreement. Buyer is entitled to establish any contractual relationship with any third party for such Services and/or Goods concurrently.

本协议并不构成买方就采购订单/采购协议中列明的服务和/或商品授予卖方独家提供上述服务和/或商品的权利。买方有权就上述服务和/或商品同时与任何第三方签署合同。

4.2 Except as expressly authorized under this Agreement, neither party has authority to pledge the credit of or make any representation or give any authority to contract on behalf of the other party.

除非本协议另有明确的授权，本协议项下的任何一方无权假借另一方的名义，代表另一方作出意思表示或者代表另一方签署合同。

4.3 No Vendor's Working Staff shall be construed as being an employee of Buyer as the result of performance of this Agreement, and Vendor shall be fully responsible for its Working Staff for any and all property damage and personal injury incurred from performance of this Agreement.

卖方的工作人员不得由于履行本协

议而被视为买方的员工。卖方应当对其工作人员由于履行本协议而导致的任何及所有财产损失及人身伤害承担全部的责任。

5. QUALITY AND DELIVERY
质量和交付

5.1 Vendor shall do its best with all due care and diligence on rendering the Services and/or providing Goods to Buyer, and ensure to complete the Services and/or deliver the Goods successfully and timely as agreed upon by both parties under this Agreement. In the case Vendor fails to provide the Services and/or Goods as specified in this Agreement and the attached appendices, or in the case the quality of the Services and/or Goods provided by the Vendor fails to meet the standards as required by the Buyer, Buyer shall be entitled to deduct its payment of Contract Price/Fees and Expenses or claim refund of paid Contract Price/ Fees and Expenses and to claim liquidated damages against Vendor for breach of this Agreement.

卖方应当尽其最大的注意和勤勉的义务向买方提供本协议项下的服务和/或商品，以及确保按时和成功地按照本协议的约定向买方提供服务 and/或交付商品。若卖方不能按照本协议及其附件的约定向买方提供服务 and/或商品，或卖方提供的服务和/或商品不能达到买方要求的标准，买方有权减免合同价格/费用，或者主张返还已经支付的合同价格/费用，以及向卖方主张违约金。

5.2 Buyer is entitled under this Agreement to require Vendor to replace any Working Staff who has been proved to be incompetent to perform obligations under this Agreement. Vendor shall promptly replace the Working Staff upon receipt of Buyer's request for replacement. In the case the Vendor fails to replace the relevant Working Staff in

accordance with Buyer's timelines and requirements as stated in the replacement request, Buyer is entitled to early terminate or rescind this Agreement or adjust the services scope, without compensating the Vendor.

买方有权要求卖方更换被证实无法适当履行本协议项下义务的工作人员。卖方应当在收到买方要求更换的通知后立即更换该工作人员。如果卖方不能按照买方在更换通知中的要求和设定的时间更换相关的工作人员，买方有权提前终止或解除本协议，或调整相应的服务范围，而无须补偿卖方。

5.3 If any Working Staff of Vendor causes damage to Buyer by his/her negligence or intentional action, Buyer is entitled to claim for compensation against Vendor and Vendor shall keep Buyer harmless and fully indemnified for damages incurred. In addition, Buyer is entitled to early terminate or rescind this Agreement at its own discretion without further compensating the Vendor.

在卖方的工作人员由于故意或过失导致买方损害的情况下，买方有权向卖方主张损害赔偿，同时卖方应当全额赔偿买方因此而受到的任何损失。另外，买方有权在无须补偿卖方的情况下提前终止或解除本协议。

5.4 Until fully completion and acceptance of the Services and/or Goods under this Agreement, Buyer is entitled to amend or supplement this Agreement at any time and at its reasonable discretion. Should such adjustments change the scope of Services and/or Goods as set forth herein and Vendor's workload in a significant manner, the parties shall reach a supplementary agreement separately for the changed scope of Services and/or Goods.

直至本协议项下提供的服务和/商品被完全的履行且被买方所接受之前，买方有权在其认为合理的情况下修改和补充本协议。如果上述修

改和补充对本协议项下约定的服务和/商品的范围和卖方的工作量造成重大的变化，买卖双方应当就变更后的服务范围和/或商品的类型另行达成补充协议。

6. PAYMENT

付款

6.1 Contract Price/Fees and Expenses 合同价格/费用

a. The parties agree that the payment of Contract Price/Fees and Expenses shall be settled in accordance with time schedule (work schedule) and quality requirements as specified in relevant Appendix of this Agreement.

买卖双方同意本协议项下的合同价格/费用的支付应当按照本协议附件中列明的日期（工作进度表）和质量要求进行。

b. For domestic payment, the Contract Price/Fees and Expenses shall be inclusive value added tax (VAT) to be levied on Vendor in accordance with the applicable laws and regulations of PRC by virtue of or relating to the provision of the Services and/or Goods under this Agreement, unless this Agreement expressly provides otherwise. For overseas payment, Vendor and Buyer shall expressly agree on whether the Contract Price/Fees shall be inclusive or exclusive of the taxes and duties to be levied on Vendor in accordance with the applicable laws and regulations of PRC by virtue of or relating to the provision of the Services and /or Goods under this Agreement.

对于境内付款，除非本协议另有明确约定，本协议项下的合同价格/费用应当包括根据适用的中国法律卖方应当承担的与提供本协议项下的服务和/或商品相关的增值税。对于海外付款，买卖双方应在本协议项下明确约定合同价格/费用是否包括根据适用的中国法律法规，

应向卖方征收的与提供本协议项下的服务和/或商品相关的税费和关税。

- c. Vendor shall ensure that the actual amount of expenses under this Agreement does not exceed the total sum of the Contract Price/Fees and Expenses. If additional fees and expenses are indeed required which are beyond the reasonable control of and were not reasonably foreseeable by the Vendor, Vendor shall obtain Buyer's prior written approval for such additional amount(s) prior to the occurrence of the additional fees and expenses. Vendor agrees and acknowledges that Buyer is not liable or responsible for such amounts if they are incurred without Buyer's written approval or before Buyer's written approval is obtained.

卖方应当确保本协议项下发生的费用不应当超出总的合同价格/费用。在卖方无法合理控制和无法合理预见的情况下发生的额外的费用，卖方应当就该额外费用的发生事先获得买方的书面同意。卖方在此同意和确认，在买方就该额外费用的发生未做出书面同意、或者该书面同意未被卖方事先获得的情况下，买方无须就该额外的费用负责。

- d. The Contract Price/Fees and Expenses include all expenses paid or incurred by Vendor in connection with Vendor's performance of its obligations under this Agreement, including without limitation, any and all third party costs, travelling costs, communication expenses, and out-of-pocket expenses. Unless otherwise expressly approved in writing by Buyer, Vendor is not entitled to any reimbursement or payment from Buyer in addition to the Contract Price/Fees and Expenses.

本协议项下的合同价格/费用包括卖方由于履行本协议而支付的或承担的所有费用，包括但不限于所有的第三方支出、差旅费、通信费以及任何其它的费用。除非买方另有

明确的书面同意，卖方无权要求买方就合同价格/费用以外的部分对卖方进行补偿或支付。

6.2 Payment Terms 付款方式

- a. After acceptance of the Service/Goods by Buyer, Vendor shall issue legally valid tax invoice of the Contract Price due for payment to Buyer under Buyer's notification. Buyer shall make payment to Vendor within forty five (45) working days upon receipt of the legally valid tax invoices and corresponding payment documentation in accordance with Buyer's requirement.

买方接受服务/商品后，卖方应依据买方开票通知向买方出具与应当支付的合同价格数额相当的合法有效的税务发票。买方应于收到该等符合买方要求的税务发票及相应付款证明文件后的四十五（45）个工作日内向卖方进行支付。

- b. Vendor agrees to exempt Buyer from any late payment penalty in the case the late payment is incurred by reasons not attributable to Buyer's faults, and such late payment shall not constitute any limitation or prohibition on Buyer to obtain all the legitimate titles and rights of the Services and/or Goods under this Agreement.

卖方同意免除买方非因买方过错造成的任何的迟延付款的罚金。买方的迟延付款并不构成买方获得本协议项下对相关服务和/或商品所有合法所有权和权利的限制和禁止。

- c. For overseas payment, due to the fact that such payment is subject to successful conclusion of the legally required tax and foreign exchange procedures in China, Vendor shall timely provide Buyer with documents that may be required by the tax and foreign exchange authorities of China in relation to the payment.

对于海外付款，由于该类付款应在

中国成功完成相关法律要求的税务及外汇程序，因此卖方应及时向买方提供中国税务及外汇监管机构可能要求的、与该等付款相关的文件。

- d. Furthermore, Vendor agrees to exempt Buyer from “late payment penalty” if such late payment is by reasons attributable by the related overseas-payment process, and that such delay is uncontrollable by the Buyer therefore is inevitable, then and such late payment shall not constitute any limitation or prohibition on Buyer to obtain all the legitimate titles and rights of the Services and/or Goods under this Agreement.

另外，卖方确认对于任何由于海外付款流程而导致的无法不受买方控制的，因而是无法避免的延迟付款，卖方将不追究买方责任，且该等延迟付款不会构成买方获得本协议项下对相关服务和/或商品所有的合法的权利和权益的限制和禁止。

- e. Payment is made via bank transfer or bank acceptance. The parties are responsible for their own bank charges incurred in relation to the transaction under this Agreement. 本协议项下的付款通过银行转账或者银行承兑汇票进行。双方对其各自的银行费用负责。

7. TAXES 税费

Except to the extent that this Agreement expressly provides otherwise, any and all taxes and/or duties in connection with the execution of this Agreement to be levied on Buyer shall be payable by Buyer, while any and all taxes and/or duties in connection with the execution of this Agreement to be levied on Vendor shall be payable by Vendor. For domestic payment, the amount of Contract Price/Fees and Expenses stipulated in this Agreement shall be a gross amount including VAT levied on the Vendor in PRC and any applicable tax authority in

connection with the execution of this Agreement. For overseas payment, Vendor and Buyer shall expressly agree on whether the Contract Price/Fees shall be inclusive or exclusive of the taxes and duties to be levied on Vendor in accordance with the applicable laws and regulations of PRC by virtue of or relating to the provision of the Services and /or Goods under this Agreement.

除非本协议另有明确的约定，买卖双方应当各自对其由于签署本协议而应当缴付的税费负责。对于境内付款，本协议项下的合同价格/费用应当包括卖方应当向中国及适用的税务机构缴付的增值税。对于海外付款，买卖双方应在本协议项下明确约定合同价格/费用是否包括根据适用的中国法律法规，应向卖方征收的与提供本协议项下的服务和/或商品相关的税费和关税。

8. RIGHTS OF OWNERSHIP 财产及资料所有权

- 8.1 All deliverable concept, code, artwork, images, communication, materials, drawings, information, design, data, reports, analysis, presentations, electronic tools, applications and systems, and other work (“**Materials**”) created by Vendor and its Working Staff pursuant to this Agreement and intended for adoption and exploitation by Buyer shall be the sole property of Buyer (rather than Vendor or its Working Staff). Vendor undertakes that it and its Working Staff shall not use for a purpose other than this Agreement, or provide to any third party (including any Vendor’s Working Staff not involved in providing Services and/or Goods to Buyer) the aforementioned Materials, as well as any Goods produced under this Agreement without the prior written consent of Buyer.

所有根据本协议由卖方及其工作人员创造的可交付的、用以由买方接受和利用的创意、代码、作品、图像、通信、资料、图纸、信息、设

计、数据、报告、分析、讲座、电子工具、应用程序和系统及其他工作成果（“资料”）的所有权均归买方所有（而非卖方及其工作人员）。卖方承诺，未经买方事先书面同意，卖方及其工作人员不得将上述资料用于本协议约定范围以外的其他用途，或向任何第三方（包括未参与向买方提供服务和/或商品的卖方之其他工作人员）提供上述资料。

8.2 In the event that any general know-how and prior intellectual property of the Vendor is embedded as a part of Materials, Vendor grants to Buyer and any third party designated by Buyer an non-exclusive, non-transferable, royalty free, perpetual license to use from the Effective Date such know-how and prior intellectual property that are embedded in such Materials and/or form an integral of such Materials to enable Buyer's use of such Materials.

如果卖方的任何一般专有技术和现有知识产权作为材料的一部分被嵌入，则卖方授予买方和买方指定的任何第三方非排他性的、不可转让的、免版税的、永久的许可，从生效日期起使用该等材料中嵌入的专有技术和现有知识产权和/或构成该等材料的组成部分，以使买方能够使用该等材料。

8.3 Vendor shall ensure that, to the fullest extent possible under the law, Buyer shall own any and all rights, title and interests (including without limitation copyrights, trademarks, patents, domain name and other intellectual property rights and trade secrets) with respect to any work or Goods created or developed by Vendor pursuant to this Agreement and utilized by Buyer.

卖方应尽一切合法之可能保证买方对卖方根据本协议或按买方指示创建或开发的所有工作及成果享有全部权利、所有权及利益，包括但不限于版权、商标、专利、域名其他

知识产权和商业秘密。

8.4 Vendor represents and guarantees that it will abide by all relevant legal requirements in its performance of this Agreement and it shall not infringe any legal rights of any third parties, including but not limited to copyrights, trademarks, patents and other intellectual property rights and trade secrets, in the course of providing the Services and/or Goods. Vendor shall fully indemnify and hold harmless Buyer against any loss, liability, claim or penalty from any third party.

卖方陈述并保证其在提供服务和/或商品的过程中不违反法律且不侵犯任何第三方的任何法律权利，包括但不限于版权、商标、专利、其他知识产权和商业秘密。卖方应使买方免受损害并向买方全额赔偿任何第三方向买方提出的任何损失，责任，索赔或处罚。

8.5 Vendor undertakes to use all best care in handling and storing of the Materials and any information or property provided by Buyer under this Agreement. Once such Materials, information or property of Buyer are forwarded to or produced by Vendor and its Working Staff, Vendor becomes responsible for the safekeeping of these Materials, information or property. Vendor shall be liable for any loss or damage or destruction of such Materials, information or property, including without limitation any loss or damage caused by its Working Staff or third parties.

卖方承诺将尽其所能保管和保存资料及买方在本协议项下提供的其他信息或财产。一旦买方转交给卖方前述资料、信息或财产，或卖方及其工作人员为买方完成创作成果，卖方即有义务将相关资料、信息或财产妥善保管。卖方对因卖方及其工作人员原因导致的任何资料、信息或财产的遗失或损坏承担全部责任。

8.6 Upon termination or expiration of this Agreement, Vendor shall transfer, assign and make available to Buyer all property and Materials in Vendor's possession or subject to Vendor's control (including all property and Materials in possession of Vendor's Working Staff or third parties) that are the property of Buyer, regardless of what form such Materials are in (e.g. electronic, paper-based) and regardless of whether such Materials had been obtained under the terms of this Agreement or by any other method.

在本协议期满或终止后，卖方应当将卖方及其工作人员或第三方占有、保管或实际控制的属于买方所有的全部财产和材料返还给买方，无论该资料以何种形式存在（如电子或纸质），也不论该资料是否基于本协议条款或任何其他方式获得。

8.7 Vendor agrees to impose the same obligations as defined in this Article 8 (Rights of Ownership) and Article 9 (Confidentiality and Data Protection Agreement) on its Working Staff, and shall be liable for any breach of the obligations by its Working Staff.

卖方同意对其工作人员应遵守本协议第 8 条（资料所有权）及第 9 条（保密条款和〈数据保护协议〉）约定的同等义务，并对卖方工作人员违反前述条款约定的任何义务承担赔偿责任。

8.8 Except otherwise agreed by the Buyer in writing, Vendor and / or their affiliated entities / associates/ assignees/ contractors, etc. do not have the right to use any and all registered trademarks of Volkswagen Group (all brands) worldwide, nor shall they have the right to profit from them.

除非得到买方另外的书面确认，卖方和/或其关联企业/合作伙伴/受托人/承包商等均无权使用大众集团旗下任何及所有品牌（在全球范围内）的所有注册商标，也没有权利从该等使用中获取利益。

9. CONFIDENTIALITY AND DATA PROTECTION AGREEMENT

保密条款和《数据保护协议》

9.1 Vendor, on behalf of itself and its working staff, hereby covenants and agrees that Vendor shall: 卖方代表其及其工作人员在此承诺及同意:

a. exercise best care and caution to keep confidential any and all Confidential Information and other information concerning the business and operation of Buyer, any Affiliate or any related third party, or is otherwise related to this Agreement, which becomes known to Vendor as a result of performance of this Agreement; Such information includes, but is not limited to, corporate plans and strategies, new product samples, specifications, pricing information and the contents and results of this Agreement;

卖方应当尽最大限度的谨慎注意义务对所有在履行本协议的过程中获知的、与买方及其关联企业或任何关联的第三方的经营和业务或与本协议相关的任何及所有保密信息及其他信息进行保密。这些信息包括，但不限于买方企业战略计划、新产品样品和说明手册、价格信息以及本协议的内容和履行本协议的结果;

b. not disclose any Confidential Information to any third party (including any employees of Vendor not involved in providing Services and/or Goods to Buyer), unless to do so is required in connection with the performance of its obligations under this Agreement and is approved by Buyer in advance, and under such circumstances Vendor shall ensure that the said third party is made aware of and complies with Vendor's obligations of confidentiality under this Agreement; and where it is necessary to disclose Confidential Information of Buyer to a third

party in the course of subcontracting, Vendor agrees to ensure that the relevant third party is made aware of and comply with the obligations of confidentiality stipulated under this Agreement before disclosing the Confidential Information on a "need-to-know" basis. If requested by Buyer, Vendor shall ensure that such third party maintain the confidentiality of the Confidential Information by executing separate confidentiality agreement with such third party on terms no less strict than those set out under this Agreement. Notwithstanding the foregoing, Vendor shall be liable for any breach of confidentiality by such third party.

卖方不得向任何第三方（包括未涉及及向买方提供服务和/或商品的任何卖方雇员）披露任何保密信息，除非在其履行本协议时需要并经买方书面同意的情况下才能向第三方披露，但卖方应保证该第三方知悉并遵守卖方的保密义务。在经过买方事先书面同意的情况下，卖方可以委托代理商或分包商从事本协议项下的部分服务，在根据分包协议需要向第三方披露买方的保密信息时，在卖方根据“需知原则”披露保密信息前，卖方应确保相关第三方已知晓并遵守本协议项下规定的保密义务。应买方要求，卖方应确保与该第三方签订单独的保密协议，且该协议规定之保密义务的程度不得低于本协议之规定。尽管有前述规定，卖方应对该等第三方违反保密义务的行为承担责任。

c. not use, or enable any third party to use, any Confidential Information for a purpose other than the performance of obligations under this Agreement; and

卖方不得将任何保密信息用于除履行本协议项下义务以外的其他用途，亦不得使任何第三方从事该等行为；并且

d. return to Buyer all Confidential Information then in the possession of Vendor and/or its permitted

subcontractor at the termination or expiration of this Agreement.

在本协议终止或期满时，卖方应将由卖方和/或卖方的分包商占有、控制的所有保密信息归还给买方。

9.2 The parties agree that the confidentiality obligations stipulated under this Article 9 shall survive the termination of this Agreement.

买卖双方同意本第9条款中约定的保密义务在本协议终止后继续有效。

9.3 If Vendor, any Working Staff of Vendor, or any third party (including Vendor's Affiliate) obtaining the confidential information from Vendor, or any Working Staff of such third party intentionally or negligently breaches any of the confidentiality obligations stipulated under this Article 9, Vendor shall be held liable for its own breach and for all breaches committed by its Working Staff, third party and Working Staff of such third party, and shall compensate Buyer for any and all damages resulting from such breach, including, without limitation, legal costs, and Vendor shall pay to the Buyer an additional liquidated damages amounting to 30% of the Contract Price/Fees and Expenses.

如果卖方、其工作人员或从卖方处获得保密信息的任何第三方（包括卖方的关联企业）及其工作人员故意或过失违反本第9条款中约定的保密义务，卖方应对其自身以及其雇员或第三方及该第三方工作人员的违约行为负责，并应赔偿买方由此遭受的任何及所有损失，包括但不限于法律费用，并且卖方应当向买方支付相当于本协议全部合同价格/费用的30%作为违约金。

9.4 In case any Working Staff of Vendor or of third party obtaining confidential information from Vendor breaches any of the confidentiality obligations stipulated under this Article 9, Buyer shall have the right

to require Vendor to immediately exclude the Working Staff from the performance of this Agreement.

买方有权要求卖方立即将违反本第9条款中约定的保密义务的卖方工作人员或从卖方处获取保密信息的任何第三方工作人员排除在本协议的履行之外。

- 9.5 In the event of a breach or threatened breach of the confidentiality obligations stipulated under this Article 9, Buyer is also entitled to seek injunctive relief or specific performance, in order to obtain immediate remedies and/or prevent the breach. Any such remedy shall be in addition to and not in lieu of any other remedies available to Buyer under this Agreement.

如卖方有违反或将要违反本第9条款中约定的保密义务的情形，买方也有权向法院申请停止侵害、强制履行以获得立即救济和/或阻止违约行为。这些救济措施为其他法律救济措施之外的救济方式，买方可与之并行适用。

- 9.6 If there is any activities in connection with the processing by the one party of the personal data made available to it by the other party, the parties agree to perform the Data Protection Agreement (the "DPA", if any) to regulate any personal data protection matter arising out of or in connection with the Agreement. To avoid any doubt, regarding the topic of personal data protection, if there is any inconsistency between DPA and this Agreement, the DPA shall prevail. The DPA shall survive the termination of this Agreement, unless it is terminated in accordance with the terms and conditions thereunder.

如存在一方处理另一方提供的个人信息的情形，双方同意履行《数据保护协议》（简称“DPA”，如有）用于规范本协议之下产生的或者和本协议相关的任何个人数据保护事宜。为避免疑问，有关个人数据保护事宜，如果 DPA 和本协议存

在不一致，DPA 应当优先适用。除非DPA根据其自身条款和条件被终止，否则DPA 应当在本协议终止后继续生效。

- 9.7 The Vendor agrees that for the purpose of fulfilling this Agreement, relevant personal information of the Vendor's Working Staffs will be provided to the Buyer and its domestic and overseas Affiliates. Based on this, the Vendor agrees and confirms that it has informed the relevant Working Staff and obtained corresponding consent according to applicable laws and regulations of PRC.

卖方知悉为履行本协议需要，卖方相关工作人员信息将会被提供给买方境内及境外的关联公司。据此，卖方同意并确认其已向本协议下相关工作人员予以告知并依据适用的中国法律法规获得相应授权。

- 9.8 The Vendor shall ensure that the deliverables provided by itself and its subcontractor/supplier/ 2nd tier service and content provider (if applicable) shall comply with all applicable Chinese data protection related laws and regulations, including but not limited to PRC Personal Information Protection Law, PRC Data Security Law and Several Provisions on Automotive Data Security Management (for Trial Implementation), and the Vendor shall indemnify and hold harmless the Buyer and the Buyer's affiliates against any loss, injury, liability, and third party complaints, claims and disputes arising from or in connection with the Vendor's performance (including services performed by the Vendor's subcontractor/supplier/ 2nd tier service and content provider, where applicable) and deliverables under this Agreement.

卖方应当确保其自身以及其分包商/供应商/二级服务和内容提供商（如适用）所提供的服务或产品遵守所有的可适用的中国数据保护相关

的法律法规，包括但不限于《中华人民共和国个人信息保护法》《中华人民共和国数据安全法》及《汽车数据安全若干规定（试行）》。若发生与卖方履行本协议或其交付成果（包括其分包商/供应商/第二层服务和内容提供商所提供的服务，如适用）相关的或由此引发的任何损失、损害、责任以及第三方的投诉、索赔和纠纷，卖方应当补偿买方和买方的关联实体，以使买方及其关联实体不因此遭受任何损失或承担任何责任。

10. LIABILITY AND BREACH OF AGREEMENT 违约责任

10.1 If Vendor breaches any of the Representations and Warranties as specified in Article 3 of this Agreement, or fails to provide the Services and/or Goods on schedule as stated in this Agreement, or the quality of the Services and/or Goods provided by Vendor fails to meet the professional industrial standards or the requirements set forth in this Agreement and all the Appendices by Buyer, or breaches any of the confidentiality obligations stipulated under Article 9, Buyer is entitled to withhold or deduct payment from the Contract Price/Fees and Expenses and/or claim for refund of paid Contract Price/Fees and Expenses, and Vendor shall pay to the Buyer an additional liquidated damages amounting to 30% of the Contract Price/Fees and Expenses.
如果卖方违反本协议第 3 条陈述与保证的条款，或者迟延交付服务和/或商品，或者服务质量和/或商品的质量不符合行业标准或本协议及其附件约定的要求，或者违反本协议第 9 条款中约定的保密义务，买方有权按本协议减少或停止向卖方支付合同价格/费用，和/或要求卖方返还已支付的合同价格/费用，并且卖方应当向买方支付相当于本协议全部合同价格/费用的 30% 作为违约金。

10.2 Except as otherwise provided herein, if a Party (“**Breaching Party**”) fails to perform any of its material obligations under this Agreement or otherwise is in material breach of this Agreement, then the other Party (“**Aggrieved Party**”) may:
除本协议其他条款另有规定以外，如果一方 (“**违约方**”) 未履行其在本协议项下某项主要义务或以其他方式对本协议构成重大违约，则另一方 (“**受损害方**”) 可以：

a. give written notice to the Breaching Party describing the nature and scope of the breach and demand that the Breaching Party cure the breach at its own cost within a reasonable time specified in the notice (“**Cure Period**”) (provided that if any representation and warranty of a party under Article 3 of this Agreement is not true and correct in material aspects when it is made, or when there is a breach of Article 9, the Cure Period does not apply); and

向违约方发出书面通知，说明违约的性质以及范围，并且要求违约方在通知中规定的合理期限内自费予以补救 (“**补救期**”) (但是如果一方在本协议第 3 条 (陈述与保证) 项下所做的任何陈述和保证在做出时在关键方面不真实或不正确，或者违反本协议第 9 条 (保密条款) 的规定，则没有补救期); 并且

b. in the case the Breaching party fails to cure the breach within the Cure Period (or in the case the Cure Period does not apply), then in addition to its other rights under applicable law, the Aggrieved Party may claim any and all foreseeable damages (including but not limited to legal cost, additional freight, additional labor cost, additional package cost and any urgent cost, translation cost) arising from the breach.

如果违约方未在补救期内予以补救 (或者如果没有补救期)，除适用法律项下之其他权利以外，受损害方还可以就违约引起的任何及所有可预见的损失 (包括但不限于法律

费用，额外的运费，额外人工费，额外的包装费，加急费，翻译费等）提出索赔。

**11. FORCE MAJEURE
不可抗力**

11.1 “Force Majeure” shall mean all events which are beyond the control of the parties to this Agreement, and which are unforeseeable, unavoidable and insurmountable, and prevents total or partial performance by any party. Such events shall include earth-quakes, typhoons, flood, fire, war, failures of international or domestic transportation, acts of government or public agencies, epidemics, civil disturbances, strikes and any other objective circumstance which cannot be foreseen, prevented or controlled, including events which are recognized as Force Majeure in general commercial practice.

不可抗力应指所有超出本协议双方控制的客观事件，该事件是不可预见、不可避免且不可克服的，并导致任何一方不能全部或部分履行本协议。该事件应包括地震、台风、洪水、火灾、战争、国际或国内停运，政府或公共机构的行为、传染病、内乱、罢工和任何其他不可预见、不可避免且不可控制的情况，包括商业惯例认为属于不可抗力的事件。

11.2 If an event of Force Majeure occurs, a party’s contractual obligations affected by such an event shall be suspended during the period of delay caused by the Force Majeure and the period for performing such obligations shall be extended for a period equal to such suspension.

如不可抗力事件发生，受该等事件影响的一方之合同义务应在该等不可抗力所导致的迟延期间内予以中止履行，且履行该等义务的期限应展期，该等展期与该等中止履行期间相同。

11.3 The party claiming Force Majeure shall promptly inform the other

party in writing and shall give within three working days valid proof of the occurrence and inform about the expected duration of such Force Majeure. The party claiming the occurrence of Force Majeure shall also use all reasonable endeavors to terminate the Force Majeure.

声称遭受不可抗力的一方应立即以书面形式通知另一方，在三个工作日内提供事件的有效证明，并告知另一方该不可抗力的预计持续时间。受不可抗力影响的一方应采取所有必要手段终止不可抗力。

11.4 In the event of Force Majeure, Buyer and Vendor shall immediately consult with each other in order to find an equitable solution and shall use all reasonable endeavors to minimize the consequences of such Force Majeure.

当不可抗力事件发生时，买卖双方应立即磋商，寻求公平的解决方案，并采取一切合理的手段减少不可抗力的后果。

**12. TERMINATION
终止**

12.1 Unless otherwise provided in this Agreement, after this Agreement has come into effect, Buyer has the right to terminate or rescind this Agreement considering its business needs, in the case Vendor hasn’t commenced to perform any Services/or deliver the Goods, Buyer shall be entitled to terminate or rescind this Agreement with prior written notice without further compensating the Vendor; In the case Vendor has commenced to perform the Services or deliver the Goods, Buyer shall pay Vendor the Contract Price/Fees and Expenses on a proportional basis as consideration of the completed Services or deliver the Goods. Early termination or rescission described under Article 12.1 shall be carried out via a termination or rescission Notice send out by the Buyer to the

Vendor, this Agreement will be terminated or rescinded at the designated termination or rescission date stated in such notice or when there is no date specified in the notice, upon delivery of such notice, any further Services and/or Goods received by the Buyer after the termination or rescission date or after the delivery of the termination or rescission Notice will be considered invalid and will not generate a payment obligation of Buyer.

除非本协议另有约定，本协议生效后买方有权根据其业务需求决定终止或解除本协议。在卖方尚未开始履行本协议项下的服务或提供本协议项下的商品时，买方有权在无需补偿卖方的情况下，以事先发出书面通知的形式终止或解除本协议；在卖方已经开始履行本协议项下的服务或提供本协议项下的商品时，买方应当就已经履行的服务项目或已接受的商品按照比例支付合同价格/费用。第 12.1 条下描述的提前终止或解除应当由买方用向卖方发送提前终止或解除通知的方式作出。本协议在提前终止或解除通知中所确认的终止或解除日或者如果通知中未明确则在送达该通知之日终止或解除。终止或解除以后所有再向买方提供的服务和/或商品将视为无效并且不会对买方产生付款义务。

- 12.2 If Vendor fails to perform the Services or deliver the Goods on schedule due to Force Majeure, and Vendor has provided written notice of the Force Majeure event to Buyer within three (3) days of the commencement of the Force Majeure, the delivery date of the Services and/or Goods could be postponed subject to Buyer's written consent. In the case of Force Majeure, Buyer is also entitled to terminate or rescind this Agreement and pay Vendor the Contract Price/Fees and Expenses on a proportional basis as consideration of the completed Services and/or delivered Goods. 如因不可抗力情形造成卖方不能如

期履行服务或提供商品，且卖方在发生不可抗力情形之日起的三（3）日内就不可抗力发生向买方提供书面通知，经买方书面确认，服务和/或商品的交付日期可以延期。在不可抗力情形下，买方也可以终止或解除本协议，并按照本协议约定的合同价格/费用标准，按比例向卖方支付其已完成工作的相应的服务和/或已交付的商品的费用。

- 12.3 Either party (the "First Party") may terminate or rescind this Agreement with immediate effect by written notice to the other if: 在下述情况下，任何一方（“**第一方**”）均可在书面通知另一方后立即终止或解除本协议：

- a. the other party ceases to carry on business or goes into liquidation (other than voluntary liquidation for the purpose of a bona fide solvent reconstruction or amalgamation, the terms of which have been approved in advance by the First Party in writing) or is dissolved or struck down; 另一方停业、清算（事先得到第一方书面同意的、为了正当的有清偿能力的重组或合并而进行的自愿清算除外）、解散或关闭；
- b. there is a change in the Control of the other party; 另一方的控制权发生变化；
- c. the other party is unable to pay its debts as they mature or suffers the appointment of a receiver, administrative receiver or administrator (or any similar official or process under the law of its domicile or place of incorporation) of the whole or any part of its assets or is subject to any bankruptcy proceedings; 另一方无法支付到期债务，或其全部或部分财产被指定给破产接管人、行政接管人或管理人（或依照其公司所在地或公司设立地的法律规定的任何类似官员或程序）管理，或正面临任何破产程序；
- d. the other party is in material

	breach of any provision of this Agreement and fails to remedy such breach (where it is capable of being remedied) within thirty (30) days from the date of receipt of the notice from the First Party specifying the breach; or 另一方实质性违约，并且在第一方指出违约之后三十（30）日内未采取任何补救措施（可以采取补救措施的）；或		transfer, assign and make available to Buyer all property and materials in Vendor's possession or subject to Vendor's control that are the property of Buyer. 本协议期满或终止后，卖方应当将其占有、保管或实际控制的属于买方所有的全部资产和材料返还给买方。
e.	the other party is in breach of the provision of this Agreement and such breach is incapable of being remedied. 另一方违约，并且无法补救。	12.7	Continuing Obligations 持续义务
12.4	Should Vendor engage in any conduct which, in the reasonable opinion of Buyer, is prejudicial to the image and goodwill of the Buyer or Buyer's Affiliates and their products and/or business, Buyer shall have the right to terminate or rescind this Agreement with immediate effect. Upon duly delivery of the termination or rescission Notice to the Vendor, Vendor shall take all necessary actions to suspend the performance of this Agreement. 如果卖方从事任何买方有合理理由认为有损买方及其关联企业良好商誉、品牌形象、产品形象的行为，买方有权在事先书面通知卖方的情形下立即终止或解除本协议。一旦提前终止或解除协议的通知到达卖方并在通知述明的日期生效后，卖方应当立即采取所有必要行动停止本协议项下的工作。		The provisions of Article 9 (Confidentiality), Article 10 (Liability and Breach of Agreement) (but only with respect to claims arising prior to the termination hereof or with respect to other continuing obligations), Article 13 (Governing Law and Dispute Resolution) and Article 14 (Auditing) shall survive the termination of this Agreement. 本协议中以下各条的条款在本协议终止后继续有效：第 9 条（保密条款），第 10 条（违约责任）（但其效力仅限于本协议终止前发生的违约事件以及违反其他持续义务的情形），第 13 条（适用法律及争议解决条款）以及第 14 条（审计条款）。
12.5	The termination of this Agreement shall not release any party from obligations which have already accrued prior to the termination, or the obligations which survive the termination of this Agreement. 本协议的提前终止并不解除任何一方在协议终止前已经发生的义务，且不应免除在本协议终止后继续有效的义务。	13.	GOVERNING LAW AND DISPUTE RESOLUTION 适用法律及争议解决条款
12.6	Upon termination or expiration of this Agreement, Vendor shall	13.1	This Agreement shall be governed, construed and interpreted by, through and under the laws of PRC. 本协议以及与中国法律有关的任何事项均应由中国法律管辖及解释。
		13.2	Buyer and Vendor shall settle all disputes arising from the interpretation, performance, rescission or termination of this Agreement or in connection with this Agreement through friendly consultation. 买卖双方应通过友好协商的方式解决在解释、履行、解除或终止本协议所产生的，或与本协议有关的任何争议。

13.3 In case no agreement can be reached to resolve the dispute, either party shall have the right to submit the dispute to China International Economic and Trade Arbitration Commission (“CIETAC”) for arbitration in Beijing in accordance with the arbitration rules of CIETAC in effect at the time of the application for arbitration. Any arbitration award will be final and binding upon the parties. In the course of dispute resolution, this Agreement shall be continuously valid and be performed by both parties except for the part under arbitration.

如双方无法协商解决，任何一方有权将争议提交给中国国际经济贸易仲裁委员会进行仲裁，仲裁应在北京举行并使用该委员会在接受仲裁申请时的仲裁规则。仲裁裁决是终局的，对双方均有约束力。在争议解决过程中，除正在仲裁的条款以外，本协议应继续有效且双方应以履行本协议。

14. AUDITING 审计

14.1 Vendor agrees to grant to Buyer’s auditor(s) and third party auditor(s) engaged by Buyer the right, exercisable at any time during the term of this Agreement and two (2) years after the expiration of this Agreement, with prior written notice to the Vendor, to inspect and check documents in connection with the transactions of this Agreement, including without limitation, relevant records, documents, and accounting procedures and practices, for the term of this Agreement at Vendor’s premises.

卖方同意买方的审计人员或买方聘请的第三方有权经事先通知的形式在本协议期间以及本协议终止后的两（2）年内到卖方所在地检查双方的与本协议项下交易相关的所有往来账目，包括但不限于自双方商务交易首日起至本协议期满日止的所有账本、记录、文件、会计程序

和会计实务。

14.2 Vendor shall give Buyer’s auditor(s) the opportunity to access for inspection, copying and auditing the application systems used by Vendor for business dealings with Buyer and stored data concerning Buyer in connection with the transactions of this Agreement. Vendor shall make available to Buyer the account documents and system documentation that are to be kept in accordance with PRC laws and regulations and provisions/requirements of the Agreement.

卖方应当允许买方的审计人员进入并检查、复制及审计卖方使用的与买方进行业务往来的应用系统并获取卖方存储的与买方有关的涉及本协议交易的数据。卖方应向买方提供其依法及按约定保存的所有会计文件及系统文件。

15. ASSIGNMENT AND SUBCONTRACTING 转让及分包

15.1 Neither party may assign or subcontract any of its rights or obligations under this Agreement to any third party without first obtaining the express written consent of the other party (however, such consent shall not be unreasonably withheld or delayed).

未经对方事先书面同意，任何一方均不得将其依照本协议所获得的权利或义务转让或分包给任何第三方（然而，上述同意不得无正当理由拒绝或拖延）。

15.2 Subject to Buyer’s prior written consent, Vendor is entitled to assign some of the Services to a qualified third party, provided that such assignment is necessary for and advantageous to the performance of this Agreement; under such circumstances, Vendor shall assume all the liabilities of the works conducted by such third party.

在买方事先书面同意、并且就履行

本协议是有利的和必需的情况下，卖方可以将其在本协议项下的部分服务分包给合格的第三方承包人。在上述情况下，卖方应就该第三方的工作成果对买方承担责任。

16. NON-SOLICITATION
禁止招揽买方雇员

Except to the extent that this Agreement expressly provides otherwise, during the term of this Agreement and for six (6) months after its expiry or termination, Vendor may not, unless the Buyer agrees in written, solicit for employment, or independently contract for the services of, any employee of Buyer who is involved in the performance of this Agreement.

除非本协议另有明确的约定，在本协议有效期内以及协议期满后或解除后六（6）个月内，卖方不得对买方参与本协议履行的任何雇员予以招揽雇佣或单独与其订立服务合同，除非买方书面同意。

17. NON-WAIVER
非弃权

17.1 No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights in relation to a breach of this Agreement operate as a waiver of any subsequent breach.

一方对本协议项下条款履行的不作为，迟延或者放任均不影响或者限制该方的权利。一方对违约行为主张权利的放弃不得视为对其后期他任何违约行为放弃主张的权利。

17.2 No right, power or remedy given to or reserved to either party under this Agreement is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

一方依照本协议所获得或保留的任何权利、权力或补救措施均不排除

其所拥有的其他权利、能力或补救措施的适用，并可同时适用上述各项权利、能力或补救措施。

18. NO PUBLICITY
协议内容保密

18.1 The existence of this Agreement, as well as its content, shall be held in confidence by both parties and shall not be disclosed in whole or in part to any person or entity, except to (i) Buyer's Affiliates, (ii) authorized securities regulators or exchanges in accordance with applicable laws, (iii) officials in relevant government departments pursuant to the requirements of applicable laws or in order to fulfil any conditions precedent to the effectiveness of this Agreement or to the performance by a party of its obligations or exercise of its rights hereunder or relating hereto, (iv) to financial institutions for the purpose of arranging debt financing or similar financial arrangements for either party.

各方应对本协议的存在及其内容保密，并不得向任何人或实体予以全部或部分披露。但向以下各方披露的除外：（i）买方关联企业；（ii）依据有关法律得到授权的证券市场监管官员或交易所；（iii）依据有关法律，或者为了满足本协议的生效条件，或为一方履行其于本协议项下或与本协议相关的义务或行使其于本协议项下或与本协议相关的权利需要知道该等信息的相关政府部门的官员；或（iv）金融机构（为各方安排债务融资或类似金融安排的目的）。

18.2 Vendor shall not use Buyer's or Buyer's Affiliates' logo, trademark or company name and identification of this engagement in connection with Vendor's general lists of customers or in any of Vendor's materials issued to any third party without Buyer's (or Buyer's Affiliates', when the case may be) prior written consent.

未经买方或其关联企业的事先书面同意，卖方不得在任何向第三方发

布的文件中或在有关的客户清单及客户经验中使用买方或其关联企业的图标、商标或企业名称及标识。

19. AMENDMENTS
变更

Variations on this Agreement shall be valid only if made in writing following mutual agreement with affixed the stamps of the parties and signed by legal representative or duly authorized representatives of both parties.

对本协议的变更仅在双方书面盖章同意、并经法定代表人或授权代表签署的情况下有效。

20. CONFLICTING TERMS
冲突条款

If anything in this General Terms and Conditions is inconsistent with the Purchasing Order/ Purchasing Agreement signed by Buyer and Vendor and all the Appendices hereof, both parties agree to interpret the conflicting provisions in the following ranking: (i) Purchasing Order/ Purchasing Agreement; (ii) General Terms and Conditions; (iii) attached Appendices.

如果本一般条款和条件的内容与由买方和卖方签署的采购订单/采购协议以及所有的附件的内容有任何不一致，双方同意按如下优先顺序予以解释：（1）采购订单/采购协议；（2）一般条款和条件；（3）附件。

21. NON-STANDARD AGREEMENT; NON-STANDARD CLAUSE
非标准协议；非标准条款

21.1 Both parties confirm that this Agreement does not constitute any standard agreement, and any clause of this Agreement does not constitute any standard clause.

双方确认本协议不构成任何标准格式协议，并且本协议的任何条款不构成任何标准条款。

21.2 Both parties confirm that this

Agreement is formulated and signed on the basis of comprehensive and equal consultation between both parties, and reflects the true intentions of both parties.

双方确认本协议在双方全面平等协商的基础上制定和签署，且体现了双方的真实意思表示。

22. GENERAL PROVISIONS
一般条款

22.1 Notwithstanding that the whole or any part of any provision of this Agreement may prove to be unenforceable, the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.

尽管在本协议的全部或部分条款可能被证实无法强制执行，但本协议其他条款及余下部分条款仍具有完全效力。

22.2 By executing this Agreement, Vendor undertakes to comply with Buyer's "Sustainability Requirements", please visit below route to read the whole text: www.vwgroupsupply.com> [Cooperation](#)> [Supply Chain Sustainability](#)> [Sustainability Requirements](#).

经签署本协议，卖方被认为已经确认并且同意遵守买方的“可持续发展要求”。该要求的全文请按照如下方式获取：
www.vwgroupsupply.com> [Cooperation](#)> [Supply Chain Sustainability](#)> [Sustainability Requirements](#).

22.3 Vendor undertakes to comply with the Volkswagen Group requirements regarding sustainability in its relationships with business partners (*Code of Conduct for Business Partners*) and report any and all wrongdoing, corruption, or violation of the above mentioned *Code of Conduct for Business Partners* discovered in connection with the Services and/or Goods provided under this Agreement in

accordance with the Volkswagen Group Whistleblower System by contacting io@volkswagen.com.cn. For other reporting channels, please refer to Code of Conduct for Business Partners. Vendor may obtain a copy of the Code of Conduct for Business Partners by contacting Buyer or following the path: www.volkswagengroupchina.com.cn > [Volkswagen Group China > Integrity, Compliance and Risk Management > Code of Conduct > Code of Conduct for Business Partners](#)

卖方承诺遵守大众集团对供应商提出的行为守则（*供应商守则*），以及根据大众集团调查系统报告在其依据本协议提供服务 and/或商品的过程中的任何及所有的不当行为、贿赂或违反该供应商守则的违反行为，这种报告可以由卖方通过联系 io@volkswagen.com.cn 的方式进行。其它报告渠道请参阅供应商守则。卖方可以通过联系买方或按照以下路径获取供应商守则的副本：www.volkswagengroupchina.com.cn> [大众汽车集团（中国）> 诚信，合规与风险管理 > 行为准则 > 商业伙伴行为准则](#)

22.4 Vendor further undertakes to comply with all laws and regulations of any and all jurisdictions which govern either party or this Agreement. Vendor shall not engage in any practice which may constitute or have the appearance of corruption, including but not limited to bribery, coercion, collusion, or fraud. Vendor warrants that all of its representations to Buyer are authentic, true and valid.

卖方进一步承诺将遵守所有适用的法律法规的规定。卖方不得参与任何构成贿赂，包括但不限于行贿、胁迫、共谋或欺诈的行为。卖方保证其对买方做出的所有陈述均为真实、准确的和有效的。

22.5 In the event that Vendor breaches

any of its undertakings in Article 22.2, Article 22.3 and Article 22.4, Buyer may terminate this Agreement immediately upon notification to Vendor and Vendor shall indemnify and hold harmless Buyer from any claim, investigation, prosecution, or damages arising from its breach. Notwithstanding Article 10 above, Vendor shall pay to Buyer all costs, damages and lost profits resulting from Vendor's breach.

在卖方违反其在第 22.2 条、第 22.3 条和第 22.4 条中做出的承诺的情况下，买方可以向卖方发出通知立即解除本协议。卖方应当赔偿并使买方不受由于卖方违反上述约定而遭受的主张、调查、起诉或损害。尽管有本协议第 10 条的规定，卖方应当向买方支付由于其违反上述约定而导致的费用、损害以及损失的利润。

22.6 The General Terms and Conditions takes precedence over all the Vendor's standard terms and conditions of sale and delivery and any deviating terms issued by Vendor with the exception of the Deviation Summary signed by both Parties separately, irrespective of whether such terms are printed on quotations, proposal issued by Vendor or in any other means communicated to Buyer. These terms shall be deemed not to be binding on Buyer if they are served on Buyer prior to or after the execution of the General Terms and Conditions.

本一般条款与条件优先于卖方提供的所有有关销售和交付的标准条款和条件以及卖方而为的任何偏离条款，双方另行签署的偏离表除外，无论这些条款是否出现在报价单、卖方的计划方案或是以任何其他方式传达给买方。若这些条款于本一般条款与条件签署之前或之后送达给买方，应被视为对买方不具有约束力。

22.7 This General Terms and Conditions shall be made in English and Chinese. If there is

any discrepancy between the two versions, the English Version shall prevail.

本一般条款与条件以中英文书就。
如有两种文本存在任何不一致，以英文版为准。

1st Amendment to General Terms and Conditions (GTC)

一般条款和条件的第一修正案

1. This 1st Amendment to General Terms and Conditions (hereinafter refer to as “1st Amendment”) is specially used for the **software and/or cyber security** related PO, and it is under the discretion of Buyer's Business Unit to choose whether to adopt the 1st Amendment on a case by case scenarios if the PO is not relevant to software and/or cyber security issue.

一般条款与条件的第一修正案（以下简称“**第一修正案**”）专门适用于**软件及/或网络安全**相关采购订单，针对其他不涉及软件及/或网络安全相关的采购订单，买方相关业务部门有权自主选择是否适用该第一修正案。

2. In the event that the PO is software and/or cyber security related, the Vendor hereby agree to accept and comply with Volkswagen Group Basic Requirements for Software (**KGAS**) and Formel Q Capability Software as Volkswagen guidelines. These brochures are available to the Vendor only electronically on the Volkswagen Group B2B platform under www.vwgroupsupply.com the version valid at the time.

对任何关于软件及/或网络安全的采购订单，卖方在此同意接受并遵守大众集团关于软件的基本规则（**KGAS**）以及大众指引标准的Formel Q 质量能力软件。该等手册仅有电子版且不时更新，卖方可登录大众集团网站（www.vwgroupsupply.com）旗下 B2B 平台以获取最新版本。

3. The Vendor's violation of Volkswagen guidelines of the KGAS and Formel Q Capability Software will be the Breach of the PO and GTC, and in the event that a Service Agreement applied, a Breach of Agreement, then the Buyer is entitled to withhold or deduct payment from the Contract Price/Fees and Expenses and/or claim for

refund of paid Contract Price/Fees and Expenses, and Vendor shall pay to the Buyer an additional liquidated damages amounting to 30% of the Contract Price/Fees and Expenses according to Article 10.1 of the GTC.

卖方违反大众集团关于软件的基本规则（KGAS）以及大众指引标准的Formel Q 质量能力软件的行为构成对采购订单及一般条款和条件的违约，如遇适用服务协议的情形，则构成对服务协议的违约，按照一般条款与条件第 10.1条就违约的规定，买方有权按本协议减少或停止向卖方支付合同价格/费用，和/或要求卖方返还已支付的合同价格/费用，并且卖方应当向买方支付相当于本协议全部合同价格/费用的 30%作为违约金。

4. The Vendor shall ensure that the Services provided by itself and its subcontractor/supplier/ 2nd tier service and content provider (if applicable) comply with all Chinese laws and regulations (including but not limited to laws and regulations regarding cybersecurity) and professional standards. The Vendor shall indemnify and hold harmless Buyer and Buyer's affiliates against any loss, injury, liability, and third party complaints, claims and disputes arising from or in connection with the Vendor's performance (including services performed by the Vendor's subcontractor/supplier/ 2nd tier service and content provider, where applicable) of the Services under the PO.

卖方应当确保其自身以及其分包商/供应商/第二层服务和内容提供商（如适用）所提供的服务遵守所有的中国法律法规（包括但不限于网络安全相关法律法规）及专业标准。若发生与卖方履行采购订单项下服务（包括其分包商/供应商/第二层服务和内容提供商所提供的服务（如适用））相关的或由此引发的任何损失、损害、责任以及第三方的投诉、索赔和纠纷，卖方应当补偿买方和买方的关联实体，以使得买方及其关联实体不因此遭受任何损失或承担任何责任。

5. The Vendor guarantees that itself and its subcontractor/supplier/ 2nd tier service and

content provider (if applicable) will fulfill all classification protection related obligations stipulated in relevant laws, regulations, policies and notices.

卖方承诺并保证，其自身以及其分包商/供应商/第二层服务和内容提供商（如适用）将遵守并满足相关法律、法规、政策和通知中规定的所有等级保护相关责任。

6. The Vendor shall establish and maintain data security procedures and other safeguards to ensure that the network and systems used in connection with the Services provided are free from interference, disruption or unauthorized access, and against unauthorized or unlawful processing, destruction, loss, alteration or theft of or unauthorized access to any vehicle and end customer data or any other data related to or in connection with the Services in accordance with requirements of the applicable laws, including but not limited to the Cybersecurity Law and the instructions of Buyer.

卖方应当遵守适用法律（包括但不限于《中华人民共和国网络安全法》）的相关要求及买方的指示，建立并完善数据安全程序及其他保障措施，以确保与其提供的服务相关的所使用到的网络和系统免受干扰、破坏或未经授权的访问，确保任何车辆和终端用户数据及任何与服务相关的或涉及的其他数据免受未经授权或非法的处理、毁坏、丢失、篡改、盗窃和未经授权的访问。

7. The Vendor shall promptly inform Buyer of any security vulnerability, threat, risk, or breach it discovers, or any complaint it receives from end users, or any incident regarding privacy or data security, and shall fully cooperate with Buyer in investigating and mitigating the adverse effects of such vulnerability, threat, risk, breach or complaint and in development of measures to prevent such vulnerability, threat, risk, breach or complaint in accordance with this 1st Amendment, without releasing any of its obligations or liabilities hereunder. The

Vendor shall indemnify and hold harmless Buyer and Buyer's affiliates against any cost, loss, injury, liability, and third party complaints, claims and disputes arising from or in connection with the foregoing vulnerability, threat, risk, breach, complaint or incident.

卖方应当及时告知买方其所发现的任何安全漏洞、威胁、风险或破坏，收到的任何终端用户的投诉，或发生的任何关于隐私或数据安全的事件，并应当完全配合买方，调查并减轻该等漏洞、威胁、风险、破坏或投诉的不利影响，并根据本第一修正案开发避免该等漏洞、威胁、风险、破坏或投诉的措施，惟以上不免除卖方在本协议项下的义务和责任。若由于上述漏洞、威胁、风险、破坏、投诉或事件产生任何成本、损失、损害、责任以及第三方的投诉、索赔和纠纷，卖方应当补偿买方和买方的关联实体，以使得买方及其关联实体不因此遭受任何损失或承担任何责任。

8. For any security vulnerability, threat, risk or breach in connection with the Services discovered or noted by either Party during the term of the PO, and those that are made public (including but not limited to the result of any white hat event, forum disclosure and those assigned with a CVE number) both during the term and following the expiry or termination of this PO, the Vendor shall be responsible for developing and delivering to BUYER effective fixes to mitigate the adverse effects of such vulnerability, threat, risk or breach within 30 working days (or other response time set by BUYER in order to comply with applicable laws, regulations and mandatory standards) at the Vendor's own cost.

就采购订单期内任何一方发现或注意到的与服务相关的任何安全漏洞、威胁、风险或破坏，以及在采购订单期内和采购订单届满或终止后公开的（包括但不限于白帽事件的结果、论坛披露和被分配 CVE 编码的）任何安全漏洞、威胁、风险或破坏，卖方应当在 30 个工作日内（或其他买方设定的用以遵守

适用法律、法规和强制性标准的响应时间期限），负责开发并向买方交付可有效解决该等漏洞、威胁、风险或破坏的不利影响的措施，相关费用由卖方承担。

9. For the security vulnerability, threat, risk or breach in connection with the Services discovered or noted by either Party following the expiry or termination of the PO (except those indicated in the above paragraph), the Vendor shall be responsible for developing and delivering to Buyer effective fixes to mitigate the adverse effects of such vulnerability, threat, risk or breach within a reasonable time period, at a reasonable cost to be mutually agreed by both parties.

就采购订单期届满后（除上段已列出的）任何一方发现或注意到的与服务相关的任何安全漏洞、威胁、风险或破坏，卖方应当在合理时间内，负责开发并向买方交付可有效解决该等漏洞、威胁、风险或破坏的不利影响的措施，卖方可收取合理费用，具体金额由双方届时商定。

10. Except those amended by this 1st Amendment, the terms and provisions of the GTC shall remain unchanged and binding upon the parties during the term of the PO or Service Agreement (if applied). The 1st Amendment is an integral part of the GTC and be of equal legal validity.

除本第一修正案规定的内容外，一般条款与条件的其他规定维持不变且持续约束采购订单或服务协议（如适用）的当事人，本第一修正案是一般条款与条件的不可分割组成部分且与GTC 具备同等法律效力。

2nd Amendment to General Terms and Conditions (GTC) 一般条款和条件的第二修正案

1. This 2nd Amendment to General Terms and Conditions (hereinafter refer to as “2nd Amendment”) is specially used for the **Free and Open Source Software** related PO, and it is under the discretion of Buyer’s Business Unit to choose whether to adopt the 2nd Amendment on a case by case scenarios if the PO is not relevant to **Free and Open Source Software**.

一般条款与条件的第二修正案（以下简称“第二修正案”）专门适用于**免费和开源软件**相关采购订单，针对其他不涉及免费和开源软件相关的采购订单，买方的相关业务部门有权自主选择是否适用该第二修正案。

2. Free and Open Source Software may only be contained in the Goods if Vendor fulfils all license obligations of the included Free and Open Source Software and complies with the following obligations: Vendor undertakes as a material contractual obligation to: (i) truthfully complete a Free and Open Source Software Declaration and, by signing it, confirm the license-compliant use of the Free and Open Source Software used and full compliance with the requirements of the Free and Open Source Software Declaration; (ii) provide complete and correct information about the specific Free and Open Source Software including the exact name and version, all associated license and usage conditions, the source of supply and the copyright or author's notices and the software architecture to Buyer in copy; and (iii) ensure that no COPYLEFT EFFECT is triggered which would require the Goods to be made available in whole or in part as Free and Open Source Software; (iv) ensure that no Free and Open Source Software is used in Goods whose license conditions require that the user is enabled to install or run

modified software on hardware with integrated software (so-called embedded system, in particular motor vehicles), unless Buyer has expressly informed Vendor that the Goods are not used on such an embedded system with technical security mechanisms (e.g. signature procedures). Where the use of Free and Open Source Software is permitted pursuant to this Section, Vendor is obliged to ensure that the use of Free and Open Source Software does not restrict the contractual or intended use of the Goods by Buyer and companies in the Volkswagen Group. Vendor shall provide the information pursuant to (ii) in a format specified by Buyer. The foregoing requirements shall also apply, without further notice or request by Buyer to any update of the software used in the Goods, irrespective of the type of provision (e.g. source code, binary, SaaS, container).

仅当卖方履行所包含的自由和开源软件的全部许可义务，并遵守以下义务时，商品中才可包含自由和开源软件：作为一项重大合同义务，卖方承诺：(i) 如实完成自由和开源软件声明，并通过签署该声明确认所使用的自由和开源软件完全符合开源许可协议和开源软件声明的要求；(ii) 向买方提供以下有关具体的自由和开源软件的完整、正确的信息的副本，包括准确的名称和版本、所有相关的许可协议和使用条件、软件来源、著作权证明/作者声明以及软件架构，以及；(iii) 确保不会由于触发COPYLEFT效应而要求商品成为自由和开源软件或自由和开源软件的一部分；(iv) 确保商品中使用的自由和开源软件的许可条件不会允许用户能够在集成软件的硬件(所谓的嵌入式系统，特别是机动车辆)上安装或运行修改后的软件，除非买方明确通知卖方商品不在具有技术安全机制(例如签名程序)的嵌入式系统上使用。对于本节允许的自由和开源软件的使用，卖方有义务确保自由和开源软件的使用不会限制买方和大众汽车集团公司对商品的基于合同的使用或预期使用。卖方应按照买方规定的格式提供第(ii)项规定的信息。无需买方另行通知或要

求，上述要求也适用于商品中使用的软件的任何更新，无论更新以何种类型提供(例如源代码、二进制文件、软件即服务、容器)。

3. If subcontractors are involved, Vendor shall obligate in accordance with this 2nd Amendment .

如涉及分包商，卖方应按本第二修正案的规定履行义务。

4. Without prejudice to any other rights of Buyer, Vendor warrants to Buyer that it will comply with the provisions of Clause 2 of this 2nd Amendment as well as all requirements of the relevant licenses for all Goods, that the Goods do not contain any other Free and Open Source Software and that there is no infringement of copyright provisions.

在不损害买方任何其他权利的前提下，卖方向买方保证将其遵守本第二修正案第2条的规定以及所有商品的相关许可协议要求，商品不包含任何其他自由和开源软件且不违反著作权规定。

5. If Vendor provides Goods to Buyer containing Free and Open Source Software without complying with Clause 2 of this 2nd Amendment , Buyer shall be entitled, at its own discretion, to early terminate or rescind this agreement or to request that Vendor replace the Free and Open Source Software with equivalent proprietary software.

如果卖方向买方提供的商品中的自由和开源软件不符合本第二修正案第2条的约定，买方有权自行决定提前终止或解除本合同或要求卖方用等效的专有软件替换上述自由和开源软件。

6. Vendor shall further indemnify Buyer without limitation against all third claims and associated costs arising from a violation of this 2nd Amendment .

卖方应无限制地进一步赔偿买方因违反本第二修正案规定而引起的所有第三方索赔和相关费用。

7. To the extent required under the respective terms and conditions of the Free and Open Source Software, Vendor shall deliver the source code of the Free and Open Source Software to Buyer at the latest along with the Goods.

在自由和开源软件各自条款和条件规定的范围内，卖方应将自由和开源软件的源代码最迟随商品一并交付给买方。

8. Except those amended by this 2nd Amendment, the terms and provisions of the GTC shall remain unchanged and binding upon the parties during the term of the PO or Service Agreement (if applied). The 2nd Amendment is an integral part of the GTC and be of equal legal validity.

除本第二修正案规定的内容外，一般条款与条件的其他规定维持不变且持续约束采购订单或服务协议(如适用)的当事人，本第二修正案是一般条款与条件的不可分割组成部分且与GTC 具备同等法律效力。