



## SALE OF GOODS AGREEMENT

### 货物销售协议

#### 1. Definitions.

定义。

- 1.1. “Components” means collectively (i) NCNR Components, (ii) Customer Specific Components and (iii) Standard Components as identified during quotation.

“零部件”指包括（i）NCNR零部件；（ii）客户专用零部件及（iii）在报价中指定的标准零部件。

- 1.2. “Customer Specific Components” means the materials designated as “Customer Specific Components” and listed on Exhibit A or as identified during quotation, which are purchased by Flextronics solely for Customer programs and not widely used within Flextronics.

“客户专用零部件”指被指定为“客户专用零部件”的并且在附件A里列明的物料或者在报价中指定的由伟创力采购的专门用于客户项目且不能在伟创力内部广泛使用的物料。

- 1.3. “NCNR Components” means the materials designated as “NCNR Components” and listed on Exhibit A or as identified during quotation, which are materials that are identified as non-cancellable and non-returnable and non-reschedulable at any time.

“NCNR零部件”指被指定为“NCNR零部件”并且在附件A里列明的物料或者在报价中指定的在任何时间内不可取消且不可改期的物料。

- 1.4. “Standard Components” means the materials designated as “Standard Components” and listed on Exhibit A, or as identified during quotation that are cancellable at any time and returnable within a reasonable timeframe with written approval by Flextronics.

“标准零部件”指被指定为“标准零部件”并且在附件A里列明的物料或者在报价中指定的在任何时间内可以取消及由伟创力书面许可的在合理时间范围内可以退还的物料。

2. Sale of Goods. Seller shall sell to Buyer and Buyer shall purchase from Seller the goods set forth on the face hereof (the “Goods”) in the quantities and at the Prices (as defined in Section 7) and upon the terms and conditions set forth in this Agreement.

货物销售。 卖方应按照本协议中规定的条款和条件以及数量和价格（见第7条中的定义）向买方销售本协议封面上载明的货物（“**货物**”），买方应按照本协

议中规定的条款和条件以及数量和价格向卖方购买本协议封面上载明的货物。

3. Delivery.

交付。

- (a) The goods will be delivered in accordance with the times stated on the face hereof. Seller shall not be liable for any delays, loss or damage in transit.

货物将按照本协议封面上载明的时间进行交付。卖方对运输中的任何迟延、损失或损害不承担任何责任。

- (b) Seller shall tender delivery of the Goods at Seller's shipping dock at Seller's facility (the "**Delivery Point**") using Seller's standard methods for packaging such Goods. Unless agreed otherwise, all Prices are EXW Delivery Point, Incoterms 2010.

卖方应当在卖方工厂的卖方装卸码头（“**交付地点**”）以卖方标准包装方式交付货物。除另有约定外，所有价格均为按照国际贸易术语解释通则（2010年）在交付地点工厂交货。

- (c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfilment of the quantity purchased under this Agreement.

卖方可自行决定向买方交付部分货物，且不承担任何责任或处罚。每一批交货均构成一次独立销售，买方应对所交付的货物进行付款，而无论该等交货是按照本协议所采购数量的全部交付或部分交付。

4. Non-delivery. The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within fourteen (14) days of the date when the Goods would in the ordinary course of events have been received. Any liability of Seller for non-delivery of the Goods shall be limited to delivering the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

未交付。 卖方于货物自其营业地发货时所记录之任何批次的数量是证明买方于交付时所收到的货物数量的最终证据，但买方能够提供确凿的相反证据的除外。除买方在正常情况下本应收到货物之日起的十四（14）日内向卖方发送未收到货物的书面通知以外，卖方不承担未交货（即使是因卖方过失造成的）。卖方对未交货的责任应限于在合理时间内交付货物或者调整相关货物发票以反映实际交付的数量。

5. Title and Risk of Loss. Title and risk of loss passes to Buyer when the goods are placed at the disposal of the Buyer at the Delivery Point.

所有权和灭失风险。 当货物在交付地点由交付给买方时，所有权和灭失风险转

移给买方。

6. Acceptance. Buyer's acceptance of this Agreement must be in writing to Seller. However, if Seller has not received Buyer's written acceptance, and Seller delivers the Goods to Buyer, Buyer's will be deemed to accept this Agreement upon acceptance of or payment for the Goods.

接受。买方对本协议的接受须以书面形式向卖方作出。但是，如果卖方未收到买方的书面接受且卖方向买方交付货物的，当买方接受货物或者为货物付款时，视为买方已接受本协议。

7. Inspection and Rejection of Nonconforming Goods.

检查和拒收不合格货物。

- (a) Buyer shall inspect the Goods within 10 days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. "Nonconforming Goods" means only the following: (i) product shipped is different than identified in this Agreement; or (ii) product's label or packaging incorrectly identifies its contents.

买方应在收到货物之日起的10日内（“验收期限”）验收货物。除非买方在验收期限内书面通知卖方存在任何不合格货物并提供书面证据或卖方要求的其他文件，买方将被视为已接受货物。“不合格货物”仅指以下产品：

（i）交付的产品与本协议中指定的产品不同；或者（ii）产品与其标签或包装不符。

- (b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods. Buyer shall obtain a return material authorization from Seller and shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility as directed by Seller. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

如买方及时通知卖方任何不合格货物的，卖方应自行决定采取任一如下补救措施：（i）以合格货物替换该等不合格货物；或者（ii）货款贷记或者退回不合格货物的货款。买方应从卖方获得退货授权，并按照卖方的指示自费将不合格货物运输至卖方场地，灭失风险由买方承担。如卖方决定换货的，卖方应在收到买方运送的不合格货物后将替换的货物运输至交付地点，费用和灭失风险由买方承担。

- (c) Buyer acknowledges and agrees that the remedies set forth in Section 6(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 6(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this

Agreement to Seller.

买方确认并同意，第6条第(b)款中规定的救济措施是买方针对不合格货物所享有的唯一救济。除第6条第(b)款约定之情形外，所有对买方的货物销售均是单向的，买方不得将其在本协议项下购买的货物退回给卖方。

8. **Price.** Buyer shall purchase the Goods from Seller at the price[s] (the “Price[s]”) set forth in Seller’s quotation, or on the face hereof. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel or real or personal property or other assets.

价格。买方应按照卖方报价中或者本协议封面上规定的价格(“价格”)向卖方购买货物。所有价格均不包含所有销售、使用和消费税以及任何其他类似的、由任何政府机关对买方应付款项所征收的任何类型的税款、关税和收费。买方应对所有该等收费、费用和税款承担责任；但是，买方不承担对卖方的所得、收入、总营收、员工或不动产或个人财产或其他资产征收的或与之相关的任何税款。

9. **Payment Terms.** Unless otherwise agreed to in writing, Buyer shall pay all invoiced amounts due to Seller within thirty (30) days from the date of Seller’s invoice. Buyer shall make all payments hereunder by wire transfer and in US dollars. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees.

付款条款。除另行书面约定外，在卖方开具发票之日起的三十(30)日内，买方应向卖方支付所有到期的发票金额。买方应通过电汇方式以美元支付本协议项下的全部款项。买方应对所有的迟延付款支付利息，利息以每月1.5%的利率或者依适用法允许的最高利率，二者以低者计算，按日计息，且按月计算复利。买方应偿付卖方因催收迟延付款所发生的全部费用，包括但不限于律师费。

10. **No Set-off.** Buyer shall not, and acknowledges that it will have no right, under this Agreement, any other agreement, document or law, to withhold, offset, recoup or debit any amounts owed (or to become due and owing) to Seller or any of its affiliates, whether under this Agreement or otherwise, against any other amount owed (or to become due and owing) to it by Seller or its affiliates, whether relating to Seller’s or its affiliates’ breach or non-performance of this Agreement or any other agreement between Buyer or any of its affiliates, and Seller or any of its affiliates, or otherwise.

不得抵销。买方不得且确认其无权根据本协议、任何其他协议、文件或法律以本协议或其他文件项下欠付(或者将要到期和拖欠)卖方或其任何关联方的任何款项扣留、抵销、收回或者借记卖方或其关联方欠付(或者将要到期和拖欠)买方的任何其他款项，无论该等款项是与卖方或其关联方违反或未履行本协议或者买方或其任何关联方与卖方或其任何关联方之间的任何其他协议相关，还



是与其他方面相关。

## 11. Warranties.

保证。

- (a) **SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

卖方对货物不做任何保证，包括任何（a）适销性保证；（b）适合特定目的之保证；（c）所有权保证；或者（d）未侵犯第三方知识产权的保证；且无论是明示的还是法律、交易习惯、履约习惯、商业惯例或其他方面所默示的。

- (b) Products manufactured by a third party (“**Third Party Product**”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. The warranty for Third Party Product will be that warranty offered by the manufacturer of the Third Party Product. Seller is not responsible for providing assistance to Buyer for warranty claims on Third Party Products. For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

由第三方制造的产品（“**第三方产品**”）可能构成或包含货物，或者被包含于、纳入进、附加在货物中，或者同货物一起包装。对第三方产品的保证即为第三方产品的制造商所提供的保证。对于就第三方产品的保证索赔，卖方不负责向买方提供协助。为避免疑义，卖方不对任何第三方产品做任何陈述或保证，包括任何（a）适销性保证；（b）适合特定目的之保证；（c）所有权保证；或者（d）未侵犯第三方知识产权的保证；无论是明示的还是法律、交易习惯、履约习惯、商业惯例或其他方面所默示的。

## 12. Limitation of Liability.

责任限制。

- (a) **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST**

**PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (D) THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

在任何情形下，卖方均不承担任何因违反本协议而引起的或者与之相关的和/或与之相关联的任何后果性、间接性、附带性、特殊性、惩罚性、惩罚性或者加重性损害赔偿金、利润或收入损失或者减值的责任，无论（A）该等损害赔偿金是否可预见；（B）卖方是否已被告知该等损害赔偿金的可能性；（C）索赔所基于的法律或衡平法上的理论（合同、侵权或其他方面）；以及（D）未获得任何约定的或具有本质意义的其他救济，

- (b) **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER, OR \$50,000.00 USD, WHICHEVER IS LESS.**

在任何情况下，因本协议引起的或者与本协议相关的卖方承担全部累积责任（无论是因违反合同、侵权（包括过失）或其他原因引起的还是与之相关的）均不得超过本协议项下因货物销售而支付给卖方的货款总额或者50,000.00美元（以孰低者为准）。

13. Compliance with Law. Buyer is in compliance with and shall comply with all applicable laws, regulations and ordinances. Buyer has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.

遵守法律。买方符合并应遵守所有适用的法律、法规和规章。买方维持着且应当维持其履行本协议项下义务所需要的全部执照、许可、授权、同意和准许。

14. Indemnification. Buyer shall indemnify, defend and hold harmless Seller and its officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party, arising out of or resulting from any claim of a third party or Seller arising out of or occurring in connection with the products purchased from Seller or Buyer's negligence, willful misconduct or breach of this Agreement. Buyer shall not enter into any settlement without

Seller's or Indemnified Party's prior written consent.

补偿。对于因从卖方购买的产品或者买方的过失、故意不当行为或违反本协议而引起或者发生的第三方或卖方的任何索赔而造成或产生的、受偿方所发生的任何损失、损害、责任、缺陷、索赔、诉讼、判决、和解、利息、裁决、处罚、罚款、成本或任何类型的费用，包括律师费、执行本协议项下的任何赔偿权利的费用和成本以及向任何保险提供商索赔的费用，买方应赔偿卖方及其高管、董事、雇员、代理人、关联方、承继人和允许的受让人（合称“受偿方”），为该等受偿方抗辩并确保该等受偿方不受任何损害。未经卖方或者受偿方的事先书面同意，买方不得达成任何和解。

- 15. Termination.** In addition to any remedies that may be provided in this Agreement, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

终止。除本协议中可提供的任何救济以外，如买方发生以下情形的，卖方可经书面通知而立即终止本协议：（i）未支付本协议项下任何到期款项；（ii）未以其他方式全部或部分履行或遵守本协议的任何条款；或者（iii）资不抵债、提交破产申请或者为债权人利益，针对其提起或已提起与破产、破产接管、重组或转让相关的程序。

- 16. Confidentiality.** All non-public, confidential or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential”, in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller 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 Buyer at the time of disclosure; or (c) rightfully obtained by the Buyer on a non-confidential basis from a third party.

保密。卖方向买方披露的、与本协议相关的所有卖方的非公开、保密或专有信息（包括但不限于，规格、样品、模型、设计、规划、图纸、文件、数据、业务运营、客户清单、定价、折扣或返利）均是保密的，无论该等信息是口头披露的还是以书面、电子或其他形式或媒介披露或获得的，也无论是否标记、指明或以其他方式认定为“保密”，且仅用于履行本协议，并且，未经卖方书面授权，不得披露或复制该等信息。经卖方要求，买方应立即返还从卖方收到的全部文件和其他材料。卖方有权对任何违反本条的行为获得强制令救济。本条不得适用于属于以下情形的信息：（a）公共领域内的信息；（b）买方在披露时

已知晓的信息；或者（c）买方在非保密的情况下从第三方合法获得的信息。

- 17. Entire Agreement.** This Agreement, including and together with any related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. The sale of the Goods is expressly conditioned upon Buyer's assent to the terms contained in this Agreement.

完整协议。本协议（包括任何相关的附表、附件和附录）构成双方就本协议中规定的标的所达成的唯一且完整的协议，并取代所有先前或同期对该等标的所达成的口头或书面的理解、协议、陈述和保证。销售货物的明确条件是买方同意本协议中规定的条款。

- 18. Survival.** Neither Party shall incur any liability whatsoever for any damage, loss or expenses of any kind suffered or incurred by the other due to any expiration or permitted termination of this Agreement. The following Sections shall survive expiration or termination of this Agreement: 10 (Warranties), 11 (Limitation of Liability), 13 (Indemnification) and 15 (Confidentiality).

存续。因本协议期限届满或者允许终止而使另一方遭受或发生任何损害、损失或费用的，任一方不承担任何责任。本协议期限届满或终止的，以下条款应继续存续：第10条（保证）、第11条（责任限制）、第13条（赔偿）和第15条（保密）。

- 19. Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

可分性。如本协议的任何条款或规定在任何管辖区域内无效、不合法或者不可执行的，该等无效性、不合法性或不可执行性不得影响本协议的任何其他条款或规定，也不得使该等条款或规定在任何其他管辖区域内无效或不可执行。

- 20. Waiver.** No claim or right arising out of the breach of this Agreement by Buyer can be discharged by a waiver of the claim or right by Seller unless the waiver is supported by consideration and is in writing signed by Seller.

放弃。卖方放弃索赔或权利的，不得免除因买方违反本协议而产生的任何索赔或权利，但该等放弃有对价支持并由卖方书面签署的除外。

- 21. Cumulative Remedies.** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise. Notwithstanding the previous sentence, the Parties intend that Buyer's rights under Section 6 and Section 10 are Buyer's exclusive remedies for the events specified therein.

累积救济。本协议中规定的所有权利和救济均是累积且非排他的，任一方对任何权利或救济的行使不得排除行使当前或未来在法律、衡平法、条例上可获得的、双方之间的任何其他协议中可获得的或以其他方式可获得的任何其他权利或救济。尽管有上一句的规定，双方同意，买方在第6条和第10条项下的权利是买方就其中规定的事件所享有的排他性救济。

22. Assignment. Buyer shall not assign its rights or obligations under this Agreement without the advance written consent of Seller. Seller may assign its rights under this Agreement to a subsidiary or affiliate upon written notice to Buyer.

转让。未经卖方提前书面同意，买方不得转让其在本协议项下的权利或义务。经书面通知买方，卖方可向子公司或关联方转让其在本协议项下的权利。

23. Choice of Law and Forum.

法律选择和管辖地。

This Agreement shall be governed by and interpreted in accordance with the laws of Hong Kong, exclusive of conflict or choice-of-law rules. The parties specifically agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods, as may be amended from time to time, shall not apply to this Agreement. Any dispute, claim or controversy arising from or related in any way to this Interim Agreement or the interpretation, application, breach, termination or validity thereof, including without limitation any claim of inducement of this Interim Agreement by fraud will be submitted for resolution by binding arbitration in accordance with the Hong Kong International Arbitration Centre Administered Arbitration Rules in force when the Notice of Arbitration is submitted in accordance with these Rules. The arbitration will be held in Hong Kong and it shall be conducted in the English language. Judgment on any award in arbitration may be entered in any court of competent jurisdiction. Notwithstanding the above, each party shall have recourse to any court of competent jurisdiction to enforce claims for injunctive and other equitable relief. IN THE EVENT OF ANY DISPUTE BETWEEN THE PARTIES, THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY, AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE OR ARBITRATOR WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.

本协议受香港法律管辖并据此解释，但排除其冲突规范。双方特别同意《1980年联合国国际货物销售合同公约》及其不时之修订将不适用于本协议。在任何方面因本协议或其解释、适用、违约、终止或有效性而起或与之有关的任何争议、索赔或争端，包括但不限于关于以欺诈方式诱使达成本协议的索赔，均将根据香港国际仲裁中心机构仲裁规则和程序提呈约束性仲裁解决。仲裁将在香港举行，且须以英语进行。任何仲裁裁决的判决都可提交任何具有司法管辖权的法院。即使上文已有规定，各方仍有权向任何具有司法管辖权的法院要求强制执行禁令及其他衡平法上的救济。如果双方之间存有任何争议，双方特此知情及自愿地同意，在适用法律允许的最大范围内，任何及所有事宜都应由一名法官或仲裁员在没有陪审团的情况下作出决定。

24. **Force Majeure.** Any delay or failure of Seller to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence and that by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable (which events may include natural disasters, embargoes, explosions, riots, wars, acts of terrorism, strikes, labor stoppages or slowdowns or other industrial disturbances, and shortage of adequate power or transportation facilities).

不可抗力。如卖方迟延履行或未履行其在本协议项下的义务是直接因该方控制以外的、该方无过错或过失且根据其性质该方无法预见的（或者如果可以预见，但无法避免的）事件（该等事件可包括自然灾害、禁运、爆炸、骚乱、战争、恐怖主义行为、罢工、劳工停工或怠工或者其他行业动乱以及电力或运输设施不足）造成的，则该等迟延履行或未履行应当予以豁免。

25. **Relationship of the Parties.** In fulfilling its obligations under this Agreement, each Party shall be acting as an independent contractor. This Agreement does not make either Party the employee, agent, or legal representative of the other. Nothing herein shall be deemed to establish a partnership, joint venture, association or employment relationship between the Parties.

双方的关系。在履行本协议项下的义务过程中，各方应作为独立的缔约方。本协议未使任一方成为另一方的雇员、代理人或法定代表人。本协议中的任何规定不得被视为在双方之间形成合伙、合资、社团或雇用关系。

26. **Controlling Language.** This Agreement is made out in English and Chinese languages. The Chinese language is provided for reference only. Any discrepancy occurs, the English version shall prevail.

控制文本。本协议以中、英文书就，中文仅作参考。如果中文版和英文版之间存在任何冲突，应以英文版为准。