

General Terms and Conditions of Supply to Alcoa in China



"Alcoa" referred in this general terms and conditions of supply to Alcoa in China is Alcoa (China) Investment Company Limited or any company that is a subsidiary of, an affiliate of, or related to Alcoa (China) Investment Company Limited. This Contract and Alcoa's acceptance of Supplier's performance under the Contract is expressly limited to and made conditional upon the exclusivity of these terms and conditions. Any proposal for additional or different terms or any attempt by Supplier to vary, in any degree, any of the terms of this Contract through Supplier's acceptance shall not operate as a rejection of this offer, but shall be deemed a material alteration hereof. This offer shall be deemed accepted by Supplier under these terms and conditions without any additional or different terms proposed by Supplier. The terms and conditions of this Contract may only be amended by Alcoa's specific assent to the change and not by Alcoa's full or partial acceptance of performance by Supplier hereunder.

PERFORMANCE

P-1 Examination Prior To Commencement:

Supplier acknowledges that it has had the opportunity and has carefully examined all specifications, drawings, designs and other similar information related to this Contract as well as governmental restrictions, permits and licence requirements, and all other laws and rules applicable to the work to be done under this Contract, the site of the work, its surroundings and local conditions; and has made all other investigations necessary to obtain a complete understanding of what is required to fully perform its obligations under this Contract. Supplier further represents that, based on these examinations and investigations that it has all necessary business, professional and technical expertise as well as the equipment, plant and employee resources required to perform the work covered by this Contract in accordance with such specifications and drawings and the terms of this Contract.

P-2 Changes:

Alcoa reserves the right at any time to make changes in (i) specifications, drawings, designs and other similar information related to this Contract; (ii) shipping schedules and/or places of delivery; and (iii) method of shipment or packing (iv) Other general scope of this Contract; and Supplier will continue performance of this Contract as so changed. Alcoa further reserves the right to change the amount of Alcoa-owned property to be used in performance of this Contract. If any such change causes a material increase or decrease in the cost of or time required for completing this Contract, an equitable adjustment shall be made in the purchase price and/or delivery schedule, and this Contract will be modified in writing accordingly. Any claim by Supplier for adjustment to the purchase price or delivery schedule must be asserted within thirty (30) days from the date of receipt by Supplier of Alcoa's notification of change.

P-3 Warranty of Performance:

Supplier expressly represents and warrants that:

- (a) all goods and services furnished by Supplier under this Contract will conform to the specifications, drawings, designs and other similar information related to this Contract and, where applicable, customary standards and specifications;
- (b) all work shall be done in a good and competent manner and all goods, unless otherwise specified, will be new, of the best material and quality, free from defects, merchantable, fit for the purpose intended and of such design and quality that, in each and every instance, they shall efficiently and economically perform their intended function and purpose;
- (c) Supplier shall transfer to Alcoa good title to all goods under this Contract, free of all liens and encumbrances, including those for materials or labor furnished hereunder by Supplier or any of its subcontractors;
- (d) Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall promptly comply, with any and all applicable laws, rules, regulations, policies, procedures of the national or local authority, including the laws and rules in the People's Republic of China (the PRC), including without limitation that any goods or services provided hereunder shall comply with any and all applicable national and local laws, rules, regulations and ordinances, including the laws and rules in the PRC;
- (e) Promptly before commencing work, at its sole cost and expense, Supplier shall obtain all necessary permits and licences (including licences to do business), including all permits and licenses required under PRC law, and shall maintain such permits and licences for performing work under this Contract in accordance with the drawings, specifications, designs and other similar information related to this Contract and the other terms of this Contract; and
- (f) Supplier shall comply with any representation or warranty made by Supplier or its agents to induce Alcoa to enter into this Contract, or upon which Alcoa has relied.

P-4 Inspection:

- (a) All goods, services, materials, equipment, supplies, apparatus and machinery provided by Supplier hereunder are subject to inspection and test and rejection or approval by Alcoa at all times and places, including Supplier's plant, to the extent practicable, and to final inspection and acceptance at plant of Alcoa. If inspection or test is made on Supplier's premises Supplier shall furnish free of cost to Alcoa, all reasonable facilities and assistance for the safe and convenient inspection and tests required by Alcoa.
- (b) When any material work is being performed away from Alcoa's premises, Alcoa shall be given reasonable advance written notice where such work is to be done and when it will be ready for inspection, so that Alcoa may, if it so desires, inspect the same from time to time before delivery.
- (c) All laboratory tests necessary for the full performance of this Contract shall be made in a laboratory approved by Alcoa.
- (d) Any inspection by Alcoa shall in no way release Supplier from warranties or guarantees as to goods, services, quality or performance hereunder.

P-5 Subcontracting:

Supplier shall obtain Alcoa's written permission before subcontracting any portion of the work under this Contract. All subcontracts and all orders for the purchase or rental of supplies, material, or equipment, shall provide that the subcontractor or supplier shall be bound by all of the terms and conditions of this Contract. No subcontract or order shall relieve Supplier from its obligations to Alcoa under this Contract nor shall purport to bind Alcoa, but each subcontract or order shall contain a provision permitting assignment by Supplier to Alcoa.

P-6 Preservation; Packing; Packaging:

All items shall be packed and packaged in accordance with all applicable international, national and local laws and regulations and with best commercial practices, with consideration to environmental impacts. Polystyrene foam and plastic beads are not environmentally acceptable and shall not be used. Any shelf life or preservation requirements shall be clearly indicated on or with each applicable item. Any timber used in shipments from countries outside of China must be kiln dried or fumigated in accordance with Chinese Quarantine Inspection Service requirements. Straw, soil and animal products must not, under any circumstances, be present in any packaging material or shipping container. An original packing declaration for FCL shipping containers and original fumigation certificates must be supplied in English to Alcoa's shipping agent. Supplier must ensure that fumigation facilities utilised are acceptable to the Chinese Quarantine Inspection Service.

P-7 Payment:

(a) Unless otherwise agreed in writing with Alcoa, Alcoa shall, upon receipt of an accurate invoice, make payment to Supplier in accordance with the terms of this Contract. All invoices shall show the Alcoa Contract Number and such other reasonable detail concerning the item or work as is consistent with the terms of this Contract or otherwise requested by Alcoa.

(b) Payments otherwise due may be withheld by Alcoa on account of defective work not remedied, claims filed, reasonable evidence indicating the probable filing of claims, failure of Supplier to make payments properly to its subcontractors or suppliers, reasonable doubt that the Contract can be completed for the balance then unpaid, the failure of Supplier to perform any of its other obligations under this Contract or any other agreement with Alcoa, or to protect Alcoa against any liability arising out of Supplier's failure to pay or discharge taxes or other obligations under this Contract or any other agreement with Alcoa. If the causes for which payment is withheld are removed, the withheld payments will promptly be made. If the causes are not removed on written notice, in addition to its other rights and remedies Alcoa may rectify the same at Supplier's expense.

(c) If, after all payments to Supplier are made by Alcoa, any claim by a subcontractor or supplier to Supplier remains unsatisfied, Supplier shall refund to Alcoa all monies that Alcoa may be compelled to pay in discharging such a claim, including all costs and legal fees.

(d) Acceptance by Supplier of the final payment under this Contract shall constitute a waiver, release and discharge of any and all claims and demands of any kind or character whatsoever, which Supplier then has, or may or can thereafter acquire, against Alcoa, its successors and assigns, for or on account of any matter or things whatsoever arising out of, or in any manner connected with, the performance of this Contract, or any agreement supplemental thereto. However, final payment by Alcoa for goods or services provided shall not constitute acceptance nor a waiver, release or discharge of any claims or demands, which Alcoa then has or may or can thereafter acquire against Supplier, its successors or assigns, for or on account of any matter or things whatsoever arising out of, or in any manner connected with, the performance of this Contract or any agreement supplemental thereto.

P-8 Termination For Cause:

Alcoa reserves the right at any time and without any liability to it, to cancel all or any part of this Contract if (i) Supplier becomes insolvent, files a voluntary or involuntary petition for bankruptcy, makes an assignment for the benefit of creditors, has an administrator or a receiver appointed, or initiates reorganisation proceedings, or (ii) Supplier fails to perform any of Supplier's obligations under this Contract, or (iii) Supplier fails to make progress as to endanger performance under this Contract in accordance with its terms, or (iv) Alcoa has reasonable grounds for insecurity about Supplier's ability to duly perform any of Supplier's obligations under this Contract. Alcoa retains all rights at law and in equity, including without limitation, in the case of partially completed work, to finish the work by whatever method it may deem expedient, including the hiring of another contractor or other contractors and, for that purpose, may take possession of all materials, machinery, equipment, tools and appliances thereon and exercise all rights, options and privileges of Supplier. In such case, Supplier shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of this Contract exceeds Alcoa's cost of finishing the work, including compensation for additional managerial and administrative services, such excess will be paid to Supplier. If such costs of Alcoa exceed such unpaid balance, Supplier shall be liable for and shall pay the difference to Alcoa. With respect to any cancelled part of this Contract, Alcoa shall have no further liability to Supplier. Supplier agrees to diligently continue performance of any uncancelled portion of this Contract. If after cancellation it is determined that Supplier has not committed a breach or that Supplier's failure to perform is excused due to an event of force majeure the affected portion of the Contract will be deemed to have been terminated for Alcoa's convenience under P-9 below.

P-9 Termination For Convenience:

Alcoa may for its convenience terminate work under this Contract in whole or part at any time by giving notice to Supplier in writing. Supplier will thereupon immediately stop work on this Contract, or the terminated portion thereof, and notify any subcontractors to do likewise. Alcoa's sole and exclusive liability and Supplier's sole and exclusive remedy for such termination will be payment (i) for finished goods and services delivered or performed according to schedule prior to termination, subject to Alcoa's sole acceptance, at the applicable price specified, and (ii) of Supplier's actual cost of the terminated portion of the work to the extent such costs are reasonable and are properly allocated under generally accepted accounting principles, excluding any lost or anticipated profits, and (iii) of Supplier's actual cost of discharging liabilities for termination of the applicable subcontracts and orders to the extent reasonable and allocated as stated in (ii) above, and (iv) of Supplier's reasonable cost of protection of incomplete work or property in which Alcoa has an interest. Alcoa reserves the right to direct the manner of disposition of any work or property that Alcoa pays for hereunder. Supplier's termination claim must be submitted to Alcoa in writing not later than ninety (90) days from the date Supplier receives Alcoa's termination notice. In no event will Alcoa's liability in the aggregate exceed the total price, which would have been paid hereunder for the goods or services to be provided to Alcoa by Supplier had this Contract not been terminated. Notwithstanding the foregoing, to the extent such termination involves goods or services which Supplier normally manufactures or supplies for distribution to other customers, and not specifically manufactured to fill this Contract, Alcoa's sole and exclusive liability and Supplier's sole and exclusive remedy will be payment for finished goods delivered or services performed according to schedule prior to termination, subject to Alcoa's final acceptance.

ENVIRONMENTAL, HEALTH & SAFETY

EH&S-1 Environmental Compliance:

(a) Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall promptly comply, with any and all applicable regulations, policies, procedures of any national or local authority regarding protection of human health and the environment and the prevention or control of pollution or toxic or hazardous wastes or substances. These shall include, without limitation, requests made by any governmental authority to initiate corrective actions for any deficiencies.

(b) Supplier shall not, without the prior written consent of Alcoa, cause the transportation of toxic or hazardous substances to or from Alcoa's premises by any other transporter or using any other method of transportation than that specified in the Contract. Supplier may not, without the prior written consent of Alcoa, cause the treatment, storage or disposal of any toxic or hazardous substances at any facility other than that specified in the Contract.

(c) In the event of any spill, discharge, release or threatened release of a toxic or hazardous substance in, under or upon Alcoa's premises caused by the action or inaction of Supplier or any of its subcontractors or any of their representatives, agents employees or invitees, or in the event of any spill, discharge, release, or threatened release of toxic or hazardous substances in, under or upon any location except for an Alcoa-approved treatment, storage or disposal facility, Supplier shall immediately notify Alcoa and shall, at Supplier's sole expense, (i) properly notify national and local authorities in accordance with applicable law, and (ii) take timely action to control and clean-up the release or threatened release so that any hazard or potential hazard to human health, life or the environment will be expeditiously controlled and eliminated. Alcoa reserves the right to approve both the method and means of clean-up for any spill, discharge, release or threatened release covered under this section. (d) Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall not introduce onto Alcoa's property any toxic or hazardous substance without Alcoa's prior written consent, including without limitation asbestos, ceramic fibre, fibre glass or polychlorinated biphenyls (PCBs) or chlorinated fluorocarbons (CFCs).

EH&S-2 Safety Compliance:

- (a) Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall promptly comply, with any and all applicable health and safety regulations, policies, procedures, ordinances, orders, decrees, decisions, restrictions, permits and licences of any national or local authority regarding the prevention of accidents or fires and the elimination of accident hazards, fire hazards or unsafe practices. These shall include, without limitation, requests made by any governmental authority to initiate corrective actions for any deficiencies.
- (b) Supplier shall, at all times during the performance of this Contract, take all measures and precautions necessary to protect the property of Alcoa and others, and to prevent injury, illness or death to any person. Such measures and precautions shall include, but are not limited to, all safeguards and warnings necessary (i) to protect all persons against conditions, including exposure to health hazards which could be dangerous and (ii) to prevent accidents of any kind wherever the work is being performed, particularly where the work is being performed in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by Supplier, its subcontractors, Alcoa or other persons.
- (c) Prior to bringing/shipping onto Alcoa's site any toxic or hazardous substances, including those that will emit noise, dust, vibration, radiation or gas, have a high surface temperature or otherwise affect the environment or pose occupational health risks, Supplier shall provide to Alcoa material safety data sheets in such detail as Alcoa requests regarding each such substance and the associated emission, effects or risks.

ON-SITE WORK

S-1 Compliance with Alcoa Environmental Regulations:

Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall promptly comply, with any and all applicable regulations, policies, procedures of Alcoa regarding the protection of human health and the environment and the prevention or control of pollution or toxic or hazardous wastes or substances. These shall include, without limitation, any of Alcoa's site regulations with respect to Alcoa's premises as well as requests made by Alcoa to initiate corrective actions for any deficiencies.

S-2 Compliance with Alcoa Health and Safety Regulations:

- (a) The safety of Supplier and subcontractors, and their representatives, agents employees, and invitees, while on Alcoa's premises, or of any other person who enters upon Alcoa's premises with the consent of Supplier, subcontractors or the representatives, agents, employees or invitees of any of them or for reasons relating to this Contract, shall be the responsibility of Supplier.
- (b) Supplier shall at all times maintain good order among its employees and shall not employ, for purposes of this Contract, any person unfit or not skilled in the work assigned. Supplier shall confine (i) all tools, vehicles, containers, and equipment, (ii) all persons who come onto Alcoa's premises for reasons relating to this Contract, and (iii) all other persons who come onto Alcoa's premises with the consent of Supplier, subcontractors or their representatives, agents, employees or invitees to that portion of Alcoa's premises where the work is being performed, to roads leading to and from such areas, and to any other area which Alcoa may, in writing, permit Supplier to use.
- (c) Supplier shall promptly comply, and shall at all times during the performance of this Contract, take all measures and precautions necessary to ensure that subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor shall promptly comply, with any and all applicable health and safety regulations, policies, procedures of Alcoa regarding the prevention of accidents or fires and the elimination of accident hazards, fire hazards or unsafe practices. These shall include, without limitation, any of Alcoa's site regulations with respect to Alcoa's premises as well as requests made by Alcoa to initiate corrective actions for any deficiencies.

S-3 Rights to Exclude Certain Persons:

Except with the prior written consent of Alcoa, Supplier shall not permit to enter upon the premises of Alcoa at the site of the work any persons other than the officers, employees or representatives of Alcoa, Supplier or approved subcontractors. Alcoa reserves the right to refuse entry to any of its premises by any person, including Supplier's or any subcontractor's employees, if Alcoa considers that to permit entry by that person may be prejudicial or detrimental to the interests of Alcoa. Alcoa shall have the right to bar or remove from its premises any such person. Any exercise of the above right shall not represent a repudiation of this Contract and Supplier shall promptly provide for the work to be performed by another employee or subcontractor as the case may require.

S-4 Cooperation with Other On-Site Activities:

It is understood that work not covered by this Contract may be performed by Alcoa or others in the same area that may be occupied by Supplier. In such event, Supplier shall fully cooperate with Alcoa and such others in scheduling its work so that a minimum of interference to production and to the other work in the area will occur. It is also understood that Alcoa may occupy the site where the work is being performed and such occupancy shall not constitute acceptance of the work by Alcoa.

S-5 Clean-Up:

Supplier shall at all times keep Alcoa's premises and adjoining properties, driveways, and streets clean of rubbish caused by Supplier's operations. At the completion of the work, Supplier shall (i) remove all rubbish from and about such areas, (ii) remove all of its tools, vehicles, containers, equipment, temporary work and surplus materials from such areas, and (iii) have such areas clean and ready for use. If Supplier does not attend to such cleaning immediately upon request, Alcoa may cause such cleaning to be done by others and charge the cost of the same to Supplier.

S-6 Title and Risk of Loss:

Alcoa shall have title to and, except as set forth in L-3, risk of loss of, all completed and partially completed portions of the site work to be performed hereunder and materials delivered to and stored at the work site which are intended to become a part of the work. Supplier shall have the risk of loss or damage to Supplier's property used in performance of the work but which does not become a part thereof.

LIABILITY

L-1 Delays:

- (a) Time is of the essence as to Supplier's performance hereunder. Failure to complete performance under this Contract at the time or times stated, or failure of Supplier to progress the work with timeliness and diligence shall entitle Alcoa at its option to refuse acceptance of the goods, terminate this Contract in whole or in part and avail itself of any other remedies available to it at law or in equity; except if Supplier's failure or delay in completing performance under this Contract is excused by an unforeseeable cause beyond Supplier's control and without Supplier's fault or negligence as described in (b) below.
- (b) The obligations of either party may be suspended by such party in case of act of God, war, riots, fire, explosion, flood, strike, lockout, injunction, national defence requirements, governmental laws, ordinances, rules and regulations, whether valid or invalid, or any other unforeseeable cause beyond the control of such party and without fault or negligence on the part of such party which prevents the manufacture, shipment or acceptance of goods or services to be provided pursuant to this Contract.

L-2 Remedies for Defective or Non-Conforming Goods or Services:

Upon any default by Supplier, including but not limited to, any provision by Supplier, in whole or in part, of non-conforming or defective goods or services, Alcoa at its election may cancel this Contract, in whole or in part. In addition to all other remedies available to Alcoa at equity or in law or as set forth below, Supplier shall, at Alcoa's option (i) repair the non-conforming or defective goods or services, (ii) replace the non-conforming or defective goods or services, or (iii) refund the full purchase price. Supplier shall be responsible for all costs of disposal or return of said goods, whether or not defective and whether or not acceptable, and all costs of purchasing replacement goods or services in the open market, if necessary, after reasonable notice to Supplier.

L-3 Indemnity:

Supplier shall defend, indemnify and hold harmless Alcoa, its present and future officers, directors, shareholders, employees, representatives, agents, successors and assigns from and against liabilities, costs (including investigatory, remedial and monitoring costs) claims, penalties, forfeitures, causes of actions, suits and the costs and expenses related thereto (including the costs of defence, settlement, and legal fees including the costs of lawyers in the employ of Alcoa) which Alcoa, its present and future officers, directors, shareholders, employees, representatives, agents, successors and assigns or any of them may hereafter suffer, incur, become responsible to pay for or pay out arising out of:

(a) the violation of any national or local law, rule, regulation, ordinance, order, decree, decision, restriction, permit or licence for the protection of human health or the environment, including death or bodily injury to any person, destruction or damage (including loss of use) to any property, real or personal, contamination of or adverse effect on the environment, caused directly or indirectly by any act or omission of Supplier, subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor as a consequence of or in any manner connected with the performance of this Contract without limitation;

(b) any and every actual or alleged infringement of any Chinese or foreign patent, trademark, trade secret, or copyright, or actual or alleged misappropriation of trade secret which may result from the purchase, sale, or use of the goods or materials purchased pursuant to this Contract without limitation; and

(c) any other act or omission of Supplier, subcontractors and the representatives, agents, employees and invitees of Supplier or of any subcontractor as a consequence of or in any manner connected with the performance of this Contract which results in any other loss, including but not limited to, any loss of business or profit arising from late performance or the supply, in whole or in part, of non-conforming, defective or substitute goods or services, but only up to the limit of any insurance maintained by Supplier and its subcontractors.

L-4 Insurance:

Alcoa will maintain such insurance policies protecting the employees and property of Alcoa as Alcoa deems necessary. Unless otherwise agreed with Alcoa in writing, Supplier shall maintain at its own expense at least the following insurance coverages, which shall be primary without right of contribution of any other insurance affected by or on behalf of Alcoa:

(a) Worker's compensation insurance in accordance with the laws of the country or Territory in which the work is being done together with insurance in respect of any common law liability of an employer to an employee;

(b) Public liability and product liability insurance with insured limits in respect to bodily injury and property damage of at least one million RMB and with an extension to indemnify Alcoa as principal and to provide indemnity in respect of accidents involving unregistered vehicles; and

(c) In respect to vehicles registered for use on public roads, liability coverage in respect of property damage of at least one million RMB.

To the extent that Supplier or any subcontractor maintains insurance coverage in excess of the above, Alcoa shall be entitled to the benefit of such excess coverages. However, unless otherwise agreed with Alcoa in writing, Supplier and each subcontractor shall not be required to arrange any additional insurance coverages with respect to the employees or property of Alcoa, including the goods and services provided under this Contract. Supplier and its subcontractors shall be at risk in respect to all of Supplier's or the subcontractor's own employees and property.

OTHER GENERAL TERMS

G-1 Independent Contractor:

The relationship between Alcoa and Supplier created by this Contract shall be that of Independent contractor, and nothing contained herein shall be construed as constituting a partnership, joint venture, or agency relationship between Alcoa and Supplier.

G-2 Assignment:

Neither this Contract nor the right to receive payment hereunder may be assigned or transferred without the prior express written consent of Alcoa, and any attempted assignment shall be void and of no force or effect against Alcoa.

G-3 Notices:

All notices, requests, demands and other communications required or permitted to be given under this Contract shall be in English and in writing, either delivered by hand to the addressee, or sent by postage prepaid certified mail (return receipt requested) or airmail, or by reputable overnight or international courier, or by facsimile or other electronic transmission, to such addressee, and shall be effective on the date of receipt. A copy of the text of any notice given by facsimile transmission shall be mailed by postage prepaid certified mail (return receipt requested) or by reputable overnight courier, or delivered by hand, to the address set forth in the Contract within a reasonable time thereafter, provided such confirmation shall not be required if the addressee acknowledges receipt of the notice. No notice shall be deemed received on a day that is not a business day in the jurisdiction in which notices are to be addressed to such addressee. Any such notice shall not be effective until the next business day in such jurisdiction.

G-4 Governing Law:

(1) For domestic purchase from Chinese supplier,

The law governing this Contract, its interpretation, any agreement to arbitrate and the conduct of any arbitration, is PRC law. Alcoa and Supplier hereby expressly exclude application to any legislation, treaty or agreement, which applies the United Nations Convention on Contracts for International Sale of Goods adopted in Vienna in March 1980. Any dispute or difference arising out of or in connection with this Contract, including any question regarding its existence, validity or termination of the legal relationships established by this Contract, which cannot be settled through friendly consultations within 30 days of the commencement of such consultations shall be finally resolved by arbitration by the China International Economic and Trade Arbitration Commission ("CIETAC") in Shanghai in accordance with the Rules of Arbitration of the CIETAC in effect at the time of arbitration. The tribunal shall consist of three arbitrators. Alcoa and Supplier shall each select one arbitrator. The third arbitrator shall be appointed by the CIETAC. The arbitration award shall be final and binding on Alcoa and Supplier, and Alcoa and Supplier agree to be bound thereby and to act accordingly. Notwithstanding the foregoing, Alcoa and Supplier shall have recourse to competent courts for the protection of confidential or proprietary information or intellectual property rights.

(2) For international purchase from overseas supplier:

The law governing this Contract, its interpretation, any agreement to arbitrate and the conduct of any arbitration, is the laws of the Commonwealth of Pennsylvania, excluding its laws related to choice or conflicts of law except where it is expressly stated to the contrary in the

related specific agreement by both parties in writing.. Any and all disputes between the parties that may arise pursuant to this order will be heard and determined before an appropriate arbitrator, federal, or state court located in Pittsburgh, Pennsylvania. The supplier acknowledges and agrees that any such court shall have the jurisdiction to interpret and enforce the provisions hereof and/or an arbitrator's judgment, and the supplier waives any and all objections that it might otherwise have as to personal jurisdiction or venue in any of the above tribunals. Alcoa's failure to assert any right is not a waiver of such right or any other right. Time is of the essence with respect to Supplier's performance hereunder. Any remedies provided herein to Alcoa are cumulative and in addition to any other remedies provided in law or equity or by statute.

G-5 No Waiver; Modifications:

No waiver by Alcoa of any breach or failure to comply with the terms of this Contract shall be construed as, or constitute, a continuing waiver of such provision or a waiver of any other breach of, or failure to comply with, any other provision of this Contract. No modification or waiver of any provision of this Contract shall be effective unless in writing signed by Alcoa and Supplier.

G-6 Taxes and Other Governmental Contributions:

If any Chinese or overseas government authority impose any taxes, duties or fees (including those based on the Supplier's net income) on the service provided to Alcoa under this Contract, the Supplier should agree to pay and bear such taxes. If Alcoa is required by PRC law to deduct or withhold any taxes from the payment on this Contract before remitting the payment to the Supplier, the Supplier should agree that Alcoa is entitled to make deduction or withholding from the payment under this Contract in accordance with PRC law, Alcoa should pay such withholdings to the PRC tax authorities and remit the residual of the payment to the Supplier.

If any non-China government authority imposes any taxes, duties or fees on the equipments supplied to Alcoa under this contract, the Supplier should agree to pay and bear such non-Chinese taxes. Alcoa should pay and bear China taxes, duties or fees on the equipment supplied to Alcoa under this Contract, and the supplier should be responsible for providing proper tax invoice to verify the taxes paid by Alcoa.

G-7 Confidentiality:

Supplier shall maintain as confidential all information related to the Contract, including any drawings, specifications, designs or other similar information, in whatever form, owned or furnished by Alcoa, unless in the public domain except in the case of breach of this provision by Supplier, and Supplier shall have no rights, property or interest in same except to the extent necessary to perform under this Contract. Any proprietary information or property owned or furnished by Alcoa shall not be used for manufacture by anyone other than Supplier, or on anyone's behalf other than Alcoa's, nor shall it be used for any purpose other than that for which it is specifically furnished. Alcoa retains all rights in drawings, specifications, designs and other similar information furnished to Supplier in connection with this Contract. Upon completion of this work, Supplier shall promptly return to Alcoa all drawings, specifications, designs and other similar information, in whatever form, furnished by Alcoa together with all copies or reprints.

G-8 Intellectual Property

Supplier will indemnify, protect, defend and hold harmless Alcoa, its successors and assigns from all claims, demands, judgments, settlements, costs, losses, damages and attorney fees incurred as a result of actual or alleged infringement of any patent, copyright, trademark, trade secret, or other actual or alleged intellectual property right of any third party arising from Alcoa's purchase or use of Goods or Services supplied under this Contract, and to defend at Supplier's expense, including reasonable attorney's fees, any and all suits or actions, based on such claims. All such obligations of Supplier to indemnify, hold harmless, protect and defend Alcoa are in addition to Supplier's warranty obligations and all other rights or remedies of Alcoa and shall survive acceptance and use of, and payment for, the Goods or Services, and completion, termination, or cancellation of this Contract.

G9 Review:

Alcoa and its duly authorized representatives shall have the right to have access at all reasonable times during the term of this Contract and for a period of five (5) years thereafter to all of Supplier's and its subcontractor's personnel, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, computer records and memoranda of every description pertaining to the work under the Contract for the purpose of reviewing and verifying that the charges presented by Supplier to Alcoa for payment are in accordance with the Contract or for any other reasonable purpose. Alcoa may also require that the review cover Supplier's procedures, controls and systems. Supplier shall render all reasonable assistance in conducting such reviews.