



NON-DISCLOSURE AGREEMENT

保密协议

THIS NON-DISCLOSURE AGREEMENT (this “Agreement”) is entered into this ____ day of _____, 2008, by and between IAC (Shanghai) Management Co., Ltd., a company organized and existing under the laws of the People’s Republic of China (“PRC”), with its principal place of business at 5F03, King Tower, No. 28 Xin Jin Qiao Road, Jin Qiao, Pudong, Shanghai 201206, the PRC (“IAC”) and _____, a company organized and existing under the laws of the PRC, with its legal address at [●] (the “Supplier”). IAC and the Supplier are hereinafter, collectively, referred to as the “Parties” and, individually, a “Party”).

本保密协议 (本“ 协议”) 由埃驰 (上海) 管理有限公司 , 一家根据中华人民共和国 (“ 中国”) 法律成立并存续的公司 , 其主要营业地位于中国上海市浦东新区新金桥路 28 号新金桥大厦 5F03 室 , 邮编 201206 (“ IAC”) 与 _____ , 一家根据中国法律成立并存续的公司 , 其法定地址位于 [●] (“ 供应方”) 于 2008 年 ____ 月 ____ 日签订。IAC 和供应方在本协议下合称为 “ 双方” , 单独称为 “ 一方” 。

WHEREAS, the Parties desire to collaborate with each other in connection with the proposed supply of [*insert description of the products to be supplied by Supplier to IAC*] (the “Products”) by the Supplier to IAC and/or its affiliates (collectively, the “Buyer”) so as to confirm the specifications of the Products meeting the requirements of the Buyer (the “Project”);

鉴于 , 双方愿意就供应方向 IAC 和/或其关联方 (合称 “ 买方”) 供应 [填入产品名称] (“ 产品”) 之目的与对方合作 (“ 项目”) , 以确定符合买方要求的产品规格 ;

WHEREAS, in connection with the Project, each of the Parties has provided and may continue to provide the other Party with certain Proprietary Information (as defined below); the Party providing any Proprietary Information hereunder may also be referred to as the “Disclosing Party” and the Party receiving any Proprietary Information hereunder may also be referred to as the “Receiving Party” (which, in the case of IAC, shall also include its affiliates which are Buyers of the Products from the Supplier); and

鉴于，每一方均已经并可能继续向另一方提供与项目相关的某些专有信息（定义如下）；本协议下提供任何专有信息的一方亦可被称为“披露方”，本协议下接受任何专有信息的一方亦可被称为“接受方”（就IAC而言，接收方包括其作为从供应方购买产品之买方的关联方）；且

WHEREAS, the Parties acknowledge that the Proprietary Information is important valuable property of its Disclosing Party and must be kept in strictest confidence;

鉴于，双方确认专有信息系其披露方重要而有价值的财产，并且必须被严格保密；

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, IAC and the Supplier hereby agree as follows:

故此，考虑到上述前提和下文所列的相互之间的协议和承诺以及其他双方接受的充分且良好和有价值的对价，IAC与供应方达成协议如下：

1. Restrictions on Use. The Receiving Party hereby agrees and undertakes that it shall only use, and shall cause all of its employees and representatives having a need to access the Proprietary Information hereunder to only use, the Proprietary Information for the sole purpose of the Project in accordance with the terms and subject to the conditions hereof and shall not use any Proprietary Information for any other purposes. The Receiving Party hereby acknowledges and agrees that the Disclosing Party, by disclosing any Proprietary Information to it, has in no way, directly or indirectly, by implication or otherwise, granted the Receiving Party any license or rights to the Proprietary Information and that any disclosure of any Proprietary Information to it hereunder by the Disclosing Party or any of its representatives shall be for the sole purpose of the Project.

1. 使用限制. 接受方兹此同意并承诺，其应（并应促使所有在本协议下需要接触专有信息的其雇员和代表）仅为项目之目的，根据本协议的条款和条件使用专有信息，并不得将任何专有信息用于任何其他目的。接受方兹此确认并同意，披露方并未通过向接受方披露任何专有信息，直接或间接，暗示或以其它方式授予接受方对专有信息的任何许可或权利，且披露方或其任何代表在本协议下向接受方作出的任何专有信息的任何披露应仅供项目之目的。

Proprietary Information shall include technology, whether patented or not, know-how, inventions, trade secrets, designs, processes, formulas, software, hardware, configuration, drawings, blueprints, specifications, directions, instructions, manuals, financial

information, business plans and strategies, sales information, customer information and all other information that the Disclosing Party or any of its representatives may furnish or otherwise disclose to each Receiving Party in connection with the Project either directly or indirectly, in writing or orally, in whole or in part which the Disclosing Party either marks as confidential or should be reasonably understood by the Receiving Party to be confidential (hereinafter collectively, the “Proprietary Information”). The Receiving Party hereby acknowledges that all Proprietary Information is valuable property of the Disclosing Party and that any and all rights thereto and therein are and shall remain the sole and exclusive property of the Disclosing Party.

专有信息应包括披露方或其任何代表就项目（无论直接或间接、书面或口头、全部或部分）提供或以其他方式披露给接受方、且标注保密性质，或应被接受方合理理解为具有保密性质的专利或非专利技术、专有技术、发明、商业秘密、设计、工艺、配方、软件、硬件、配置、图纸、设计图、规格、用法、指示、手册、财务信息、业务计划和战略、销售信息、客户信息和所有其他信息（合称“专有信息”）。接受方兹此确认所有专有信息均系披露方有价值的财产，且其附带和包含的任何和所有权利仍应为披露方独有且排他的财产。

2. Non-disclosure. Each Receiving Party further agrees and undertake that it shall maintain, during and after any termination of this Agreement, all Proprietary Information in strictest confidence, and shall not disclose any such information to any person, firm, corporation, institution, organization or any other entity without the prior express written consent of Disclosing Party; provided, however, (i) that it may reveal such information or portions thereof to its employees, attorneys and agents (a) who need to know the Proprietary Information and who agree to use such information solely for the purpose of the Project, (b) who are informed by Receiving Party of the confidential nature of such information and (c) who agree to act in accordance with the terms of this Agreement and not to disclose any of the Proprietary Information to any other party; and (ii) that it may disclose such information or portions thereof as required by the applicable law, provided that the Receiving Party subject to such requirement shall promptly notify the Disclosing Party in writing of such requirements and gives it reasonable opportunity to oppose them. The Receiving Party hereby agrees to cause its employees to observe the terms of this Agreement, shall be liable for any breach of any term of this Agreement by any of its employees and shall take effective measures, including, without limitation, formulating internal rules and regulations, for the protection of the Proprietary Information.

2. 不披露. 每一接受方进一步同意并承诺，其应在本协议期间及本协议以任何方式终止后，对所有专有信息严格保密，且未经披露方事先明确书面同意，不得将任何该等信息披露给任何人士、合伙企业、公司、机构、组织或任何其他实体；但是，(i) 其可将该等信息或其部分披露给符合下列条件的其雇员、律师和代理人：(a) 有必要了解专有信息，并同意仅为项目之目的使用该等信息，(b) 经接受方告知该等信息

的保密性质，并(c) 同意根据本协议的条款行事，并不向任何其他方披露任何专有信息；且(ii) 其可按适用法律的要求披露该等信息或其部分，但是受限于该等要求的接受方应将该等要求迅速书面通知披露方，并给予其合理机会提出反对。接受方兹此同意促使其雇员遵守本协议的条款，并且应为其任何雇员违反本协议条款的行为负责，并应为保护专有信息而采取有效措施，包括但不限于制定内部规章制度。

3. Liability for Breach. Without prejudice to any other provisions contained in this Agreement, in the event that any Proprietary Information is to be disclosed to any third party by the Receiving Party for the sole purpose of the implementation of the Project and with the prior express written consent of Disclosing Party, in each case, before such disclosure, the Receiving Party shall enter into a written agreement with such third party, which agreement shall include, without limitation, provisions regarding the confidentiality and nondisclosure of the Proprietary Information consistent with the terms of this Agreement. For the avoidance of doubt, the Receiving Party shall be fully liable for any breach of any term of this Agreement by such third party.

3. 违约责任. 在不减损本协议的任何其他条款的前提下，如果仅为实施项目之目的，并经披露方事先明确书面同意，接受方拟向任何第三方披露任何专有信息，在每次该等披露前，接受方应与该等第三方订立一份书面协议，该等协议应包括但不限于与本协议条款相一致的关于专有信息之保密和不披露的规定。为避免疑问，对于该等第三方违反本协议条款的任何行为，接受方应负全部责任。

4. Materials and Copyright. The Receiving Party hereby acknowledges and agrees that any and all information and data relating to the Proprietary Information in any embodiments, including, without limitation, diskettes, CD-roms, hard copies, graphs, samples, drawings, bills of materials, layouts, and other materials, which are furnished to the Receiving Party by the Disclosing Party or any of its representatives (the “Materials”) and any and all copyrights that may exist in any of the Materials are and shall remain the property of the Disclosing Party.

4. 材料和著作权. 接受方兹此确认并同意，披露方或其任何代表提供给接受方的与专有信息有关、采用任何载体的任何和所有信息和数据，包括但不限于磁盘、CD-rom、打印稿、图表、样品、图纸、材料清单、布局设计和其他材料（“材料”），以及任何该等材料中包含的任何和所有著作权为且仍应为披露方的财产。

5. Return of Materials and Work Product. Upon completion of the Project or at the request of Disclosing Party or upon any termination of this Agreement, whichever occurs earlier, the Receiving Party shall return to the Disclosing Party promptly any and all Materials and any and all copies thereof, in whatever form, hardcopy or electronic, as well as any Work Product (as defined below) that may have been prepared by

the Receiving Party or its representative with the Disclosing Party's prior express written consent, to such address and in such manner as the Disclosing Party may instruct in a written notice to the Receiving Party unless the Disclosing Party instructs otherwise.

5. 材料和工作工作成果的返还. 在项目完成后,或经披露方要求,或在本协议以任何方式终止后(上述情况以先发生者为准),除非披露方另行指示,接受方应将所有形式的任何和所有材料和其任何和所有副本(无论打印稿或电子稿),以及接受方或其代表经披露方事先明确书面同意制作的任何工作成果(定义如下)按披露方向接受方发出的书面通知中指示的地址和方式,迅速返还给披露方。

6. Ownership of Proprietary Information and Developed Information. The Parties hereby agree that: (i) any and all Proprietary Information disclosed by one Party to the other Party hereunder shall always remain the property of the Disclosing Party; (ii) any and all information that is developed by the Receiving Party or its employees or representatives on the basis or with the benefit of any Proprietary Information or Materials disclosed to it by the Disclosing Party (the "Developed Information"), including, without limitation, diskettes, CD-roms, hard copies, graphs, layouts and other materials (the "Work Product") are and shall be the property of the Disclosing Party, unless otherwise agreed upon in writing by the Parties; and (iii) the Receiving Party shall promptly disclose any Developed Information and provide copies of any Work Product to the Disclosing Party when they are made. All agreements and covenants of the Receiving Party set forth in Sections 1, 2, 3, 4, 5 and 7 of this Agreement shall apply to the Developed Information and Work Product.

6. 专有信息和开发的信息的所有权. 双方兹此同意:(i)一方在本协议项下向另一方披露的任何及所有专有信息应始终属于披露方的财产;(ii)除非双方另有书面约定,接受方或其雇员或代表基于或利用披露方向其披露的任何专有信息或材料开发的任何和所有信息("开发的信息"),包括但不限于磁盘、CD-rom、打印稿、图表、布局设计和其他材料("工作成果"),均为且应为披露方的财产;且(iii)在做出后,接受方应迅速向披露方披露任何开发的信息并提供任何工作成果的副本。第1条、第2条、第3条、第4条、第5条和第7条中规定的接受方的所有协议和承诺应适用于开发的信息和工作成果。

7. Term of Confidentiality and Exceptions. For the avoidance of doubt, the foregoing confidentiality and non-disclosure obligations on the part of the Receiving Party shall exist in perpetuity from the date first written above but shall not apply to information:

7. 保密期间和例外. 为避免疑问,接受方的上述保密和不披露义务应自文首所载日期起永久有效,但不适用于下列信息:

- (a) which is in the public domain at the time of disclosure by the Disclosing Party or which, after disclosure, becomes part of the public domain through no fault of the Receiving Party; or

披露方披露时公众所知的信息 ,或在披露方披露后非因接受方的过错而成为公众所知的信息 ; 或

- (b) which the Receiving Party proves that is already in its possession at the time of the disclosure by the Disclosing Party and was not acquired from the Disclosure Party or any other party in breach of any confidentiality or non-disclosure obligations; or

接受方证明在披露方披露时已经为接受方所有的信息 ,且该等信息并非以违反任何保密或不披露义务的方式从披露方或任何其他方得到 ; 或

- (c) which was received by the Receiving Party from a third party having the legal right to transmit the same on a non-confidential basis.

接受方从第三方得到的信息 ,且该等第三方具有在不违反非保密义务的情况下传播该等信息的法律权利。

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the PRC.

8. 适用法律. 本协议受中国法律管辖并应根据中国法律解释。

9. Dispute Resolution.

9. 争议解决.

- (a) In the event that a dispute arises from or in connection with this Agreement, the Parties hereto shall attempt in the first instance to resolve such dispute amicably through friendly consultation between the Parties. The claiming Party shall promptly notify the other Party in a dated notice that a dispute has arisen and describe the nature of the dispute.

由于本协议产生的或与本协议有关的争议应首先由双方尝试通过友好协商方式解决。主张权利的一方应迅速以标有日期的通知的方式通知另一方发生了争议 , 并描述争议的性质。

- (b) If no settlement can be reached through such consultation within thirty (30) days of the date of such notice of dispute referred to in Section 9(a) above, any Party is entitled to submit the dispute to China International Economic and Trade Arbitration Commission ("CIETAC") for arbitration in Shanghai by an arbitration tribunal of three (3) members in accordance with the Arbitration Rules of CIETAC (the "CIETAC Rules").

如果在上文第 9(a)条所述的争议通知之日后三十 (30) 日内不能通过协商解决该等争议的 , 任何一方有权将争议提交中国国际经济贸易仲裁委员会 (“ 贸仲 ”) , 按照贸仲的仲裁规则 (“ 贸仲规则 ”) 在上海由三 (3) 名成员组成的仲裁庭仲裁。

The arbitration proceedings shall be conducted in the English language. The arbitration tribunal shall render a written arbitral award in English, which shall be final and binding upon both Parties.

仲裁程序应以英文进行。仲裁庭应以英文作出书面仲裁裁决 , 该等裁决是终局的 , 对双方均有约束力。

- (c) The losing Party shall be responsible for the costs of CIETAC, the fees of the arbitrators (if any), the expenses of the arbitration proceedings and all costs and expenses of enforcement of any arbitral award, including reasonable attorneys' fees and expenses.

败诉方应负责承担贸仲的费用、仲裁员的费用 (如有) 、仲裁程序的费用以及执行任何仲裁裁决的所有费用和开销 , 包括合理的律师费用和开销。

10. Language of the Agreement. This Agreement is written in the English language. Any Chinese translation of this Agreement that may be prepared shall be for reference only and shall in no event be used in the interpretation of any provisions of this Agreement.

10. 协议语言. 本协议用英语书就。本协议的任何中文译本应仅供参考之用 , 并在任何情况下均不得用于解释本协议的任何规定。

11. Costs and Expenses. Each Party shall bear its own costs (including attorney's fees and expenses) incurred in the preparation, negotiation and execution of this Agreement.

11. 费用和开销. 每一方应自行承担其在起草、谈判和签署本协议过程中产生的费用 (包括律师费用和开销) 。

12. Amendment. Any amendment or modification to this Agreement shall come into force only after a written amendment agreement is signed by the Parties.

12. 修订. 本协议任何修订或修改仅在双方签署书面修订协议后生效。

13. Waiver. No delay or failure by either Party to exercise any of its powers, rights or remedies under this Agreement shall operate as a waiver of any of them, nor shall any single or partial exercise of any such powers, rights or remedies preclude any other. Any waiver by any Party of any provisions of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver be construed as a waiver of such provision with respect to any other event or circumstances, whether past, present or future. Furthermore, the remedies provided for in this Agreement are cumulative and not exclusive of any provided by law.

13. 弃权. 一方延迟或未能行使本协议下的权力、权利或救济不应作为对任何该等权力、权利或救济的弃权。任何该等权力、权利或救济的单独或部分行使亦不妨碍任何其他的行使。任何一方对本协议任何规定的弃权不得被解释为对本协议任何其他规定的弃权，且该等弃权亦不得被解释为就过去、现在或未来的任何其他事件或情形对该等规定弃权。此外，本协议规定的救济为累积的，并不排除法律规定的任何救济。

14. Headings. The headings in this Agreement are inserted for the convenience of reference only and shall not constitute part of this Agreement or be taken into consideration in the interpretation hereof.

14. 标题. 本协议的标题仅供参考之用，并不构成本协议的一部分，亦不得被用以解释本协议。

15. Severability. If any term or provision of this Agreement shall be held to be invalid or unenforceable in whole or in part under any applicable law, it shall be excluded from this Agreement (to the extent of such invalidity or unenforceability only), and all other terms and provisions of this Agreement shall continue to be in full force and effect. Under such circumstances, the parties shall use their best efforts to implement both the letter and spirit of this Agreement and replace the invalid or unenforceable term or provision with a valid and enforceable term or provision that corresponds as far as possible to the spirit and purpose of the invalid or unenforceable term or provision.

15. 可分割性. 如果本协议的任何条款或规定在任何适用法律下被认定为全部或部分无效或不可强制执行，其应 (在该等无效或不可强制执行的范围内) 从

本协议中被排除，且本协议的所有其他条款和规定应保持全部有效。在该等情形下，双方应尽最大努力从字面含义和内在精神两方面贯彻本协议，并用最能反映无效或不可强制执行的条款或规定的精神和目的的有效和可强制执行的条款或规定代替无效或不可强制执行的条款或规定。

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all previous oral or written agreements, contracts, letters of intent, undertakings and communications between the parties in respect of the subject matter of this Agreement.

16. 完整协议. 本协议构成双方就本协议事项的完整协议，并应取代双方之前有关此事项的所有口头或书面协议、合同、意向书、承诺和通讯。

17. Counterparts. This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. 文本. 本协议可签署一份或多份文本，每份文本均应被视为正本，但所有文本应共同构成唯一且相同的法律文件。

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in two (2) originals by their duly authorized representative, as of the date first above written.

兹此为证 ,本协议双方由其正式授权代表于开首所载日期签署了本协议的两(2)份正本。

IAC (Shanghai) Management Co., Ltd.

(埃驰 (上海) 管理有限公司)

By(签署): _____

Name(姓名): _____

Title(职务): _____

[•]

By(签署): _____

Name(姓名): _____

Title(职务): _____

[Company

Seal/公章]