

# CMAC 标准新造船合同

(船号: )

本合同由依据 (此处写以国家或地区名称) 法律组建和营业, 并以 (此处写以国家和城市名称) 为注册营业地的 (此处写以船东单位全称) 为一方 (以下简称“买方”或“委托方”), 和依据中华人民共和国法律组建和营业, 以中国 (若有, 此处写以船舶贸易公司的注册地) 为注册营业地的 (此处写以船舶贸易公司的全称), 和依据中华人民共和国法律组建和营业, 并以中国 (此处写以造船公司或造船厂的注册地) 为注册营业地的 (此处写以造船公司或造船厂的全称) 为另一方 (以下简称“卖方”或“建造方”) 于 年 月 日在 (此处写以签约地所在的国家和城市的名称) 签订。

## 兹 证 明

鉴于本合同所含的双方约定, 卖方同意在卖方的造船厂设计建造、装配、下水、完成 (此处写以船型名称和艘数) 船, 并在完工和试航成功后出售给买方, 本船具体技术规格要求将在本合同第一条中予以说明。本船将悬挂 (此处写以船旗国的名称) 旗。买方同意向卖方购买和接收前述船舶, 并根据以下条款中所述金额付款。

## 第一节 船舶

### 第一条 概述

#### 1. 工程编号

本船应在卖方或其确定的造船厂建造, 并具有造船厂的船舶工程编号\_\_\_\_\_。

#### 2. 本船主要技术文件

本船按照下述主要技术文件进行建造、装配和完成:

- (1) 技术说明书 (图号: )
- (2) 总布置图 (图号: )
- (3) 舳剖面图 (图号: )
- (4) 厂商表 (图号: )

#### 3. 本船主要技术参数

根据技术说明书的规定, 本船主要技术参数如下:

##### (1) 船舶主尺度

总 长	约	m
两柱间长		m
型 宽		m
型 深		m
设计吃水		m
航 速		kn
载 重 量		t
舱 容 量		m <sup>3</sup>

##### (2) 主推进装置

本船按技术说明书规定应配置\_\_\_\_\_台主机, 型号为\_\_\_\_\_, 最大持续功率为

\_\_\_\_\_kW, 额定转速为\_\_\_\_\_rpm。

本船主要技术参数应根据技术说明书的规定进行界定、测量和认可。

#### 4. 保证

##### (1) 航速

建造方保证按技术说明书的规定, 本船应在满载并符合气象要求和船体外表洁净条件下, 经修正后的试航速度不低于\_\_\_\_\_kn。试航速度应根据技术说明书的有关规定对风速及浅水效应进行修正。

##### (2) 载重量

本合同使用的“载重量”一词, 应符合技术说明书中的有关定义。

建造方保证本船的载重量在设计吃水、水比重 1.025 (或 1.000) t/m<sup>3</sup> 的情况下, 不少于\_\_\_\_\_, 公吨 (t)。

##### (3) 舱容量

建造方保证按技术说明书的规定, 本船的实测舱容量不少于\_\_\_\_\_m<sup>3</sup>。

##### (4) 主机燃油消耗

建造方保证本船主机在台架试验、正常持续输出工况以及燃油热值为\_\_\_\_\_千卡/千克时, 燃油消耗不超过\_\_\_\_\_克/马力。

(5) 本船的实际航速、载重量、舱容量和主机燃油消耗应由建造方测量, 测量工作应由买方监造师或买方授权代表在场时进行, 便于校核或认可。

如建造方和买方对此测量有所分歧, 经双方同意, 可请入级船级社组织复核。入级船级社复核的结果和决定应是终局的, 对双方均有约束力。

### 第二条 船级、规范和规定

1. 船舶的设计、建造、检验、试验和交付, 应该按照 (此处写以入级船级社的名称) 船级社的规范、规则和国际公约进行, 获得 (此处写以船级符号) 标记, 并符合船旗国政府主管当局的法律、法规的要求:

(1) 在合同日已经生效的, 或;

(2) 虽然在合同日尚未生效, 但是在合同日之前已经批准和公布, 而且将在交船时或交船前作为强制实施的;

所有这些船旗国政府主管当局的法律、法规和船级社的规范、规则和要求都应该无条件地遵守。

2. 船级社或主管当局的最终意见对于相关方实施相应的法律、法规、规范、规则和要求具有约束力。

3. 所有和船级社有关的规范、规则和要求所发生的费用, 以及船舶建造的专利权使用费 (如有), 除非合同另有规定或各方意见一致, 否则均由建造方支付。

在建造本船过程中所使用的关键图纸、材料和技术, 无论何时均需按照技术说明书规定的船级社规范和规则进行检验和试验。

### 第三条 设计——设计合同的责任

船舶设计是根据船东对船舶的要求——设计任务书, 由船舶设计单位来完成的, 船舶的性能和各项技术指标 (航区和航线、船型、用途、船籍和船级、动力装置、航速和功率储备、续航力和自持力、载重量、舱容量、生活设施等), 以及满足船级社规范和有关当局的规定主要取决于设计工作。为了保证设计质量, 明确责任, 双方必须签订设计合同。

如本船的设计由船东指定的国外\_\_\_\_\_设计公司提供, 船东就必须与其指定的设计公司签订设计合同, 建造方再和\_\_\_\_\_设计公司签订设计分包合同, 完成本船的详细设计和生产设计。在这种情况下, 建造方对本合同中由于船舶设计而引起的船舶缺陷和错误, 以及不能满足有关规范和规定而造成的航速、载重量、舱容量不足、油耗过量等不承担任何

责任；由于船舶设计的图纸拖延而造成的交船期延长也不承担任何责任。

如本船的设计是由建造方联系的设计单位来做，设计合同就由建造方与该设计单位进行签订。在这种情况下，建造方对本合同中由于船舶设计而引起的船舶缺陷和错误，以及不能满足有关规范和规定而造成的航速、载重量、舱容量不足、油耗过量等承担责任，由于船舶设计的图纸拖延而造成的交船期延长也应承担责任。

#### 第四条 环境保护

##### 1. 有害物质的使用

建造方根据国际海事组织（IMO）关于拆船公约的决议，及合同签订日前生效的修订条款，应当：

- （1）在设计和建造船舶时尽量合理地考虑到船舶的最终处理方式；
- （2）最大限度地使用绿色、低碳、可安全拆解和有利于环境保护的材料；
- （3）最少地使用已知的对人体健康和环境有潜在危险的材料。

根据买方的要求，建造方应与设备生产厂商磋商为买方提供一份由船级社签发的绿色环保证书的符合声明，包括船舶编号和主要船舶规范，以及任何和全部已知的在建造中利用的设备和系统中使用的有害物质的信息。

有潜在危害物质清单应包含船上的每种已使用的材料的位置和数量/容积等。

##### 2. 保护涂层

船舶双舷侧部位和专门的海水压载舱应根据技术说明书的要求进行特涂。涂层标准应符合船级社和主管当局的法规、规范、规则和要求。

##### 3. 原产地

如买方要求，建造方应在厂商表和技术说明书中列出本船所有主要设备的原产地。

## 第二节 财务

### 第五条 合同价格和支付条件

#### 1. 合同价格

本船的购买价为（数额和币种）（\_\_\_\_\_），这是建造方应收的净价（以下简称“合同价格”），此价格不包括本合同第十一条规定的由买方提供的供应品，并可按本合同第六条的有关规定予以调整。

#### 2. 币种

本合同项下买方向建造方支付的各项款项均应为（币种及符号）。

#### 3. 支付条件

本船合同价格应由买方按以下分期付款向建造方支付（以下陈述拟以美元支付为例，若采用其他币种支付，按同样原则处理）：

（1）第一期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分之\_\_\_\_\_（\_\_\_\_\_%）的款项，应在建造方开具还款保函后三（3）个工作日内由买方支付。

（2）第二期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分之\_\_\_\_\_（\_\_\_\_\_%）的款项，应在本船开工后三（3）个工作日内由买方支付。

（3）第三期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分之\_\_\_\_\_（\_\_\_\_\_%）的款项，应在本船第一只分段上船台（或安放龙骨）后三（3）个工作日内由买方支付。

（4）第四期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分之\_\_\_\_\_（\_\_\_\_\_%）的款项，应在本船下水后三（3）个工作日内由买方支付。

（5）第五期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分

之\_\_\_\_\_（\_\_\_\_\_%）的款项，加上根据本合同有关条款规定对本合同价格的调整、修改或变更而导致的加减账，应在交船日由买方向建造方支付。建造方应在预定交船日十（10）日前用电子信箱或传真方式向买方发出本期款项的付款要求。

（6）第六期款项：数额为\_\_\_\_\_美元（USD\_\_\_\_\_）作为合同价格百分之\_\_\_\_\_（\_\_\_\_\_%）的款项，应在本船保修期满后三（3）个工作日内由买方支付。

#### 4. 支付方式

（1）第一期款项：当收到建造方经买方代表签发认可的（下同）关于本合同已生效的书面通知后，买方应在三（3）个工作日内将本期数额汇付至由建造方指定的收款银行（此处写以银行全称，下同）建造方账户内。

（2）第二期款项：当收到建造方关于本船已开工的书面通知后，买方应在三（3）个工作日内将本期数额汇付至由建造方指定的收款银行建造方账户内。

（3）第三期款项：当收到建造方关于本船已分段上船台的书面通知后，买方应在三（3）个工作日内将本期数额汇付至建造方指定的收款银行建造方账户内。

（4）第四期款项：当收到建造方关于本船已下水的书面通知后，买方应在三（3）个工作日内将本期数额汇付至建造方指定的收款银行建造方账户内。

（5）第五期款项：在本船预定交船日至少三（3）个工作日之前，买方应在建造方指定的收款银行按本合同双方约定的方式存入数额为已作调整的本期款项，同时出具一份不可撤销的文件，声明一旦建造方向该银行提交由买方授权代表和卖方共同签发的交接船议定书的副本，则该款项归建造方所有。如有利息，归买方所有。

如本船未能在预定日交船，则买方有权决定在存款期满时取出或不取出存款及其利息。如此后建造方确定了新的交船日并书面通知了买方，则买方仍应按以上程序处理。

（6）第六期款项：当收到建造方关于本船保修期已满的书面通知后，买方应在三（3）个工作日内将本期数额汇付至建造方指定的收款银行建造方账户内。

本合同双方之间不论发生任何性质的争议或分歧，除本合同另有约定外，买方不得延付或拒付各期进度款项。

#### 5. 预付款

买方有责任在本船交船前支付任何预付款，并至少应在三十（30）个日历日前，书面通知建造方预付款项，此预付款项不包括本船的任何价格调整。

#### 6. 交船前支付分期付款的担保

买方应在本合同签署时向建造方提交一份由一流国际银行（以下称“保证人”）签发符合附件“B”格式的以建造方为受益人，并为建造方银行和建造方认可的不可撤销、无条件的执行保函，此保函保证买方履行支付合同价的第二、第三和第四期款项的义务。如交船期推迟或延长，则买方对付款保函的有效期限也可相应延长。

#### 7. 还款

买方在本船交船前支付的所有款项都具有预付款性质。如买方解除或取消合同，并符合合同规定的和法律规定的解除及取消合同的条款时，建造方则需按买方指定的账户退还买方按本合同付给建造方的全部进度款项，其中包括从电汇付款日开始到还款日为止的利息（利息根据有关条款的规定）。

建造方应该在合同签订日同时向买方提交由（此处写以银行全称）签发的与附件“A”格式一致的还款保函，作为对买方的保证。

### 第六条 合同价格的调整

本船的合同价格可在下列两种情况下予以调整：其一是本船实际建造要素与技术说明书中的规定有所差别，其二是外部市场条件与签约时有所变化。双方一致同意，本条款所谓本船实际建造要素是指航速、载重量、舱容量、主机燃油消耗、交船期和其他项目，本条款所

谓外部市场条件是指主要原材料、设备的价格和汇率。双方一致认为，所谓合同价格的调整是指合同价格的增加或减少。双方一致理解，这种合同价格的调整是指合同价格的补偿而不是罚款。

本条款以下部分的陈述拟对上述各项建造要素的差别和外部市场条件的变化分别作出具体补偿规定。

### 1. 航速

(1) 如本船实际航速（试航时根据技术说明书修正后的速度，下同）比本合同第一条 4 (1) 款规定的保证航速降低 3/10 (0.3) 节以内，则合同价格可不作调整。

(2) 如本船的实际航速比本合同第一条 4 (1) 款规定的保证航速降低 0.3 节以上，则从 0.3 节算起（含 0.3 节），本合同价格应作如下减少：

小于 0.3 节	USD 0
大于等于 0.3 节小于 0.4 节	USD _____
大于等于 0.4 节小于 0.5 节	USD _____
大于等于 0.5 节小于 0.6 节	USD _____
大于等于 0.6 节小于 0.7 节	USD _____
大于等于 0.7 节小于 0.8 节	USD _____
大于等于 0.8 节小于 0.9 节	USD _____
大于等于 0.9 节小于 1 节	USD _____

(3) 如本船的实际航速低于保证速度（节）1 节以上，则买方可自行选择根据本合同第二十七条的规定拒绝接船或取消合同，或根据上述方式减少船价后接受本船，但最大扣除额不得超过\_\_\_\_\_美元（USD \_\_\_\_\_）。

(4) 建造方有权对影响航速的缺陷消除后进行重新试航测速，以达到技术说明书中规定的保证航速。

(5) 如本船的实际航速超过技术说明书中规定的保证航速，则买方应向建造方支付下列款项作为奖励：

航速超过在 3/10 (0.3) 节以内，则合同价格可不作调整。

其后每超过 1/10(0.1)节，合同价格增加 USD \_\_\_\_\_，但最大增加额不得超过\_\_\_\_\_美元（USD \_\_\_\_\_）。

### 2. 载重量

(1) 如根据技术说明书在规定的吃水状态下测得的实际载重量不低于保证载重量（\_\_\_\_\_吨）98%（\_\_\_\_\_吨）的，则合同价格可不作调整。

(2) 如实际载重量低于保证载重量 98%（\_\_\_\_\_吨），对不足保证载重量 98%的每 1 吨，合同价格减少\_\_\_\_\_美元（USD \_\_\_\_\_）。

(3) 如本船实际载重量低于保证载重量\_\_\_\_\_吨以上，则买方可根据本合同第二十七条的规定拒绝接船或取消本合同，也可减价接受本船，合同价格减少最大值不超过\_\_\_\_\_美元（USD \_\_\_\_\_）。

(4) 如本船的实际载重量，在规定吃水状态下超过 102%（\_\_\_\_\_吨）以下的保证载重量，合同价格可不作调整，超过 102%以上的每超过 1%（\_\_\_\_\_吨）的每 1 吨合同价格增加\_\_\_\_\_美元（USD \_\_\_\_\_）。但最大增加的数额不超过\_\_\_\_\_美元（USD \_\_\_\_\_）。

### 3. 舱容量

(1) 如本船的实际舱容量不低于技术说明书规定的舱容量的 98%以内，则合同价格可不作调整。

(2) 如本船的实际舱容量低于技术说明书中规定的舱容量的 98%，对低于 98%的部分

舱容量其合同价格应按\_\_\_\_\_美元/米<sup>3</sup>进行减少, 但减少的最大值不超过\_\_\_\_\_美元 (USD\_\_\_\_\_)(小于1米<sup>3</sup>的可忽略不计)。

(3) 如本船的实际舱容量低于技术说明书中规定的舱容量的\_\_\_\_\_米<sup>3</sup>时, 则买方可以减少合同价格接船, 也可以取消本合同。

(4) 如本船的实际舱容量超过技术说明书中规定的舱容量的102%, 对超过102%的部分舱容量, 合同价格应按\_\_\_\_\_元/米<sup>3</sup>进行增加, 但增加的最大值不超过\_\_\_\_\_美元 (USD\_\_\_\_\_)(小于1米<sup>3</sup>的可忽略不计)。

#### 4. 主机燃油消耗

(1) 如造机厂台架试验测出主机的实际燃油消耗值超出本合同及技术说明书规定的保证燃油消耗值等于或少于百分之\_\_\_\_\_ (5%), 则合同价格可不作调整。

(2) 如台架试验测出主机的实际燃油消耗值超出保证燃油消耗值大于百分之 (5%), 则\_\_\_\_\_ %以上的油耗按每超过1%, 合同价格减少\_\_\_\_\_美元 (USD\_\_\_\_\_), (不足百分之一的部分按比例计算)。

(3) 如台架试验测得主机的实际燃油消耗值超出保证燃油消耗大于10%, 即油耗超过\_\_\_\_\_克/制动马力/小时, 买方有权拒绝接受该台主机或拒绝接船或取消本合同或减少船价后接受本船, 但减少的最大值不超过\_\_\_\_\_美元 (USD\_\_\_\_\_)。

#### 5. 交船期 (延期交船或提前交船)

(1) 如交船日期延迟至本合同第十四条规定的交船日期后的第三十 (30) 天的午夜12时之前, 合同价格可不作调整。

(2) 如交船日期自第十四条所述日期之后延迟超过三十 (30) 天, 则从交船日起的第三十 (30) 天午夜12时起算, 每迟壹天合同价格减少\_\_\_\_\_美元 (USD\_\_\_\_\_)。

除非双方对此另有商定, 对延迟交船损失的补偿应从第五期合同价格的分期款项中扣除。但不论如何, 最大延迟天数不应超过\_\_\_\_\_ (\_\_\_\_\_) 天包括买方同意在延迟\_\_\_\_\_ (\_\_\_\_\_) 天后接船, 即扣除的最大额不超过\_\_\_\_\_美元 (USD\_\_\_\_\_)。

(3) 如按本合同第十四条规定的交船日延迟了\_\_\_\_\_ (\_\_\_\_\_) 天 (为允许延迟天数加上不允许延迟天数的总和), 买方根据第十四条所述自行选择解除或取消本合同, 如超过\_\_\_\_\_ (\_\_\_\_\_) 天, 买方还未通知取消合同, 建造方可在此\_\_\_\_\_ (\_\_\_\_\_) 天后任何时间, 将建造方估计的交船时间书面通知买方并要求买方选择, 在此情况下, 买方在收到通知的三十 (30) 天内可取消本合同或者同意在商定的新交船日接船。如果买方未能在三十 (30) 天内给予任何反馈, 则视为买方已接受新的交船日。双方理解并同意如本船未能在双方同意的新的交船期交船, 买方仍有权根据上述相同条款取消本合同。

(4) 如交船日期按本合同第十二和第十三条所述而被延迟, 则不应被视为延迟交船, 合同价格也不应该降低; 如果交船日期由于第十五条所述的允许延迟原因而延迟, 则合同价格不作调整或减少。

(5) 如本船将早于本合同第十四条所述的交船日提交, 则建造方应通知买方, 且该通知至少在预计新的交船日前\_\_\_\_\_ (\_\_\_\_\_) 天发出。买方按下述情况支付建造方一定数额的奖金:

如在规定交船日前十五 (15) 天内交船, 合同价格保持不变。如比规定交船日期提前十五 (15) 天以上交船, 在提前十五天的基础上, 每提前一天, 在合同价格上增加\_\_\_\_\_美元 (USD\_\_\_\_\_ ) 作为奖金, 由提前交船而增加的合同价总数应加在合同的第五期付款中。但增加的最大值不超过\_\_\_\_\_美元 (USD\_\_\_\_\_ )。

实际交船期是在本合同第十四条规定的交船期之后, 允许的延迟交船期之前, 建造方无权得到本条5 (5) 款规定的奖金。

(6) 如建造方未能按其宣布的新的计划交船日交船, 则建造方仍可在此之后的某一天

交船。

在此情况下，为了确定对买方的违约赔偿（根据本条第1款（1）和买方取消本合同的权利（根据本条1（3）款），建造方新确定的交船日在任何情况下不应视为替代本合同第十四条规定的原交船期。买方的上述违约索赔和取消合同的权利仍按本合同第十三条4（1）、4（2）和或4（3）款的范围内执行。无论如何，第十四条所述的交船日期（而不是建造方确定的新的预计交船日期）应视为买方有权违约索赔和解除本合同和建造方由于延迟交船违约赔偿责任的期限，如本条5（1）、5（2）、5（3）款所述。

如建造方实际上是在新的计划交船日之后但在第十四条规定的交船日之前交船，建造方仍然可以按照本条第5（5）款规定获得奖金。

#### 6. 主要原材料和设备

本款所谓的主要原材料和设备是指合同船舶的钢材和主推进设备。

本合同中的合同价格是基于签约时的钢材和主推进设备的市场价格（基础价格）确定的。如该基础价格与建造方和供应方签署的购买合同的实际购买价格的差额高于基础价格的\_\_\_\_%，超出部分的差额将由本合同双方共同承担，其中建造方承担\_\_\_\_%，买方承担\_\_\_\_%。为避免日后产生争议，双方或可在签约时对照基础价格予以明确，并以附件形式附后。

#### 7. 汇率

本船建造周期相对较长，为了防止由于美元（USD）与人民币（RMB）之间的汇率变动而引起的合同双方的经济变化，双方同意以船舶合同签订日由中国银行公布的汇率牌价为基准，在以后的船舶合同中规定的付款日期时的汇率变动由合同双方各承担50%。汇率变动的最大限额应不超过合同船价的2%，超过部分由买方承担。

#### 8. 其他（可选择条款）

设置本款的作用是为某些特种船型的特殊技术要求项目留有前瞻性的余地，以便在这种项目的技术要求实际数值发生变化（未能达到或超过）时，使本船合同价格得以调整。

任何根据本条第1、2、3、4、5、6、7、8款作出的合同价格的调整都应在本船第五期分期付款前由合同双方书面确定。

#### 9. 解除合同的效力

双方在此明确理解并同意在上述任何一种情况下，如果买方按本合同条款规定解除或取消本合同，则买方仅享有本合同第二十七条所规定的权利和补偿，无权享有上述或其他地方所规定的任何补偿或赔偿。

### 第七条 税务和关税

#### 1. 税务

所有与本合同有关的在中国境内的税务（如有），包括印花税应由建造方负担。建造方在中国境内或其他地方获得的用于建造本船的设备或装备，其税务和/或关税应由建造方负担。

#### 2. 关税

根据合同/或说明书条款将要或可能由买方从国外提供安装到本船的材料和设备以及由买方从国外提供本船航行用的备件、食品、物资在中国境内征收的关税以及出口本船或其部件、设备的出口关税费用（如有），应由建造方向买方补偿并保证买方利益不受损害。

除上述的税务和关税外，其他的税务和关税（如有），应由买方负担。

### 第三节 生产

#### 第八条 图纸的审批和认可

##### 1. 图纸的审批

建造方应按照技术说明书的要求，将本船有关的图纸和技术资料一式三份寄给买方（或其委派的代表）以待技术上的审批。在买方收到图纸后十四（14）天或者建造方寄出后二十一（21）天（二者择其短者）内，买方应将一份经其批准的或者附有提出修改意见的图纸资料寄还给建造方，如在上述规定的时间内，图纸资料未按时寄还给建造方，则应视为图纸和技术资料已被完全批准，除非买方特别书面要求延长且建造方也已书面同意的话。

如在上述规定的时间内，买方将附有提出修改意见的图纸和技术资料寄还给建造方，并且如上述的修改意见在内容和性质上均为必要的修改项目，则建造方应该按照改正的图纸和技术资料开始或继续建造本船。如这类修改意见标注不清楚或不详细的话，建造方有权按照自己的理解进行建造。

技术说明书后附有一份主要项目供应清单，上面刊载买方希望掌握的由建造方推荐的供应厂商。买方在收到这类通知后十（10）天或建造方通知发出后十五（15）天（二者择其短者）内事先用书面形式提出要变更某些供应厂商的理由。

对于买方未提出不同意见的供货厂商，建造方可以对其自由选择。如买方执意选取一家非建造方选定的供货商（无论建造方最初是否推荐过），且如买方的这种意见涉及到成本的变化，建造方应该将成本变化的数额通知买方。买方在收到通知后十（10）天或建造方发出通知后十五（15）天（二者择其短者）内有权通知建造方仍然坚持原有的意见。在这种情况下，所变化的成本数额就应增加或从合同价格中减去。若买方未采取任何行动或者放弃其原有的意见，则建造方应该在遵守建造方的担保责任条件下，自由选择任何一家被推荐的供货厂商。

双方同意凡涉及到本船供货的与建造方的供货厂商的一切接触均应通过建造方来执行。买方保证尽最大努力在规定的时间内尽快地对要求审批的资料文件进行审批。上述各种审批并不减少建造方对该船承担的义务。

如建造方希望在厂商表之外选择其他供应商，应事先征得买方书面同意。

## 2. 图纸的认可

本合同双方在签订合同\_\_\_\_\_天内共同商定需送交买方认可的图纸清单（以下称“清单”）。在监造师抵达建造方船厂之前，清单中规定的图纸应寄送至买方，买方应在收到后\_\_\_\_\_,（ ）天内（不包括邮寄时间）将认可或注解的图纸寄回建造方。

在监造师抵达建造方船厂的同时，买方应书面通知建造方，陈述授权监造师可代表买方认可或不认可清单中所列的但尚未寄送给买方的图纸。监造师应在收到上述图纸后天内将这些图纸连同认可或注解一并返回。

如果监造师或买方未在上述规定期限内通知建造方认可或不认可，则视为这些图纸已被自动认可。

经买方或监造师认可的图纸应视为最终的图纸，其后的任何改变应按本合同第十二条的规定处理。

## 3、说明

（1） 本船建造所用图纸及技术说明书已在本合同生效日或之前由各方签字并成为本合同一部分，与本合同具有同等效力。

（2） 如果本合同条款与图纸及说明书不一致或有矛盾，则在该不一致或有矛盾处，图纸及说明书无效，应以本合同条款为准，但在其他场合，图纸及说明书应具完全效力。如图纸与说明书不一致或有矛盾，则该不一致或有矛盾处，应以说明书为准。但如说明书有要求而图纸未标明的工程以及图纸上标明而说明书未作要求的工程，应由建造方作为合同工程的一部分来完成。图纸、说明书与本合同条款之间的任何不一致或有矛盾之处，以及图纸与说明书之间的任何不一致或有矛盾之处，如一方发现，需立即书面通知另一方。

（3） 但在本合同生效后，双方同意对技术说明书进行修改或变动，可能会引起合同与



说明书不一致或有矛盾之处，则以修改或变动为准。

## 第九条 监造和检验

### 1. 买方监造师的委派

买方将自费及时委派一名或多名代表（以下称为监造师）。监造师应由买方书面委任，并常驻在建造方的船厂，负责对在建船及其主辅机械进行检验和监造。建造方保证为监造师进入中国或建造方船厂所在地及时办妥必要的签证，监造师应遵守中华人民共和国法律、法规和规则，买方负责给予建造方申办签证通知。

### 2. 监造师的监督和检验

对本船的船体、机械设备以及舾装设备的必要检验由入级船级社和买方的监造师在整个建造过程中实施，以确保本船完全按照合同和技术说明书进行建造。

在交船前的所有时间内，监造师有权按照双方商定的试验清单参加试验及在建造方船厂、分包厂或任何加工地或本船有关材料的储存地检查本船及其机械、附件。如监造师发现本船的建造或材料或生产工艺不符合或将不符合合同或技术说明书的要求，监造师应立即书面通知建造方。建造方如同意监造师的意见，则应在收到该通知后立即改正。建造方如不同意监造师的意见，则应对此作出解释说明或协商解决。如双方无法解决，可提请入级船级社解决，该船级社的意见具有裁决作用，对双方均有说服力。在此情况下，建造方可以继续进行建造工作。买方应向建造方承诺和保证，监造师按照双方同意的检查步骤、程序和一般的造船惯例进行检验，并使建造成本的增加和建造误期时间减少到最低程度。

建造方应在其造船厂或附近免费提供买方监造师的办公室和其他必要的设施。在本船建造期间直到交船日，监造师可自由出入本船及其机械、附件及和本船有关的施工场地和材料加工储放场，包括建造方的船厂、车间、仓库，从事本船施工的分包商和材料仓库。如建造方分包厂在本市以外地区，则前往该处的费用由买方自行承担，监造师在市内的交通工具由建造方提供。

### 3. 建造方的责任

在本合同项下买方委派的监造师均被视为买方的员工，买方、监造师或买方的雇员或代理人在船上和/或建造方或分包商的厂区，参与建造本船而发生人员受伤，包括死亡在内，只要不是因建造方、建造方的雇员或代理人或建造方的分包商的重大疏忽造成，建造方对此不承担责任。只要不是因建造方、建造方的雇员或代理人或建造方的分包商的重大疏忽所致，买方监造师、买方雇员或其代理人在中国财物的损坏、灭失等，建造方也不负责。

### 4. 薪水及费用

按本条规定，监造师或由买方委派的雇员的薪水及日常开支，均由买方自理。

### 5. 进度报告

买方有权在本船建造期间监督并要求建造方按月报告本船的实际建造进度情况。

### 6. 监造师的更换

建造方有权书面要求买方更换对监督建造本船不称职和不满意的监造师，并说明理由。如有必要，买方将派员至建造方船厂调查此事，如买方认为建造方要求合理，即应尽快更换。

## 第十条 分包

建造方可以根据技术说明书或厂商表中的规定，自行决定并负责将本船任何一部分建造工程项目分包给有资质的、经验丰富的分包商完成，但此类分包项目的提交和最后上船安装试验工作应在建造方的造船厂完成，建造方仍应对所有分包工作的正确实施承担全部责任。

## 第十一条 买方供应品

### 1. 买方的责任

(1) 买方应在本船建造适当的时间内自行承担风险、货价和费用，向建造方提供一部

分技术说明书中约定的物品（以下简称买方供应品），并按说明书规定，在船厂仓库或堆放处交付，其供应品应处于完整无缺的状态，以便安装在本船上。

(2) 为便于建造方将买方供应品安装到船上，买方应向建造方提供必须的说明书、图纸、指南、手册、测试报告和规范条例所要求的资料。买方在建造方的请求下由供应品制造商的代表协助建造方进行安装或由其承担安装工作，或在船厂予以调试，但不得向建造方收费。

(3) 如发现任何一件或所有的买方供应品有不当或不宜安装时，建造方有权退货，但在买方要求下，建造方可予以修理或调整买方供应品，但不得影响建造方在本合同项下的其他的权利，同时建造方不承担由此引起的后果。在此情况下，买方应偿付建造方因修理或调整所发生的全部费用，交船日也应自动地延长因修理或调整所需的时间。

(4) 如在规定的时间内买方未能按时交付买方供应品时，交船日也应自动延长因迟交所需的时间。买方对此应承担的责任，并向建造方支付由于买方供应品的迟交而使建造方受到的全部损失，该费用应于交船时支付。

如买方供应品迟交超过三十（30）天，建造方有权继续建造本船，并不在本船上安装该供应品，在此状态下买方应予接船，不能因此对建造方的其他权利产生异议。

## 2. 建造方的责任

建造方应在买方供应品运至船厂后予以贮存和合理的照管，并把这些物品安装上船。除本合同另有规定外，建造方对买方供应品的质量和性能不承担责任。

## 第十二条 修改、变更和加减账

### 1. 如何实施

本船建造所依据的技术说明书和图纸，可在本合同双方书面同意后的任何时候予以修改或变更，如果这类修改或变更或累积修改根据建造方的合理判断不会严重影响建造方所承担的其他义务，且买方同意按下述规定调整合同价格、交船时间和本合同其他条款（如有）。在上述条件下，建造方应同意尽力满足买方的此类合理要求，使上述修改和/或变更以合理的费用和切实可行的最短时间内完成。

此类修改或变更的协议应包括一份合同价格增加或减少（如有）的协议和交船时间延迟或提前的协议，并向建造方提供建造方满意的附加保证，或合同的其他更改或由于更改而改变说明书的协议。上述修改协议或变更说明书应由双方互换函件或其他书面文件而生效，双方交换的函件应作为建造本船说明书的修改部分，并作为本合同和说明书的一部分。在修改和/或变更说明书的协议达成后，建造方应按此对本船的建造进行修改，包括任何增减项目和建造相关的工作。如双方因无论何种原因未就调整合同价格、或延长交船时间或提供建造方附加保证或修改合同条款达成协议，则建造方没有义务接受买方的任何修改要求。

### 2. 规范规则等的改变

(1) 在本合同签订后，如船级社及授权的法定机构修改本合同和说明书中规定时，买方或建造方在收到更改通知后应完整地以书面形式传给对方，买方收到建造方（或反之）上述通知后（ ）天内，买方应书面将本船修改或变更的决定（如有）通知建造方，并由买方自行决定是否在本船上实施修改或变更并传达给建造方。假如买方首先同意下述条款，建造方应及时对本船进行修改和更改：

- (a) 关于实施此类修改或变更所产生的成本而引起的本船合同价格的增减；和/或
- (b) 关于实施此类修改或变更而引起的交船时间的延长；和/或
- (c) 关于实施此类修改或变更导致的保证航速和载重量的增减；和/或
- (d) 关于实施此类修改或变更导致本合同或说明书或两者的任何改变；
- (e) 由于合同价格增加而向建造方提供建造方满意的附加保证。

有关本款修改或变更的协议，应按上述有关说明书和/或图纸的同样方式处理。

(2) 如不论何种原因, 双方不能就合同价格的调整, 或交船期的延长, 或保证航速和载重量的增减, 或向建造方提供附加保证, 或本合同条款的任何修改(如有)达成协议, 则建造方有权根据合同及说明书的有关条款继续建造本船, 买方也应继续遵守未作任何修改的合同及说明书的条款。

(3) 对于任何强制性的规则、规范的修改, 即使建造方和买方未能就价格、交船期的变动达成一致意见, 建造方还应遵守该等强制性的规则规范进行, 但可以书面声明保留调整价格和交船期的权利, 双方的争议可以按照本合同第二十六条的程序解决。

### 3. 材料和/或设备的代用

如按本合同或说明书的需要用于建造本船的材料和/或设备无法及时采购而满足交船, 在建造方提出合理证据并征得买方书面同意后, 建造方可以提供满足船级社和建造本船所适用的规则、规范要求材料及设备予以代用。

## 第十三条 试航

### 1. 通知

在建造方取得试航证书后, 建造方以书面的方式至少提前三十(30)天发出预通知, 并提前七(7)天确切通知买方和其监造师关于本船按照技术说明书所述进行试航的时间和地点, 买方和监造师应立即认可已收到该通知。买方代表和/或监造师应在船上见证该试航, 并在试航期间检查本船的性能。如买方和监造师收到通知后, 买方代表无法准时参加本船试航, 本船的交船日期将因此根据买方代表迟到的天数作相应的延长。如在上述通知收到后, 买方代表无法参加本船试航引起试航延迟七(7)天以上时, 买方将被视为放弃参加本船试航的权利, 建造方可在无买方代表参加的情况下自行试航, 对此, 买方必须在建造方和船级社签发证书基础上在试航后并对本条中提及的小修小改接受本船。该证书用以证明本船符合合同和技术说明书要求, 并在各方面均是满意的。建造方特此保证为买方代表按时办妥必要的入境签证, 否则, 试航将推迟至买方代表抵达建造方船厂时为止, 由此引起的延迟不得作为本合同规定的允许延迟。但如根据中国现行的规定和/或法律, 建造方无法接受买方代表的国籍和其他个人资料, 则应建造方书面要求, 买方应立即更换该代表或其他代表。本合同双方理解到, 试航所在的中国水域, 其气象条件突发性多变, 而且事前并无警报。为此, 本船试航期间如气候突变恶劣, 阻碍试航继续进行, 同意将本船的试航中止和推迟至天气好转的次日进行, 除非买方以书面形式确认, 以天气突变前所作的试航为基础接受本船。如因气候恶劣而延迟试航, 该延迟应视为本合同规定的允许延迟。

### 2. 如何实施

(1) 凡与试航有关的费用均由建造方承担。在本船试航期间和试航时, 建造方必须自行配备必要的船员以符合安全航行的条件。试航应按技术说明书规定的方式进行, 并满足技术说明书规定的性能要求。

试航路线由建造方确定, 试航应在配备有测速设施的试航水域内进行。

(2) 为满足技术说明书规定的试航条件, 建造方应为本船提供所需的水、燃油, 买方提供润滑油和液压油。双方提供的上述物品均应符合主机技术说明书的要求。在试航和试验期间所消耗的水、燃油、润滑油、液压油和油脂类费用由建造方承担。

### 3. 试航满载吃水

买方根据本条第2款规定提供试航所需供应品外, 建造方还应提供本船所需的淡水和试航所需的备品, 使本船达到技术说明书规定的试航满载吃水(即设计吃水)所需的压载(淡水、海水或其他规定的压载物)由建造方付费。

### 4. 验收或拒收的方法

(1) 当建造方通知本船试航结束时, 买方或买方的监造师应在此之后六(6)个工作日内, 以书面确认方式通知建造方接受本船或连同有关理由拒绝接受本船。

(2) 但, 如试航结果表明本船或本船任一部分包括其设备不符合本合同技术说明书要求, 建造方应会同监造师检查故障原因, 并采取有效的措施, 消除故障, 如有必要可重新进行试航, 买方不承担额外费用。当建造方通知这些修改和/或重新试航完成时, 买方应在此六(6)个工作日内根据建造方所作的修改和更正后和/或重新试航的情况以书面确认的方式接受本船或连同有关理由拒绝接受本船。

(3) 如买方未能在上述(1)和(2)款规定的六(6)个工作日内以书面确认接受或连同有关理由拒绝接受本船, 买方应视为已接受本船。

(4) 本合同双方如对本船试航、试验的结果产生任何分歧, 则应按第二十六条规定的仲裁办法予以解决。

(5) 买方不能因试航和/或进一步试验后有保留意见而拒绝接受本船。建造方必须在按本合同交船前消除此类缺陷(如这些修改项目被建造方接受)。

#### 5. 剩余消耗品的处置

在买方接船时, 本船还剩下建造方为试航提供的燃油、淡水或其它消耗品, 买方同意以交船港的现行市场价向建造方购买上述物品, 买方按照本合同第五条3(5)和4(5)规定付款。

买方为试航提供润滑油和液压油, 建造方将以原价偿还上述试航实际消耗的润滑油和液压油, 建造方按照本合同第五条3(5)和4(5)规定付款。

#### 6. 验收的有效性

按上述规定, 只要本船符合本合同技术说明书的要求, 买方以书面形式通知建造方接船应为最终的和有约束力的。如建造方符合上述其他条款规定的全部程序交船, 买方不得拒绝建造方正式提交本船的要求。

## 第四节 交船

### 第十四条 交船和交船文件

#### 1. 时间和地点

根据本合同第十三条规定完成试航(或可能的重新试航)并为买方接受后, 按技术说明书要求, 本船将在\_\_\_\_\_年\_\_\_\_月\_\_\_\_日或之前在安全系泊状态下由建造方在其船厂连同所有入级证书和法定证书交付给买方, 如本船建造或本合同的履行因本合同许可的原因延迟交船, 上述日期可予以顺延。

上述日期或按合同条款延迟的交船日期称之为“交船日期”。

#### 2. 何时和如何实施

如买方和建造方各自履行了其在本合同项下的全部义务, 本船的交付应在建造方向买方提交确认交船的交接船证书以及买方向建造方提交接船证书的同时立即生效, 交接船文件一式四份, 由双方签字生效。

#### 3. 应提交给买方的文件

在买方接受本船时, 建造方应将下列文件连同交接船证书提交给买方:

- (1) 建造方按技术说明书进行的本船试航报告;
- (2) 本船设备、属具含说明书规定的零备件等的清单, 由建造方制定;
- (3) 建造方制定的消耗材料、储备品清单;
- (4) 建造方按技术说明书制定的本船完工图纸;
- (5) 建造方提供的载重量和倾斜试验报告;
- (6) 按合同和技术说明书要求在本船交付时需提供的下列全部证书:

.....

各类证书需由有关当局或船级社出具。本船需满足本合同签字时业已生效的有关规范规则。所有证书应有一份原件交本船留存，二份副本交买方。

如在交船时船级社或建造方以外的任何第三方无法出具完整的证书，建造方需提供船级社或建造方以外的第三方出具的临时证书，而在临时证书有效期届满前，建造方应将正式证书提交买方。对此，买方应予以接受。

(7) 建造方出具保证声明，即本船的任何留置权、费用、索赔、其他妨碍买方所有权的事项均不存在或已结清。特别是与本船的交船港所在省或国家的税务或费用无关，也与建造方在交船前和其分包商、雇员和船员在本船试航或其他场合中发生的全部债务无关。

(8) 建造方开具的商业发票；

(9) 建造方提供的销售账单。

#### 4. 交船时的扫尾工程

如在交船时本船尚存在少量的不影响船舶安全和航行的扫尾工程，则双方应书面列出扫尾工程项目数量和完成日期，全部扫尾工程应在交船日期后的四（4）天内完成，且应记录在本船相关的完工文件中。该扫尾工程不影响建造方交船，买方也应当接船。

### 第十五条 交船时间的推迟和延长（不可抗力）

#### 1. 延迟原因

在实际交船前的任何时候，本船的建造或交船前所履行的条款（包括分包商的）因不可抗力的原因诸如战争、封锁、革命、暴动、战争动员、国内骚乱、暴乱、罢工、破坏、工厂关闭、当地气温超过 35°C、天灾、公害、瘟疫或其他流行病、地震、潮汐、台风、飓风、风暴、或其他非建造方或其分包商所能控制的原因（如外部电源长期中断、铸锻件质量问题等视情况而定），以及任一描述的不可抗力，无论其性质前面是否指明，或建造方遭受损失或建造方工厂或其分包厂或本船的任何部分遭受火灾、洪水或其他有可能非建造方或其分包商所能控制的原因或由于设备和/或材料供应厂商破产，由于上述不可抗力的原因所产生的延迟时，建造方对此类延迟不承担责任，本船交付日期予以顺延，船价不得有任何扣减，但总的延迟时间不应超过所有此类延迟的总和并受本条中买方取消合同的权利和本合同所有关于有权和允许延迟交船时间的相关条款的制约。

#### 2. 延迟通知

在建造方认为有权按本合同宣布延迟交船时，建造方应在延迟发生之日起七（7）天内以书面确认的方式通知买方延迟的日期和原因。

同样，此类延迟结束七（7）天后，建造方应以书面或书面确认的方式通知买方延迟的终止时间，并确定由于此项延迟原因引起的本船交付的最大延迟日期。买方在收到该通知后三十（30）天内未能对建造方要求延迟交船作出反应，则被视为买方放弃反对延迟的权利。

#### 3. 超时延迟而取消合同的权利

如果所有允许延迟和非允许延迟的累计时间达到或超过\_\_\_\_\_（ ）天，但不包括本合同第二十六条所述的由于仲裁或买方违约或买方供应品延付引起的推迟，也不包括本合同允许的延长或延迟交船的日期，在这种情况下，买方可根据本条款并按照本合同有关条款的规定，以书面方式通知建造方取消本合同，该取消通知需经书面确认。建造方可在上述累计延迟时间之后的任何时候书面要求买方作出选择，这时买方在收到该要求后三十（30）天内通知建造方其取消意图，或同意将交船日期延长至双方商定的日期，在此双方理解并同意，如果再发生本合同规定的延迟而引起取消，买方仍有权按上述有关条款取消合同。

#### 4. 允许延迟的定义

由本条第 1 款所述的原因导致的延迟，但不包括本合同条款所允许的任何其他交船日期的延迟应理解为（在此称为）允许延迟，并区别于按本合同第五条规定需调整船价的非允许延迟。

## 第十六条 产权和风险

本船的产权和风险在交船前完全为建造方所有，在交船后即转移至买方。

在本船交付前，本船无任何留置权、抵押权、索赔、费用及其他妨碍买方产权的事项。

## 第十七条 船舶的拥有和驶离

### 1. 船舶的拥有

买方在本船交付和接受后即拥有本船。

### 2. 船舶的驶离

买方在上述本船交付和接受后五（5）天内应将本船驶离建造方的码头或交船地。如买方未能在上述五（5）天内将本船驶离，买方应向建造方支付合理的船舶停泊费。建造方有权在五（5）天期满后的任何时候将本船移往另一安全处所，建造方应在事先通知买方。

## 第十八条 船舶登记

本船应在验收和交船后，由买方根据（此处填写以登记国家的名称）法律注册登记，一切费用由其自理。

## 第十九条 质量保证

### 1. 材料和工艺的保证

在建造方将本船交付给买方后十二（12）个月内，建造方保证对本船、其船体、机械设备及其所有部件和所有由建造方和/或本合同中的其分包商制作完成或提供的包括材料、设备（但由买方或以买方名义提供的任何部件除外）发生因材料缺陷、设计错误和/或制作工艺错误引起的缺陷承担责任。如果建造方不负责本船的设计工作，则由设计错误引起的任何缺陷，建造方不承担责任。

### 2. 缺陷的通知

买方发现属于本保证范围内据以索赔的缺陷或偏差后，应立即以书面或书面确认的形式通知建造方。在买方的书面通知中应详细说明缺陷的性质和由此引起损坏的程度。建造方在保证期到期后三十（30）天内未收到缺陷通知，建造方对保证期到期之前发现的缺陷不承担义务。在保证期到期后三十（30）天内应书面通知发生的缺陷，需要说明缺陷的性质和损坏的程度，则随后的索赔视为符合要求。

### 3. 缺陷的修复

建造方应自行对本条所保证的本船或设备的任何部分所发生的缺陷进行必要的修复和/或更换。这些修复和/或更换应由建造方完成。

但，如建造方不能修理本船，如建造方的更换材料、部件的运输将影响或推迟本船运行，则在此情况下，买方可自行选择在其他地方进行必要的修理或更换，但买方无论如何应首先尽快用书面通知、口头告知建造方将要修理的时间和地点。如本船及其运行没有推迟，其运行未受影响，建造方有权由自己的代表或船级社代表，核实买方提出的缺陷的性质和范围。在此情况下，建造方在检验结束后，应迅速书面通知买方，认可或拒绝这类缺陷。在一般情况下，随后指派的保修工程师，将代表建造方处理该事项。

出现下列情况，建造方应立即将包括此类修理或更换含运输费的实际成本，或按其他国家主要船厂实施类似修理或更换的平均费用包括其运输费用取其低者以美元电汇给买方。

（1）建造方认可按本条应补救的缺陷，或；

（2）建造方在收到买方缺陷通知后三十（30）天内，不接受也不认可上述缺陷，并拟提请仲裁。任何争议将按照本合同第二十六条的规定提请仲裁。

### 4. 建造方责任范围

建造方对在上述保证期满后发现的缺陷不负责任。

建造方对由于本条第1款所述原因引起的缺陷或损坏负责，建造方责任局限于上述第1

款中规定的担保期内,由于一般磨损或不是由于上述第1款中规定的缺陷而导致的该船设备损坏,建造方无义务修理。发生在海上或其他地方的火灾、意外事故、或错误处理事故、疏忽或故意疏忽,是由买方及其雇员、代理人,包括该船官员、船员、乘员或在该船上工作的人员引起的,而不是建造方及其雇员、代理人或分包商引起的,因而造成该船及设备损坏,建造方不负责任。同样,对于那些由建造方和/或其分包商以外其他人的修理或更换而造成的本船设备任何部件的损坏,建造方也不负责任。

根据本合同条款,建造方将本船交给买方后,解除了本合同所述的一切责任和义务(保留第九条所明确规定的对买方的义务),包括但不限于工艺、材料、设备、设计缺陷或其他缺陷的责任和义务,以及由于建造方忽略或错误导致的损失的责任或义务。无论如何,建造方都不负责买方在本船所承担的义务中的间接损失或特定损失或不论何种原因造成的,包括但不限于浪费时间、损失利润或收入或滞留费用在内的费用。

本条担保的及建造方的责任与义务是专有的和不可替代的,于此表示买方放弃了其他补救、保证、担保或责任,无论这些权利是明示的还是默示的,由法律赋予还是其他(包括但不限于适用性、适销性和间接损坏方面的责任)规定的,是否由建造方疏忽所引起的。该担保不能延长、变更或改变,除非双方的授权代表另有约定。

## 第二十条 保修期和保修工程师

### 1. 保修期

本船的保修期为十二(12)个月,自交船当月起算至第十二(12)个月的最后一天为止。

### 2. 保证工程师

建造方应指派一名或二名保修工程师作为建造方代表,从本船交付之日起随船服务三(3)个月。买方及其雇员应给予该保修工程师充分的合作以便其履行建造方代表在船上的职责。买方应给予保修工程师按照该船轮机长相同的待遇,并应向其提供食宿、医疗和人身保险,建造方和/或保修工程师对此不承担费用。

买方应每月向保修工程师支付\_\_\_\_\_美元(USD\_\_\_\_\_ )作为各项开支,其中包括工资。买方还应承担在服务期满后飞返建造方所在地的旅费及保修工程师在履行其职责时与建造方通讯联系的费用以及(如有)其医药费和住院护理费。买方及其继承人和/或指定人有责任向建造方和/或保修工程师和/或卖方赔偿保修工程师的个人伤害,包括死亡,或保修工程师财产的破坏、损失或缺损,如该死亡、伤害、损失和/或缺损是由于买方、其继承人和/或指定人或其雇员和/或代理人的重大疏忽或过失造成的。

有关本款细节,双方应按照本款内容在交船时另行签订一份书面协议。

## 第五节 法律

### 第二十一条 适用法律

本合同应适用中华人民共和国法律,除非经双方商定也可适用其他国家法律。

### 第二十二条 买方违约

#### 1. 违约定义

如出现下列情况,买方被视为违反本合同规定之义务:

(1) 根据本合同第五条规定,第二期或第三期或第四期款项到支付期,并收到建造方按第五条提出的付款通知后,买方未予支付;或

(2) 买方在收到建造方根据第五条的规定提出的付款要求后未根据第五条第3(5)款,4(5)款向建造方支付第五期款项;或

(3) 建造方根据本合同第十四条规定按时提交本船,而买方没有接船;

(4) 买方未履行本合同规定的任何其他义务, 并且在建造方书面通知后一定期限内未能纠正的, 也视为违约。

## 2. 违约通知

如买方因上述付款或履行义务违约, 建造方应于本条第 1 款所述之违约发生后, 及时用书面通知买方, 买方应立即书面向建造方确认上述通知已收到。若买方在三 (3) 个日历日内不向建造方发出书面确认, 应视为买方已按时收到上述通知。

## 3. 利息和费用

(1) 如果买方对于本条第 1 (1) 款和 / 或 1 (2) 款规定的进度款项付款违约, 自付款到期日后的十五 (15) 天起, 买方应按年利率为百分之\_\_\_\_\_ ( %) 支付分期付款利息, 十五 (15) 日之后按年利率为百分之\_\_\_\_\_ ( %) 直至全部款项付清为止。

如买方未按本条第 1 (3) 款规定接收该船, 应视为买方第五期进度款付款违约, 并应支付按前述利率计算的利息, 自第十三条第 6 款规定的准备交船之日起算 (包括当日在内)。

(2) 如买方对前述 1 (1) 或 1 (2) 或 1 (3) 款规定违约, 除本合同有关规定条款外, 买方应支付建造方因买方违约而支出的成本、费用和开支。

## 4. 交船前违约

(1) 如买方出现本条第 1 (1) 或 1 (2) 或 1 (3) 款所定义的违约, 可根据建造方选择, 将交船日期按买方违约持续时间推迟。

(2) 如买方出现本条第 1 (1) 或 1 (2) 或 1 (3) 款所定义的违约, 并持续十五 (15) 天, 建造方可行使下列权利和补救措施:

(i) 建造方根据本条第 2 款已用书面确认的形式向买方发出违约通知, 建造方有权自行选择取消或解除本合同。在买方收到取消或解除的书面通知后, 所有买方供应品归建造方所有, 本船及其设备、机器应由建造方单方出售或采取其他措施;

(ii) (适用于买方对本条 1 (1) 所定义的违约) 建造方有权要求买方支付第五期款项、利息以及根据本合同规定出售本船所花费成本和/或费用, 有权宣布未付的第二期、第三期、第四期款项到期, 在宣布后, 建造方有权要求担保人按其签发的保函条款立即支付所有未付的第二期、第三期和第四期款项。

## 5. 本船的出售

(1) 当按上述规定取消或解除本合同后, 如认为适当, 建造方有权建成或不建成本船, 在此状态下建造方可公开或私下出售本船, 采取自己认为合适的方法而无须对买方由此招致的损失或损害负责。

如出售本船, 建造方应书面通知买方。

(2) 如出售已完工的本船, 建造方出售所得收益应首先用于支付销售费用和由于买方违约给建造方造成的经济损失, 然后支付未付的各期款项和/或合同价格差额及利息, 利息按前述相关条款的规定, 其利息计算自各到期日起算至售船收益日止。

(3) 如出售未完工的本船, 建造方出售本船所得收益应首先用于支付销售费用和成本、由于买方违约对建造方造成的经济损失, 然后支付建造本船所有成本 (这里所指的建造成本应包括但不限于劳务费, 和/或建造方为未安装到船上的设备和/或材料所付费用); 和/或建造方已支付和/或要支付的本船任何费用、开支、消费和/或专利税减去建造方保留的分期付款, 并补偿建造方因取消和解除本合同遭受的合理数额的利润损失。

(4) 在上述任一情况下, 如售船收益超过前述按照规定所需支付的总额时, 建造方应立即将超过部分无息付给买方, 但付给买方的各款项 (如有) 的数额不应超过买方已支付的各项款项的总额和买方供应品的成本。

(5) 如售船收益不足以支付前述应付款项的总额, 买方应按建造方要求立即支付其差额。

## 第二十三条 建造方违约



建造方未完成下述各项义务即构成违约：

1、建造方未尽力执行本合同，而使本船建造未能在本合同规定的交船日完工，但按本合同第六条所述，建造方有权延长合同交船期，如因不可抗力原因而导致的延迟交船除外；而且如买方已将建造方上述违约通知了建造方，建造方在收到上述通知后十五（15）天内未向买方说明已采取了使买方满意的有效措施来赔偿其违约行为。

2、建造方在其他方面未尽力履行本合同建造工作，或未能履行作为本合同一部分的契约、协议及保证，包括但不限于建造方应立即支付应付的劳力、材料、服务及其它收费的协议；而且如买方在上述任一情况下将建造方的违约行为通知了建造方，而建造方在收到通知后十五（15）天内未尽力改正其违约行为或履行上述契约、保证或协议，以及此后未认真执行完工任务或补救违约的措施。

3、如建造方被解散或裁决破产或整体转让给债权人，或建造方财产被指定为某一人或多人接收，不管是破产指定还是财产诉讼指定，不管是暂时指定还是永久指定，或建造方请求根据破产法条款重组或进行诉讼，或在债权人、股票持有人或其他任何债权人提出上述请求并为法院认可的。

4、当本合同出现事先无法预料的情况（建造方根据本合同第六条有权延迟完工的情况除外）时，如买方认为该情况将导致建造方无法完成本合同项下的义务。

## 第二十四条 合同转让

### 1. 建造方的转让

建造方为确保其融资投入不受损失，有权将本合同利益转让给其融资方。

### 2. 买方的转让

（1）买方为确保其融资投入不受损失，有权将本合同利益转让给其融资方。

（2）买方征得建造方同意（建造方不应无理拒绝）后，可以将其在本合同项下的权利和义务转让、转移或将本合同转让给其他第三方。

（3）原买方应与新买方一起保证且共同负责新买方与建造方之间的合同条款的执行。

## 第二十五条 船舶留置和抵押

### 1. 船舶留置

如建造方没有过错，在买方未履行合同付款义务时，建造方有权留置所占有的建造中的船舶，以保证造船费用得以偿还。

### 2. 船舶抵押

建造中的船舶可以设定船舶抵押权。建造方有权作为抵押人可以设定船舶抵押权，并与抵押权人签订书面合同。

设定船舶抵押权，由抵押权人和抵押人共同向船舶登记机关办理抵押登记；未经登记的，不得对抗第三人。

船舶抵押权登记，包括下列主要项目：

- （1）船舶抵押权人和抵押人的姓名或者名称、地址；
- （2）被抵押船舶的名称、国籍、船舶所有权证书的颁发机关和证书号码；
- （3）所担保的债权数额、利息率、受偿期限。

除合同另有约定外，抵押人应当对被抵押船舶进行保险；未保险的，抵押权人有权对该船舶进行保险，保险费由抵押人负担。

## 第二十六条 争议解决和仲裁

### 1. 船级社/船舶规范管理机构

任何关于船舶是否符合入级船级社或其他船舶规范管理机构的规则、规定以及其他条件的争议应提交入级船级社的船级委员会或其他船舶规范管理机构解决，其意见具有裁定作用，并对争议各方均有拘束力。

本合同其他任何争议应提交下列本条第 2 款和第 3 款规定的调解或仲裁方式解决。

## 2. 调解

双方可以在未将争议提交仲裁前,协商同意将因本合同产生的或与本合同有关的任何争议提交中国海事仲裁委员会调解解决,适用中国海事仲裁委员会海事调解中心的调解规则。双方同意将根据海事调解达成的和解协议提交中国海事仲裁委员会,共同选定或请求或由仲裁委员会主任指定一名独任仲裁员,依法按照和解协议的内容作出裁决,具体程序和期限不受中国海事仲裁委员会仲裁规则的限制。除非任何一方反对,如果海事调解程序中的调解员同为中国海事仲裁委员会仲裁员,调解员可以继续作为仲裁员作出裁决。

如不同意按照上述规定进行调解,则双方同意采用\_\_\_\_\_调解规则进行调解。

## 3. 仲裁

凡因本合同产生的或与本合同有关的任何争议,均应提交中国海事仲裁委员会,按照申请仲裁时该会现行有效的仲裁规则进行仲裁。仲裁裁决是终局的,对双方当事人均有约束力。

如双方不同意提交上述规定仲裁机构仲裁,则双方同意在\_\_\_\_\_ (地点或机构,) 适用\_\_\_\_\_仲裁规则进行仲裁。

## 第二十七条 合同中止和终止

### 1. 买方的终止

如在合同期内发生下列情况,买方有权发出通知终止本合同:

(1) 为建造方提供担保的还款担保人被视为无力偿付债务,除非建造方在收到买方要求提供替换的还款担保通知的三十(30)天内提供一个买方能够接受的替换的还款担保;或者

(2) 除去允许的延误,建造方不履行与船舶建造有关的工作至少连续达到\_\_\_\_\_天,如此后买方向建造方发出书面通知给予至少\_\_\_\_\_天表示将按照本条款终止合同,而在该期间内建造方没有改正他们的违约行为;或者

(3) 如发生以下任何事件:

(a) 交船日期由于不可抗力事件导致延长超过 180 天,

(b) 交船除了任何可允许的延误外延误超过 180 天,

(c) 由于不可抗力事件导致的延误与除可允许的延误外的延误的总和超过 270 天。

建造方可以在买方终止权利产生后的任何时候通知买方要求同意一个新的交船日期或者终止本合同。该新的交船日期应当是建造方合理预计船舶将准备交付的日期。在收到建造方要求的十五(15)天内,买方应将其决定通知建造方。如买方没有终止本合同,则新的交船日期应当被视为交船日期,前提是该日期不迟于建造方还款担保到期前三十(30)天。如船舶没有按照新的交船日期交付,买方有权终止本合同。

(4) 本船航速、载重量、舱容量的超限降低以及主机油耗的超限过量,使买方有权按本合同第六条第 1、2、3、4 款的规定减少合同价格接船,也可以终止或取消本合同。

(5) 船舶状况存在合同中约定的可以中止履行的缺陷;

(6) 建造方提供的担保违反合同的有关规定。

### 2. 建造方的终止

如在合同期内发生下列情况,建造方有权发出通知终止本合同:

(1) 为买方提供分期付款担保或者履约担保的担保人被视为无力偿付债务,除非买方在三十(30)天内提供一个建造方能够接受的替换的履约担保;或者

(2) 买方没有支付本合同项下任何应付款项达到二十一(21)个银行日,如建造方因此给予买方至少五(5)个银行日的通知表示将按照本条款终止的意图,而在该期间内买方没有改正违约行为。

(3) 买方没有接收按照本合同交付的船舶。

(4) 买方没有按照本合同提供分期付款和履约的担保。

### 3. 建造工作的中止

在不影响建造方终止权利的情形下,如买方没有按合同规定支付任何应付的分期款项达到十五(15)个银行日,建造方有权选择中止本合同项下的工作,并有权延长交船期,直到买方付清未支付的数额。

### 4. 视为无力偿付债务

任何一方或者提供还款担保的担保人如停止经营、解散或者重组(除了合并或者重建的目的)清算,接管者、信托者或者类似官员的指定、破产、停止支付或者类似事件的发生应当视为无力偿付债务。

如对方被视为无力偿付债务,任何一方有权发出通知终止本合同。

### 5. 买方终止的效力

如本合同被买方终止,建造方应当退还所有买方向建造方按照合同已经支付的数额加上按照合同规定年利率从支付日到还款日的利息。建造方还应退还买方供应品,或者如其无法退还,建造方应向买方支付与买方为该供应品所花费用相等的数额。

### 6. 建造方终止的效力

如本合同被建造方终止,建造方应有权保留买方的供应品以及买方分期支付的任何款项,并且有权完成或者不完成船舶的建造,但是在任何情况下应当按照合理条件以公开或者私人出售方式可以合理获得的最好价格出售船舶(船舶建造无论完成与否),包括已经安装或者使用在船舶上的买方供应品。

(1) 如出售已完成建造的船舶,建造方获得的出售收益应按照下列顺序使用:

(a) 支付建造方出售的费用以及由于买方违约导致建造方损失的其他费用;

(b) 支付合同价格项下所有未支付的分期款项,包括终止后将要支付的,以及按照合同规定的利率从买方应付之日起的利息;

(2) 如出售未完成建造的船舶,建造方将获得的出售收益应按照下列顺序使用:

(a) 支付建造方出售的费用以及由于买方违约导致建造方损失的其他费用;

(b) 支付终止之日合同价格项下应付但未付的所有分期款项,以及按照合同规定的利率从买方应付之日起的利息;

(c) 支付船舶部分建造的所有费用除了任何已付的分期款项以及上述(b)支付的金额;

(d) 支付由于买方违约导致建造方合理的纯利润损失。

(3) 在上述任何情况下,如出售获得的收益超过按照上述使用收益的数额,建造方应立即向买方支付该超过数额(不包括利息),只要向买方支付的数额不超过买方分期付款的总和。建造方应同时同意买方自负费用将未安装或者使用在船上的买方供应品(如有的话)从船厂运走,或者向买方支付该供应品的全部价值款。

(4) 如出售获得的收益不能向建造方完全支付上述买方应付的总数额,建造方可以按照合理条件以公开或者私人出售方式可以合理获得的最好价格出售未安装或者使用在船上的买方供应品(如有的话),使用该出售获得的收益支付买方应付的差额,并且将多余的退还买方。

(5) 如出售获得的收益仍然不能向建造方完全支付上述买方应付的总数额,买方应向建造方支付差额,加上合同规定利率从买方应付之日起的利息。

## 第二十八条 保险

### 1. 保险范围

从船舶建造开工之日起直到完工、交船日为止,建造方应就合同建造船舶向中国境内的有资质的保险公司投保船舶建造险,包括船舶在建造方建造期间和试航中由于海上和陆地上的各种风险及建造方的疏忽责任造成建造中的船舶的原材料、船体、机械设备的损失,以及

由此引起的额外费用和第三者责任，其中也包括买方供应品。

保险金额应相当于船舶建造合同的金额，不低于买方向建造方支付的总的金额和买方供应品价值之和。在交船前，若建造方和买方按照本合同第六条的规定可能对本船合同价格进行调整时，则建造方有义务对其保险金额也应作出相应的调整。

保险单下的全部损失应按照规定支付给建造方。

买方有义务配合建造方办理保险相关事宜，提供保险公司所需的相关单证。建造方有义务向买方提供保险单的副本备存。

## 2. 保险赔偿费的使用

### (1) 部分损失

如本船在交付和买方接受前，由于保险范围内的原因遭受损坏，尚未对本船造成实际全损或推定全损，建造方应根据本条第1款的保险单的约定获得保险赔偿，用于按照合同说明书所列的船级社及主管当局的要求修复损坏部分。建造方不应向买方追加额外的费用，买方应按照合同接受本船。

### (2) 全损

如保险事故造成船舶实际全损或者推定全损：

(a) 根据双方协议，可按照本合同重新建造或继续建造，在此情况下，按照前述保险单的保险赔偿应全部用于重新建造和/或修理损坏部分和/或重新配置买方供应品。但是合同双方须首先书面同意推迟合同的交船日，为完成船舶重建须调整本合同的其他条款，包括合同价格；

(b) 如果出于各种原因，合同双方未能对上述事项达成协议时，应及时向买方退还买方按照本合同已经向建造方支付的所有价款以及买方供应品的保险赔偿金，不计利息。

在收到本船实际全损或推定全损的正式书面通知的三十（30）天内，买方应根据本款内容书面正式通知建造方是否同意继续建造，若买方未对建造方发出此类通知，则将视为买方不同意适用本条（b）款条文。

一旦建造方根据本条（b）款将所有的费用退还给买方，本合同可认为已予终止，任何一方将来对另一方的所有权利和义务应予停止，基于本合同的担保也应予退还。

## 3. 保险的终止

建造方对本船的保险利益在交船后终止。

## 第二十九条 专利、商标和版权

本船的机械设备可能印有专利号、商标和厂商名称。建造方应保证买方不受专利责任或各种性质与种类的专利侵权的索赔，其中包括履行本合同用于本船的已获专利或可获专利的发明而支出的费用，也包括可能的诉讼费用和开支。买方由于建造方的原因受到专利侵权后，享有就上述损失向建造方索赔的权利。

本条所述内容不应理解为可以转让本合同有关机械设备的专利权、商标权和版权。上述权利应完全归其真实、合法所有人持有。当与本合同其他条款相反，建造方基于本条的责任，将不随任何具体期限届满而终止。

建造方在此承担的保护范围不包括由买方提供给建造方的设备或部件。

## 第六节 杂项

### 第三十条 通知和语言

#### 1. 通知

所有与本合同有关的通知和通讯应使用以下地址：

买方：（此处写以买方全称）

地址：（此处写以买方法定地址）

邮编：

电话：

传真：

电子信箱：

卖方：（此处写以卖方全称）

地址：（此处写以卖方法定地址）

邮编：

电话：

传真：

电子信箱：

建造方：（此处写以建造方全称）

地址：（此处写以建造方法定地址）

邮编：

电话：

传真：

电子信箱：

由卖方和建造方单独发给买方的通知和通讯，应视为是由卖方和建造方双方发出的。

若各方的地址有所变更，变更方应用书面通知对方。如未给对方以变更通知，则变更方以前告知对方的地址，将被视为是正确的地址。

所有有关本合同的通知、要求、请求、说明书、建议和通讯，在到达对方地址后即视为已递交，电子信箱或传真在发送并收到后即视为已递交。

## 2. 语言

本合同的全部文件和通知、通讯、说明书、图纸等书面资料均应使用中文或英文书写，视具体情况选定。两种语言均具同等法律效力，如发生不一致情况时，以中文为准。本合同双方无义务将其译为其种类语言。

### 第三十一条 选择权

买方具有建造中船舶的后续选择权，该选择权船应按原同样的合同价格和交付周期执行。这种选择权必须由买方按双方商定的月份内向建造方予以确认，并与本合同有关条款的合同生效日期相一致。

建造方也有权可与买方商定关于选择权船的合同价格予以适当调整，而其建造周期可作适当缩短，交船日期适当提前。

### 第三十二条 合同生效条件和日期

本合同具备下列条件或双方商定的条件后生效：

- （1）本合同与技术说明书已由双方盖章和签字；和
- （2）建造方收到根据本合同第五条规定的第一期分期付款；和
- （3）建造方收到根据本合同第五条规定由买方一流国际银行出具的并由建造方认可的付款保函，形式如附件 B；和
- （4）买方收到根据本合同第五条规定由建造方一流国际银行出具的并由买方认可的还款保函，形式如附件 A；和
- （5）买卖双方董事会批准。

除本合同另有书面协议外，否则双方应立即完全解除依据本合同向另一方承担的义务，

并说明本合同未曾生效。同时，建造方应向买方退还买方已支付的全部款项和按年利率（\_\_\_\_\_）%支付的利息。

### 第三十三条 完整的合同文件

本合同构成双方间完整的协议，在合同签字前，一方对另一方所作出的承诺、保证或声明均不影响本合同的有效性。除非通过书面协商并经双方代表签字，对本合同的任何修改均为无效的。

CMAC 标准新造船合同

附件 A

建造方不可撤消的还款保函

致：（此处写以受益人的全称）

日期： 年 月 日

敬启者

不可撤消的付款保函号

应\_\_\_\_\_船舶贸易公司和\_\_\_\_\_造船厂（或造船公司以下合称为卖方）要求并鉴于你方同意按照你方与卖方于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日签订的工程编号为\_\_\_\_\_，载重量为\_\_\_\_\_公吨的\_\_\_\_\_船（以下简称本船）的建造合同（以下简称本合同）在交船前支付卖方各项款项，我方（担保方）特在此向你方保证卖方退还总额不超过\_\_\_\_\_美元（USD\_\_\_\_\_）的款项。即根据本合同你方在交船前支付的本船合同价的第一期付款\_\_\_\_\_美元整（USD\_\_\_\_\_），本合同价的第二期付款\_\_\_\_\_美元整（USD\_\_\_\_\_），本合同价的第三期付款\_\_\_\_\_美元（USD\_\_\_\_\_），以及本合同价的第四期付款\_\_\_\_\_美元（USD\_\_\_\_\_）。如上述款项或其一部分根据本合同有关条款应由卖方偿付而卖方未付，且你方是因交船期允许延迟而缓解合同，我方将支付卖方应付金额，但无利息。如延迟交船总计\_\_\_\_\_天，你方根据本合同有关条款所述情况解除合同，我方将支付你方款项及利息，年利率为百分之（\_\_\_\_\_%），其他情况下年利率为百分之\_\_\_\_\_（\_\_\_\_\_%），在收到你方要求退款的有关书面要求后三十（30）个营业日之内，我方即支付上述款项。

但，当你方与卖方就下列问题有分歧时：

（1）卖方是否有责任退还你方支付的各分期付款，以及

（2）你方最终是否有权要求我方付款以及卖方或你方根据本合同第二十六条将此分歧提交仲裁或者根据国家法律提起上诉时，我方有权解除和延迟付款直至买卖双方之间的仲裁裁决公布，且只有在仲裁裁决要求卖方还款和按其他国家法律卖方已放弃或不再实施任何上诉权时，我方才有义务付款。如卖方不履行裁决判决，我方则应付清裁决范围内规定（或任何法庭判定）的数额，总数额不超过担保数额加上上述利息。

上述还款我方将以美元形式支付你方已付的货币数额。本保函于卖方根据本合同在交船前收到你方的第一期付款时生效，本保函项下有效数额应与你方在本船交付前实际支付的总数额相符。但本保函所付数额无论如何不应超过上述你方付给卖方的实际金额，以及上述从卖方实际收到每笔分期付款开始到还款日为止所计的利息，年利率根据具体情况为百分之\_\_\_\_\_，（\_\_\_\_\_%）或\_\_\_\_\_（\_\_\_\_\_%）。

本保函有效期至本船交给买方及买方接受时止，或者依据本合同卖方或我方已向买方还款时止，或直到\_\_\_\_\_日（根据本合同第十四条规定的交船期后第三十（30）天）止。上述情况取其发生在前者。此后你方须以航空件将此保函退至我方以示撤消。但在下述情况下：

（1）如本船仍在建造尚未完工，本保函有效期将延至\_\_\_\_\_日（即本合同第十四条规定的交船期后\_\_\_\_\_天），或延至本合同规定的交船及为买方接受的日期，如此日期在前，或者

（2）如你方与卖方就本合同所述事项诉诸仲裁或诉讼时，本保函有效期将自动延至仲裁裁决或者法庭判决下达后第三十（30）日。

本保函适用中国法律。

××银行

CMAC 标准新造船合同

附件 B

买方第二、第三及第四期不可撤消的付款保函

银 行

致：（此处写以受益人全称）

\_\_\_\_\_船厂（或造船公司）

日期：\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日

敬启者：

（1）鉴于你方与买方\_\_\_\_\_（以下简称买方）于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日签订了一艘载重量为\_\_\_\_\_公吨\_\_\_\_\_船，即船厂工程编号\_\_\_\_\_船（以下简称本船）的销售合同（建造合同），我方作为第一债务人而不仅是担保方，特此不可撤消地、绝对地及无条件地保证，买方按时支付如下述（2）项规定的\_\_\_\_\_美元（\_\_\_\_\_）合同总价中的第二、第三及第四期的所有款项。

（2）根据本合同条款，下述受保款项包括本船开工后三（3）个纽约银行日内买方应付的第二期款项，计\_\_\_\_\_美元整（\_\_\_\_\_）以及本船第一只分段上船台后三（3）个纽约银行日内买方应付的第三期款项，以及本船下水后三（3）个纽约银行日内买方应付的第四期款项，计\_\_\_\_\_美元整（\_\_\_\_\_）。

（3）作为第一债务人而不仅仅是担保方，我方亦不可撤消地、绝对地及无条件地保证按时支付每期受保违约款利息，利息按年利率百分之\_\_\_\_\_（\_\_\_\_\_%）自每期付款违约的当天起至该违约款付清日止计算。

（4）如买方违约没有按时支付任一期受保款项，或者买方没有支付任一期款项利息，如该违约持续时间达十五（15）天，则我方一收到你方的第一份书面通知，将立即支付第二期、第三期及第四期款项及第（3）项所述的利息给你方或你方代理人，同时不要求你方对卖方或你所持的抵押品采取进一步的行动、措施或步骤。

（5）我方特此同意本保函及下述义务可予转让，由你方选择。如被转让，将保证你方所指定的任一第三方的利益或者中国银行总行营业部作为你方的代理人，上述第三方或中国银行总行营业部被视为已在此处指定。

（6）本保函下由我方支付的任一款项应以美元形式电汇给在（此处写以银行名称），转入你方在中国银行总行营业部的账户，受益人为你方及你方代理人，卖方指定的接收行，或卖方临时指定的其他接收行。

（7）我方的责任不受如下因素的影响或损害：在本建造合同项下作为卖方的你方与买方发生的任何争议、或不管何种原因引起的造船延误和/或交船延误，或造船、交船期的变更或延期，或现在及以后与此有关的任何抵押品与赔偿，或由你方或其他与此有关的任何他人所给予的赦免，或与此有关的条款的不履行或无效，或除上述以外的其他任何减少本保函下责任的因素如任一行为、疏漏、事实或条件。

（8）你方的任一书面声明或要求须经你方一位负责人签发递交我方，或如果邮寄则寄至\_\_\_\_\_（或我方书面通知你方的其他地点），或是经中国银行书面确认的合法通讯号码。

（9）本保函一经你方收到即开始全面生效并且有效期持续至卖方交船、买方接受本船并



且买方已全部履行接船责任，或持续至买方或我方已全部付清第二期、第三期和第四期款项以及相应利息，两者中取其早者。

(10) 但根据本保函，我方付给你方的最大款项数额不超过总额\_\_\_\_\_美元，即如下数额：

(a) 本保函担保的第二期、第三期及第四期款项总计\_\_\_\_\_美元，和

(b) 年利率百分之\_\_\_\_\_ (\_\_\_\_\_% )、为期六十(60)天的分期款项的利息\_\_\_\_\_美元。

(11) 本保函下由我方支付的所有款项，不得抵消、反诉和因任何税务、关税或收费被减少或扣留，除非法律另有要求，如属后者，我方将在许可范围内尽量少减或少留，并且，如有必要，支付额外数额以使你方净收入在减少扣留后仍等于未经减少或扣留的应付数额。

(12) 本保函按（国家名称）法律解释，我方特此为在（国家名称）境内进行的任何法律行为或诉讼向不享有司法特权的（国家名称）法庭呈递此保函。

(13) 本保函于上述日期到期。此后，你方须退回此保函并不附带任何要求。

(14) 我方于上述年月日授权代表使本保函生效并已递交。

兹以为证。

CMAC 标准新造船合同

附件 C

技术说明书

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C.0

C.1

C.2

D.0

CMAC 标准新造船合同

D.1

附件 D

D.2

总布置图和舾剖面图

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E.0

E.1

E.2

CMAC 标准新造船合同

附件 E

厂 商 表

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CMAC 标准新造船合同  
附件 F  
合同要素综合表  
(CMAC 标准新造船合同简易版)

1. 签约地点和日期		
2. 建造方名称：全称地址和联系细则 船舶贸易公司（若有） 名称： 地址：  国家： 电话：（ ） 传真：（ ） 电子信箱： 造船公司（或船厂） 名称： 地址： 国家： 电话：（ ） 传真：（ ） 电子信箱：	3. 买方名称：全称地址和联系细则 名称： 地址：  国家： 电话：（ ） 传真：（ ） 电子信箱：	
4. 船舶概述/类型		
A. 主尺度： (i) 总长 (m) (ii) 两柱间长 (m) (iii) 载重量 DWT (mts) (iv) 设计吃水 (m)	B1. 载重量： (i) 舱容量 (ii) 装载量	B2. 载箱量（说明集装箱数）： (i) 甲板上载箱总数 a. 20' /40' /45' TEU b. 冷藏箱数 (ii) 舱内载箱总数 a. 20' /40' /45' TEU b. 冷藏箱数
C. 主机： (i) 制造商/机型： (ii) 最大持续功率（千瓦数 MCR） (iii) 最大持续功率时的转速 (iv) 最大持续功率时的油耗	D. 航速： (i) 在设计吃水 (m) 时的服务航速 (kn)	
E. 其他要素（可选择）		
5. 建造方船号	6. 船旗国	
7. 入级/船级符号	8. 合同价格和币种 (a) 价格 (b) 币种	
9. 合同交船日期	10. 支付条款 首期付款 2期付款 3期付款 4期付款 末期付款	
11. 建造方银行账户细则 名称： 地址： 国家： 电话/传真： 电子信箱： 分类编号： 开户账号： 开户名称：		
12. 合同价格的调整（说明币种和限额） A. 航速 (a) 合同价格递减额： (b) 最大递减额： (c) 合同价格增加额： (d) 最大增加额：	B. 载重量 (a) 合同价格递减额： (b) 最大递减额： (c) 合同价格增加额： (d) 最大增加额：	

<p>C. 舱容量</p> <p>(a) 合同价格递减额:</p> <p>(b) 最大递减额:</p> <p>(c) 合同价格增加额:</p> <p>(d) 最大增加额:</p>	<p>D. 油耗</p> <p>(a) 合同价格递减额:</p> <p>(b) 最大递减额:</p> <p>(c) 合同价格增加额:</p> <p>(d) 最大增加额:</p>
<p>E. 延迟或提前交船补偿</p> <p>(a) 延迟每日金额:                      (c) 提前每日金额:</p> <p>(b) 最大递减额:                         (d) 最大提前额:</p>	<p>F. 其他 (可选择)</p>
<p>13. 担保</p> <p>(a) 买方担保</p> <p>(i) 签约后日期数</p> <p>(ii) 买方分期付款/履约担保</p> <p>(b) 建造方担保</p> <p>(i) 签约后日期数</p>	<p>14. 担保周期 (说明月份数)</p> <p>(如超过 12 个月应予说明)</p>
<p>15. 附加担保周期 (说明月份数)</p>	<p>16. 中止和终止</p> <p>(a) 运作周期 (说明日期数)</p> <p>(b) 通知周期 (说明日期数)</p>
<p>17. 适用法律和争议解决</p> <p>(a) 适用法律; (i) 中国法律, 或(ii)其他国家法律</p> <p>(b) 争议解决机构和地点: (i) 中国海事仲裁委员会, 或 (ii) 其他海事仲裁机构和地点</p>	<p>18. 保证工程师 (说明总月份数)</p>
<p>19. 合同生效日期 (说明履约的条件)</p>	<p>20. 说明履约完成日期数</p>
<p>21. 附加选择权船 (说明艘数)</p>	<p>22. 附加选择权船的合同价格和交付日期</p>
<p>23. 选择权的确认期 (说明合同生效日后的月份数)</p>	<p>24. 利息 (说明利率)</p>
<p>25. 买方担保人 (说明相关银行或当事人的名称、地址全称和联系细则)</p> <p>名称:</p> <p>地址:</p> <p>国家:</p> <p>电话: ( )</p> <p>传真: ( )</p> <p>电子信箱:</p>	<p>26. 建造方担保人 (说明相关银行或当事人的名称、地址全称和联系细则)</p> <p>名称:</p> <p>地址:</p> <p>国家:</p> <p>电话: ( )</p> <p>传真: ( )</p> <p>电子信箱:</p>
<p>27. 附件数</p>	<p>28. 附加条款数</p>
<p>签署 (建造方)</p>	<p>签署 (买方)</p>

注: 设置附件 F 合同要素综合表有两个作用, 一是给合同双方对本合同有一个全面完整的概念, 二是对小型、简单的船舶来说, 它可以图表形式独立使用, 成为一份简易合同, 避免繁复的文字叙述。

CHINA MARITIME ARBITRATION COMMISSION STANDARD  
NEWBUILDING CONTRACT (ENGLISH VERSION)

CMAC STANDARD NEWBUILDING CONTRACT

(HULL NO: \_\_\_\_\_)

THIS CONTRACT, is made this (date) day of (month), (year), by and between, (full name of the BUYER), a corporation organized and existing under laws of (country or area of the BUYER), having its principal office at (country or city), as one party (hereinafter called the “BUYER” or “Principal”), and (full name of the shipbuilding trading company) a corporation organised and existing under laws of P.R. China, having its principal office at P.R. China as well as (full name of the shipbuilder) a corporation organized and existing under laws of P.R. China, having its principal office at P.R. China, together as the other party (hereinafter called the “SELLER” or “BUILDER”).

WITNESSTH:

In consideration of the mutual covenants contained herein, the SELLER agrees to design, build, equip, launch and complete at the SELLER’ s shipyard and to sell to the BUYER after accomplishment and successful trial of (type, name and number of the vessels), The technical Specifications will be described in Article I of the Contract. The VESSEL will be registered under the flag of (name of flag country). The BUYER agrees to purchase and take delivery of the aforesaid VESSEL from the SELLER and to pay for the same in accordance with the terms and conditions hereinafter set forth.

**SECTION 1 VESSEL**

**ARTICLE I DESCRIPTION**

1. HULL NUMBER

The Vessel shall be constructed at SELLER’ s shipyard or the shipyard specified by the SELLERS and shall have the BUILDER’ s Hull No: \_\_\_\_\_.

2. PRINCIPAL TECHNICAL DOCUMENTATION

The VESSEL shall be constructed, equipped and completed in accordance with the following principal technical documentation:

- (1) Specification (Drawing No. \_\_\_\_\_ )
- (2) General Arrangement (Drawing No. \_\_\_\_\_ )
- (3) Midship Section (Drawing No. \_\_\_\_\_ )
- (4) Makers list (Drawing No. \_\_\_\_\_ )

3. PRINCIPAL TECHNICAL PARAMETERS OF THE VESSEL

The principal technical parameters of the VESSEL as per the Specifications are as below:

- (1) Principal Particulars and Dimensions of the VESSEL  
Length overall \_\_\_\_\_ abt. \_\_\_\_\_ m

Length between perpendiculars	m
Breadth, moulded	m
Depth, moulded	m
Designed Draft	m
Speed	knot
Deadweight	t
Hold Capacity	m <sup>3</sup>

(2) Propelling Machinery:

The VESSEL shall be equipped, in accordance with the Specifications, with set (s)

\_\_\_\_\_of Main Engine of \_\_\_\_\_type with MCR\_\_\_\_\_kW and rated revolution rpm.

The technical parameters of the VESSEL shall be defined, measured, and approved in accordance with the “Specifications” :

4. GUARANTEES

(1) Speed

The Builder guarantees that the trial speed, after correction, is to be not less than\_\_\_\_\_nautical miles per hour on the trial condition of the weather and clean hull as stipulated in the Specifications. The speed shall be corrected for wind speed and shallow water effect with the method as specified in the Specifications.

(2) Deadweight

The term, “Deadweight” , as used in the Contract, shall be as defined in the Specifications.

The Builder guarantees that the VESSEL is to have a deadweight of not less than metric tons at the designed loaded draft of\_\_\_\_\_ meters in sea water of 1.025t/m<sup>3</sup> specific gravity.

(3) Hold Capacity

The Builder guarantees that the VESSEL’ s actual hold capacity is to be not less than\_\_\_\_\_m<sup>3</sup> as specified in the Specifications.

(4) Fuel Oil Consumption

The Builder guarantees that the fuel oil consumption of the Main Engine at shop test is not to exceed\_\_\_\_\_grams/brake horse power/hour at normal continuous output at shop trial based on diesel fuel oil having a lower calorific value of kilocalories per kilogram.

(5) The actual speed, deadweight, hold capacity and fuel oil consumption of the VESSEL shall be measured by the BUILDER in the presence of the BUYER’ s supervisor(s) or the Representative authorized by the BUYER for purpose of confirmation or approval. Should there be any dispute between the BUILDER and the BUYER in such measurements, Classification Society shall be appointed to make remeasurements subject to the agreement by both parties. The result made by the Classification Society shall be final and binding to both parties.

**ARTICLE II CLASSIFICATION, RULES AND REGULATIONS**

1. The VESSEL, including its design construction inspection test and delivery shall conform to the rules , regulations and the conventions of \_\_\_\_\_(herein insert the “Classification Society” ) , and shall obtain the class notation of



and shall also meet the requirements of the regulations and the rules of the flag authorities as below:

(1) The regulations and the rules having becoming effective on the date of the signing date of signing of the Contract, or

(2) The regulations and the rules which have not been effective while have been officially approved and published on the date of signing of the Contract and are to come into force prior to the delivery of the VESSEL.

All the regulations, the rules and requirements of the flag authorities and the Classification Society shall be unconditionally met.

2. All the laws rules and regulations of the authorities shall be final and binding upon the parties hereto.

3. All fees and charges incidental to Classification and to comply with the rules, regulations and requirements of the Contract as described in the Specifications as well as royalties, if any, payable on account of the construction of the VESSEL shall be for the account of the BUILDER, except as otherwise provided and agreed herein. The key plans, materials and workmanship entering into the construction of the VESSEL shall at all times be subject to inspections and tests in accordance with the rules and regulations of the Classification Society.

### **ARTICLE III DESIGN—LIABILITY IN THE DESIGN CONTRACT**

The design of the VESSEL shall be carried out by a design company in accordance with the Design Specifications based on the requirements of the BUYER. The design shall determine the performance and technical parameters of the VESSEL (including navigation areas and shipping course, ship type, trading purpose, nationality and class, propelling equipment, speed and reserved power, endurance, deadweight, hold capacity and accommodation facilities), as well as compliance with the rules and regulations of CLASSIFICATION SOCIETY and relevant authorities. A design contract shall be executed by the PARTIES for quality assurance and clarification of the obligations.

If the BUYER assigns \_\_\_\_\_ design company from outside of China to design the VESSEL the BUYER shall enter into a design contract with this design company. Thereafter, the BUILDER enters into a subcontract with \_\_\_\_\_ (the design company) for the detailed design and workshop design. In such event, the BUILDER shall undertake responsibility neither for any defect of the VESSEL and mistake arising from the design, or any deficiency of speed, deadweight, fuel oil consumption and hold capacity due to non-compliance with the relevant regulations and rules, nor for any extension of the Delivery Time of the VESSEL due to the delay in the delivery of the drawings.

If the design company is assigned by the BUILDER, the design contract shall be signed between the BUILDER and this design company. In such event, the BUILDER shall undertake responsibility for any defect of the VESSEL and mistake arising from the design, or any deficiency of speed, deadweight, fuel oil consumption and hold capacity due to non-compliance with the relevant regulations and rules, and for any extension of the Delivery Time of the VESSEL due to the delay in the delivery of the drawings.

## ARTICLE IV ENVIRONMENTAL PROTECTION

### 1. IMO HAZARDOUS MATERIALS INVENTORY

The BUILDER shall, in accordance with the IMO Guidelines on Ship Recycling, with amendments in force as of the date of the Contract:

- (1) Endeavour to take due account of the Vessel' s Recycling disposal when designing and constructing the Vessel;
- (2) Maximizing the use of the materials of green, low carbon and being recycled safely and environmental friendly;
- (3) Minimizing the use of the materials which have been known to be potentially hazardous to human health and the environment.

In consultation with equipment manufactures, the BUILDER will provide the Buyer with a Green Passport Statement of Compliance issued by the Classification Society containing information including the Vessel' s hull number and main particulars and listing any and all equipment and systems having been known to be potentially hazardous utilized in the construction of the Vessel.

The list of the materials which are potentially hazardous shall contain the location and the approximate quantity/volume of each material on board of the Vessel.

### 2. Protective Coating Standard

The Vessel' s double-side skin spaces and dedicated seawater ballast tanks shall be coated in accordance with the Specifications. The Protective Coating Standard should be in compliance with the applicable laws, regulations, rules and requirements of the Classification Society and the Regulatory Authorities.

### 3. Source of Origin

If so requested by the Buyer, the BUILDER shall identify the country of origin of the main components listed in the Maker' s List and Specifications.

## SECTION 2 FINANCIAL

### ARTICLE V CONTRACT PRICE & TERMS OF PAYMENT

#### 1. CONTRACT PRICE:

The purchase price of the Vessel is \_\_\_\_\_ (Amount and Currency, hereinafter called the "Contract Price" ), net receivable by the BUILDER which is exclusive of the BUYER' s Supplies as provided in Article XI hereof, and shall be adjusted subject to Article VI under the Contract.

#### 2. CURRENCY:

Any and all payments by the BUYER to the BUILDER under the Contract shall be made in \_\_\_\_  
\_\_\_\_\_ (Currency and Symbol).

#### 3. TERMS OF PAYMENT:

The Contract Price shall be paid by the BUYER to the BUILDER in installments as follows:

(1) The 1st Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price, shall become due and payable and be paid by the BUYER concurrently within three (3) working days after the BUILDER issued the Letter of Refund Guarantee.

(2) The 2nd Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price, shall become due and payable and be paid within three (3) business days after the cutting of the first steel plate of the Vessel.

(3) The 3rd Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price, shall become due and payable and be paid within three (3) business days after keel-laying of the first section of the Vessel.

(4) The 4th Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price, shall become due and payable and be paid within three (3) business days after launching of the Vessel.

(5) The 5th Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price plus any increase or minus any decrease due to modifications and/or adjustments to the Contract Price in accordance with provisions of the relevant Article hereof, shall become due and payable and be paid by the BUYER to the BUILDER on date of delivery of the Vessel. The BUILDER shall send to the BUYER an email or facsimile demand for this installment ten (10) days prior to the scheduled date of delivery of the Vessel.

(6) The 6th Installment:

The sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_),  
representing

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Price shall be paid within three (3) working days after the expiration of the guarantee period of the Vessel.

#### 4. METHOD OF PAYMENT

(1) 1st Installment:

The BUYER shall remit the amount of this installment to the receiving bank nominated by the BUILDER (to name the bank here), for credit to the account of the BUILDER, within three (3) business days after receiving notice in writing from the BUILDER which should also be confirmed and signed by the BUYER' s authorized representative (same as below) regarding effectiveness of the Contract.

(2) 2nd Installment:

The BUYER shall remit the amount of this installment to the receiving bank nominated

by the BUILDER, for credit to the account of the BUILDER, within three (3) business days after receiving notice in writing from the BUILDER regarding cutting steel of the Vessel.

(3) 3rd Installment:

The BUYER shall remit the amount of this installment to the receiving bank nominated by the BUILDER, for credit to the account of the BUILDER, within three (3) business days after receiving notice in writing from the BUILDER regarding keel-laying of the Vessel.

(4) 4th Installment:

The BUYER shall remit the amount of this installment to the receiving bank nominated by the BUILDER, for credit to the account of the BUILDER, within three (3) business days after receiving notice in writing from the BUILDER regarding launching of the Vessel.

(5) 5th Installment (Payable upon delivery of the Vessel):

The BUYER shall, at least three (3) bank business days prior to the scheduled date of delivery of the Vessel, make a cash deposit with the bank nominated by the BUILDER, covering the amount of this installment as adjusted in accordance with the provisions of the Contract as agreed by the Parties hereto, with an irrevocable instruction that the said amount shall be released to the BUILDER against presentation by the BUILDER to the said Bank, of a copy of the Protocol of Delivery and Acceptance signed by the BUYER' s authorized representative and the SELLER. Interest, if any, accrued from such deposit, shall be for the benefit on the BUYER.

Unless otherwise provided in the Contract, the BUYER shall not defer or refuse payment of any installment for the reason of any disputes or arguments of whatsoever nature between the Parties.

(6) The 6th Installment:

The BUYER shall remit the amount of this installment to the receiving bank nominated by the BUILDER, for credit to the account of the BUILDER within three (3) working days after receipt of the notice from the BUILDER stating the expiration of the guarantee period of the Vessel.

5. PREPAYMENT:

The BUYER shall have the obligation to make prepayment of any and all installments before delivery of the Vessel, by giving to the SELLER at least thirty (30) calendar days prior notice in writing, without any price adjustment of the Vessel for such prepayment.

6. SECURITY FOR PAYMENT OF INSTALLMENTS BEFORE DELIVERY:

The BUYER shall, concurrently when the Contract being signed, deliver to the BUILDER an irrevocable and unconditional Letter of Guarantee in the form annexed hereto as Exhibit "B" in favor of the BUILDER issued by a first class international bank (hereinafter called the "Guarantor" ) acceptable to BUILDER' s bank and the BUILDER. This guarantee shall secure the BUYER' s obligation for the payment of all 2nd, 3rd and 4th installments of the Contract Price.

7. REFUNDS

All payments made by the BUYER prior to delivery of the Vessel shall be in the nature of advance to the BUILDER, and in the event the Contract is rescinded or canceled by the BUILDER, all in accordance with the specific terms of the Contract permitting such rescission or cancellation, the BUILDER shall refund to the BUYER the full amount of all sums already paid by the BUYER to the BUILDER under the Contract, together with interest (at the rate set out in respective provision thereof) from the respective payment date(s) to the date of remittance by telegraphic transfer of such refund to the account specified by the BUYER.

As security to the BUYER, the BUILDER shall deliver to the BUYER, concurrently with the Contract being signed, a Refund Guarantee to be issued by (to name bank here) in the form as per ANNEX "A" annexed hereto.

## ARTICLE VI ADJUSTMENT OF THE CONTRACT PRICE

The Contract Price of the VESSEL shall be adjusted subject to (1) the actual technical particulars different from the Specification and/or (2) the external changes in the market different from the situation when signing the Contract. It is mutually agreed by both parties that the said technical particulars refer to the speed, the deadweight, the hold capacity, the fuel consumption of the main engine, delivery time and other items, and the said external changes in the market refer to the price of major materials and exchange rate. It is understood by both parties that the adjustment of the Contract Price refer to the increase or reduction of the Contract Price and any adjustment of the Contract Price is by way of liquidated damages and not by way of penalty.

This Article specifies the amount of liquidated damages for the deficiency of abovementioned technical particulars and changes in the market as below.

### 1. SPEED

(1) If the reduction of the speed (as determined by the sea trial after correction according to the Specifications, same is to apply to below) is less than three-tenths (3/10) of one knot below the guaranteed speed as specified in Paragraph 4 (1) of Article I, there shall be no adjustment of the Contract Price.

(2) However, if the reduction of the speed is greater than or equal to three-tenths (3/10) of one knot below the guaranteed speed as specified in Paragraph 3 (1) of Article I, the Contract Price shall be reduced as follows:

In case of reduction of less than 0.3 knot USD 0

In case of reduction

at or above 0.30 but below 0.40 knot USD\_\_\_\_\_

at or above 0.40 but below 0.50 knot USD\_\_\_\_\_

at or above 0.50 but below 0.60 knot USD\_\_\_\_\_

at or above 0.60 but below 0.70 knot USD\_\_\_\_\_

at or above 0.70 but below 0.80 knot USD\_\_\_\_\_

at or above 0.90 but below 1.00 knot USD\_\_\_\_\_

(3) If the reduction in speed is greater than 1 knot below the guaranteed speed, the BUYER shall at his own discretion either reject the VESSEL or cancel the Contract in accordance with Article XXVII, or may accept the VESSEL at a reduction in the Contract Price as above provided, by United States Dollars\_\_\_\_\_ only

(USD \_\_\_\_\_) being the maximum.

(4) The BUILDER shall be entitled to carry out further sea trials after correcting the defects which result in the speed reduction to achieve the guaranteed speed as specified in the Specification.

(5) If the actual speed is more than the guaranteed speed as specified in the Specification, the BUYER shall provide bonus to the BUILDER as below method:

If the increase of the speed is less than three-tenths (3/10) of one knot more than the guaranteed speed, there shall be no adjustment of the Contract Price.

Thereafter the Contract Price shall be increased by USD \_\_\_\_\_ for each one-tenths (1/10) of one knot more than the guaranteed speed, but the maximum amount shall not be more than United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_).

## 2. DEADWEIGHT

(1) If the actual deadweight of the VESSEL at design draft determined in accordance with the Specifications is not less than 98% of the guaranteed deadweight ( \_\_\_\_\_ metric ton), there shall be no adjustment of the Contract Price.

(2) The Contract Price shall be decreased by the sum of United States Dollars (USD \_\_\_\_\_) for each full metric ton of such reduction being less than 98% of the guaranteed deadweight ( \_\_\_\_\_) metric tons.

(3) If the reduction in the VESSEL'S actual deadweight is greater than metric tons below the guaranteed deadweight, the BUYER may, at its option, reject the VESSEL or cancel the Contract in accordance with the provisions of Article XVII of the Contract, or may accept the VESSEL with reduction in the Contract Price up to the maximum amount of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_).

(4) If the increase of actual deadweight of the VESSEL at design draft determined in accordance with the Specifications is less than 102% of the guaranteed deadweight ( \_\_\_\_\_ metric ton), there shall be no adjustment of the Contract Price, while the Contract Price shall be increased by the sum of United States Dollars (USD \_\_\_\_\_) for each full metric ton of such increase being more than 102% of the guaranteed deadweight ( \_\_\_\_\_) metric tons. But the maximum amount increased shall not be more than United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_).

## 3. HOLD CAPACITY

(1) If the actual hold capacity of the VESSEL is not less than 98% of the guaranteed hold capacity as specified in the Specification, there shall be no adjustment of the Contract Price.

(2) If the actual hold capacity of the VESSEL is less than 98% of the hold capacity as specified in the Specification, then for each full cubic meter thereafter below the hold capacity, the Contract Price shall be reduced by the sum of USD \_\_\_\_\_ for each full cubic meter as liquidated damages up to a maximum amount United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_)

(fractions of one percent to be prorated).

(3) If the reduction of the VESSEL'S actual hold capacity is greater than below the hold capacity as specified in the Specification, the BUYER may reject the VESSEL or cancel the Contract.

(4) If the actual hold capacity of the VESSEL is more than 102% of the hold capacity as specified in the Specification, then for each full cubic meter thereafter above

the hold capacity, the Contract Price shall be increased by the sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_) for each cubic meter. But the maximum amount increased shall not be more than United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_) (proportionally the amount less than 1 cubic meter can be exempted).

#### 4. EXCESSIVE FUEL CONSUMPTION OF THE MAIN ENGINE

(1) If the actual fuel consumption of the Main Engine, as determined on the test bed is equal to or less than five percent (5%) of the guaranteed fuel consumption as specified under the provision of the Contract and the Specifications, there shall be no adjustment of the Contract Price.

(2) However, if the actual fuel consumption as determined by the test bed is greater than five percent (5%) above the guaranteed fuel consumption then, the Contract Price shall be reduced by the sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_) for each whole percentage (1%) increase in fuel consumption in excess of the above said five (5%) (fractions of one percent to be prorated).

(3) If as determined by test bed such actual fuel consumption of the Main Engines is greater than ten percent (10%). i. e. \_\_\_\_\_ gram/bhp/h in excess of the guaranteed fuel consumption, the BUYER may reject the main engine or reject the VESSEL or cancel the Contract or may accept the VESSEL at a reduction in the Contract Price but the maximum reduction shall not be more than United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_).

#### 5. DELIVERY

(1) There shall be no adjustment of the Contract Price for the first thirty (30) days of delay in delivery of the VESSEL beyond the Delivery Date as defined in Article XIV hereof ending as of twelve o' clock midnight of the thirtieth (30th) day of delay.

(2) If the delivery of the VESSEL is delayed more than thirty (30) days after the Delivery Date as defined in Article XIV hereof, then, in such event, beginning at twelve o' clock midnight of the thirtieth (30th) day after the date on which delivery is required under the Contract, the Contract Price of the VESSEL shall be reduced by deducting the sum of United States Dollars \_\_\_\_\_ (USD \_\_\_\_\_) per day.

Unless the parties hereto agree otherwise, the total reduction in the Contract Price shall be deducted from the fifth installment of the Contract Price and in any event (including the event that the BUYER consents to take the VESSEL at the later delivery date after the expiration of

\_\_\_\_\_ days delay of delivery shall not be more than \_\_\_\_\_ days at the above specified rate of reduction, that is United States Dollars (USD \_\_\_\_\_) being the maximum.

(3) If the delay in the delivery exceeds \_\_\_\_\_ (\_\_\_\_\_) days (being the total of permissible and non-permissible Delays) after the Delivery Date as defined in Article XIV, in such event, the BUYER may, at its option, terminate or cancel the Contract in accordance with the provisions of Article XIII. The BUILDER may at any time after the expiration of the aforementioned \_\_\_\_\_

(\_\_\_\_\_) days, if the BUYER has not served notice of cancellation pursuant to Article X, notify the BUYER of the date upon which the SELLER estimates the VESSEL will be ready for delivery and demand in writing that the BUYER make an election, in which case the BUYER shall, within thirty (30) days after such demand is received by the

BUYER, either notify the SELLER of its decision to cancel the Contract, or consent to take delivery of the VESSEL at an agreed future date, it being understood and agreed by the parties hereto that, if the VESSEL is not delivered by such future date, the BUYER shall have the same right of cancellation upon the same terms, as herein provided.

(4) The delivery of the VESSEL shall not be deemed delayed and the Contract Price shall not be reduced for any period when the Delivery Date of the VESSEL is extended by reason of causes and provisions of Articles XI, XIII. The Contract Price shall not be adjusted or reduced if the delivery of the VESSEL is delayed by reason of permissible delays as defined in Article XV hereof.

(5) If the delivery of the VESSEL shall be made earlier than the Delivery Date as stipulated in Article XIV, the BUILDER shall notify the BUYER and that such notification shall be given not less than \_\_\_\_\_ (\_\_\_\_\_) days prior to the newly planned delivery date. A certain amount of bonus shall be given by the BUYER to the BUILDER as follows:

In the event that the delivery shall be made within fifteen (15) days earlier than the Delivery Date, the Contract Price shall remain unchanged. In the event that the delivery shall be made more than fifteen (15) days earlier than the specified Delivery Date, then a bonus shall be added to the Contract Price at a rate of United States Dollars \_\_\_\_\_ Only (USD \_\_\_\_\_) per day for each full day earlier than the fifteenth (15th) day prior to the Delivery Date. The total increase of the Contract Price for the earlier delivery shall be added to the fifth instalment of the Contract Price. While the maximum amount increased shall not be more than United States Dollars \_\_\_\_\_ Only (USD \_\_\_\_\_)

If the actual delivery time is after the Delivery Date as specified in Article XIV and before the permissible extended delivery date, the BUILDER shall not be entitled to be given bonus as specified in above paragraph 5 (5).

(6) In the event that the BUILDER is unable to deliver the VESSEL on the newly planned delivery date as declared, the VESSEL can, nevertheless, be delivered by the BUILDER at a date after such declared newly planned date.

In such circumstances, and for the purpose of determining the liquidated damages to the BUYER (according to the provisions of Paragraph 1 (1) of this Article) and the BUYER' s right to cancel the Contract (according to the provisions of Paragraph 1 (3) of this Article), the newly planned delivery date declared by the BUILDER shall not be in any way be treated or be taken as having substituted the original Delivery Date as defined in Article XIV. The BUYER' s aforesaid right for liquidated damages and to cancel the Contract shall be exercised to the extent as described in Paragraph 4 (1), 4 (2) and/or 4 (3) of Article XIII.

In whatever circumstances, the Delivery Date as defined in Article VII (not the newly planned delivery date as declared by the BUILDER) shall be used to exercise the BUYER' s right for liquidated damages and to rescind the Contract and the BUILDER' s liability to pay the aforesaid liquidated damages resulting from the delay in delivery of the VESSEL as specified in paragraph 5 (1), 5 (2), and 5 (3).

If the actual delivery time is after the declared newly planned date and before the Delivery Date as specified in Article XIV, the BUILDER shall be entitled to be given bonus as specified in above paragraph 5 (5).



#### 6. MAJOR MATERIALS AND EQUIPMENT

The major materials and equipment referred in this paragraph refer to steels and main propulsion equipment.

The Contract Price of this VESSEL is determined by the market price (basic price) of steels and main propulsion equipment when signing the Contract.

If the price difference between the actual purchase price contracted between the BUILDER and the suppliers is \_\_\_\_% higher than the basic price, the price difference shall be shared by both parties with the BUILDER undertaking \_\_\_\_\_% and the BUYER undertaking \_\_\_\_\_%.

#### 7. EXCHANGE RATE

As the construction will last for a long time and the fluctuation of the exchange rate between USD and RMB may cause relevant financial changes of the parties, it is agreed that the exchange rate published by Bank of China on the date when the Contract signed will be deemed as a reference, any price difference due to the fluctuation when paying each installment should be shared by 50% by each party. The maximum of the exchange rate fluctuation shall not exceed 2% of the Contract Price, the part more than 2% should be borne by the BUYER.

#### 8. OTHERS (OPTIONAL CLAUSE)

The purpose of setting aside this clause is to allow the parties to insert special technical requirements for a particular type of vessel and adjustment of the Contract Price arising from the changes (failure to meet or exceeding) in the values of the said special technical requirements.

Any adjustment of the Contract Price made as per Paragraph 1. 2. 3. 4. 5 and 6 of this article shall be specified in writing before the payment of the 5<sup>th</sup> installment.

#### 9. EFFECTIVENESS OF CONTRACT RESCISSION

It is expressly understood and agreed by the parties hereto that in any case as stated above, if the BUYER rescinds or cancel the Contract pursuant to any provision under this Article, the BUYER shall be entitled to have its rights and compensation as set out in Article XXVII hereof shall not be entitled to any liquidated damage or compensation whether described above or otherwise.

### ARTICLE VII TAXES AND DUTIES

#### 1. TAXES

All taxes, if any, including stamp duties, incurred in connection with this Contract in the People' s Republic of China shall be borne by the BUILDER. The BUILDER shall bear all taxes and/or duties imposed upon the equipment and facilities procured by the BUILDER in the People' s Republic of China for the construction of the VESSEL.

#### 2. DUTIES

The BUILDER shall indemnify the BUYER for, and hold it harmless against, any duties imposed in the People' s Republic of China upon material and equipment which under the terms of the Contract and/or the Specifications will, or may be, supplied by the BUYER from the abroad for installation in the VESSEL as well as any duties imposed in the People' s Republic of China upon running stores, provisions and supplies furnished by the BUYER from abroad to be stocked on board the VESSEL and also the

duties or taxed if any, to be imposed upon the export of the VESSEL as a whole or upon any of its parts or equipment.

Any tax of duty other than those described hereinabove, if any, shall be borne by the BUYER.

## SECTION 3 PRODUCTION

### ARTICLE VIII APPROVAL AND ACCEPTANCE OF PLANS AND DRAWINGS

#### 1. APPROVAL OF PLANS AND DRAWINGS

The BUILDER shall send to the BUYER (or its representatives) three (3) copies of plans drawings and technical documents for the BUYER' s approval as required in the Specification, Within fourteen (14) running days upon receipt by the BUYER or twenty-one (21) running days upon dispatch by the BUILDER, whichever is earlier, the BUYER shall return to the BUILDER one copy of such documentation with the BUYER' s approval or approval with remarks. In the event that the BUYER fails to return such documentation to the BUILDER within the above-designated period of time the said documentation shall be deemed to have been completely approved by the BUYER, unless an extension is requested in writing by the BUYER with the written consent of the BUILDER.

If the BUYER returns such documentation with remarks to the BUILDER within the above - designated period of time and such remarks are of a nature or substance constitute necessary modifications, the BUILDER shall commence or continue construction of the VESSEL in accordance with the modified drawings and technical documents. In the event that the BUYER' s remarks are unclear or unspecified, the BUILDER shall have the right to make construction in its own interpretation.

A Makers List is attached with the Specifications, which is a list of the suppliers recommended by the BUILDER and to be known by the BUYER. Within ten (10) running days upon receipt by the BUYER or fifteen (15) running days upon notification by the BUILDER, whichever is shorter, the BUYER shall give a prior written request for alternative suppliers with sufficient reasons.

The BUILDER may, at its sole discretion, choose any of the suppliers who are approved by the BUYER. In the event that the BUYER prefer to a supplier other than the one preferred by the BUILDER (whether recommended by the BUILDER or not) and such preference affects the cost, the BUILDER shall notify the BUYER of the cost changed. Within ten (10) running days upon receipt by the BUYER or fifteen (15) running days upon notification by the BUILDER, whichever is shorter, the BUYER shall have the right to notify the BUILDER of its insistence on the decision. In such event, the cost to be adjusted shall be added into or deducted from the CONTRACT PRICE. Should the BUYER take no measure or give up its decision, the BUILDER shall, at its sole discretion and under its guarantee obligation, choose any one of the recommended suppliers.

It is agreed by the parties that all communications relating to the VESSEL with the BUILDER' s suppliers shall be carried out by the BUILDER. The BUYER shall use its best efforts to approve the documentation related soonest within the

above-designated time Such approval shall not diminish the BUILDR' s responsibility for the VESSEL.

A prior written consent by the BUYER shall be obtained if the BUILDER turns to other makers not included in the Maker List.

## 2. ACCEPTANCE OF PLANS AND DRAWINGS

The parties shall make a list of all the plans and drawings, which are to be sent to the BUYER for approval (hereinafter called "the LIST" ) within\_\_\_\_\_running days after signing of the Contract. Before arrival of the Supervisor at the BUILDER' s Shipyard, the plans and the drawings specified in the LIST shall be sent to the BUYER and the BUYER shall, within \_\_\_\_\_( ) days after receipt thereof (excluding mailing time), return such plans and drawings submitted by the BUILDER with approval or remarks.

Concurrently with the arrival of the Supervisor at the BUILDER' s shipyard, the BUYER shall notify the BUILDER in writing, stating the authority which the said Supervisor shall have on behalf of the BUYER, to approve or disapprove those of the plans and drawings specified in the LIST which have not yet been sent to the BUYER. The Supervisor shall, within\_\_\_\_\_( ) days after receipt thereof, return those plans and drawings with approval or remarks.

Unless notification is given to the BUILDER by the Supervisor or the BUYER of approval or disapproval of any plans and drawings within the above-designated period of time for each case, the said plans and drawings shall be deemed to have been automatically approved.

The plans and drawings approved by the BUYER Supervisor shall be final, and any alteration thereof shall be regarded as modification specified in Article XII of the Contract.

## 3. NOTES

(1) The drawings and the Specifications have been signed by the parties on or before the effective date of the Contract and shall form an integral part of the Contract and have the same effect as the Contract.

(2) In the event of any inconsistency or conflict between the provisions of the Contract and the Drawings and the Specifications, the provisions of the Contract shall prevail, without prejudice to the full effect of the drawings and the Specifications under other circumstances. In the event of any inconsistency or conflict between the drawings and the Specifications, the Specifications shall prevail. Any work required by the Specifications but not shown in the drawings, or shown in the drawings but not required by the Specifications, shall be accomplished by the BUILDER as if is a part of the Contract. Once finding any inconsistency or conflict between the provisions of the Contract and the drawings and the Specifications or between the drawings and the Specifications, one party shall promptly give the other party a written notice.

(3) In the event of any modification or change on the Specifications agreed by the parties after the effective date of the Contract, which may lead to the inconsistency or conflict between the Specifications and the drawings, such modification or change shall prevail.

## ARTICLE IX SUPERVISION AND INSPECTION

### 1. APPOINTMENT OF THE BUYER' S SUPERVISOR

The BUYER shall send in good time to and maintain at the BUILDER' s Shipyard, at the BUYER' s own cost and expense, one or more representative (s) (hereinafter called the "Supervisor" ), who shall be duly appointed in writing by the BUYER to supervise and inspect the construction of the VESSEL, her engines and accessories. The BUILDER shall be liable for obtaining of the necessary visa for the Supervisor to enter China or the BUILDER' s Shipyard. The Supervisor shall ensure his observance of the rules, regulations and laws of the People' s Republic of China. The BUYER undertakes to give the SELLER an adequate notice for the application of the visa.

### 2. SUPERVISION AND INSPECTION BY SUPERVISOR

The necessary inspection of the VESSEL, her machinery, equipment and out fittings shall be carried out by the Classification Society and inspection team of the BUYER' s throughout the entire period of construction in order to ensure that the construction of the VESSEL is duly performed in accordance with the Contract and the Specifications.

The Supervisor shall have, at all time until delivery of the VESSEL, the right to attend tests according to the mutually agreed test list and inspect the VESSEL, her engines, accessories and materials at the BUILDER' s Shipyard, its subcontractors or any other place where work is done or materials stored in connection with the VESSEL. In the event that the Supervisor discovers that any construction or material or workmanship does not or will not conform to the requirements of the Contract and the Specifications, the Supervisor shall promptly give the BUILDER a notice in writing as to such non-conformity, upon receipt of which the BUILDER shall correct such nonconformity if the BUILDER agrees with the Supervisor. Should the BUILDER disagree to the Supervisor' s comments, the BUILDER shall provide with reasons and explanations or discuss with the Supervisor for solution. Should there be no agreement reached, such dispute shall be submitted to Classification Society for solution, such solution made by the Classification Society shall be final binding to both parties. In such event, the BUILDER may proceed with construction. The BUYER undertakes and ensures the BUILDER that the Supervisor shall carry and usual shipbuilding practice and in a way as to minimize any increase in building costs and delays in the construction of the VESSEL.

The BUILDER shall provide, free of charge, the Supervisor with office accommodation, and other necessary facilities at or near the BUILDER' s Shipyard. At all times, during the construction of the VESSEL until delivery thereof, the Supervisor shall be given unimpeded access to the VESSEL, her engines and accessories, and anywhere else where the work on, or the materials are being processed or stored, in connection with the construction of the VESSEL, including the BUILDER' s yards, workshops, warehouses and its subcontractor' s premises for working or storing materials in connection with the VESSEL' s construction. The travel expenses to the subcontractor' s premises outside of the city shall be at the BUYER' s account. The transportation for the Supervisor in the city shall be offered by the BUILDER.

### 3. LIABILITY OF THE BUILDER

The Supervisor engaged by the BUYER under the Contract shall at all times be deemed to be the employee of the BUYER. The BUILDER shall be under no liability to the BUYER, or to the Supervisor or to the BUYER' s employees or agents for personal injuries (including death), which incur on the VESSEL or/and within the premises of the BUILDER or its subcontractors while they or one of them is engaging in the construction of the VESSEL, unless such personal injuries (including death) were caused by gross negligence of the BUILDER, or of any of the BUILDERS' s employees or agents or subcontractors. Nor shall the BUILDER be under any liability for damage, loss or destruction on the properties in China of the Supervisor, the BUYER' s employees or agents, unless such damage, loss or destruction was under gross negligence of the BUILDER, or of any of the BUILDER' s employees or agents or sub-contractors.

#### 4. SALARIES AND EXPENSES

All salaries and daily expenses of the Supervisor or any other employees appointed by the BUYER shall be for the BUYER' s account in accordance with this article.

#### 5. REPORT OF PROGRESS

The BUYER has the right to request the BUILDER for a monthly report of the construction progress during the construction of the VESSEL.

#### 6. REPLACEMENT OF SUPERVISOR

The BUILDER has the right to request the BUYER in writing to replace the Supervisor who is deemed to be unsuitable and unsatisfactory for inspection on the progress of the construction of the VESSEL. If necessary, the BUYER may send its representative to the BUILDER' s yard for investigation. Once such request of the BUILDER is justified by the BUYER, the BUYER shall make the replacement as soon as practicable.

### **ARTICLE X SUBCONTRACTING**

The BUILDER may, at its sole discretion and responsibility, subcontract any portion of the construction work of the VESSEL to qualified and experienced subcontractors as set out in the Specifications of the Maker' s List, but delivery and final assembly into the VESSEL of any such work subcontracted shall be at the BUILDER' s Shipyard. The BUILDER shall remain fully responsible for due performance of such subcontracted work...

### **ARTICLE XI BUYER' S SUPPLIES**

#### 1. ARTICLE X BUYER' S LIABILITY

(1) The BUYER shall, at its own risk, cost and expenses, supply to the BUILDER the items as specified in the Specifications (hereinafter called the "BUYER' S SUPPLIES") in appropriate time during the construction of the VESSEL. Such items shall be delivered at a warehouse or other storage facilities at the Shipyard as set out in the Specifications in a proper condition ready for installation on the VESSEL.

(2) To assist installation, the BUYER shall provide the BUILDER with the necessary

documentation including specifications, drawings, instruction books, manuals, test reports and others required to comply with all applicable rules and regulations. If so requested by the BUILDER, the BUYER shall, at no cost to the BUILDER, arrange for the representatives of the manufacturers of the BUYER' S SUPPLIES to assist the BUILDER in installation or to carry out the installation of the BUYER' S SUPPLIES by themselves, or to carry out commission at the Shipyard.

(3) The BUILDER may reject any and all of the BUYER' S SUPPLIES if found to be unsuitable or in improper condition for installation. But if required by the BUYER, the BUILDER may make repair or adjustment of the BUYER' S SUPPLIES, which shall neither affect any other rights of the BUILDER under the Contract, nor shall constitute any bearing by the BUILDER of the consequences raised thereafter. In such event, the BUYER shall pay to the BUILDER all costs arising from the repair or adjustment and the delivery of the VESSEL shall automatically be extended for a period of time taken for such repair or adjustment.

(4) Should the BUYER fail to deliver to the BUILDER the BUYER' S SUPPLIES within the specified time, the delivery of the VESSEL shall automatically be extended for a period of such delay, which the BUYER shall be liable for. In such event, the BUYER shall pay to the BUILDER all losses sustained by the BUILDER due to such delay and such payment shall be made upon delivery of the VESSEL.

If delay in delivery of the BUYER' S SUPPLIES exceeds thirty (30) days, the BUILDER shall have the right to proceed with the construction of the VESSEL without the installation of such delayed items. The BUYER shall accept and take delivery of the VESSEL so constructed, without prejudice to any other rights of the BUILDER.

## 2. BUILDER' s LIABILITY

The BUILDER shall store and properly handle the BUYER' S SUPPLIES after delivery to the Shipyard and install them on the VESSEL. Unless otherwise provided in the Contract, the BUILDER shall not be responsible for the quality and performance of the BUYER' s SUPPLIES.

# **ARTICLE XII MODIFICATIONS, CHANGES AND EXTRAS**

## 1. HOW EFFECTED

The Specification and/or drawings to which the VESSEL is built can be modified or changed at any time provided that the parties reach agreement and if in the BUILDER' s reasonable judgement, such modifications or changes or accumulated modifications will not adversely affect the BUILDER' s other commitments, and the BUYER shall agree as below provided to the adjustment of the Contract Price, extension of the Delivery Time and other terms of the Contract (if any). Subject to above conditions, the BUILDER shall use the best efforts to accommodate the BUYER' s reasonable request so that the said changes and/or modifications shall be made at reasonable costs and within the period of time as short as possible.

Such agreements on the modifications or changes shall refer to an agreement on the increase or decrease, if any, in the Contract Price of the VESSEL and an agreement as to any extension or reduction in the time for delivery, and furthermore to provide an additional guarantee to the BUILDER to the BUILDER' s satisfaction, or an agreement as to any other alternations in the Contract or an agreement on the

modification of the Specification arising from the changes. The agreements as to the changes and modifications to the Specifications pursuant to the foregoing shall be effective by exchanges of such documents or other written documents and shall constitute an amendment to Specification and shall be deemed to be a part of the Contract and Specification. Upon agreements as to the changes and/or modifications to the Specifications have been reached, the BUILDER shall alter the construction of the VESSEL in accordance therewith, including any additions to, or reductions from the work to be performed in connection with such construction. If the parties fail to agree on the adjustment to the Contract Price, or extension of the delivery time or providing additional guarantee to the BUILDER or modifications to the Contract, the BUILDER is not obliged to undertake any request from the BUYER for modifications.

## 2. CHANGES IN RULES AND REGULATIONS

(1) If, after the date of signing the Contract, any requirements as to the rules and regulations as specified in the Contract and the Specifications to which the construction of the VESSEL is required to conform, are modified or changed by the Classification Society or the other regulatory authorities to make such modifications or changes, the BUYER or the BUILDER, upon receipt of the notice thereof, shall transmit such information in full to each other in writing, whereupon within( ) days after receipt of the said notice by the BUYER from the BUILDER or vice versa, the BUYER shall instruct the BUILDER in writing as to the modifications or changes, if any, to be made in the VESSEL which the BUYER, in its sole discretion, shall decide. The SELLER shall promptly comply with such modifications or changes, if any in the construction of the VESSEL, provided that the BUYER shall first agree:

- (a) to any increase or decrease in the Contract Price of the VESSEL occasioned by the cost for such modifications and changes; and/or
- (b) to any extension in the delivery time of the VESSEL due to such modifications and changes; and/or
- (c) to any increase or decrease in the guaranteed deadweight and speed of the VESSEL, if modifications and changes results in increased or reduced deadweight and speed; and/or
- (d) to any other modifications in the terms of the Contract or of Specifications or both
- (e) to the additional guarantee provided by the BUYER to the BUILDER' s satisfaction due to the increase of the Contract Price.

Agreement as to such modifications or changes under this Paragraph shall be made in the same manner as provided above for modifications and/or changes of the Specifications and/or Plans.

(2) If, due to whatever reasons, the parties shall fail to agree on the adjustment of the Contract Price or extension of the delivery time or increase or decrease of the guaranteed speed, deadweight, or providing additional security to the BUILDER or any modifications of the terms of the Contract, the BUILDER shall be entitled to proceed with the construction of the VESSEL in accordance with the terms of the Contract and Specifications without making any such modifications or changes and the BUYER shall abide by the Contract and the Specifications without such modifications or changes.

(3) Even if the BUILDER and the BUYER fail to agree on the adjustment of the Contract Price or extension of the delivery time due to the modifications to meet the compulsory rules and regulations, the BUILDER shall proceed with such modifications as required by the said rules and regulations while the BUILDER is entitled to reserve the right by stating in writing the adjustment of the Contract Price or extension of the delivery time. Such dispute shall be settled as per Article XXVI of the Contract.

### 3. SUBSTITUTION OF MATERIALS AND/OR EQUIPMENT

In the event that any of the materials and/or equipment required by the Specifications and the Contract for the construction of the VESSEL cannot be procured in time to meet the delivery time of the VESSEL, the BUILDER may, with providing adequate evidence and subject to the approval by the BUYER in writing, supply other materials and/or equipment of the equivalent quality, and meeting the requirements of the Classification Society and of the rules and the regulations with which the construction of the VESSEL must comply.

## ARTICLE XIII SEA TRIALS

### 1. NOTICE

The BUILDER shall, after obtaining the certificate for sea trials, give the BUYER and the supervisors at least thirty (30) calendar days prior notice of the estimated date and seven (7) definite days prior notice in writing of the time and place of the sea trial to be carried out as per the specification and the BUYER and the supervisors shall promptly acknowledge the receipt of such notice. The representative of the BUYER and/or the supervisor shall be present to witness such trials and approve the performance thereof during the sea trials. Failure of the BUYER' s representative to be present in time at the trials after such notice to the BUYER, the Delivery Date of the VESSEL shall be extended by the period of delay caused by such failure of the BUYER' s representative delays to attend such trails. If the absence of the BUYER' s representative causes the delay in the sea trials more than seven (7) days, the BUYER shall be deemed to have waived the right to be present at the trials, and the BUILDER may conduct the sea trials without the BUYER' s representative being onboard, and in such circumstances, the BUYER shall be obliged to accept the VESSEL on the basis of a certificate jointly signed by the BUILDER and the Classification after the sea trials and minor corrections and remedies as mentioned in this Article certifying that the VESSEL conforms to the requirements of the Contract and the Specification with satisfaction in all respects. The BUILDER shall make all necessary arrangements for the visa of the BUYER' s representative, otherwise the sea trials shall be postponed until the BUYER' s representative arrives in the shipyard, and any resulting delay in delivery of the VESSEL shall not be deemed as a Permissible Delay. But in case the nationality and the personal particulars of the BUYER' s representative are not acceptable to the BUILDER as per current regulation and/or law of the People' s Republic of China, the BUYER shall immediately replace this representative or other representative as per the BUILDER' s request. The parties understand that the weather conditions of the area where the sea trials are to be carried out is momentarily changeable without advance



warning, therefore if the sea trials are interrupted or prevented by the sudden unfavorable weather conditions, the parties shall agree to stop the sea trials and postpone the sea trials until the first favorable day thereafter when weather conditions permit. Unless otherwise the parties agree in writing that the BUYER accepts the VESSEL on the basis of the results achieved in the sea trials prior to sudden change in the weather conditions. The resulting delay due to the bad weather conditions shall be deemed as Permissible Delay as described by the Contract.

## 2. CONDUCT OF THE SEA TRIALS

(a) All expenses in connection with the sea trials be for the BUILDER' s costs and expenses. The BUILDER shall arrange necessary crews onboard to meet safety requirements during sea trials. The sea trials shall be conducted as per the requirements of the Specification and comply with the requirements of the Specification.

The course of the sea trials shall be determined by the BUILDER and the sea trials shall be conducted in the area equipped with speed measuring facilities.

(b) To meet the conditions for sea trial as stipulated in the Specification, the BUILDER shall furnish water and fuel oil with exception of lubricating oil and hydraulic oil which shall be supplied by the BUYER. The said provision by the parties shall comply with the requirements of the applicable engine Specification. All the costs of the water, bunkers, lubricating oil, hydraulic oil and grease consumed during the sea trials shall be for the BUILDER' s account.

## 3. SEA TRIALS AT LOAD DRAFT

In addition to the provisions as required by this Article, the BUILDER shall for the BUILDER' s account provide fresh water and the stores for the sea trials to have the VESSEL achieve the ballast conditions (with fresh water, sea water of other stores as may be required) as specified by the Specifications for reaching the load draft.

## 4. METHOD OF ACCEPTANCE OR REJECTION

(a) The BUYER or the BUYER' s representative, within six (6) working days after receiving the notice from the BUILDER of the completion of the sea trials, shall notify the BUILER in writing of its acceptance for delivery or rejection of the VESSEL together with reasons therefore.

(b) However, should the results of the sea trials demonstrate that the VESSEL or any part or equipment therefore does not conform to the requirements of the Specification, the BUILDER shall together with the BUYER' s representative inspect the cause of such non-conformity and the BUILDER shall take all necessary steps to rectify such non-conformity. If necessary the BUILDER shall for its own cost and expense carry out further sea trial. If the BUILDER notifies the BUYER of the completion of the deficiencies and the new sea trial, the BUYER, within six (6) working days after receiving the said notice from the BUILDER, shall notify the BUILDER in writing of its acceptance for delivery or rejection of the VESSEL together with reasons therefore.

(c) If the BUYER fails to notify the BUILDER in writing of its acceptance or rejection of the VESSEL together with reasons therefore with reasons within six (6) working

days as stipulated in above item (a) and (b), the BUYER shall be deemed to have accepted the VESSEL.

(d) If the parties disputes any results of the sea trials and tests, the disputes shall be resolved in accordance with Article XXVI for arbitration.

(e) The BUYER shall not reject to take delivery of the VESSEL due to its remarks made after the sea trials and/or further sea trial. While the BUILDER shall remove the remarks (if such remarks are acceptable to the BUILDER) before effecting delivery of the VESSEL to the BUYER under the Contract.

#### 5. DISPOSITION LF SURPLUS CONSUMABLE STORES

Upon taking delivery of the VESSEL, the BUYER shall reimburse the BUILDER in the manner as stipulated in 3 (5) and 4 (5) under Article V at current price same as the one in the delivery port for any quantities of the bunkers, fresh water and other consumable stores remaining onboard after sea trial.

The BUILDER shall reimburse the BUYER in the manner as stipulated in 3 (5) and 4 (5) under Article V for any quantities of lubricating oil and hydraulic oil actually consumed during sea trials at same price as the BUYER purchased.

#### 6. EFFECT OF THE ACCEPTANCE

The BUYER' s written notification of acceptance of the VESSEL delivered to the BUILDER as above stipulated, shall be final and binding provided the VESSEL conforms to the Specifications, and the BUYER is not entitled to refuse the BUILDER' s request to deliver the VESSEL provided that the BUILDER complies with all other conditions for delivery as above set forth.

## SECTION 4 DELIVERY

### ARTICLE XIV DELIVERY AND DELIVERY DOCUMENTS

#### 1. TIME AND PLACE

Subject to Article XIII after the sea trials (or possible new sea trials) and the acceptance by the BUYER, the VESSEL shall be delivered on or before \_\_\_\_\_safely afloat by the BUILDER to the BUYER at the BUILDER' s shipyard in accordance with the Specifications and with all Classification and Statutory Certificates provided that. In the even of delays in the construction of the VESSEL or any performance required under the Contract due to causes which under the terms of the Contract permit extension of the delivery time, the aforementioned delivery time of the VESSEL shall be extended accordingly.

Abovementioned date or such later date to which delivery is extended pursuant to the terms of the Contract is hereinafter called the "Delivery Date" .

#### 2. WHEN AND HOW EFFECT

Provided that the BUYER and the BUILDER have fulfilled all of their respective obligations as stipulated in the Contract, delivery of the VESSEL shall be effected forthwith by the concurrent delivery by each of the parties hereto, one to the other, of the Protocol of Delivery and Acceptance, acknowledging delivery of the VESSEL by the BUILDER and acceptance thereof by the BUYER, and the said Protocol of Delivery and Acceptance shall be prepared in quadruplicate and executed by each of the parties

hereto after signing.

### 3. DOCUMENTS TO BE DELIVERED TO THE BUYER

Upon delivery and acceptance of the VESSEL by the BUYER, the BUILDER shall provide to the BUYER the following documents together with the aforementioned Protocol of Delivery and Acceptance:

- (1) Protocol of Trials made by the BUILDER pursuant to the Specifications.
- (2) Protocol of Inventory and Equipment of the VESSEL including spare parts and the like, all as specified in the Specifications, made by the BUILDER.
- (3) Protocol of Surplus Consumable Stores made by the BUILDER.
- (4) Finished Drawings and Plans pertaining to the VESSEL as stipulated in the Specifications, made by the BUILDER.
- (5) Protocol of Deadweight and Inclining Experiment, made by the BUILDER.
- (6) All below certificates required to be furnished upon delivery of the VESSEL pursuant to the Contract and as provided in the Specifications.

...

Certificates shall be issued by relevant Authorities or Classification Society. The VESSEL shall comply with the above rules and regulations which are in force at the time of signing the Contract. All the certificates shall be delivered in one (1) original to the VESSEL and two (2) copies to the BUYER.

If the complete certificate or certificates are unable to be issued at the time of delivery by the Classification Society or any third party other than the BUILDER, then the BUYER shall accept the interim certificate or certificates as issued by the Classification Society or the third party other than the BUILDER, provided that the full final certificates shall be furnished by the BUILDER before the expiry of the interim certificate or certificates.

(7) Declaration of Warranty issued by the BUILDER that the VESSEL is delivered to the BUYER free and clear of any liens, charges, claims, mortgages, or other encumbrances upon the BUYER'S title thereto, and in particular, that the VESSEL is absolutely free of all burdens in the nature of imposts, duties, taxes or charges imposed by the province or country of the port of delivery, as well as of all liabilities of the BUILDER to its sub-contractors, employees and crews and/or all liabilities arising from the operation of the VESSEL in trial run or trial runs, or otherwise, prior to delivery.

- (8) Commercial Invoice made by the BUILDER.
- (9) Bill of Sale made by the BUILDER.

### 4. OUTSTANDING ITEMS WHEN DELIVERY OF THE VESSEL

If there are few outstanding items which don't affect the safety and navigation of the VESSEL when delivery of the VESSEL, the parties shall list the quantity of the outstanding items and date to complete these items. All outstanding items shall be completed within four (4) days after delivery of the VESSEL, which shall be recorded in the delivery documents. Such outstanding items shall not affect the delivery of the VESSEL and the BUYER shall take delivery of the VESSEL.

## ARTICLE XV DELAYS & EXTENSION OF TIME FOR

## DELIVERY (FORCE MAJEURE)

### 1. CAUSE OF DELAY

If, at any time before actual delivery, either the construction of the VESSEL, or any performance required hereunder as a prerequisite of delivery of the VESSEL, is delayed due to war, blockade, revolution, insurrection, mobilization, civil commotions, riots, strikes, sabotage, lock-outs, epidemics, epidemics, abnormal weather conditions, typhoon, or other causes beyond the control of the BUILDER or of its sub-contractors for instance the long restriction of electric current from an outside source and the defects of casting and forging components, as the case may be. And other or by force majeure of any description, whether of the nature indicated by the forgoing or not, or by destruction of the BUILDER or works of the BUILDER or its sub-contractors, or of the VESSEL or any part thereof, by fire, flood, or other causes beyond the control of the SELLER or its sub-contractors as the case may be, or due to the bankruptcy of the equipment and/or material supplier or suppliers, then, in the event of delay due to the happening of any of the aforementioned contingencies, the Seller shall not be liable for such delay and the time for delivery of the VESSEL under this Contract shall be extended without any reduction in the Contract Price for a period of time which shall not exceed the total accumulated time of all such delays, subject nevertheless to the BUYER's right of cancellation and subject however to all relevant provisions of this Contract which authorize and permit extension of the time of delivery of the VESSEL.

### 2. NOTICE OF DELAY

Within seven (7) days from the date of commencement of any delay on account of which the SELLER claims that it is entitled under this Contract to an extension of the time for delivery of the VESSEL, the SELLER shall advise the BUYER by telex confirmed in writing, of the date such delay commenced, and the reasons therefore.

Likewise within seven (7) days after such delay ends, the SELLER shall advise the BUYER in writing or by telex confirmed in writing of the date such delay ended, and also shall specify the maximum period of the time by which the date for delivery of the VESSEL is extended by reason of such delay. Failure of the BUYER to acknowledge of SELLER's notification of any claim for extension of the Delivery Date within thirty (30) days after receipt by the BUYER of such notification, shall be deemed to be a waiver by the BUYER of its right to object to such extension.

### 3. RIGHT TO CANCEL FOR EXCESSIVE DELAY

If the total accumulated time of all permissible delays and non-permissible delays aggregate to \_\_\_\_\_ days or more, excluding delays due to arbitration as provided for in Article XVI hereof due to default in performance by the BUYER, or due to delays in delivery of the BUYER's supplied items, and excluding delays due to cause which, under Article V, VI, XI, and XII hereof, permit extension or postponement of the time for delivery of the VESSEL, then in such event, the BUYER may in accordance with the provisions set out herein cancel this Contract by serving upon the SELLER telexed notice of cancellation which shall be confirmed in writing and the provisions of Article X of this Contract shall apply. The SELLER may, at any time, after the accumulated time of the aforementioned delays justifying cancellation by the BUYER as above provided for, demand in writing that the BUYER shall make an election, in

which case the BUY-ER shall, within thirty(30)days after such demand is received by the BUYER either notify the SELLER of its. Intention to cancel, or consent to an extension of the time of delivery to an agreed future date, it being understood and agreed by the parties hereto that if any further delay occurs on account of causes justifying cancellation as specified in this Contract, the BUYER shall have the same right of cancellation upon the same terms as hereinabove provided.

#### 4. DEFINITON OF PERMISSIBLE DELAY

Delays on account of such causes as provided for in Paragraph 1 of this Article, but excluding any other extensions of a nature which under the terms of this Contract permit postponement of the Delivery Date, shall be understood to be (and are herein referred to as)permissible delays, and are to be distinguished from non-permissible delays on account of which the Contract Price of the VESSEL is subject to adjustment provided for in Article III hereof.

### ARTICLE XVI TITLE AND RISK

Title to and risk of the VESSEL shall rest with the BUILDER before delivery and pass to the BUYER immediately upon delivery and acceptance thereof.

At the time of delivery, the VESSEL shall be free of all liens, mortgages, claims, charges, and other encumbrances.

### ARTICLE XVII POSSESSION AND REMOVAL OF VESSEL

#### 1. THE POSSESSION OF THE VESSEL

The BUYER shall take physical possession of the VESSEL immediately upon delivery and acceptance thereof.

#### 2. THE REMOVAL OF THE VESSEL

The BUYER shall remove the VESSEL from the port of the BUILDER or delivery place within five (5) calendar days after delivery and acceptance as above. If the BUYER does not remove the VESSEL within the aforesaid five (5) calendar days, in such event, the BUYER shall pay to the BUILDER the reasonable mooring charge of the VESSEL and the BUILDER is entitled to remove the VESSEL at any time thereafter from the delivery place to another safe premise with prior notice to the BUYER.

### ARTICLE XVIII VESSEL REGISTRATION

The BUYER shall register the VESSEL at its own cost and expense in accordance with (here to fill in the name of the country where the VESSEL is to be registered) law after delivery and acceptance.

### ARTICLE XIX BUILDER' S GURANTEE OF QUALITY

#### 1. GURANTEE OF MATERIAL AND WORKMANSHIP

Within a period of twelve (12) months following the Vessel delivery to the BUYER,

the BUILDER shall guarantee the Vessel, her hull and machinery and all parts and equipments thereof that are manufactured or furnished or supplied by the BUILDER and/or its sub-contractors under the Contract including material, equipment (however excluding any parts for the Vessel which have been supplied by or on behalf of the BUYER) against all defects which are due to defective materials, and/or poor workmanship.

## 2. NOTICE OF DEFECTS

The BUYER shall give the notice to the BUILDER in writing as promptly as possible, after the discovery of any defect or deviation for which a claim may be made under this guarantee. The BUYER' s written notice shall describe the nature of the defect and the extent of the damage caused thereby. The BUILDER shall have no obligation under this guarantee for any defects discovered prior to the expiry date of the guarantee period, unless such notice is received by the BUILDER not later than thirty (30) days after the expiry date. The written notice of defects received within thirty (30) days after the expiry date of guarantee period shall explain the nature of such defect and extent of damage, so that the forthcoming claim will be sufficient compliance with the requirements as to time.

## 3. REMEDY OF DEFECTS

The BUILDER shall remedy any defects against which the Vessel or any parts of the equipment thereof is guaranteed under this Article by making all necessary repairs and/replacement. Such repairs and/or replacement shall be made at the BUILDER' s cost and expense.

However, if it is impractical to make the repair by the BUILDER, as if the BUILDER' s supply of replacement parts, and materials can not be accomplished without impairing or delaying the operation or working of the Vessel, then in such event that the BUYER makes the necessary repairs or replacements elsewhere at the discretion of the BUYER, the BUYER shall first and in all events, will, as soon as possible, give the BUILDER the notice in writing or orally of the time and place such repairs will be made. Without impairing or delaying the operation or working of the Vessel, the BUILDER shall have the right to inspect through its own representative or that of Classification Society the nature and extent of the Guarantee Defects to be replaced or repaired claimed by the BUYER. The BUILDER shall, in such case, promptly advise the BUYER in writing, after such examination has been completed, of its acceptance or rejection of such Guarantee Defects as ones that covered by the guarantee. In most cases, the Guarantee Engineer, as hereinafter provided for the Vessel, will act for and on behalf of the BUILDER.

In any circumstances as set out below, the BUILDER shall immediately pay to the BUYER in the currency of United States Dollars by telegraphic transfer the actual costs for such repairs or replacements including transportation costs, or at the average lever for making similar repairs or replacements including transportation costs as quoted by the leading shipyards, whichever is lower:

- (1) Upon the BUILDER' s acceptance of the defects as justifying remedy under this Article, or
- (2) If the BUILDER neither accepts nor rejects the notice of defects as above provided, nor refer to the arbitration within thirty (30) days after the receipt of the BUYER' s

notice of defects.

Any dispute shall be referred to arbitration in accordance with the provisions of Article XXVI hereof.

#### 4. EXTENT OF THE BUILDER' S LIABILITY

The BUILDER shall have no obligation and/or liabilities with respect to any defects discovered after the expiration of the Guarantee Period specified as above.

The BUILDER shall be liable to the BUYER for defects and damages caused by any of the defects specified in Paragraph 1 of this Article provided that such liability of the BUILDER shall be limited to the defects discovered within the Guarantee Period specified in Paragraph 1. The BUILDER shall not be obligated to repair, or be liable for, damages to the Vessel, or to any part of the equipment thereof, due to ordinary wear and tear or caused by the defects other than those specified in Paragraph 1 as above, nor shall there be any BUILDER' s liability hereunder for defects in the Vessel, or any part of the equipment thereof, caused by fire or accidents at sea or elsewhere, or management mistake, accidents, negligence, or willful neglect, on the part of the BUYER, its employees or agents including the Vessel' s officers, crew and passengers, or any persons on or doing work on the Vessel other than the BUILDER, its employees, agents or sub-contractors. Likewise, the BUILDER shall not be liable for defects in the Vessel, or the equipment or any part thereof, due to repairs or replacement which made by those than the BUILDER and/or their sub-contractors.

Upon the delivery of the Vessel to the BUYER, in accordance with the terms of the Contract, the BUILDER shall thereby and thereupon be released of all responsibility and liability whatsoever and howsoever arising under or by virtue of the Contract (save in respect of those obligations to the BUYER expressly provided for in this Article IX), including but not limit to any responsibility or liability for defective workmanship, materials, or equipment, design or in respect of any other defects whatsoever and any loss or damage resulting from any act, omission or default of the BUILDER. The BUILDER shall, in any circumstances, be liable for any consequential loss or special loss, or expense arising from any cause whatsoever including not limit to, loss of time, profit or earning or demurrage directly from any commitments of the BUYER in connection with the Vessel.

The Guarantee provided in this Article and the obligations and the liabilities of the BUILDER hereunder are exclusive and in lieu of and the BUYER hereby waives all other remedies, warranties, guarantees or liabilities, express or implied, arising by Law or otherwise (including but not limit to any obligations of the BUILDER with respect to fitness, merchantability and consequential damage) or whether or not occasioned by the BUILDER' s negligence, The Guarantee shall not be extended, altered or varied except by a written instrument signed by the duly authorized representatives of the BUILDER, and the BUYER.

### **ARTICLE XX GUARANTEE PERIOD AND GUARANTEE ENGINEER**

#### 1. GUARANTEE PERIOD

The SELLER shall guarantee the VESSEL for a period of twelve (12) months from the month of delivery to the last day of the twelfth month.

## 2. GUARANTEE ENGINEER

The BUILDER shall appoint one or two Guarantee Engineer (s) to serve the VESSEL as the BUILDER' s representative (s) for a period of three (3) months from the delivery of the VESSEL. The BUYER, and his employees, shall give such Guarantee Engineer (s) full co-operation in carrying out his/their duties as the representative (s) of the SELLER on board the VESSEL. The BUYER shall accord the Guarantee Engineer (s) the treatment comparable to the VESSEL' s Chief Engineer, and shall provide him with accommodation and subsistence at no cost to the SELLER and/or the Guarantee Engineer (s).

The BUYER shall pay to the Guarantee Engineer (s) the sum of United States Dollars per month per person to cover his/their miscellaneous expenses including wages and also the BUYER shall pay the expense of repatriation to the location of the BUILDER by air upon termination of his/their service, the expense of his/their communications with the BUILDER when made in performance of his/their duties as the Guarantee Engineer (s) and the expenses, if any, of his/their medical and hospital care. The BUYER, its successor (s) and/or assign (s), shall be liable to and indemnify the SELLER and/or the Guarantee Engineer (s) and /or the SELLER for personal injuries, including death and damages to, or loss or destruction of property of the Guarantee Engineer (s), if such death, injuries, damages, loss and/or destruction were caused by gross negligence or willful misconduct of the BUYER and/or, its successor (s) and/or assign (s) or its employees and/or agents.

Pertaining to the detailed particulars of this Paragraph, a written agreement shall be made according to this effect between the parties hereto upon delivery of the VESSEL...

## SECTION 5 LEGAL

### ARTICL XXI LAW APPLICABLE

The parties hereto agree that the Contract should be governed by and interpreted in accordance with the Laws of People' s Republic of China or the laws of other state agreed by the two parties.

### ARTICLE XXII BUYER' S DEFAULT

#### 1. DEFINITION OF DEFAULT

The BUYER shall be deemed in default of its obligation under the Contract if any of the following events occurs:

(1) The BUYER fails to pay the Second or Third or Fourth installment to the BUILDER when any such installment becomes due and payable under the provisions of Article V hereof and provided the BUYER shall have received the BUILDER' s demand for payment in accordance with Article IV hereof, or

(2) The BUYER fails to pay the fifth installment to the BUILDER in accordance with Paragraph 3 (5) and 4 (5) of Article XIII hereof provided the BUYER shall have received the BUILDER' s demand for payment in accordance with Article IV hereof;  
or



(3) The BUYER fails to take delivery of the Vessel, when the Vessel is duly tended for delivery by the BUILDER under the provisions of Article XIII hereof.

## 2. NOTICE OF DEFAULT

If the BUYER is in default of payment or in performance of its obligations as provided hereinabove, the BUILDER shall notify the BUYER in writing on the date of occurrence of the default as per Paragraph 1 of this Article and the BUYER shall forthwith acknowledge in writing to the BUILDER that such notification has been received. In case the BUYER does not give the aforesaid acknowledgement in writing to the BUILDER within three (3) calendar days it shall be deemed that such notification has been duly received by the BUYER.

## 3. INTEREST AND CHARGE

(1) If the BUYER is in default of payment as to any installment as provided in Paragraph 1 (1) and/or 1 (1) of this Article, the BUYER shall pay interest on such installment at the rate of \_\_\_\_\_ percent (\_\_\_\_\_% ) per annum for a period of 15 days from the due date thereof and thereafter at the rate of \_\_\_\_\_percent (\_\_\_\_\_% ) per annum until the date of the payment of the full amount, including all aforesaid interest.

In case the BUYER shall fail to take delivery of the Vessel as provided in Paragraph 1 (3) of this Article, the BUYER shall be deemed in default of payment of the fifth installment and shall pay interest thereon at the same rate as aforesaid form (and including) the day on which the Vessel is tendered for delivery, as provided in Article XIII Paragraph 6 hereof.

(2) In any event of default by the BUYER under 1 (1) or 1 (2) or 1 (3) above, the BUYER shall not costs, charges and expenses incurred by the BUILDER in consequence of such default unless provided by relevant.

## 4. DEFAULT BEFORE DELIVERY OF THE VESSEL

(1) If any default by the BUYER occurs as defined in Paragraph 1 (1) or 1 (2) or 1 (3) of this Article, the Delivery Date shall at the BUILDER' s option, be postponed for a period of continuance of such default by the BUYER.

(2) If any such default as defined in Paragraph 1 (1) or 1 (2) or 1 (3) of this Article committed by the BUYER continues for a period of fifteen (15) days, then, the BUILDER shall have all following rights and remedies:

(i) The BUILDER may, at its option, cancel or rescind the Contract, provided the BUILDER has notified the BUYER of such default pursuant to Paragraph 2 of this Article, by giving notice of such effect to the BUYER by telex confirmed in writing. Upon receipt by the BUYER of such telex notice of cancellation or rescission, all of the BUYER' s Supplies shall forthwith become the sole property of the BUILDER, and the Vessel and all its equipment and machinery shall be at the sole disposal of the BUILDER for sale or otherwise; and

(ii) (Applicable to any BUYER' s default defined in 1 (1) of this Article) The BUILDER shall, without prejudice to the BUILDER' s right to recover from the BUYER the 5th installment, interest, costs and/or expenses by applying the proceeds to be obtained by sale of the Vessel in accordance with the provisions set out in the Contract, have the right to declare all unpaid 2nd, 3rd and 4th installments to be forthwith

due and payable, and upon such declaration, the BUILDER shall have the right to immediately demand the payment of the aggregate amount of all unpaid 2nd, 3rd and 4th installments from the Guarantor in accordance with the terms and conditions of the guarantee issued by the guarantor.

#### 5. SALE OF THE VESSEL

(1) In the event of cancellation or rescission of the Contract as above provided, the BUILDER shall have full right and power either to complete or not to complete the Vessel at it deems fit, and to sell the VESSEL at a public or private sale on such terms and conditions as the BUILDER thinks fit without being answerable for any loss or damage occasioned to the BUYER thereby.

In the case of sale VESSEL, the BUILDER shall give telex or written notice to the BUYER.

(2) In the event of the sale of the VESSEL in its completed state, the proceeds of sale received by the BUYER shall be applied firstly to payment of all expenses attending such sale and otherwise incurred by the BUILDER as a result of the BUYER' s default, and then to payment of all unpaid installments and/or unpaid balance of the Contract Price and interest on such installment at the interest rate as specified if the relevant provisions set out above from the respective due dates thereof to the date of application.

(3) In the event of the sale of the VESSEL in its incomplete state, the proceeds of sale received by the BUILDER shall be applied firstly to all expenses attending such sale and otherwise incurred by the BUILDER as a result of the BUYER' s default, and then to payment of all costs of construction of the VESSEL (such costs of construction, as herein mentioned, shall include but are not limited to all costs of labor and/or the costs paid by the BUILDER for the equipment and/or materials to be installed on the VESSEL) and/or any fees, charges, expenses and/or royalties incurred and/or to be incurred for the VESSEL less the installments so retained by the BUILDER, and compensation to the BUILDER for a reasonable sum of loss of profit due to the cancellation or rescission of the Contract.

(4) In either of the above events of sale, if the proceed of sale exceeds the total of the amounts to which such proceeds are to be applied as aforesaid, the BUILDER shall promptly pay the excesses to the BUYER without interest, provided, however that the amount of each payment to the BUYER shall in no event exceed the total amount of installments already paid by the BUYER and the cost of the BUYER' s supplies, if any.

(5) If the proceed of sale are insufficient to pay such total amounts payable as aforesaid, the BUYER shall promptly pay the deficiency to the BUILDER upon request.

### ARTICLE XXIII BUILDER' S DEFAULT

Failure to accomplish the following obligations by the BUILDER shall constitute events of default:

1. The failure of the BUILDER to prosecute the Contract work with such diligence and in such manner as will disable it to complete the VESSEL construction by the Delivery Date stipulated in the Contract, except and to the extent that such failure is due to the causes stated in Article XI of the Contract for which the BUILDER would

be entitled to an extension of the Delivery Date, such as the delay of the VESSEL delivery caused by force majeure; provided that the BUYER shall have given the BUILDER notice of such failure and that the BUILDER shall not, within fifteen (15) days of the date of receipt of such notice, have shown to the satisfaction of the BUYER that it has taken steps sufficient to remedy the failure in a manner satisfactory to the BUYER.

2. The failure of the BUILDER in any other respect to use due diligence in the performance of the Contract work or its failure to perform any of the covenants, agreements or undertakings on its part to be performed under the Contract, including but not limited to, the BUILDER' s agreement to make prompt payment for all labor, material, services and other charges which are to be paid by the BUILDER; provided that the BUYER shall give notice to the BUILDER as to such failure, and the BUILDER shall not, within fifteen (15) days after being so notified, correct any failure to use due diligence or undertake the performance of said covenants, undertakings or agreements required to cure such failure, and thereafter prosecute in good faith to completion all such work or performance required to cure such failure.

3. The BUILDER being dissolved or adjudicated a bankrupt or making a general assignment for the benefit of its creditors, or the appointment of a receiver or receivers of any kind whatsoever, whether or not appointed in bankruptcy, common law or equity proceedings, whether temporary or permanent for the property of the BUILDER, or the filing by the BUILDER of a petition for reorganization or other proceedings under any of the provisions of the Bankruptcy Code, or the filing of such petition by creditors, stakeholders or any other person whatsoever and approval thereof by the Court.

4. Where there is a cause of delay in the Contract beyond prior expectation (except such causes stated in Article XI of the Contract for which the BUILDER would be entitled to extent the completion), and such delay would disable the BUILDER to accomplish the obligations under the Contract as determine by the BUYER.

#### **ARTICLE XXIV ASSIGNMENT OF THE CONTRACT**

##### **1. ASSIGNMENT OF THE BUILDER**

To prevent the committed financing from suffering any loss, the BUILDER shall have the right to assign the benefit arising under or by virtue of the Contract to the financing party.

##### **2. ASSIGNMENT OF THE BUYER**

(1) To prevent the committed financing from suffering any loss, the BUYER shall have the right to assign the benefit arising under or by virtue of the Contract to the financing party.

(2) After obtaining consent from the BUILDER (such consent not to be unreasonably withheld), the BUYER shall assign or transfer the right and obligation under the Contract or assign the Contract to the third party.

(3) Assigner and assignee shall jointly undertake and responsible for the execution of the provisions set forth under the Contract between the assignee and the BUILDER.

## ARTICLE XXV LIEN AND MORTGAGE OF THE VESSEL

### 1. LIEN OF THE VESSEL

If the BUILDER is under no default, the BUILDER shall have the right to lien the possessing constructing VESSEL to insure the repayment of the construction cost when the contractual payment obligation has not been performed by the BUYER.

### 2. MORTGAGE OF THE VESSEL

The VESSEL which is under construction shall be eligible for shipping mortgage. The BUILDER shall have the right to be the Pledger by pledging the VESSEL for the shipping mortgage and should sign a contract with the Pledgee in writing.

The mortgage registration shall be done jointly by the Pledger and the Pledgee in the VESSEL Registry for the shipping mortgage; the third party shall not be confronted for those without registration.

Registration of the shipping mortgage shall include the following main items:

- (1) The name, title and address of the Pledgee and Pledger
- (2) The name, nationality, the VESSEL ownership certificate issuing authority and the certificate number of the VESSEL to be mortgaged
- (3) The loan amount, interest rate and the tenor to be guaranteed

The Pledger shall procure insurance for the mortgaged VESSEL unless the Contract agreed otherwise. The Pledgee shall have the right to procure insurance for the mortgaged VESSEL should it not be insured and the premium shall be borne by the Pledger.

## ARTICLE XXVI DISPUTE RESOLUTION AND ARBITRAITON

### 1. CLASSIFICATION SOCIETY OR OTHER REGULATORY AUTHORITY

Disputes about whether or not the VESSEL is in accordance with the rules, regulations, and requirements of the Classification Society or other Regulatory Authority may submit to the Classification Commission of the Classification Society, or other Regulatory Authority. The determination of the authority is final and binding upon both parties. Any other disputes under the contract should be submitted to conciliation or arbitration for resolution, which is stipulated in below paragraph 2, and 3.

### 2. CONCILIATION

Before the dispute be submitted to arbitration, both parties agree to submit any of their disputes arising form the Contract or relating to the Contract to Shanghai Maritime Conciliation Center of CMAC for conciliation, which apply to the Center' s Conciliation Rules and Panel of conciliators. Both parties agree to submit their settlement agreement by conciliation to CMAC and jointly appoint or entrust the chairman of CMAC shall appoint one sole arbitrator to render an arbitration award according to the law and the content of conciliation settlement between the parties. The arbitration procedure and time limit shall not be confined by the Arbitration Rules of CMAC. Unless either party opposes, the conciliator appointed in the conciliation procedure may continue to act as the sole arbitrator to render an arbitration award, if the conciliator is also listed among the Panel of Arbitrators of CMAC.

If both parties don't agree to conciliate according to above regulations, Conciliation Rules should be adopted by the parties.

### 3. ARBITRATION

Any dispute under or in connect with the Contract shall be submit to CMAC for arbitration which shall be conducted in accordance with the Arbitration Rules of CMAC in effect at the time of applying for arbitration. The arbitration award is final and binding upon both parties.

If both parties don't agree to submit the dispute to the above-mentioned arbitration institute, the both parties agree to submit to \_\_\_(location or institute) and apply to \_\_\_Arbitration Rules.

## ARTICLE XXVII SUSPENSING AND TERMINATION

### 1. BUYER' S TERMINATION

During the period of performing the contract, the BUYER shall have the right to terminate the Contract upon giving notice in the event that:

(1) The Guarantor providing the refund guarantee on behalf of the BUILDER is deemed insolvent, unless the BUILDER provides a replacement and acceptable refund guarantee to the BUYER within 30 days of the BUYER' s notice requiring a replacement refund guarantee to be provided, or

(2) Excluding permissible delays, the BUILDER fails to perform any work relating to the shipbuilding for a running period of at least\_\_\_\_\_days, provided that thereafter the BUYER gives the BUILDER at least\_\_\_\_\_days' notice in writing of his intention to terminate the Contract under this clause and within that period the BUILDER fails to remedy its breach, or,

(3) In the event that:

(a) The delivery date is delayed by more than 180 days by fore majeure events,

(b) The delivery of the VESSEL is delayed by more than 180 days, excluding permissible delays,

(c) The aggregate of delays in the delivery of the VESSEL in (a) and (b) above is more than 270 days.

The BUILDER may at any time after the BUYER is entitled to terminates the Contract give notice to the BUYER requesting that the BUYER either agrees to a new delivery date or terminate the Contract. Such new delivery date shall be a reasonable estimated date by the BUILDER, when the VESSEL will be ready for delivery. Within 15 days of the request by the BUILDER, the BUYER shall notify the BUILDER of his determination. If the BUYER doesn' t terminate the Contract, then the new delivery date shall be deemed to be the delivery date provided it doesn' t occur later than 30 days prior to the expiry of the refund guarantee. If the VESSEL is not delivered by that date, the BUYER shall have the right to terminate this Contract.

(4) The reduction in speed, deadweight, hold capacity and the excessive fuel consumption of the main engine entitles the BUYER to reduce the Contract Price, terminate or cancel the Contract as per clause 1, 2, 3 and 4 in Article VI greater than the reduction amount stated in contract;

(5) There are deficiencies of the VESSEL as stated in the Contract to entitle the BUYER to suspend the performance of the Contract;

(6) The BUILDER' s guarantee is in breach of relevant regulations of this Contract.

## 2. BUILDER' S TERMINATION

During the period of performing the contract, the BUILDER shall have the right to terminate the Contract upon giving notice to the BUYER in the event that:

(1) The Guarantor providing the installment or performance guarantee on behalf of the BUYER is deemed insolvent, unless the BUYER provides a replacement and acceptable refund guarantee to the BUILDER within 30 days; or

(2) The BUYER fails to pay any sums due under the contract for a period of 21 banking days, provided that the BUILDER thereafter gave the BUYER at least 5 banking days notice of his intention to terminate the Contract under this Article and within that period the BUYER failed to remedy the breach;

(3) The BUYER fails to take delivery of the VESSEL tendered in accordance with the Contract;

(4) The BUYER fails to provide installment or performance guarantee according to this Contract.

## 3. Suspension of BUILDER' S Construction Work

Without prejudice to BUILDER' s right of termination, the BUILDER has the right to suspend the construction work if the BUYER fails to pay any installment due according to the contract for 15 banking days until payment of such outstanding sums.

## 4. DEEMED INSOLVENCY

A party or the Guarantor providing the refund guarantee shall be deemed insolvent if the proceedings are commenced against the insolvent party or the Guarantor for winding up, dissolution or reorganization (otherwise than for the purpose of amalgamation or reconstruction), liquidation, the appointment of a receiver, trustee or similar officer, bankruptcy, suspension of payments or similar events. A party shall have the right to terminate the Contract forthwith upon giving notice if the other party or Guarantor is deemed insolvent.

## 5. EFFECTIVENESS of BUYER' S TERMINATION

If the Contract is terminated by the BUYER, the BUILDER shall refund all sums paid by the BUYER to the BUILDER according to the contract here of plus interest thereon at the rate stated in contract per annum from the date of payment to the date of refund. The BUILDER shall also return the BUYER' s SUPPLIERS, or if they cannot be returned, the BUILDER shall pay to the BUYER an amount equal to the BUYER' s cost for such BUYER' s SUPPLIERS.

## 6. EFFECTIVENESS OF THE BUILDER' S TERMINATION

If this Contract is terminated by the BUILDER, the BUILDER shall have the right to retain the BUYER' s SUPPLIERS together with any installments paid by the BUYER and shall have the right and power either to complete or not to complete the shipbuilding, but in any event shall sell the VESSEL (either in its complete or incomplete form), including those BUYER' s supplies which are installed or have been utilized on board the VESSEL, at the best price reasonably obtainable at a public or private sale on reasonable terms and conditions.

(1) In the event of the sales of the VESSEL in its complete form, the proceeds of

the sale received by the BUILDER shall be applied in the following order:

(a) to pay all expenses incurred by the BUILDER in respect of the sale and otherwise incurred by the BUILDER as a result of the BUYER' s breach of the contract;

(b) to pay unpaid installments of the contract price including any which would have been payable after the date of termination and interest on such installments at the rate of interest stated in contract from the respective due dates thereof to the date of application.

(2) In the event of the sale of the VESSEL in its incomplete form the proceeds of sale received by BUILDER shall be applied in the following order:

(a) To pay all expenses incurred by the BUILDER in respect of the sale and otherwise incurred by the BUILDER as a result of the BUYER' s default;

(b) To pay all unpaid installments of the Contract Price to the extent due but not yet paid at the date of termination and interest on such installments at the rate of interest stated in the Contract from the respective due date thereof to the date of application;

(c) To pay all costs of part shipbuilding less any paid installments and less any sums credited in paragraph (b) as above;

(d) To compensate the loss of the BUILDER' s reasonable net profits caused by the BUYER' s breach of the Contract.

(3) In any of the above events, if the proceeds of sale exceed the sums to which such proceeds are to be applied as aforesaid, the BUILDER shall promptly pay any such excess to the BUYER without interest thereon, provided that the amount of such payment to the BUYER shall in no event exceed the total amount of installments paid by the BUYER. The BUILDER shall at the same time either permit the BUYER to remove the BUYER' s supplies which are not installed or utilized onboard the VESSEL (if any) from the shipyard for the cost and expense of the BUYER, or give credit to the BUYER for the value thereof.

(4) If the proceeds of sale are insufficient to pay the BUILDER the total amounts due from the BUYER as aforesaid, the BUILDER may sell the BUYER' s SUPPLIES which are not installed or utilized onboard the VESSEL (if any) at the best price reasonable obtainable at a public auction or private sale on reasonable terms and conditions, applying the proceeds of such sale toward the unsatisfied amounts due from the BUYER, and giving credit to the BUYER for any excess.

(5) If the proceeds of sale are still insufficient to pay the BUILDER the total amounts due from the BUYER as aforesaid, the BUYER shall pay the BUILDER the amount of such deficiency, plus interest at the rate stated in the Contract calculated from the date when the payments become due.

## **ARTICLE XXVIII INSURANCE**

### **1. EXTENT OF INSURANCE COVERAGE**

From the time of steel cutting of the VESSEL until the same is completed and delivered to the BUYER, the BUILDER shall keep the VESSEL insured with a qualified Chinese insurance company for shipbuilder' s insurance. Such insurance shall cover the damages or losses of the VESSEL' s materials, hull and equipments which incurred by various marine perils, inland perils or the BUILDER' s errors and omissions during

the period of construction and trail, as well as any additional costs and liability to a third party including the BUYER' s SUPPLIES.

The amount of such insurance coverage shall be in an amount equal to the amount of the Contract Price, and not less than, the aggregate of the payments made by the BUYER to the BUILDER and the value of the BUYER' s SUPPLIES. Before the delivery of the VESSEL, if the BUILDER and the BUYER adjust the Contract Price in accordance with the Article VI of the Contract, it is the BUILDER' s obligation to adjust the insurance amount accordingly.

All losses under such insurance policy shall be payable to the BUILDER.

The BUYER shall inform the BUILDER of any subsequent changes of the value of the BUYER' s SUPPLIES upon receipt of the notice of such changes of value, the BUILDER is obliged to accordingly change the insured value of the materials and equipment which supplied by the BUYER.

The BUYER is obliged to assist the BUILDER in arranging the aforesaid insurance and providing relevant documents required by the insurance company. The BUILDER is obliged provide the BUYER with the copy of the insurance policy as backup.

## 2. APPLICATION OF RECOVERED AMOUNT

### (1) Partial Loss

In the event the VESSEL shall be damaged by any insured cause whatsoever prior to acceptance and delivery thereof by the BUYER and in the further event that such damage shall not constitute an actual or a constructive total loss of the VESSEL, the BUILDER shall apply the amount recovered under the insurance policy referred to in Paragraph 1 of this Article to the repair of such damage satisfactory to the Classification Society and the Administrative Authority as described in the Specifications. No additional expenses should be collected by the BUILDER and the BUYER shall accept the VESSEL in accordance with this Contract.

### (2) Total Loss

In the event that the VESSEL is determined to be an actual or constructive total loss:

(a) By the mutual agreement between the PARTIES hereto, proceed in accordance with terms of the Contract, in which case the amount recovered under said insurance policy shall be applied to the reconstruction and/or repair of the VESSEL' s damages and/or reinstallation of BUYER' s supplies without additional expenses to BUYER, provided the PARTIES hereto shall have first agreed in writing as to such reasonable extension of the delivery date and adjustment of other terms of other terms of this Contract including the Contract Price as may be necessary for the completion of such reconstruction; or

(b) If due to whatever reasons the parties fail to agree on the above, then refund immediately to the BUYER the amount of all installments paid to the BUILDER under this Contract without interest together with recovered amount for BUYER' s SUPPLIES onboard, whereupon this Contract shall be deemed to be canceled and all rights, duties, liabilities and obligations of each of the parties to the other shall terminate forthwith.

Within thirty (30) days after receiving notice of any damage to the VESSEL constituting an actual or a constructive total loss, the BUYER shall notify the BUILDER in writing of its agreement or disagreement under this sub-paragraph. In



the event the BUYER fails to so notify the BUILDER, then such failure shall be deemed as rescinded and canceled and the BUYER receive the refund as hereinabove provided and this paragraph (b) shall apply.

Concurrently with the refundment to be made by the BUILDER to the BUYER as per the paragraph (b). the Contract is deemed to be terminated. all the right and obligation of one party to another party under the Contract shall be null and invalid, and the guarantees under the Contract shall be returned.

### 3. TERMINATION OF INSURANCE

The BUILDER' s interest under the insurance policy shall cease and terminate forthwith upon delivery of the VESSEL.

## ARTICLE XXIX PATENTS, TRADEMARKS AND COPYRIGHTS

The machinery and equipment of the VESSEL may bear the patent number, trademarks or trade names of the manufacturers. The BUILDER shall defend and save harmless the BUYER from patent liability of claims of patent infringement of any nature or kind, including costs and expenses for, or on account of any patented or patentable invention made or used in the performance of the Contract and also including cost and expense of litigation, if an. If the BUYER involved into a patent infringement because of the BUILDER, it may lodge claims against the BUILDER for its losses arising therefrom.

Nothing contained herein shall be construed as transferring any patent or trademark rights or copyright in equipment covered by the Contract, and all such rights are hereby expressly reserved to the true and lawful owners thereof. Notwithstanding any provisions contained herein to the contrary, the BUILDER' s obligation under this Article should not be terminated by the passage of any specified period of time. The BUILDER' s indemnity hereunder does not extend to equipment or parts supplied by the BUYER to the BUILDER if any.

## SECTION 6 SUNDRY

### ARTICLE XXX NOTICE AND LANGUAGE

#### 1. NOTICE

Any and all notices and communications in connection with the Contract shall be addressed as follows:

P.C.

To the BUYER (the full name of the BUYER)

Address: (the legal address of the BUYER)

Tel No:

Fax No:

Email:

To the SELLER (the full name of the SELLER)

Address: (the legal address of the SELLER)

P.C.

Tel No:

Fax No:

Email:

To the BUILDER: (the full name of the BUILDER)

Address: (the legal address of the BUILDER)

P.C.

Tel No:

Fax No:

Email:

Any notice or communication sent to the BUYER singly from the SELLER or the BUILDER shall be deemed as from the SELLER and the BUILDER together.

Any change in the address shall be communicated in writing by the party adding such change to the other party and in the event of failure to give such notice of change, communications addressed to the other party at their last known address shall be deemed sufficient.

Any and all notices, demands, requests, instructions, advices and communications in connection with the Contract shall be deemed to be given at the time when the same is delivered to the address of the party to be served however, that email and fax shall be deemed to be delivered upon dispatch and receipt.

## 2. LANGUAGE

Any and all documents as well as notices, communications, specifications and drawings and any other written materials in connection with the Contract shall be written in the Chinese or the English language subject to the situation, each language is legally of equal effect while in case there is any disagreement between the English version and Chinese version, the Chinese one shall prevail. Each party hereto shall have no obligation to translate them into any other language.

## ARTICLE XXXI OPTION

The BUYER shall have the right to build the optional vessels, the optional VESSEL should be executed at the same contract price and construction time as the VESSEL. Such option must be declared by the BUYER to the BUILDER within the number of months that has been confirmed by the parties following the effective date of the Contract. The BUILDER also has the right to negotiate with the BUYER on issues of the contract price of the optional vessel the construction time can be properly shortened and the delivery date can be properly put forward.

## ARTICLE XXXII EFFECTIVE CONDITIONS AND DATE OF CONTRACT

The Contract shall become effective upon fulfillment of all the following and other mutually agreed conditions:

- (1) The Contract and the Specifications have been signed and sealed; and
- (2) Receipt by the BUILDER of the first installment in accordance with Article V of this Contract; and
- (3) Receipt by the BUILDER of a Letter of Guarantee in the annexed hereto as Annex B issued by a first class international bank of the BUYER acceptable to the SELLER in accordance with Article V hereof; and
- (4) Receipt by the BUYER of a Refund Guarantee in the form annexed hereto as Annex

A issued by a first class international bank of the SELLER acceptable to the BUYER in accordance with Article V hereof; and

(5) Approval of the boards of the two parties.

Unless other written agreements exist in the Contract, the parties shall be expressly released from their obligations to each other in accordance with this Contract, an instruction should be made to indicate the ineffectiveness of the Contract. Meanwhile, the BUILDER should return the BUYER all its payments which has been paid before plus an interest of the BUYER' s payment at the rate of \_\_\_\_\_percent (\_\_\_\_\_% ) per annum.

### **ARTICLE XXXIII ENTIRE AGREEMENT**

The Contract constitutes the entire agreement between the parties and no promise, warranty or statement prior to the date of the Contract shall affect the Contract. Any modification of the Contract shall not be of any effect unless in writing negotiated and signed by or on behalf of the parties.

## ANNEXES

CMAC Standard Newbuilding Contract

### ANNEX A

#### BUILDER' S IRREVOCABLE LETTER OF REFUND GUARANTEE

To: [insert the full name of the beneficiary]

Date:

To whom it may concern

#### IRREVOCABLE LETTLE OF GUARANTEE FOR PAYMENT

At the request of a [here insert the name of shipping trade company] and [here insert the name of shipyard or the shipbuilding company] (hereinafter called as “the Seller” ), in consideration of you agreeing to pay the Seller the installments before the delivery of the vessel under the building contract concluded by you and Seller dated [ ] (hereinafter called as “the Contract” ) for a vessel with construction number [ ] and deadweight [ metric ton] (hereinafter called as “the Vessel” ), we hereby guarantee that the Seller will repay to you an amount up to a total of United States Dollars [ ] representing the aggregate amount paid by you to the Seller under the Contract before the delivery of the Vessel, of the first installment of the Contract Price amounted USD [ ], the second installment amounted USD [ ], the third installment amounted USD [ ] and the fourth installment amounted USD [ ]. Should the Seller fails to repay to you such any or all installments due as provided by the articles under the Contract, and you suspend to terminate the Contract due to the extension of the delivery date, we will make such payment to you without interest. In the event that the delivery date is delayed for [ ] days and you terminate the Contract in accordance with the clause 3 of Article 8 or clause 1 (3), 2 (3), 3 (3), or 4 (3) of Article 3 of the Contract, we shall pay to you the aforesaid amount of installments together with interest at the rate of [ ] percent (%) per annum, or [ ] percent (%) per annum in other circumstances. Within thirty (30) running days upon receipt by us from you of a Repayment Demand, we shall pay to you the sun as follows.

However, in the event that is disagreement between you and the Seller on the following issues:

- (1) Whether the Seller is liable for the repayment of any or all installments to you, and
- (2) Whether you have the right to require us for payment Should the Seller or you submit such dispute before the arbitration in accordance with Article 26 of the Contract or raise an appeal in accordance with the laws of other country, we is entitled to terminate the contract and postpone any payment until the arbitration award between the Seller and the Buyer is published. We shall not be obligated to make such payment unless repayment of the Seller is ordered in the arbitration award and the Seller waives or disclaims appeal in accordance with the laws of other country. Should the Seller fails to enforce the arbitration award, we will pay off the amount ordered by the award (or the judgment), which shall not exceed the amount to be secured by the Letter of Guarantee, plus the interest mentioned above.

All payments under the Letter of Guarantee shall be made in United States Dollars. The Letter of Guarantee comes to effect upon the receipt of the first installment by the Seller from you prior to the delivery under the Contract. The sum available under the Letter of Guarantee shall be in line with the amount which has paid by you prior to the delivery. The amount to be paid under the Letter of Guarantee shall not exceed the aggregate amount of the installments paid by you to the Seller before the delivery of the Vessel, plus the interest at the rate of [ ] percent (%) per annum calculated on the amount of each installment from the date of receipt of the same by the Seller until the date on which the same is repaid under the Letter of Guarantee.

The Letter of Guarantee shall remain in force until (a) due delivery of the Vessel to, and acceptance of the Vessel by, the Buyer, or (b) the payment to you by the Buyer or by us of all sums guaranteed by the Letter of Guarantee, or (c) the [ ] day (the thirtieth day after the delivery date under the Article 14 of the Contract), whichever is earlier. Hereafter, you shall return the Letter of Guarantee to us by airmail for the purpose of revocation, unless:

- (1) In the event that the Vessel is under construction, the period of validity of the Letter of Guarantee shall be extended until [ ] day (the [ ] day after the delivery date under the Article 13 of the Contract), or the date of due delivery of the Vessel to and acceptance of the Vessel by the Buyer, if first incurs. Or
- (2) In the event that you or the Seller submit before the arbitration authority or the court the matter under the Contract, the period of validity of the Letter of Guarantee will be automatically extended until the thirtieth day after the publication of the arbitration award of the judgment.

The Letter of Guarantee is governed by the laws of the Peoples' Republic of China.

Yours truly,

[ ] Bank

CMAC Standard Newbuilding Contract

**ANNEX B**

**BUYER' S IRREVOCABLE LETTER OF GUARANTEE ON THE SECOND, THIRD AND FOURTH  
INSTALLMENTS  
BANK**

To: [insert the full name of the beneficiary]

[ ] Shipyard (or Shipbuilding Company)

Date:

To whom it may concern

(1) In consideration of you and [ ] (hereinafter called as “the BUYER”) entering into a sales contract (building contract) dated [ ] for the construction of a VESSEL with hull number [ ] and deadweight ton of [ metric ton] (hereinafter called as “the VESSEL”) we, as the primary obligor and not a guarantor only, hereby irrevocably, absolutely and unconditionally guarantee that the BUYER will punctually pay to you the sum of United States Dollars [ ] representing the aggregate amount of the second, third and fourth installments of the Contract Price as provided by the Section (2) herein.

(2) In accordance with the Contract, the sum to be secured in the Letter of Guarantee includes the second installment of USD [ ], for which the BUYER is liable within three (3) New York Banking Day after the commencement of the construction of the VESSEL, the third installment of USD [ ], for which the BUYER is liable when the first paragraph of the VESSEL is put on the slipway, and the fourth installment of USD [ ], for which the BUYER is liable within three (3) New York Banking Day after launching of the VESSEL.

(3) As the primary obligor and not a guarantor only, we hereby irrevocably, absolutely and unconditionally guarantee that we will punctually pay the interest calculated on the amount of each installment, which the BUYER is obliged to pay, at the rate of [ ] percent (%) per annum from the expiry date of such installment as provided by the Contract until the date on which the same is fully paid.

(4) Should the BUYER fails to punctually pay any installment or interest and such failure is last for fifteen (15) days, we will, upon receipt by us from you of the first written demand for the same, pay to you or to your order the amount of the second, third and fourth installments and relevant interest as provided by Section (3) above, without request to you for a further action, measure or steps on the mortgages holding by you or the SELLER.

(5) The Letter of Guarantee and obligations hereunder shall be freely assignable by you at your own discretion. If assigned, it is guaranteed that any third party consigned by you or the Business Department of the Head Office of Bank of China is your agent. Such third party or Business Department of Head Office of Bank of China is deemed to be authorized as the agent herein.

(6) Any payment under the Letter of Guarantee shall be made in United States Dollars to [here insert the name of bank] and transfer to your account in the Business Department of the Head Office of Bank of China, with you or your agent as the

beneficiary and the receiving bank appointed or temporarily appointed by the SELLER.

(7) Our obligations under the letter of guarantee shall not be affected or impaired by the following factors: any dispute between the BUYER and you, as the SELLER, under the Contract, or delay on delivery or construction of the VESSEL for any reason, change or extension of the period of construction or delivery of the VESSEL, any mortgage or compensations incurs or to incur, any absolution from you or other relevant parties, non-performance or invalidity of the relevant provisions or other factor which may diminish the obligations under the Letter of Guarantee such as any action, omission, facts or conditions.

(8) Any representation or demand in writing made by you shall be signed by one of your duly authorized officers and may be served on us by hand or by post to [ ] (or such other address as we may notify to you in writing), or by authorized communication number with written confirm of Bank of China.

(9) The Letter of Guarantee come to effect upon your receipt and remain in force until (a) due delivery of the VESSEL to, and acceptance of the VESSEL with full performance of his obligation, by the BUYER, or (b) the payment to you by the BUYER or by us of all amount of the second, third and fourth installments and interest, whichever is earlier.

(10) Our liability under the Letter of Obligation shall not exceed the maximum sum of USD [ ], which includes:

(a) The aggregate amount of the second, third and fourth installments to be secured in the Letter of Guarantee, which is USD [ ], and

(b) Interest on the installment for sixty (60) days at the rate of [ ] percent (%) per annum, which is USD [ ].

(11) All payments to be made under the Letter of Guarantee shall be made without any set off or counterclaim and without deduction or withholding for or on account of any taxes, duties or charges whatsoever unless we are compelled by law to deduct or withhold the same in which case we shall make the minimum deduction or withholding permitted and will pay such additional amounts as may be necessary in order that amount received by you after such deduction or withholding shall be equal to the amount which would have been received had no such deduction or withholding been made.

(12) The Letter of Guarantee is to be construed in accordance with the laws of [here insert the name of country]. We hereby submit it to the courts without judicial privileges for any legal action or litigation in the [here insert the name of country].

(13) The Letter of Guarantee will be ended as of the date above. After that, you shall return the Letter of Guarantee without any condition.

(14) In witness whereof, the Letter of Guarantee is effective and submitted by our duly authorized representatives on the date above.

CMAC Standard Newbuilding Contract  
**ANNEX C**  
**SPECIFICATION**



CMAC Standard Newbuilding Contract  
**ANNEX D**  
**GENERAL ARRANGMENT AND MIDSHIP DRAWING**

CMAC Standard Newbuilding Contract

**ANNEX E**

**MAKER' S LIST**

CMAC Standard Newbuilding Contract

**ANNEX F**

**Comprehensive Table for the Contract's Element**

(B-C Standard Shipbuilding Contract Facility Edition)

1. Place and Date of the Contract		
2. BUILDER' s name, full style address, and contract details ship trading company (if any) Name: Address: Country: Tel: Fax: Email:  BUILDER Name: Address: Country: Tel: Fax: Email:	3. BUYER' s name, full style address, and contract details Name: Address: Country: Tel: Fax: Email:	
4. VESSEL description/type		
A. Main Dimensions (i) LOA (m) (ii) Length between perpendiculars (m) (iii) Deadweight capacity (DWT) (mts) (iv) Design draft (m)	B. cargo capacity (i) Cubic capacity (ii) Rold capacity	B2. TEU carrying capacity (state number of containers) (i) Total on deck a. 20' /40' /45' TEU b. No. of reefers (ii) Total under deck a. 20' /40' /45' TEU b. No. of reefers
Main engine (i) Maker/Type (ii) Max. continuous rating (kilowatts at MCR) (iii) RPM at MCR (iv) Specific Fuel Oil Consumption at	D. Average speed (i) Service speed (knot) at design draft  E. Other matters (optional )	

MCR	
5. BUILDER' s Hull Number	6. Flag State
7. Classification Society/Class character	8. Contract Price and Currency (a) Price (b) Currency
9. Contractual Date of Delivery	10. Payments 1st installment 2nd installment 3rd installment 4th installment Final installment
11. BUILDER' s Bank Account Data Name: Address: Country: Phone/Fax: Email: Sort code: Account number: Account name:	
12. Adjustment of Contract Price A. Speed (a) Contract Price reduction amount (b) Maximum reduction amount (c) Contract Price addition amount (d) Maximum addition amount	B. Deadweight: (a) Contract Price reduction amount (b) Maximum reduction amount (c) Contract Price addition amount (d) Maximum addition amount
C. Cubic (a) Contract Price reduction amount (b) Maximum reduction amount (c) Contract Price addition amount (d) Maximum addition amount	D. Fuel Consumption (a) Contract Price reduction amount (b) Maximum reduction amount (c) Contract Price addition amount (d) Maximum addition amount
E. Late or Advanced Delivery compensation (a) Amount per day for delay (b) Maximum reduction amount (c) Amount per day for advanced delivery (d) Maximum addition amount	F. Others (optional)
13. Guarantees (a) BUYER' s guarantees (i) Number of days after signing contract (ii) BUYER' s installment/Performance Guarantee (b) BUILDER' s guarantees (i) Numbers of days after signing contract	14. Guarantee Period(state number of months, if left blank 12 months shall apply)
15. Additional Guarantee Period (state number of months)	16. Suspension and Termination (a) Running period (state number of days) (b) Notice period (state number of days)
17. Applicable Law and Dispute	18. Guarantee Engineer (state total

<p>Resolution  (a) Governing law: (i) Law of P. R. C. , or  (ii) Law of other country  (b) Institution or place of dispute  resolution: (i) CMAC, or (ii) other  arbitration institution or place</p>	<p>number of months)</p>
<p>19. Effective Date of Contract (state  conditions to be satisfied)</p>	<p>20. State number of days within which  conditions have to be satisfied</p>
<p>21. Optional additional vessels (state  number)</p>	<p>22. Optional additional vessels  contract price and delivery dates</p>
<p>23. Declaration of options (state number  of months after Effective Date)</p>	<p>24. Interest (state rate of interest)</p>
<p>25. BUYER' s Guarantor (state name of  bank or party as appropriate, full style  address, and contract details)  Name:  Address:   Country:  Phone:  Fax:  Email:</p>	<p>26. BUILDER' s Guarantor (state name of  bank or party as appropriate, full style  address, and contract details)  Name:  Address:   Country:  Phone:  Fax:  Email:</p>
<p>27. Number of Annexes</p>	<p>28. Number of Additional Clauses</p>
<p>Signature (BUILDER)</p>	<p>Signature (BUYER)</p>