

Framework Purchase Agreement

框架采购协议

THIS Framework Purchase Agreement is made in _____ of the People's Republic of China on the date of _____.

本框架采购协议于_____在中华人民共和国_____签署。

BETWEEN

协议签订方：

XXXXXXXXXX (“**Buyer**”)

XXXXXXXXXX (“买方”)

AND

与

XXXXXXXXXX (“**Seller**”)

XXXXXXXXXX (“卖方”)

(Hereinafter each as “**Party**” and collectively as “**Parties**”)

(以下单独称为“一方”，合称为“双方”)

PREAMBLE

序言

Whereas, Buyer intends to purchase products (definition see below) from Seller and Seller agrees to sell the said products to Buyer;

鉴于，买方拟从卖方采购产品（定义如下）；而卖方同意向买方出售该产品；

Therefore, after amicable negotiation and based on the principle of bona fide, and according to the Contract Law of the People's Republic of China and other relevant laws and regulations, both Parties enter into the Framework Purchase Agreement (“**Agreement**”) as follows:

因此，在诚信原则基础上，根据中国合同法和其他相关法律法规的规定，经友好协商一致后，双方达成框架采购协议（“协议”）如下：

1. Definitions

定义

For the purposes of this Agreement, the terms below shall have the following meaning:
在本协议中，以下术语定义如下：

1.1 “Agreed Order” shall mean the individual purchase agreement resulting from a Purchase Order placed by Buyer and accepted or deemed accepted by Seller.

“约定的订单”指基于买方发出、被卖方接受或视为已接受的一份采购订单而产生的单独采购约定。

1.2 “Agreement” means this Framework Purchase Agreement including all annexes and any other document specifically incorporated herein by reference.

“协议”指本框架采购协议，包括所有的附件和其他通过引用专门纳入本协议的所有文件。

1.3 “Products” shall include any item set forth in Annex 1 and/or the Agreed Order.

“产品”应包括本协议附件一和/或约定的订单中规定的所有货物。

1.4 “Purchase Order” shall mean the order issued by Buyer to acquire Products under this Agreement.

“采购订单”指买方根据本协议发出的为购买产品的订单。

2. Scope of Agreement

协议范围

2.1 This Agreement includes the general terms and conditions for the production and delivery of the Products to be provided by the Seller to the Buyer.

本协议涵盖了卖方生产并向买方供应产品的一般条款和条件。

2.2 The technical specifications for the Products, which the Parties have mutually agreed upon, are defined in Annexe 2 to this Agreement.

双方协商一致同意的产品的各项技术规格规定于本协议的附件 2 中。

2.3 The Parties may amend the Products and the relevant technical specifications through subsequent agreements. In such a case, Annexes 1 and/or 2 will then be updated in a separately agreed addendum to this Framework Agreement.

双方可通过后续的协议变更产品及其技术规格。该等情况下，应在双方另行一致同意的附录中对附件 1 和/或附件 2 进行更新。

2.4 Case specific items for individual purchases (such as quantity, delivery schedule etc.) will be defined in the applicable Agreed Order. In the event of any conflicts or inconsistencies between this Agreement and an Agreed Order, the provisions of the Agreed Order shall prevail.

与单独采购相关的具体事项（诸如数量、交付日期等）将在适用的约定的订单中明确。如果本协议与约定的订单之间有任何异议或不一致的地方，以约定的订单为准。

2.5 The Purchase Order shall become binding upon receipt by Seller unless the latter gives immediate notice in writing to Buyer within [2] working days to the contrary.

买方的采购订单，在卖方收到之时即具有拘束力，但卖方在[2]个工作日内立即发出书面异议的除外。

2.6 Any Purchase Order for Products issued by Buyer to Seller shall be subject to the terms and conditions of this Agreement, regardless of whether this Agreement is expressly incorporated by reference under any Agreed Order.

买方为采购产品而向卖方发出的所有采购订单均应遵照本协议的条款，而不论在任何约定的订单中是否明确本协议予以适用。

However, this Agreement is not a commitment to purchase by Buyer. There is no obligation to place Purchase Orders with Seller and no minimum purchase commitment of Buyer. Estimates or forecasts furnished by Buyer to Seller shall not constitute a Purchase Order or a commitment to purchase.

但本协议不构成买方向卖方进行采购的承诺。买方在任何情况下都没有义务发出采购订单，也无义务作出任何有关最低采购量的承诺。买方对卖方所作的采购估计或预测均不构成采购订单或采购承诺。

3. Purchase Price

购买价格

3.1 The prices for Products are set forth in Annex 3. Unless otherwise agreed in any Agreed Order, the prices for Products are the end-user prices, including but not limited to packing, freight, insurance and any possible tax. Buyer and Seller will determine cost reduction targets throughout the entire term of this Agreement.

产品的价格详见附件 3。除非在约定的订单中双方有不同约定，产品的价格应为最终客户价，包含但不限于包装费用、运输费用、保险费和各项税费。买方和卖方将共同确定在本协议有效期内的成本降低目标。

3.2 Seller shall remain competitive during the term of this Agreement for the total basket of Products included within the Agreement. In the event that Seller is found uncompetitive, Buyer shall notify Seller at the earliest opportunity. Seller shall adjust the price to an acceptable level to Buyer within one month from the date of such notification. If the pricing remains unacceptable, Buyer is allowed to terminate the Agreement.

在本协议有效期内，卖方应保持本协议项下所有产品的价格具有竞争力。一旦发现卖方的价格不具有竞争力，买方应尽早通知卖方。卖方应在通知日起的一个月内，将该价格调整至买方可接受的价格水平。否则，买方有权解除本协议。

3.3 Both Parties agree that Seller will offer Buyer a ___% bonus/rebate at the end of _____ when the total purchase exceeds _____. The ___% bonus/rebate shall remain in effect for the following years until this Agreement is amended through mutual and written agreement signed by both Parties.

双方一致同意，若采购总额超过____，则卖方将在_____年底给予买方___%的销售折扣/返利。此后，买方将持续享有此___%的销售折扣/返利直到双方通过共同书面协议的形式变更本协议。

4. Payment Terms

支付条件

4.1 Buyer shall pay the Purchase Price to the Seller within ___ working days upon delivery and after receipt of payment notice issued by Seller. If Buyer makes the payment within ___ working days upon delivery and after receipt of payment notice issued by Seller, Seller shall grant a ___% discount to Buyer.

买方应在卖方交付产品并收到卖方的付款通知后___个工作日内付款；如买方在卖方交付产品并收到卖方的付款通知后___个工作日内付款的，卖方应给予买方___%的折扣。

4.2 Payments shall be made by the Buyer to the bank account as instructed by Seller. Seller shall issue the official invoices (Fapiao) upon receipt of payment.

买方应将价款付至卖方指定的银行账户。卖方收到货款后应开具发票。

4.3 Buyer shall be entitled to set off against the Purchase Price any sums owed to Buyer by Seller.

买方有权在购买价款中抵销卖方欠付买方的任何款项。

5. Terms of Shipment / Terms of Delivery

运输/交付条款

5.1 It is agreed that Seller will deliver/ship the Products purchased by Buyer directly to the place where Buyer is locating, unless otherwise agreed by both Parties or instructed by Buyer, at the Seller's cost and insurance. Seller undertakes to arrange for all packaging as agreed or otherwise demanded by Buyer.

双方同意，买方采购的产品将由卖方直接交付/运输至买方所在地，双方另行约定或买方另行指示的除外。卖方承担运输有关的费用和保险。卖方承诺将按照双方的约定或买方的要求包装产品。

5.2 Delivery shall be made within the delivery period as agreed or as per the delivery date designated by Buyer.

卖方应在双方约定的交付期限内或在买方指定的交付日期进行交付。

Seller shall notify in writing Buyer of its readiness to deliver not later than ___ working days in prior.

卖方应至迟提前___工作日以书面形式通知买方其已备货待运。

5.3 Seller shall pay liquidated damages of []% of the total Purchase Price of the delayed Products for each day in delay, up to a maximum of []%.

卖方迟延交付的，每迟延一天应支付货款总额[]%作为迟延金。迟延金最高限于货款总额的[]%。

5.4 Products shall be inspected by Buyer upon delivery. Seller shall provide assistance for such inspection as necessary or demanded by Buyer.

产品交付时应接受买方的检查。必要时或应买方要求，卖方应为检查提供必要协助。

5.5 The Seller shall include a Delivery Note with each delivery that includes the following: Date of the order, order number, other identifiers as specified in the order, number of contract products. It is deemed as duly delivery under this Agreement when Seller delivers the Products (including all required technical documents, instruction, directions and other documents if applicable) in conformity with this Agreement or the individual order by Seller and upon acceptance by Buyer. 卖方每次交付时应提供一份送货通知，通知中包含以下内容：订单日期，订单号，订单中要求的其它特别内容，合同产品的数量。只有在卖方按照协议或具体订单的要求交付产品（包括技术资料、说明、指示和其他相关资料）并且已被买方验收，才视为适当履行了本协议项下的交付。

6. Undertakings

承诺

Seller undertakes to 1) maintain competitive on price for all Products by charging Seller the product price as agreed by both parties; 2) assure the quality of Products in compliance with requirements and standards set by Buyer, and 3) deliver Products to Buyer on schedule as stipulated in Article 5.2 of this Agreement. Both Parties understand that the afore-mentioned terms constitute the precondition for both Parties to make and maintain the supply/purchase arrangement under this Agreement.

卖方承诺将：1) 按照双方的约定，向买方提供价格，保持所有产品的价格竞争优势；2) 确保提供的产品符合买方的要求和标准，并且3) 根据本协议第 5.2 条约定如期向买方交货。双方理解，满足前述内容是双方做出并维持本协议项下的供货/采购安排的前提条件。

7. Transfer of Ownership and risk

所有权和风险的转移

7.1 Ownership of the Products shall pass to Buyer upon delivery. If payment of Purchase Price is made prior to delivery, ownership of the Products shall pass to Buyer upon Seller's receipt of payment.

产品的所有权在交付时转移给买方。若交付之前已支付购买价款，则在卖方收到购买价款之时产品的所有权即转移给买方。

7.2 Seller shall bear all risk of loss and damage to the Products until duly delivery in accordance with Article 5.5.

在根据第 5.5 条完成交付之前，卖方承担产品损失和损坏的全部风险。

8. Quality Management

质量管理

8.1 Seller undertakes to ensure and document that the requirements for the production process be fulfilled in order to avoid the supply of any defective products.

卖方承诺确保满足生产过程的有关要求以避免供应瑕疵产品，并进行记录。

8.2 Buyer shall have the right to examine the Seller's production processes and their documentation at any time not disruptive to the Seller's daily operations, and with prior written notice to the Seller and under proper confidentiality arrangement while such examination.

在不干扰卖方日常经营的情况下，买方有权随时检查卖方的生产过程和相关记录。买方进行检查，应事先书面通知卖方，并且进行适当保密。

9. Warranties and Liabilities

质保和责任

9.1 Seller warrants and represents to Buyer that all Products supplied hereunder

卖方向买方承诺及保证，本协议项下供应的商品

- (a) are not defective in workmanship and/or material;
不存在工艺和/或原料的缺陷;
- (b) conform to the specifications as agreed or otherwise instructed by John Deere China;
符合约定的或中国约翰迪尔另行规定的产品规格要求;
- (c) do not violate any intellectual property rights of third parties - neither the Products themselves, nor its production; and
不论产品本身还是生产过程均不侵犯他人知识产权；并且
- (d) comply with all applicable laws and regulations.
符合有关法律法规的规定。

9.2 The warranties and representations under this Article 9.1 shall be without prejudice to any rights and remedies Buyer may have in respect of defective Products under statutory law.

第 9.1 条规定的承诺和保证并不影响买方因产品瑕疵而享有的其他法定权利和救济。

9.3 If any Products are not supplied in accordance with the Agreement, Seller is obliged to

若交付的产品不符合本协议的规定，卖方有义务

- (a) repair the defective Product or supply replacements in accordance with the Agreement within [] working days upon notice by Buyer at its own cost or,
在收到买方通知之日起 [] 工作日内，修理瑕疵产品，或更换提供符合协议规定的产品，修理或更换的费用由卖方承担，或者

- (b) at Buyer's demand, refund the payment of any part of the price which has been paid for the respective delivery.

依买方要求，退还已支付款项中瑕疵交付的相应部分。

Any and all other rights and remedies of Buyer under this Agreement and the statutory law remain unaffected.

本协议和法律规定的买方的其他权利和救济不受影响。

9.4 Seller shall indemnify and hold Buyer harmless against liability, loss, damages, costs and expenses (including reasonable legal expenses) awarded against or incurred or paid as a result of or in connection with:

在卖方存在下列情形时，卖方应赔偿或使买方免于因该情形遭受或承担任何责任、损失、损害、费用和支出（包括合理的法律费用）：

- (a) breach of any warranty given in relation to the Products,
违反产品有关质保；
- (b) negligence (whether by act or omission).
疏忽（不论是作为或不作为）。

10. Force Majeure

不可抗力

If the performance of this Agreement by either Party hereto is prevented or delayed in whole or in part by reasons of Force Majeure such as war, earthquake, flood, fire, storm, heavy snow, act of God, the Party shall not be deemed in breach of this Agreement or otherwise liable to the other. However, such Party shall advise the other immediately of the occurrence mentioned above and within 14 days thereafter the Party shall send by airmail to the other for their acceptance a certificate of the accident issued by the competent Government Authorities and/or Public Institutions where the accident occurs as evidence thereof.

如果由于不可抗力（如战争、地震、洪灾、火灾、暴风雨、大雪、自然灾害等）的原因导致任一方履行本协议全部或部分受阻或迟延的，该受影响一方不视为违约，也不向另一方承担责任。但是，受影响一方应立即将上述不可抗力事实告知另一方，并且在通知后的 14 日内以航空邮件形式向另一方寄送该不可抗力事件发生地有关政府部门或公共机构出具的证明函。

In case of delay in delivery by Seller due to Force Majeure as stipulated herein, Seller, however, is still under the obligation to take all necessary measures to hasten the delivery of Products. In case the accident lasts for more than ___ weeks, Buyer shall have the right to terminate the Agreement.

在因本条规定的不可抗力导致交付迟延的情况下，卖方仍然负有义务采取一切措施尽快安排货物交付。若不可抗力事件持续超过____周，买方有权解除本协议。

11. Duration and Termination

期限和解除

11.1 This Agreement shall come into force on []. It shall terminate automatically on [] unless terminated earlier by either Party hereto due to one or more reasons set forth in Sections 11.2 below. The Parties will initiate discussions _____ months prior to the end of the term, where they may agree on an extension of the contractual term for an additional ____ years.

本协议在[]之时生效，在[]自动到期失效，除非任一方在第 11.2 条规定的任一或多个情况下有权以书面形式通知另一方提前解除本协议。双方将在本协议期满前的____个月进行商讨，如双方同意，协议期限可延长____年。

11.2 Either Party hereto shall be entitled to terminate this Agreement forthwith, without liability to the other Party and save of any other rights and claims such Party may have, by serving written notice to the other Party under any of the following circumstances:

在下述任一情况下，任一方有权书面通知另一方立即解除本协议而无需对另一方承担任何责任并保留所有的其他权利和要求：

(a) the other Party becomes insolvent;

另一方资不抵债；

(b) insolvency proceedings over the assets of the other Party are formally instituted;

对另一方的资产正式启动破产程序；

(c) the other Party goes into liquidation;

另一方进入清算；

(d) the other Party ceases to carry on business;

另一方停止经营活动；

(e) the other Party breaches any of its undertakings under this Agreement;

另一方违反本协议项下的承诺；

(f) the other Party breaches any of its obligations under this Agreement and such breach has not been rectified within a period of 30 days after such breach has been notified to the non-breaching party.

另一方违反本协议项下的任何义务，在守约方发出违约通知后 30 日内仍未纠正违约行为。

11.3 If Seller merges with another company, or at least 50 (fifty) percent of Seller's shares are acquired by a third party which is a competitor of Seller in the field of business where the Products are marketed ("Competitor"), or if substantial rights to the Products are transferred to any Competitor, or if Seller otherwise comes under the direct or indirect influence or control of any Competitor, Seller shall promptly notify Seller thereof in writing and Seller may, within 2 (two) months after having received such notification, terminate this Agreement with immediate effect without incurring any liability or charges.

若卖方与买方在产品所涉及的商业领域的竞争对手（“竞争对手”）合并，或其 50%(百分之五十)以上的股权被买方竞争对手收购，或其产品的实体权利已转让给买方竞争对手，或卖方已由买方竞争对手直接或间接掌控，卖方应尽快书面通知买方。买方可在收到该通知的 2（二）个月之内立即解除本协议。买方无需为此终止承担任何责任或费用。

11.4 If Buyer is entitled to terminate this Agreement pursuant to the provisions under Article 11.2 and 11.3 above, Buyer may, in addition to any rights to cancel or terminate provided for in this Agreement, terminate any Agreed Order which are not yet completely performed, in whole or

in part, with immediate effect without incurring any liability or charges. Any such termination of an Agreed Order shall not affect any rights or remedies Buyer may have.

若买方根据条款第 11.2 条和第 11.3 条的规定有权解除本协议，除了本协议规定的取消或终止的权利，买方还可部分或全部终止未执行完毕的约定的订单，且不承担任何责任或费用。该终止不影响买方应享有的其他权利或救济。

11.5 In addition to Article 11.4 above, Buyer or Seller shall be entitled to terminate the Agreed Order without liability to the other Party (for the purpose of this article “Defaulting Party”) and save of any other rights and claims such Party may have, by giving written notice to the Defaulting Party with effect from the date specified in the termination notice if the Defaulting Party fails to perform any of its material contractual obligations under any Agreed Order or any agreement related thereto, provided that where such breach is capable of remedy, the Defaulting Party fails to remedy such breach within 30 (thirty) days of being notified of such breach by the other Party.

除了第 11.4 条的以上规定，当一方（此条款中称为“违约方”）存在实质性违反约定的订单或任何与之相关的协议下的合同义务，且在实质性违约可以补救的情况下违约方未在收到另一方违约通知的 30（三十）天之内进行补救，作为另一方的买方或卖方均有权以书面通知的形式，按通知中规定的日期终止约定的订单而不承担任何义务，并保留相应权利和要求。

11.6 Unless otherwise provided for in this Agreement, any termination or expiration of this Agreement shall not affect Seller’s obligation to accept Purchase Orders which have been issued prior to such termination or expiration and to perform any outstanding Agreed Orders.

除非本协议另有规定，本协议的解除或到期均不影响卖方接受解除日或到期日之前发出的采购订单的义务，也不影响卖方执行未执行完毕的约定的订单的义务。

11.7 Upon termination or expiration of this Agreement and/or any Agreed Order, Buyer have no obligation to make any payments under this Agreement and/or any Agreed Order except for the Products already delivered, performed and accepted by Buyer hereunder.

本协议和/或约定的订单一旦终止或到期，买方除对已按本协议和/或约定的订单交付、履行并被卖方接受的产品支付相应款项外，买方不再承担任何付款义务。

12. Confidentiality

保密

Seller as well as Buyer shall undertake to treat the other party’s know-how, as well as any other business and trade secrets, including the contents of the Agreement between the Parties, as strictly confidential. The Parties shall take all the reasonable precautions necessary to safeguard the aforementioned information against unauthorized access, unauthorized publication, duplication, circulation and other unauthorized use.

买方和卖方应对另一方的专有技术和其他任何商业和交易秘密，包括双方的协议内容，进行严格保密。双方应采取所有合理必要的预防措施来保护上述信息，避免此类信息在未授权情况下被获取、公开、复制、传播和被以其他方式无权使用。

The obligations specified in this article shall also extend over and beyond the term of this Agreement.

本条规定的保密义务在本协议有效期存续及届满之后都适用。

13. Applicable Law and Arbitration

法律适用和仲裁

This Agreement shall be governed by the laws of the People's Republic of China.

本协议适用中华人民共和国法律。

In case of any disputes arising in connection with this Agreement or the execution thereof the Parties shall first attempt to reach a settlement through negotiations. In case no settlement can be reached, either party may submit the dispute to the China International Economic and Trade Arbitration Commission ("CIETAC") Shanghai Sub-Commission for arbitration according to CIETAC's arbitration rules in effect at the time of applying for arbitration. The language of arbitration shall be Chinese and the arbitration place shall be Shanghai. The arbitral award shall be final and binding upon both Parties.

因本协议产生或与本协议执行相关的任何争议，双方应先通过协商解决。若无法协商解决，任一方可将争议提交在中国国际经济贸易仲裁委员会上海分会依据申请时现行适用的仲裁规则进行仲裁。仲裁语言为中文，仲裁地为上海。仲裁裁决是终局性的，对双方均具有拘束力。

14. Notices

通知

14.1 A notice, Purchase Order or other communication issued in accordance with this Agreement must be signed by, or on behalf of, the Party giving it; and:

根据本协议出具的通知、采购订单或其他通信应由出具一方或代表出具一方的人签署并：

(i) delivered or sent by pre-paid mail to the other Party's address;

向另一方地址递送或发送预付费邮件；

(ii) sent by fax to the other Party's fax number and the machine from which it is sent produces a report that states that it was sent in full; or

根据另一方传真号码通过传真发送，所使用的传真机应在完全发送成功时打印相应的完全发送报告；或

(iii) sent in electronic form (such as e-mail).

通过电子形式发送（例如电子邮件）。

14.2 A notice, Purchase Order or other communication sent in accordance with clause ~~错误!未找到引用源。~~ is regarded as given or received:

根据第 14.1 条发送的通知、采购订单或其他通信，在符合以下条件时视为已经发送或已经收到：

(a) if it is sent by fax:

通过传真发送的：

(i) by 5:00pm (Beijing time) on a Business Day, on that day; or

在营业日下午 5:00（北京时间）前发送的，以发送当天为准；

- (ii) after 5:00pm (Beijing time) on a Business Day or on a day that is not a Business Day, on the next Business Day;

在营业日或非为营业日下午 5:00（北京时间）之后发送的，以下一个营业日为准；

- (b) if it is sent by mail, on actual receipt; and

通过邮寄发送的，以实际接收日为准；和

- (c) if it is sent in electronic form, when the e-mail message arrives at the e-mail system of the addressee.

通过电子邮件发送的，以到达收件人的电子邮件系统的时间为准。

14.3 Address for Notices

通知地址

A Party's address and fax number are those set out below, or as the person notifies the other Party:

一方通知对方以其他地址和传真号码为准的，以该等其他地址和传真号码作为通知地址。双方的地址和传真号码如下：

Buyer

买方

Address:

Fax number:

E-mail address:

Contact Person:

地址：

传真号码：

电子邮箱：

联系人：

Seller

卖方

Address:

Fax number:

E-mail address:

Contact Person:

地址：

传真号码：

电子邮箱：

联系人：

15. Miscellaneous

其他规定

15.1 All annexes and schedules attached hereto constitute an integral part of this Agreement.

任何附件附录构成本协议完整的一部分。

15.2 If any term or provision in this Agreement shall be held to be illegal or rendered unenforceable in whole or in part, under any enactment or rule of law, such term or provision or part thereof shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected.

若本协议任一条款或规定在任何法律法规下全部或部分地被认定为违法或不可执行，该条款或规定或有关部分应视为不构成本协议的内容。本协议其他条款的效力和可执行性不受影响。

Notwithstanding the foregoing the Parties shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the provision so found to be illegal or unenforceable.

在上述规定之外，双方应进行诚信协商，达成取代有关违法或不可执行条款的令双方满意的替代条款。

15.3 This Agreement may only be amended by a document in writing signed by both Parties hereto.

对本协议进行修改应以书面形式进行，并经双方签署。

15.4 This Agreement is made in English and Chinese. In case of any discrepancies between the two language versions, the Chinese language version shall prevail.

本协议以英文和中文拟就。若两种语言文本存在不一致，以中文文本为准。

本协议附件：

Annexes to the Agreement:

Annex 1/附件 1

Annex 2/附件 2

Annex 3/附件 3

IN WITNESS WHEREOF the Parties have executed this Agreement on the day and year first above written in two original copies and each party shall hold one originals.

有鉴于此，双方在上文首次所示之日期签署本协议。本协议一式两份，双方各持一份。

[The remainder of this page is intentionally left blank./此页以下空白。]

[Signing Page of Framework Purchase Agreement/框架采购协议签字页]

Buyer/买方:

XXXXXXXX (Company Chop)

XXXXXXXX (公章)

Representative/授权代表

Seller/卖方:

XXXXXXXXXXXX (Company Chop)

XXXXXXXXXXXX (公章)

Representative/授权代表