

Hohenstein Textile Testing (Shanghai) Co., Ltd.

德国海恩斯坦研究院通用商务条款适用于

海恩斯坦纺织检验（上海）有限公司

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1. **SCOPE**
 - 1.1 **适用范围**
 - 1.1 This document set forth the contractual terms and conditions for commercial business dealings with Hohenstein Textile Testing (Shanghai) Co., Ltd. (hereinafter "the Contractor").
 - 1.1 本文件阐明了与海恩斯坦纺织检验（上海）有限公司（以下简称“立约方”）进行商业交易的合约条款。
 - 1.2 Any differing terms and conditions of business including those of Client (hereinafter "the Client") only become a constituent part of the contract if they are acknowledge expressly by the Contractor in writing.
 - 1.2 签约时如果被明确写明，包括客户条款在内的任何不同条款，都只成为合约的一部分。
 2. **ASSIGNMENT**
 - 2.1 **委派任务**
 - 2.1 The subject of the assignment from Client to Contractor shall be any manner of expert opinion, testing, investigation (including the procurement of testing apparatus and equipment) research work, auditing, inspection or certification (hereinafter referred to collectively as "Expert Opinion"), i.e. establishment of facts, presentation of empirical findings, determining causes, assessment and review.
 - 2.1 客户委派给立约方所检测的物品应以任何形式的专家意见，测试，调查（包括测试仪器和设备的采购）研究工作，审核，检验或认证（以下统称为“专家意见”），即建立的事实，实验研究结果，确定原因，评估和审查。
 - 2.2 The precise expert opinion topic and purpose of use must be defined in writing at the point of awarding the assignment.
 - 2.2 精确的专家鉴定意见的主题和使用目的必须在授予检测任务之前明确写明。
 - 2.3 The Client has been made aware that an opinion requested by Client directly from Contractor may not be subject to attorney-client privilege and that Client has been advised to discuss with counsel the appropriate party to request the Expert Opinion from Contractor...
 - 2.3 客户必须知道，单方面向立约方直接提出的建议并不一定会受到当事人保密特权的制约，并且立约方会建议客户向合适的一方寻求立约方的专家鉴定意见。
 3. **FULFILMENT OF THE ASSIGNMENT**
 - 3.1 **委派任务的履行**
 - 3.1 The assignment will fulfilled by the Contractor impartially, in good faith and in accordance with state of the art knowledge.
 - 3.1 立约方将公平公正的完成委派的任务，并且努力按照国家规定。
 - 3.2 Any specific success, in particular any outcome desired by the Client may only be guaranteed on the part of the Contractor on the basis of the application of objective and impartial expert knowledge by specialists working for the Contractor.
 - 3.2 一些特定目标，特别是客户所想得到的结果，就立约方而言是要基于由在立约方工作的专家所给出的客观并公正的专业知识的应用才能被保证的。
 - 3.3 The Contractor shall be entitled to transfer his Expert Opinion activities to third parties either wholly or in part.
 - 3.3 立约方有权将专家鉴定意见全部或者部分地转让给第三方。
 - 3.4 If, in order to ensure professional completion of the assignment, the involvement of specialists in other disciplines should prove necessary, their engagement shall be authorised on behalf of the Client.
 - 3.4 如果为了确保专业地完成委派任务，其他学科专家的参加是必要的，他们的合约应该是被客户授权的。
 - 3.5 In other respects the Contractor shall be entitled to carry out necessary and customary investigations and experiments for processing the assignment at the Client's cost and utilizing Contractor's own best judgement. Should it transpire in the course of any investigation that for confirmation of measurement result findings an analysis must be repeated or the analysis procedure must be extended to include a repeat run, this shall not be deemed to be an unforeseen event or a costly investigation in terms of time and expense in relation to the purpose of the Expert Opinion.
 - 3.5 在其他方面立约方有权进行必要的和通常的调查与实验，为了能够按客户支付的费用去处理委派任务，利用立约方本身最好的判断。这一过程应该发生在任何调查中，即必须重复确认调查结果或分析过程要扩展到一个重复过程，这不应该被视为是不可预见的事情或一个与专家检测意见目的有关的昂贵和费时的调查。
 - 3.6 If a set period is agreed for reimbursement of the Expert Opinion this may not be regarded as agreement of any firm deal.
 - 3.6 如果规定时间经专家鉴定意见同意退还的，这可能不被视为任何公司的有效交易。
 - 3.7 The Expert Opinion to be compiled by the Contractor shall be provided to the Client in writing in a single copy indicating the specialist responsible for its composition. Any additional copies shall invoiced separately.
 - 3.7 立约方制定的专家鉴定意见应以单一的书面形式指明检测物成分提供给客户。任何附加版本应单独开立发票。
 - 3.8 The Contractor's expert opinions reflect only those facts established at the point in time of testing on the basis of the specific instructions provided by the Client or, in the absence thereof, the specifications in the assignment specification form, relevant commercial customs, usages or practices and such procedures as the Contractor deems appropriate on technical, business organisational and/or commercial grounds. The Contractor is under no obligation to indicate facts or values or to report on the latter if these lie outside the specific instructions issued by the Client.
 - 3.8 立约方的专家鉴定意见仅仅反映了这些事实，即在客户特定指令的基础上测试出的结果，或在缺少合同，规范的作业形式，相关商业习俗、用法等过程或实践和承包商认为适当的技术、业务组织和/或商业理由的时候，立约方是没有义务表明事实或价值或客户提出的这些报告之外的具体指令。
 - 3.9 The Client acknowledges that in providing his services the Contractor neither adopts the position of the Client or any third party nor releases the latter from any obligations or in any other way assumes, restricts or cancels Client obligations vis-à-vis third parties or of third parties vis-à-vis the Client or releases him herefrom in any other manner.
 - 3.9 客户须知，为他提供服务的立约方既不采用客户或者任何第三方的观点，也不发表对后者任何形式的义务声明，或以任何其他方式假设、限制或取消客户对于第三方的义务。
 - 3.10 Following completion of the assignment and payment of the fee agreed the Contractor shall retain the Client's test material in safekeeping at the Client's risk and in observance of his own customary care. If the Client has not yet collected the documentation and samples three (3) months after acceptance of the Expert Opinion the Contractor is free to dispose of such materials and released from any liability in connection therewith.
 - 3.10 完成委派任务之后和支付费用的过程应使客户测试材料得到妥善保管，遵守自己的惯例。如果客户超过3个月还没有收集文档和样品，立约方将免费处理这些材料并且之后免除任何责任。
 4. **CLIENT OBLIGATIONS**
 - 4.1 **客户义务**
 - 4.1 The Client shall not issue the Contractor any instruction or furnish any false information which might falsify the latter's actual findings or the results of his Expert Opinion.
 - 4.1 客户不应发布给立约方任何指令或提供任何虚假信息可能会伪造后者的实际结果或结果的专家意见。
 - 4.2 The Client shall ensure that the specialist receives free of charge and in good time all information, documentation and test material necessary for completion of the assignment.
 - 4.2 客户应确保及时免费接收专家意见和所有信息，文档和测试材料所需完成的任务。
 - 4.3 A Client wishing to use the results of the Expert Opinion in the course of any test event is under the obligation to procure the test material is and solely responsible with regard to selection of the test material and sending the test material to Contractor.
 - 4.3 客户希望使用专家鉴定意见用于任何测试事件，有义务对试验材料的选择和发送测试材料的立约方负责。
 5. **DUTY OF CONFIDENTIALITY**
 - 5.1 **保密义务**
 - 5.1 The Contractor is forbidden to publish, disseminate or use the Expert Opinion itself or facts or documentation entrusted to him or which has otherwise become known to him in the course of his Expert Opinion activities. The duty of confidentiality covers all facts not generally known and shall apply beyond the duration of the contractual relationship.
 - 5.1 立约方禁止出版、传播或将专家鉴定意见本身或事实或文件交付给其他人，或是其他有可能在专家鉴定过程中得知结果的人。保密义务所涵盖的事实不适用于已知和超出合同关系的持续时间。
 - 5.2 This duty of confidentiality applies to all staff employed at the Contractor's establishment.
 - 5.2 本保密义务适用于立约方的全体员工。
 6. **COPYRIGHT**
 - 6.1 **版权**
 - 6.1 The Contractor shall retain copyright to the services provided – insofar as these are appropriate in that regard.
 - 6.1 立约方应对提供的服务保持版权-在适当的范围内。
 - 6.2 Any publication of the Expert Opinion, its use by way of reproduction and dissemination is only permitted in the context of the contractually defined purpose of use and by acknowledging the Contractor.
 - 6.2 任何专家鉴定意见的出版物，其使用和传播只允许按照合同定义的范围并且得到立约方的承认。
 - 6.3 If the Client intends to indicate in his product or company advertising the fact of certification by the Contractor of individual products or product groups, either by extracted quotes from the Expert Opinion concerned or by mentioning the Contractor alone, a prior contractual agreement is required. If no such agreement is made in the Expert Opinion contract any use of extracted quotations from the results of the Expert Opinion, both in the product advertising and in company advertising, is prohibited.
 - 6.3 如果客户想要在其产品或公司广告中表明由立约方为个别产品或一类产品提供的认证事实，无论是从专家鉴定意见提取或通过单独提及立约方，在这之前需要签订合同。如没有这样的合同，无论在产品还是公司广告中使用，都是禁止的。
 - 6.4 The Client is not permitted to amend, edit or use the Expert Opinion in any extract form. Any disclosure of investigation reports or expert opinions to official authorities or other public offices is permissible if and to the extent that this is necessary or prescribed under statute in the light of the contractually assumed use or to the extent required by law.
 - 6.4 客户不允许修改，编辑或以任何形式摘取专家鉴定意见。一些向官方调查机构或其他公共机构的披露报告是允许的，如果在某种程度上是必要、合法的。
 7. **PAYMENT – DELAYED PAYMENT**
 - 7.1 **付款-延迟付款**
 - 7.1 Clients transfer 100% of contract amount as advance payment to contractor after signed contract. If there is re-test, it will cause additional cost. Contractor issues the clients formal invoice after receiving payment. Contractor may elect to require the fee agreed upon to be due and payable prior to commencing the assignment.
 - 7.1 客户在签订合同后需支付给立约方合同金额的百分之百作为预付款。如果需要重新测试，会产生额外费用。立约方在收到付款后会开出正规发票给客户。立约方可能在合同开始进行委派任务时要求付款。
 - 7.2 Payment instructions, checks and bills of exchange are only accepted following special agreement and charging all collection and discount fees and only as payment.
 - 7.2 支付指令、支票和汇票只是接受了特殊的协议后，收取所有收集和折扣费用，仅仅作为付款。
 - 7.3 In the event of failure to observe payment terms the Contractor shall be entitled to enforce claims due for payment with immediate effect. This also applies in the event that bills of exchange and checks that are not honored.
 - 7.3 如不遵守付款条件，立约方应有权利要求其付款。这也适用于使用未承兑的汇票和支票进行付款的情况。
 - 7.4 The Client may only offset against Contractor claims only if the Client's counterclaim is undisputed. In the event that Contractor shall bring suit to collect any sum owed by Client, Client shall be obligated to reimburse Contractor for all costs of such suit including Contractor's reasonable attorneys' fees.
 - 7.4 客户仅能在这种情况下反对立约方的索赔，如果客户的反诉是无可争议的。如果立约方能收集到客户正确的所欠金额，客户应有义务支付给立约方所有诉讼费用，包括立约方律师的费用。
 7. **CANCELLATION**
 - 7.1 **取消**
 - 8.1 Client and Contractor may cancel the contract at any time based on significant grounds. Notice of termination must be cleared in written.
 - 8.1 客户和立约方可以因为重要原因随时取消这份合约。合同终止通知书应以书面批准。
 - 8.2 Significant grounds which entitle the Client to cancel are, amongst other things, any infringement of the obligations to provide an objective, independent and impartial Expert Opinion.
 - 8.2 因为重要的理由，使客户取消合约，在其他事情上，义务的任何侵权行为为提供客观、独立、公正的专家鉴定意见。
 - 8.3 Significant grounds which entitle the Contractor to cancel are, amongst other things, refusal of necessary collaboration by the Client (in particular as defined in Point 4.2) attempted impermissible influence on the part of the Client on the specialists commissioned with preparation of the Expert Opinion, use of Expert Opinion findings and partial results over and above the contractually defined purpose of Expert Opinion preparation, impermissible reproduction of expert opinions and if, following acceptance of the assignment, the Contractor discovers that he does not possess the necessary expertise to complete the assignment.
 - 8.3 显著的原因使客户取消合约，除其他事项外，被客户拒绝的必要的协作（特别是在4.2中定义的）尝试不许可的影响的客户委托的专家准备的专家鉴定意见，使用专家鉴定意见调查结果和部分结果超过专家鉴定意见的合约，接受任务后，立约方发现他并不拥有必要的专业知识完成任务。
 - 8.4 In other respects cancellation of the contract is prohibited.
 - 8.4 在其他方面取消合约是禁止的。
 - 8.5 If the contract is cancelled on significant grounds for which the Contractor is responsible he shall be due any fee for partial services provided up to the point of cancellation only to the extent that this is objectively of use to the Client.
 - 8.5 如果合约被取消是因为立约方应负责的部分服务取消了，这仅仅只是客观的针对客户的使用需求。

- 8.6 In all other cases the Contractor retains claim to the full contractually agreed remuneration - subject however to deduction of expenses saved. If in any individual case the Client can demonstrate no higher proportion of expenses saved, this is agreed to be 40% of the remuneration for services not yet provided by the Contractor.
- 8.6 在所有其他情况下, 立约方充分保留索赔合同约定的报酬——然而扣除的费用节省。如果在任何情况下, 客户可以证明没有更高比例的费用节省, 这是同意40%的报酬是给立约方还未提供的服务。

8. FAILURE TO MEET DEADLINES 未能履行期限

- 9.1 Any deadline set by the Client for delivery of the Expert Opinion shall only be applicable if such deadline is expressly confirmed by the Contractor in writing.
- 9.1 任何由客户制定的最后期限应仅在这种情况下是适用的, 比如最后期限是由立约方书面明确规定的。
- 9.2 If a deadline is agreed between Client and Contractor for delivery of the Expert Opinion time frame agreed upon shall only commence upon conclusion of the contract or receipt of the samples on a laboratory working day. If the Contractor requires documentation from the Client for preparation of the Expert Opinion or if payment of an advance is agreed the period allowed for the deadline only commences following receipt of the documentation or the advance.
- 9.2 如果客户和立约方在提交专家鉴定意见的最后期限上达成一致, 才开始签订合同或在工作日接收样品。如果立约方需要客户为了专家鉴定意见而准备的文件, 或如果提前付款的期限只能在收到文档或之前。
- 9.3 The Contractor will not be responsible for any delay in delivering the final Expert Opinion due to partial/ full failure in test result and the consequent time taken for receiving the re-test samples and performing the re-tests.
- 9.3 立约方将不对任何延迟交付最终的专家鉴定意见负责, 如果是由于部分/全部失败的测试结果和之后收到重新测试样品的和执行所耽误时间。
- 9.4 The Contractor shall only be deemed to be in arrears if he is actually responsible for the delay in delivering the Expert Opinion. In the event of obstacles to delivery for which he is not responsible, including, but not limited to, force majeure, illness, industrial disputes and lockouts resulting from an event involving no blame and leading to grave operational disruptions delayed delivery shall not apply. The period for delivery shall be extended in such cases by the duration of the hindrance. If as a result of such obstacles to delivery provision of the Expert Opinion is totally impossible for the Contractor he shall be released from his contractual obligations. In this event also the Client shall have no claim to damages from Contractor.
- 9.4 立约方应仅被视为拖欠, 如果他实际上是负责传递延时的专家鉴定意见。如果交付的障碍, 包括但不限于不可抗力、疾病、劳资纠纷, 造成停工事件涉及没有责备, 导致严重的操作中断延迟交货, 立约方不负责。交付期限在这种情况下应延长。如果由于这种障碍交付专家鉴定意见是不可能完全由立约方负责的。这种情况下客户没有权利向立约方索取损失。
- 9.5 In addition to delivery the Client may only demand damages if intent or gross negligence is demonstrated on the part of the Contractor.
- 9.5 除了交付, 客户只能对是故意或者有重大过失的立约方要求赔偿。

9. GUARANTEE 保证

- 10.1 Initially, the Client may only demand a cost-free rectification of a deficient Expert Opinion.
- 10.1 首先, 客户只能对有缺陷的专家鉴定意见进行免费修改。
- 10.2 This requires that a grace period of appropriate duration be set, but such period shall not be less than the duration of the term for delivery originally agreed upon.
- 10.2 这需要适当宽限期, 但这样的时间不得少于本条款最初交付约定的时间。
- 10.3 Notification of any alleged defects must be provided to the Contractor immediately and in writing; otherwise the guarantee claim shall lapse.
- 10.3 任何的不合格样品的通知必须立即书面提供给立约方, 否则担保索赔失效。
- 10.4 Claims as a result of supplying a deficient Expert Opinion are time-barred after one (1) year. The statute of limitations period commences at the point of receipt of the Expert Opinion by the Client.
- 10.4 对提供不充分的专家鉴定意见的索赔时效为一(1)年。诉讼时效期以时候收到客户的专家鉴定意见为开始。

11. LIABILITY

责任

- 11.1 Expert opinions are prepared on the basis of information, documentation, quality requirements and/or samples provided by the Client and are for the exclusive use of the Client. The latter shall draw necessary conclusions from the Expert Opinion at his sole risk. Neither the Contractor nor his senior staff, employees or subcontractors are responsible to the Client or third parties for any manner for any actions taken or omission made on the basis of such Expert Opinions, including faulty tests based on imprecise, false, incomplete or misleading information provided by the Client.
- 11.1 专家鉴定意见是在根据信息, 文档, 质量要求和/或客户提供的样品的基础上, 并且为客户独家使用的。后者将从专家鉴定意见中得到他需要承担的风险。既不是立约方也不是他的高级员工, 雇员或者分包商负责对客户或任何第三方以任何方式任何行动或在遗漏了这些专家鉴定意见的基础上, 包括基于不精确的故障测试、客户提供的虚假、不完整或误导性信息。
- 11.2 Advice by the Contractor is only given in relation to the documents and information submitted by the Client.
- 11.2 立约方的建议只是关于客户提交的文件和信息。
- 11.3 The Contractor is not liable for delayed, partial or incomplete services if this derives directly or indirectly from events beyond the control of the Contractor.
- 11.3 立约方不承担延迟的责任, 如果这部分或完整服务直接或间接来源于超出立约方控制范围的事件。
- 11.4 The damages exclusion includes, to the extent legally permissible, all claims of whatever nature by the Client against the Contractor, his employees, representatives, vicarious agents and assistants arising from the expert opinion contract or implementation thereof.
- 11.4 拒绝损失的赔偿情况包括, 法律允许, 所有对立约方任何性质的客户, 他的员工、代表、替代代理和助理的专家鉴定意见的合同或关于它的实施的索赔。
- 11.5 The Contractor shall not be liable, insofar as legally permissible, for indirect or consequential losses, in particular not for lost profit, loss of business, loss of a business opportunity, reduction in company goodwill including costs in connection with any product recall. Furthermore the Contractor shall not be liable, insofar as legally permissible, for any losses, damages or costs which the Client might incur as a consequence of any third party claim (in particular in the event of enforcement of product liability claims).
- 11.5 立约方应不承担责任的情况, 只要法律允许, 对间接或间接损失, 特别是不失去利润, 业务损失, 损失的商业机会, 降低公司商誉包括成本与产品召回。此外立约方不得承担责任, 只要法律允许的, 对于客户的任何损失, 损害或费用, 可能招致任何第三方索赔的结果(尤其是在执行产品责任索赔的事件)。
- 11.6 In the event of any liability on the part of the Contractor liability to the Client for claims as a result of losses, penalties or expenses of whatever nature and magnitude irrespective of the grounds on which incurred shall under no circumstances exceed a total amount in the sum of the fee which the Contractor has received for the specific services giving rise to the claim.
- 11.6 如果在发生任何责任的立约方对客户造成损失进行赔偿, 处罚或任何性质的费用, 无论产生的理由应当在任何情况下超过立约方总量的费用的总和已收到特定的服务引起的索赔。
- 11.7 All claims in connection with the specific inspection/production site assessment service - with the exception of any such claims resulting from injury to life, physical injury, injury to health and/or in the event of grossly negligent or intention cause of damage - are limited to the fee for five (5) man days.

- 11.7 所有与特定检验/生产站点评估服务有关的索赔——除了任何此类索赔造成损伤, 人身伤害, 伤害健康和/或疏忽或者意图的损坏原因——不超过5个工作日费用。
- 11.8 In the event of damage claims the Client must notify this to the Contractor in writing within 10 days from the point in time of discovery of the circumstances giving rise to the claim. In any event damage claims arising from infringement of obligations on the part of the Contractor are time-barred after 12 months dating from receipt of the expert opinion by the Client.
- 11.8 如果有损失索赔事件的客户必须在10天内书面通知立约方发现引起索赔的情况。在任何情况下所引发的损害索赔违反义务的立约方从接收到客户的专家鉴定意见起12个月失效。

12. PLACE OF PERFORMANCE AND LEGAL VENUE 履行地点和合法场所

- 12.1 Place of performance is the registered place of business of the Contractor.
- 12.1 履行义务的地点是立约方商业注册的地点。
- 12.2 These General Terms and Conditions of Business shall be governed by and construed in accordance with Chinese law. Like any breach, one party shall bear the losses to the other party and the cost of the creditor's rights.
- 12.2 以上通用商业条款和条件应当依照中国法律制定并解释。如有任何违反, 一方应当承担另一方的损失和债权。
- 12.3 Invalidity of individual contract provisions does not affect the validity of the remaining content of the contract.
- 12.3 无效的合同条款规定并不影响合同剩余内容的有效性。

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