



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

UPICC MOOT

2025

THE PROBLEM



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The Moot Problem

The Facts

1. East Star Paving Ltd. ("East Star") is incorporated and has its chief operating office in the country of Orientenus. East Star is the smaller of the two major paving contractors in the country of Orientenus, the larger of the two being Orientenus Bitumuls Petroleum Products ("O.B."). East Star and O.B. had previously bought all their asphalt from Terran Petroleum Company ("Terran").
2. Super Nova Petroleum Corporation ("Super Nova") is incorporated and has its principal business office in the country of Splendentius. Super Nova is one of the two suppliers of asphalt in the country of Orientenus, with the other supplier being Terran. Super Nova had a small market percentage and no asphalt terminals in Orientenus. Super Nova owned a refinery in Aurora, in Country of Marnia, for producing asphalt, which was then shipped to a storage terminal at the port of Orientenus.
3. East Star first entered the paving business in Orientenus in 2001, but it only began to move into the largest Orientenus market, Orient City in 2006. Until then East Star only procured small paving jobs, such as service stations, driveways, and small subdivision streets. It was not able to compete with O.B. for government contracts for major roads, airports, and other large jobs.
4. In 2006, East Star considered expanding its paving business in Orientenus, and wanted its own asphalt supply so as not to be dependent on Terran, whose long-time chief customer was O.B., the major competitor of East Star. Around the same time, East Star began to negotiate a mutually advantageous arrangement with Super Nova, under which a guaranteed supply of the asphalt from Super Nova would be formed. To Super Nova, the East Star's growth in the paving business would expand the market for Super Nova's asphalt in Orientenus.
5. Under the arrangement, East Star and Super Nova signed two long term supply contracts for asphalt. The first ran from 2006 - 2015, and the second one from 2016 until the present [E-1], with no termination date. Under the two contracts, the asphalt would be brought in tankers from Super Nova's refinery in the Aurora and stored in a terminal that Super Nova built in Orientenus specifically for the imported asphalt to accommodate its contracts with East Star. Under the two contracts, East Star has bought all its asphalt requirements between 2006 and 2024 from Super Nova. The two contracts included an identical price term.
6. The price term provides for a posted price which reflects the listed price on the London Mercantile Exchange ("LME"). However, it is undisputed that there is a high possibility for a discrepancy between the posted price at the time of the orders and the time when the asphalt is delivered to the port, given the unpredictable sea condition for shipment and the threat of international embargoes on oil products.
7. After the second contract was signed between East Star and Super Nova, the corporate president of Super Nova stated in an internal company email [E-2] that Super Nova's agreement with East Star in the second contract included a commitment by Super Nova never to charge East Star more than Terran charged O.B., in order to carry out the underlying purpose of the agreement to make East Star competitive with O.B. and thus expanding East Star's and Super Nova's respective businesses in Orientenus. The executive of Super Nova also stated in the email that its strategic partnership with East Star Paving will fully support East Star's government project bids [E-3].
8. The dispute at hand involves the price of the asphalt ordered by East Star in 2024 from Super Nova.
9. On February 14, 2024, East Star ordered 7,200 tons of asphalt from Super Nova [E-7] to fulfil paving contracts that East Star has made with third parties general contractors and governmental agencies. The

bidding documents [E-8] incorporated a favourable price offer that East Star has made for paving jobs for general contractors and government agencies and those bids were accepted. The final third-party contracts contained a price term for the asphalt, which reflects the current posted price at the time of order and at the port of Orientenus. The LME posted price for the asphalt was RMB 3100 per ton at the time of the order.

10. On February 19, 2024, the carrier engaged by Super Nova sent the Shipment Confirmation [E-9] to East Star, which placed East Star under expectation that the cargo would arrive at a reasonable time.

11. East Star expressed their concern of price fluctuation as the international market for asphalt futures is becoming unpredictable since the banning policy from Country of Marnia on March 15, 2024 [E-10][E-11].

12. The shipment arrived at the port of Orientenus on April 1, 2024. On that day of arrival, the LME price for asphalt jumped to RMB 5000 per ton[E-12].

13. After the arrival of the shipment of the 7,200 tons of asphalt on April 1, 2024, the president of East Star saw the posted price and immediately contacted Super Nova for price protection and confirmation on details in the invoice [E-13].

14. Both parties agree that the difference in price is an unusually high amount. Both parties also agree on meaning of the term "price protection". In general, the term price protection sets the price of goods at a posted price at the time the order is made, but not at a posted price at the time the goods are actually delivered to the destination if the posted price rises during the time the contract is concluded and the time the goods are delivered to the destination. However, they are unable to reach an agreement on the existence of an agreement for price protection in the second contract. The president of East Star cited the relevant facts and made assertions to support its request for price protection [para.15-19].

15. Terran and O.B. had a similar express price term in their respective contract [E-4]. Reliable sources of records indicate that when the market price changed after O.B. had entered paving contracts with third parties to do paving work, Terran price protected its shipments to O.B. More importantly, Super Nova made commitment that it would never charge East Star more than Terran charged O.B. However, the relevant records do not show how long this practice occurred between Terran and O.B and whether price protection was applied to all the shipments between these two parties.

16. The facts also show that during the time of the first contract between East Star and Super Nova, the aggregate¹ supplier routinely provided price protection to East Star [E-5]. The relevant records do not show whether the aggregate suppliers continued to price protect during the time of the second contract.

17. East Star claim that the price protection was reinforced by the way in which Super Nova performed the 2016 contract prior to 2024, when Super Nova did "price protect" East Star for two shipments delivered under the 2016 contract, in 2017 and 2021 respectively [E-6]. Therefore, the price protection was a trade usage and thus it should be assumed that, under the UNIDROIT Principles, the parties intended to incorporate price protection into their 2016 contract, even though the written contract explicitly provided for price to be "Super Nova's Posted Price at time of delivery," DPU, port of Orientenus.

18. Additionally, East Star deemed that the trade usage in that was incorporated into the contract is reinforced by evidence of the commercial context, which under the UNIDROIT Principles should form the background for viewing a particular contract. The full agreement between the parties must be examined considering the close,

¹ Aggregate and asphalt are two necessary components for paving. East Star includes both suppliers in its definition for the paving trade. However, the contract between East Star and Super Nova was for the supply of asphalt only.

almost symbiotic relations between Super Nova and East Star in Orientenus, where the expansion of Super Nova in Orientenus was intimately connected to the business growth of East Star.

19. East Star asserts that, the conduct of East Star and Super Nova in the performance of the contract also indicates that the parties understood that “price protection” was understood as a term of the contract. Even if price protection was not incorporated into the 2016 contract, price protection was the commercially reasonable standard for fair dealing in the entire asphaltic paving trade in Orientenus in 2024. Observance of those standards is part of the good-faith requirement that the UPICC impose on parties in the performance of a contract.

20. The request for price protection made by the president of East Star was transmitted to the head office of Super Nova in Splendentius. On April 2, 2024, the head office of Super Nova denied this request [E-14]. In its response, Super Nova presents several arguments in favour of upholding its express price term. [para.21-27].

21. Super Nova objects East Star’s claim that the trade usage should apply to the suppliers of all the components to the paving industry for purposes of trade usage assertion. Specifically, Super Nova objects to East Star’s claim that the trade includes the suppliers of aggregate. Asphalt, Super Nova argues, is the subject matter of the disputed contract and the only product East Star supplied to the third parties over the asphaltic paving trade. Super Nova protests that East Star’s assertion that all suppliers in the asphaltic paving trade including the suppliers of aggregate should be included, expands the definition of trade to include the other major suppliers to the asphaltic paving trade, and misinterprets a reasonable understanding of the contract between Super Nova and East Star.

22. Super Nova specifically objected and pointed out that the two prior occasions on which Super Nova price protected East Star only constituted an accommodation for East Star to help develop Super Nova’s business in Orientenus and they should not be construed as to support an understanding of the actual terms of contract or be construed as significant conduct for assumption of contractual term.

23. Super Nova claimed that East Star mistakenly made assumption for price protection, as such an agreement was never articulated between the parties and therefore should not be considered as part of the agreement between East Star and Super Nova in the second contract.

24. Super Nova asserts most strongly that even assuming its prior price protection constituted a course of performance and that the broad trade definition of trade usage was correct, price protection could not be construed as reasonably consistent with the express price term in the contract, in which case the express term of the contract should prevail.

25. Super Nova’s representative also posited that in each instance when Super Nova did price protect, permission had to be sought beforehand from the main international corporate office outside Orientenus. The requirement for permission indicate that price protection was not automatically offered to East Star upon the request from East Star. Therefore, price protection was never a default practice between East Star and Super Nova.

26. Super Nova asserts further that East Star never asked for price protection to be included in the express terms of the 2016 contract.

27. The international market for oil products experienced violent turbulence due to the impacts of international embargoes of oil products under which the trade of oil products with Orientenus was materially affected. These events gave rise to the defence of hardship which Super Nova is entitled to claim.

28. On April 3, 2024, East Star sent a protest email [E-15] over Super Nova’s refusal, citing projected losses.

29. On April 5, 2024, East Star sent a revised settlement proposal [E-16] to Super Nova, in which it reaffirmed its position on the posted price and expressed its intent to mediate the price difference.
30. On April 8, 2024, Super Nova sent its Non-Committal Response [E-17] to East Star, in which Super Nova insisted that the express term in the contract should prevail and be performed by East Star, and the possibility for mediation is not excluded depending on the offer from East Star.
31. On April 9, 2024, East Star sent its Final Negotiation Attempt [E-18] to Super Nova, with no material change to its former position regarding the applicable price for the 7,200 tons of asphalt.
32. On April 10, 2024, Super Nova replied its Final Position [E-19] to East Star, with no change to its former position.
33. On April 12, 2024, East Star sent its Final Negotiation Attempt [E-20] to Super Nova, in which East Star unmistakably informed Super Nova that East Star has closed the window for mediation because of the impassiveness from Super Nova and that East Star would proceed to the arbitration against Super Nova by reference to the dispute resolution clause in the disputed contract. Super Nova sent no further responses.

The Arbitration

34. On October 28, 2024, East Star files a Request of Arbitration to SHIAC listing Super Nova as the Respondent.

35. On November 5, 2024, SHIAC accepted East Star's request and sent Notice of Acceptance [E-21] and Notice of Arbitration [E-22] respectively to East Star and Super Nova.

36. On December 24, 2024, Super Nova files Statement of Defence. Super Nova also requests the arbitral tribunal to strike out the claims brought by East Star through an early determination before considering holding any substantive hearing.

37. On March 28, 2025, SHIAC sent the Notice of the Constitution of the Arbitral Tribunal [E- 23], in which it stated that the arbitral tribunal was constituted by three arbitrators, pertaining to the dispute resolution clause in the disputed co-arbitrator. The Respondent appointed Mr. Y as co-arbitrator. The two co-arbitrators jointly Mr. X as presiding arbitrator.

38. On March 31, 2025, East Star raised its challenge to the presiding arbitrator Mr. X for his lack of impartiality [E-24], as East Star accidentally found that Mr. X was a fan of astronomy and quite recently, he repeatedly posted news on the social media platform X (formerly Twitter) about Super Nova and commented Super Nova as his favourable player in the market of oil products for its appealing company name [E-25].

39. The presiding arbitrator Mr. X disregarded the challenge from East Star as he considered the challenge to be frivolous and over stated. On April 23, 2025, the arbitral tribunal issued its Procedural Order No.1 [E-26].

The Issues:

- I. Can East Star proceed to arbitration absent a prior mediation pursuant to the terms of the agreement between East Star and Super Nova; if so, should the arbitral tribunal grant Super Nova's request for early dismissal on the claims of East Star.
- II. Has the challenge to Mr. X over his lack of impartiality been timely made and should the challenge be upheld; if not, is there any other remedies available to East Star apart from the attempted removal of an arbitrator following a successful challenge.
- III. Is "price protection" a term in the parties' agreement pursuant to: (a) trade usage, (b) party conduct, or, (c) the doctrine of good faith and fair dealing.
- IV. Should the arbitral tribunal consider the reference of hardship by Super Nova, if so, in which way the assertion of hardship will be supportive to the case made by Super Nova.

The Exhibits

1. 2016 Contract

Excerpt

LONG TERM SUPPLY CONTRACT (2016)

For Long-Term Supply of Asphalt Between East Star Paving and Super Nova

Whereas, *East Star Paving Ltd.* is a paving contractor incorporated and operating in the country of **Orientenus**, with its chief executive office located in Orientent City;

Whereas, Super Nova Petroleum Corporation is an asphalt supplier incorporated in the country of **Splendentius**, operating a refinery in **Aurora, Country of Marnia** and a terminal facility at the **port of Orientenus** for delivery of asphalt;

Whereas, based on the close, almost symbiotic relations between the two parties, the Parties wish to establish a contract to regulate the long-term supply of asphalt by Super Nova to East Star, with the mutual aim of expanding East Star's competitive position in Orientenus and enabling Super Nova's market growth.

Article 1: PARTIES and SUBJECT MATTER

Seller:

Super Nova Petroleum Corporation
Splendentius
("SELLER")

Buyer:

East Star Paving Ltd.
Orientenus ("BUYER")
Collectively referred to as the "Parties".

Article 2: SELLER'S OBLIGATIONS

The SELLER undertakes to:

- a. Supply asphalt products ordered by the BUYER in accordance with agreed delivery schedules;
- b. Maintain operational asphalt terminals in Orientenus to support contract performance.

Article 3: BUYER'S OBLIGATIONS

The BUYER agrees:

- a. To place asphalt orders consistent with infrastructure project demands in Orientenus;
- b. To accept deliveries at the port of Orientenus and make payment as per Article 4;
- c. To provide timely written confirmation of all purchase orders.

Article 4: PRICE

The BUYER will pay the SELLER "the Posted Price at time of delivery," DPU (INCOTERMS 2000), port of Orientenus. SELLER's posted price will reflect the listed price on the London Mercantile Exchange for that day or in the case the market is closed on that day, the previous trading day.²

Article 5: PAYMENTS

Not provided.

Article 6: FORCE MAJEURE AND RISK ALLOCATION

Not provided.

Article 7: AMENDMENTS

No amendment shall be valid unless in writing and signed by both Parties.

Article 8: DISPUTE RESOLUTION

- a. The parties will in good faith attempt to mediate any dispute arising out of the contract prior to commencing an arbitration proceeding.
- b. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center, "SHIAC") in accordance with the SHIAC Arbitration Rules effective at the time of commencement of arbitration, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Shanghai, P.R.C. The Arbitration Tribunal shall consist of three arbitrators; each party choosing one arbitrator and these two co-arbitrators shall choose a third arbitrator who shall be the presiding arbitrator of the Tribunal. The language of the arbitration shall be English.

² Because the price for each individual order of asphalt under this long-term contract will vary depending on the market price at the time that order is made, the express price term in the contract does not set a single fixed price per ton for all the orders under the contract. Neither party has questioned the validity of this express price term. The tribunal finds that it fully satisfies the requirements of UPICC article 5.1.7 and therefore does not raise an issue in this dispute. This is the only express price term in the contract.

- c. Any dispute arising out of this contract shall be decided in accordance with the UNIDROIT Principles of International Commercial Contracts (2016) and to the extent not governed by the UNIDROIT Principles of International Commercial Contracts, by the general rules of *lex mercatoria*.

This Agreement shall remain in effect from 1 January 2016 with no fixed termination date.

Signed in two originals on 1 January 2016

Signed

For Super Nova Petroleum Corporation

(President and Chief Executive Officer)

Signed

For East Star Paving Ltd.

(Chief Operating Officer)

2. Internal Email with a Statement Made by the President of Super Nova

Date: November 12, 2019

From: david.mcbride@supernovaoil.spl

To: michael.chang@supernovaoil.spl; internal.executives@supernovaoil.spl

Subject: East Star Supply Arrangement – Strategic Terms Reminder

CONFIDENTIAL – INTERNAL USE ONLY

Dear Team,

Following our internal discussions last week regarding our long-term supply relationship with East Star Paving Company, I want to reiterate a key term that underpins our current arrangement under the 2016 contract.

As part of our strategic commitment to the Orientenus market, we agreed — internally and in execution — that Super Nova would not charge East Star more per ton of asphalt than Terran charges O.B., their main competitor. This principle was essential to help East Star remain competitive in public infrastructure tenders, which in turn would expand our sales volume and market share in Orientenus.

Our operational team should ensure pricing policies reflect this understanding. Any deviation would undermine both the spirit and the purpose of our partnership with East Star, which has proven mutually beneficial over the past decade.

Let's remain consistent in honouring this pricing commitment.

Best regards,

David McBride

President & CEO

Super Nova Petroleum Corporation

Splendentius HQ

3. Executive Email on Strategic Partnership Support

Date: January 10, 2020

From: michael.chang@supernovaoil.spl

To: sarah.kim@eaststarpaving.or

CC: david.mcbride@supernovaoil.spl

Subject: Re: Orientenus Government Project Bids – Coordination

Dear Sarah,

Thank you for your update on East Star’s bid submissions for the 2020 government roadworks initiative.

As confirmed in our recent calls, our strategic partnership with East Star Paving will fully support your government project bids. We are prepared to ensure a reliable and competitively priced asphalt supply aligned with project timelines and budget expectations.

As always, please don’t hesitate to reach out to us with your estimated volume needs per quarter once the bid awards are finalized. We understand how essential predictability is when competing with O.B. in this tightly contested space.

Wishing you success in the upcoming tenders — we look forward to being part of another strong year together.

Warm regards,

Michael Chang

Executive Vice President, Sales – East Asia

Super Nova Petroleum Corporation

4. Terran's Price Protection Email to O.B.

Date: August 14, 2018

From: supply.contracts@terranpetroleum.or

To: procurement@obinfra.or

Subject: Price Protection – Project Zeta (Contract No. OB-ZETA-01318)

Dear Ms. Huang,

This is to confirm that Terran Petroleum will honour the price protection provision under Section ** of our Asphalt Supply Agreement dated May 5, 2016, for the materials ordered under Project Zeta.

Accordingly, we will apply the posted price of RMB 2,710 per ton, effective as of the contract award date (August 5, 2018), to the full volume of 5,400 tons scheduled for delivery between September and October 2018. The current posted price (RMB 2,880/ton) shall not apply.

Please find the adjusted invoice enclosed reflecting the protected price.

Let us know if any further clarification is needed.

Best regards,

Derek Willis

Senior Manager – Commercial Operations Terran
Petroleum Company

5. Routine Price Protection Between East Star and Aggregate Suppliers (2005–2015)

Document Type: Summary Memo from East Star Archives

Date: Compiled July 2024

Author: Procurement Department, East Star Paving Ltd.

Subject: Record of Historical Price Protection – Aggregate Suppliers (2006–2015)

This memo summarises routine price protection on aggregate practices applied by East Star Paving Ltd. during the first long-term supply contract (2006–2015)

| Date of Shipment | Order Quantity (T) | Order Price (RMB/T) | Delivery Price (RMB/T) | Price Protected | Notes |
|-------------------------|---------------------------|-----------------------------|--------------------------------|------------------------|------------------------------|
| May 2008 | 3,200 | 1,850 | 1,970 | Yes | Email confirmation received |
| October 2010 | 4,500 | 2,090 | 2,300 | Yes | Email confirmation received |
| July 2012 | 2,900 | 2,400 | 2,650 | Yes | Protected upon request |
| January 2015 | 3,700 | 2,730 | 2,900 | Yes | No dispute, invoiced @ 2,730 |

6. Email Notifications for Price Protection Executions (2017 and 2021)**Email 1: 2017 Price Protection Confirmation**

Date: July 21, 2017

From: logistics.support@supernovaoil.spl

To: ken.li@eaststarpaving.or

Subject: Price Adjustment Confirmation – Shipment REF# SN20170714

Dear Mr. Li,

Further to your request dated July 18, 2017, this is to confirm that Super Nova will apply price protection for the 3,500-ton shipment of asphalt ordered on June 30, 2017 (REF No. SN*****).

The applicable price will remain at RMB 2,950 per ton, notwithstanding the posted price increase to RMB 3,120 as of July 17.

Our Finance Department will issue a revised invoice accordingly.

Regards,

Dina Vasquez

Account Coordinator

Super Nova Petroleum Corporation

Email 2: 2021 Price Protection Confirmation

Date: October 6, 2021

From: east-asia.sales@supernovaoil.spl

To: procurement@eaststarpaving.or

Subject: Approval of Price Protection – Delivery No. 2021-EN308

Dear East Star Team,

We confirm that price protection for this shipment has been approved by head office for Delivery No. 2021-EN*** (ordered August 23, 2021). The originally quoted price of RMB 3,620 per ton will apply, despite the LME adjustment to RMB 3,880 as of October 1, 2021.

Please consider this final for invoicing purposes. We appreciate your ongoing partnership.

Sincerely,

Marcus Tan

Regional Sales Manager – Orientenus

Super Nova Petroleum Corporation

7. Email regarding Purchase Order: East Star’s Order for 7,200 Tons of Asphalt from Super Nova

Date: February 14, 2024

From: ken.li@eaststarpaving.or

To: sales@supernovaoil.spl

Subject: Purchase Order – 7,200 T Asphalt (Urgent Fulfilment Required)

Attachment: (PO-ES240214.pdf):

Dear Super Nova Sales Team,

Please find attached our formal purchase order for **7,200 tons** of road-grade asphalt, as per our long-term supply agreement.

This order is placed to meet contractual obligations with both public and private sector clients, with project performance timelines commencing in early April. The pricing reference for this order is the **posted price at Port of Orientenus on February 14, 2024**, listed as **RMB 3,100/T**. Kindly confirm logistics scheduling and shipping arrangements at your earliest convenience.

We appreciate your continued support.

Best regards,

Ken Li

Procurement Manager

East Star Paving Ltd.

Attachment (PO-ES240214.pdf):

PURCHASE ORDER

Buyer: East Star Paving Ltd.

Seller: Super Nova Petroleum Corporation

PO Number: PO-ES240214 Order Date: February 14, 2024

Product: Refined Asphalt – Road Grade

Quantity: 7,200 Tons

Delivery Term: DPU Port of Orientenus (INCOTERMS 2000)

Price: RMB 3, 100/T (as posted 14 Feb 2024)

Delivery Window: March 25 – April 1, 2024

Payment Terms: Net 30

Remarks: Urgent order linked to government contracts (see Ref. BID-ES2401)

8. Bidding Documents – East Star Paving Contracts for Public and Private Works

BID PROPOSAL

TO: Ministry of Public Works of Government of Orientenus

Project Title: CENTRAL AVENUE PAVEMENT RENOVATION PROJECT

Bid Reference No.: GOV-07-2024-XX

Date: January 1, 2024

Dear Sir/Madam,

In response to the Invitation to Bid issued by your esteemed organisation for the **Central Avenue Pavement Renovation Project**, and in accordance with the relevant laws and regulations, we hereby submit our formal bid.

After conducting a thorough site inspection and carefully reviewing the bid documents, we are pleased to offer a total contract price of **RMB 27,845,000** for the complete scope of work, including fabrication, installation, construction, completion, and warranty.

COST BREAKDOWN:

| Item | Total |
|---|-----------------------|
| Concrete Works | RMB 5,525,000 |
| Asphalt Purchase (Estimated asphalt required: 7,200 T) | RMB 22,320,000 |
| Total | RMB 27,845,000 |

This proposal reflects a thoroughly calculated cost estimate and represents a competitive and preferential offer based on our company's actual operating conditions. **Should any omissions or underestimations be found within our bid, we acknowledge and accept that they shall be deemed as our voluntary price concessions. We accept full responsibility for all associated risks.**

We also fully understand that the bid price must not fall below the legally mandated minimum pricing requirements.

Should we be awarded the contract, we commit to commencing work in accordance with the start date specified in the official Notice to Proceed, and to completing the project within the stipulated timeframe. We further guarantee that the construction quality will meet or exceed the standards outlined in our submitted bid documents.

Unless otherwise agreed upon in a separate and duly executed agreement, the Invitation to Bid Our Bid Proposal and any attachments, and The Notice of Award shall collectively constitute a binding contract between our two parties.

We thank you for the opportunity to participate in this project and look forward to the possibility of working together.

Sincerely,

East Star Paving Ltd.

(SEAL)

NOTICE OF AWARD
For
CENTRAL AVENUE
PAVEMENT RENOVATION PROJECT
Bid #: GOV-07-2024-XX

ISSUED BY:

MINISTRY OF PUBLIC WORKS
OF
GOVERNMENT OF ORIENTENUS

January 12, 2024

To: **East Star Paving Ltd.**

Ministry of Public Works of Government of Orientenus is pleased to formally notify you that your company has been selected as the successful bidder for the Central Avenue Pavement Renovation Project, pursuant to your submitted bid in the amount of **RMB 27,845,000.**

Your proposal has been evaluated in accordance with government procurement guidelines and was deemed the most responsive submission for the scope of work described below:

- Complete Removal and replacement of asphalt pavement along **5.2 km of Central Avenue.**
- Estimated asphalt require: **7,200 tons.**
- Completion Period: 6 months from the official date of commencement.

THIS NOTICE OF BIDDING AWARDS, UPON SIGNING BY BOTH PARTIES, SHALL FORM PART OF THE BINDING CONTRACT TOGETHER WITH YOUR BID DOCUMENTS, AND SHALL BE LEGALLY ENFORCEABLE AGAINST BOTH PARTIES.

Sincerely,

Ministry of Public Works of Government of Orientenus

(Office Seal)

Acknowledgement and Acceptance

For East Star Paving Ltd.

(Official Seal)

9. Email regarding Shipment Confirmation – 7,200 T Asphalt

Date: February 19, 2024

From: logistics@supernovaoil.spl

To: ken.li@eaststarpaving.or

Subject: Shipment Confirmation – PO-ES240214

Dear Mr. Li,

We acknowledge receipt of your purchase order PO-ES240214 dated February 14, 2024, for **7,200 tons** of asphalt. This shipment has been scheduled as follows:

- . **Loading Port:** Aurora Refinery Terminal
- . **Estimated Departure:** March 10–13, 2024
- . **Carrier:** Mercurio Lines, MV Solara
- . **Estimated Arrival at Port of Orientenus:** March 30 – April 1, 2024
- . **Incoterm:** DPU Port of Orientenus (INCOTERMS 2000)
- . **Unit Price:** Per contract – RMB 3,100/T (as posted 14 Feb 2024)

We will follow up prior to the vessel's docking.

Thank you for your continued trust in Super Nova.

Best regards,

Sophie Chen

Senior Logistics Coordinator Super Nova Petroleum Corporation

10. HEADLINE: The Country of Marnia Imposes Total Oil Export Ban Amid Rising Global Tensions

HEADLINE:

The Country of Marnia Imposes Total Oil Export Ban Amid Rising Global Tensions

By Priya Varma, AP International Business Writer (Date: March 15, 2024)

Country of Marnia – March 15, 2024 — The Country of Marnia Ministry of Energy announced an immediate halt to all petroleum exports late Thursday, a move expected to disrupt global construction projects and trigger widespread commodity shortages.

The embargo particularly threatens the country of Orientenus, which sources 38% of its asphalt from the Country of Marnia. With Orientenus' peak construction season approaching, analysts warn the ban could delay over RMB 2 billion in regional infrastructure projects.

"This creates a perfect storm for asphalt-dependent economies," said Dr. Evelyn Tan of the Singapore Institute of International Affairs. "Orientenus' just-in-time delivery model leaves minimal buffer for supply shocks."

11. HEADLINE: Asphalt Prices Plunge Into Chaos as Export Ban Sparks Historic Market Meltdown

HEADLINE:

Asphalt Prices Plunge Into Chaos as Export Ban Sparks Historic Market Meltdown

By Marcus Jensen, AP Financial Markets Correspondent (Date: March 18, 2024)

LONDON (AP) — The global asphalt market descended into pandemonium on Monday as future prices on the London Mercantile Exchange (LME) catapulted 61% to RMB 5,000 per ton, marking the most extreme single-day surge in the commodity's trading history. The seismic price movement came just 72 hours after a major petroleum-exporting nation instituted a complete ban on oil product shipments, instantly vaporising nearly 20% of worldwide asphalt supply.

Market infrastructure buckled under the strain as automated trading systems failed to process the flood of orders. The LMX was forced to implement two emergency trading halts during the session - the first at 10:17 a.m. local time when prices breached RMB 4,300/ton, and again at 2:53 p.m. as bid-ask spreads had widened to over RMB 400, prompting a second halt as volatility reached crisis levels.

"This wasn't trading - this was pure market failure," said Sarah Wilkinson, the LMX's chief commodities strategist, wiping sweat from her brow during a rare exchange floor interview. "Our systems logged more transactions in the first hour than we typically see in a week."

The supply shock sent immediate ripples across global construction markets:

- ** State transport authorities postponed critical autobahn repairs.
- ** State road contractors reported potential ¥18 billion in cost overruns.
- Mediterranean ports became battlegrounds as tankers were diverted mid-voyage to higher bidding destinations.

JP Mckinsey's commodities team flagged "unprecedented contango" in the forward curve, with July contracts commanding a RMB 1, 150 premium over May deliveries - a market structure signaling extreme short-term scarcity. The International Monetary Organisation took the unusual step of issuing a special bulletin warning of "cascading inflationary effects" across emerging economies. Storage tanks in key Asian hubs reached 97% capacity by market close, with Sinorspo tank farm rates exploding 400% to record highs. At least three major European infrastructure projects were confirmed suspended indefinitely.

Regulators announced coordinated investigations into unusual options activity that began March 11 - one week before the export ban - with particular focus on a flurry of May contract purchases originating from undisclosed accounts.

Historical context underscores the crisis' severity:

- The 61% surge dwarfs the 34% move during 2014's oil price collapse.

- Trading volume (487,000 contracts) tripled the 2020 pandemic spike.
- Open interest hit 1.2 million lots - surpassing Ukraine war records.

As night fell over London, shell-shocked traders remained at their terminals, bracing for what one veteran described as "the real storm coming at the Asian open." With physical markets now completely disconnected from paper trading, analysts warned the crisis could persist for months, potentially rewriting how the world prices and secures critical construction materials.

12. LME Price for Asphalt**Document Type:** Price Bulletin**Date of Publication:** April 1, 2024**Source:** London Mercantile Exchange (Energy Division)**Reference Code:** LME-ASPHALT-0401-2024**COMMODITY PRICE BULLETIN – ASPHALT (Refined Petroleum Derivative) Date:** April 1, 2024**Category:** Spot Market Price – Daily Average (RMB/Ton)**Location:** Port of Orientenus

| Product | Ticker | Price (RMB/T) | Change from Previous Trading Day |
|---------------------|---------------|----------------------|---|
| Asphalt, Road Grade | ASPH-REF-RG | 5,000.00 | ▲ +1,900.00 (61.3%) |

Commentary:

A record-setting price spike triggered by market panic over global supply disruptions and ongoing regional embargoes affecting East Asian maritime lanes. Analysts warn of continued volatility in early Q2.

Issued by:

LME Energy Division

Global Benchmark Authority

13. East Star’s Request Email for Price Protection and Clarification on Invoice

Date: April 1, 2024

From: david.tang@eaststarpaving.or

To: billing@supernovaoil.spl; michael.chang@supernovaoil.spl

Subject: Urgent: Request for Price Protection & Clarification – Invoice SN-240401

Dear Super Nova Team,

We have received your invoice dated April 1, 2024 (Invoice No.SN-240401), charging RMB 5,000/T for the shipment of 7,200 T of asphalt under PO-ES240214.

We write to formally request **price protection** in accordance with our long-standing course of dealing and your past practice of applying the posted price **at the time of order**, which was **RMB 3,100/T on February 14, 2024**.

We also seek clarification on the calculation breakdown of the invoice total and whether any additional charges (e.g. fuel surcharges or demurrage) are being included beyond the LME posted price.

As the asphalt is intended for government and general contractor projects with fixed-price contracts, a failure to apply price protection will result in considerable commercial difficulty.

We respectfully ask for written confirmation of price protection within 24 hours.

Sincerely,

David Tang

President

East Star Paving Ltd.

14. Super Nova’s Email regarding Refusal for Price Protection**Date:** April 2, 2024**From:** michael.chang@supernovaoil.spl**To:** david.tang@eaststarpaving.or**CC:** legal@supernovaoil.spl**Subject:** Re: Request for Price Protection – Invoice SN-240401

Dear Mr. Tang,

Thank you for your message dated April 1, 2024, regarding your request for price protection on the asphalt shipment under PO-ES240214.

We regret to inform you that **Super Nova cannot offer price protection** for this shipment. The applicable contract between our companies (dated January 1, 2016) expressly states that asphalt shall be priced based on the **posted price at the time of delivery**, and not at the time of order.

While we acknowledge that price accommodations were made in isolated past instances (2017 and 2021), such instances were **discretionary and subject to pre-approval** by our corporate headquarters in Splendendus. They **do not constitute a binding commercial practice** nor an implied term of the current contract.

We note that no clause in the 2016 contract references price protection, and as such, the current posted LME price of **RMB 5,000/T as of April 1, 2024** remains applicable. While we maintain the possibility for further negotiation, we must point out that the embargo and the drastic and unforeseeable rise in the cost has caused difficulty on our side as well. The circumstances entitled us to rely on the doctrine of hardship under UPICC article 6.2.1-6.2.3.

We hope to maintain a cooperative relationship despite current market pressures, and remain open to discussion.

Sincerely,

Michael Chang

Executive Vice President, Sales – East Asia

Super Nova Petroleum Corporation

15. East Star’s Email regarding Protest Email Over Refusal**Date:** April 3, 2024**From:** david.tang@eaststarpaving.or**To:** michael.chang@supernovaoil.spl; legal@supernovaoil.spl**Subject:** Re: Price Protection Rejection – Objection

Dear Mr. Chang,

We acknowledge receipt of your email dated April 2, 2024. However, we must **strongly object to Super Nova’s refusal** to apply price protection for the shipment invoiced under SN-240401.

The contract in force must be interpreted not only by its text, but also in light of **the commercial purpose of our relationship**, which was, and remains to support East Star’s competitiveness in Orientenus, particularly against O.B. As evidenced in your internal and external correspondence, including emails from your executive leadership, **our strategic collaboration was predicated on pricing parity** with Terran’s terms to O.B.

East Star is now facing huge performance losses, primarily due to fixed-price contractual commitments to government and infrastructure clients based on the February 14 posted rate. The sudden spike to RMB 5,000/T, without accommodation, has created a commercial impossibility in fulfilling these obligations.

We hereby seriously urge Super Nova to reconsider this position.

Respectfully,**David Tang**

President

East Star Paving Ltd.

16. East Star’s Email – Urgent: Revised Settlement Proposal

Date: April 5, 2024

From: david.tang@eaststarpaving.or

To: michael.chang@supernovaoil.spl

Subject: URGENT: Revised Settlement Proposal – Asphalt Pricing

Dear Mr. Chang,

In light of the significant commercial strain and the continuing disagreement on the applicable unit price, East Star proposes the following compromise to avoid escalation:

1. Super Nova agrees to **reduce the unit price from RMB 5,000 to RMB 3,800/T** for this shipment only;
2. East Star agrees to **waive all retroactive claims** for price protection on previous deliveries made in 2023 and early 2024;
3. The parties commit to **enter good-faith mediation** within 7 days to reassess pricing structures under the current contract, in view of current market conditions.

This proposal reflects a middle ground between strict contractual enforcement and the equitable principles that have long governed our partnership. We hope Super Nova will consider this proposal in the spirit of commercial cooperation.

Please respond by **April 8, 2024**, at the latest, as delays will leave us with no alternative but to take further steps to protect our rights.

Warm regards,

David Tang

President

East Star Paving Ltd.

17. Super Nova’s Email regarding Non-Committal Response

Date: April 8, 2024

From: michael.chang@supernovaoil.spl

To: david.tang@eaststarpaving.or

Subject: Re: URGENT – Revised Settlement Proposal (April 5)

Dear Mr. Tang,

Thank you for your revised proposal of April 5, 2024. We acknowledge the concerns raised and appreciate your intention to seek a resolution.

However, after internal consultation with our legal and commercial divisions, we **are not in a position at this time to agree to any adjustment** to the unit price for the April 1 asphalt delivery.

As you are aware, Clause III of our 2016 Supply Contract expressly provides that the posted price at the time of **delivery** shall apply. The current posted price of **RMB 5,000/T** is a market-based figure reflecting LME’s recognized benchmark and global conditions beyond either party’s control.

We regret the pressure this causes to your project margins, but reiterate that Super Nova has **fulfilled its contractual obligations in full**.

We remain willing to explore alternative risk-sharing mechanisms for future shipments and are open to further non-binding discussions if you deem it constructive.

Sincerely,

Michael Chang

Executive Vice President, Sales – East Asia

Super Nova Petroleum Corporation

18. East Star’s Email regarding Final Negotiation Attempt**Date:** April 9, 2024**From:** david.tang@eaststarpaving.or**To:** michael.chang@supernovaoil.spl**Subject:** Final Attempt to Resolve – Asphalt Contract Dispute

Dear Mr. Chang,

I write with disappointment in light of your April 8 response, which, while courteous, **fails to address the commercial realities** created by your position.

For the final time, East Star reiterates the following:

- . The 2016 Contract, while referencing posted delivery pricing, **must be interpreted in context** of the parties’ consistent past practice of price protection and mutual intention to foster competitive parity with O.B.;
- . Super Nova has previously **acted in variance with the written pricing term** in at least two prior instances under the same contract.

Unless a written commitment to price adjustment or mediation is received by **April 10, 17:00 Orientenus Time**, East Star will proceed accordingly.

This is our **final invitation to resolve** this matter commercially.

Best regards,

David Tang

President

East Star Paving Ltd.

19. Super Nova’s Email regarding Final Position

Date: April 10, 2024

From: legal@supernovaoil.spl

To: david.tang@eaststarpaving.or

Subject: Final Position Regarding April 1 Delivery

Dear Mr. Tang,

We write on behalf of Super Nova Oil Company in response to your April 9 email.

Our client’s position remains unchanged. The parties’ written agreement governs the matter. In particular, the pricing term in the 2016 Supply Contract provides that asphalt is to be priced at **Super Nova’s posted price on the day of delivery**, which was **RMB 5,000/T on April 1, 2024**. That is the price invoiced.

Super Nova respectfully **declines to renegotiate this shipment**, nor does it consider price protection to have become a binding commercial term through course of dealing.

We trust this resolves any ambiguity as to Super Nova’s stance. We will respond in due course to any further communication initiated through formal legal or arbitral channels.

Yours sincerely,

Amira Ghassan

Senior Counsel – Dispute Resolution

Super Nova Petroleum Corporation

20. East Star’s Email regarding Final Notice Before Arbitration

Date: April 12, 2024

From: david.tang@eaststarpaving.or

To: michael.chang@supernovaoil.spl; legal@supernovaoil.spl

Subject: Final Notice Before Arbitration – SN-240401 Asphalt Dispute

Dear Mr. Chang,

We regret that despite repeated efforts and proposed solutions, Super Nova has remained unwilling to engage in good faith settlement discussions or mediation regarding the price dispute over the shipment delivered April 1, 2024 (Ref. Invoice SN-****).

Pursuant to **Dispute Resolution Clause of the 2016 Long-Term Supply Contract**, and in accordance with the **Arbitration Rules of the Shanghai International Economic and Trade Arbitration Commission (SHIAC)**, East Star hereby gives **formal notice** of its intention to commence arbitration proceedings against Super Nova Oil Company.

The basis of our claims includes:

1. Super Nova’s failure to honor a commercially implied price protection obligation;
2. Breach of duty to negotiate in good faith under the UNIDROIT Principles;
3. Resulting financial harm and disruption to government and general contractor projects.

Unless an affirmative response is received by **17:00 Orientenus Time, April 15, 2024**, arbitration will proceed without further notice.

This communication constitutes our final attempt to resolve this matter amicably.

Sincerely,

David Tang

President

East Star Paving Ltd.



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Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

21. SHIAC Notice of Acceptance to East Star

The Notice of Acceptance for SHIAC arbitration case No. SHIAC 2024-3600 Regarding the LONG TERM SUPPLY CONTRACT (2016)

Claimant: East Star Paving Ltd.

With regard to the above-referenced arbitration case, we, the Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center, hereinafter referred to as "SHIAC") hereby acknowledge the receipt of the Application for Arbitration and its attachments submitted by the Claimant, in which Super Nova Ltd. is designated as the Respondent (the Claimant and the Respondent are hereinafter jointly referred to as the "the Parties"), as well as the Claimant's advanced payment on arbitration fees.

The Secretariat of SHIAC hereby notifies the parties as the followed:

I. The Acceptance of the Case

- a) This case is accepted by SHIAC pertaining to the arbitration clause contained in the disputed contract as referenced above. The docket number of this case is SHIAC 2024-3600. Please state the docket number of this case in your correspondence.

II. The Application of Arbitration Rules

- a) The SHIAC Arbitration Rules, effective as from January 1, 2024, are applied for the arbitration procedures of this case.
- b) The Secretariat of SHIAC draws your kind attention that, in accordance with the *prima facie* contents of the case materials, this case is designated under Article 3.1.1 of the SHIAC Arbitration Rules.

III. The Notification for the Respondent

- a) On the same day this Notice of Acceptance is dispatched for the Claimant, the Secretariat of SHIAC will dispatch the Notice of Arbitration for the Respondent, together with the Claimant's Application for Arbitration and the attachments, SHIAC Arbitration Rules, SHIAC Panel of Arbitrators an SHIAC Panel of Mediators, and invite the Respondent to conduct the arbitration procedures in accordance with the SHIAC Arbitration Rules.

IV. The Constitution of the Arbitral Tribunal

- a) Pursuant to arbitration clause in the disputed 2016 Contract, this case will be heard by three arbitrators.



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- b) Within 20 days upon your receipt of this Notice of Acceptance, you may appoint or entrust the Chairman of SHIAC to appoint an arbitrator (referred to as the “co-arbitrator”) from the SHIAC Panel of Arbitrators and notify the Secretariat in writing; If you do not appoint or entrust the Chairman of SHIAC to appoint the co-arbitrator within the said time limit, the Chairman of SHIAC will appoint the co-arbitrator on behalf of you.
- c) If you nominate co-arbitrator outside the SHIAC Panel of Arbitrators. Such nomination should be submitted in writing to the Secretariat of SHIAC within 20 days upon your receipt of this Notice of Acceptance. The person may act as the arbitrator of the case upon the approval of the Chairman of SHIAC after confirmation in accordance with law; if there is no confirmation, you shall appoint or entrust the Chairman of SHIAC to appoint the arbitrator in the Panel of Arbitrators within ten (10) days from the date of receipt of the decision. If you fail to do so, the Chairman of SHIAC will appoint the arbitrator.
- d) The Secretariat of SHIAC kindly reminds you that if the co-arbitrator appointed by you is not domiciled in Shanghai, you should pay the expenses for the co-arbitrator to deal with this case in advance, including travel and accommodation expenses, etc. If such expenses are not paid in advance, the co-arbitrator will be deemed as not appointed unless you appoint another arbitrator who is not required to pay the fees within 10 days upon the date of receipt of the notice to appoint another arbitrator, the Chairman of SHIAC will appoint the co-arbitrator on your behalf.
- e) In respect of the appointment of the presiding arbitrator, in accordance with the arbitration clause in the disputed 2016 contract, the presiding arbitrator will be appointed jointly by the two co-arbitrators appointed by the Parties.
- f) If the co-arbitrators fail to jointly appoint the presiding arbitrator pursuant to the methods given above, the Chairman of SHIAC will appoint the presiding arbitrator.

V. The Case Managers of the Secretariat

- a) According to Article 16.3 of the SHIAC Arbitration Rules, the Secretariat of SHIAC designates the following case managers to be in charge of the case management work for this case:

Angela, Tel: (8621)-63875588; E-mail: moot@shiac.org

David, Tel: (8621)-63875588; E-mail: moot@shiac.org

VI. The Seat of Arbitration and the Language

- a) Pursuant to the arbitration clause in the disputed 2016 Contract, the seat of arbitration for this case is Shanghai, P.R.C.
- b) Pursuant to the arbitration clause in the disputed 2016 Contract, the working language for this case is ENGLISH.



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Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

VII. Miscellaneous

- a) Pursuant to Article 20 of the SHIAC Arbitration Rules, unless otherwise agreed by the parties or otherwise decided by the tribunal, the arbitration documents and evidence submitted under SHIAC Arbitration Rules may be submitted by the parties preferably in electronic form through the SHIAC E-Platform.
- b) Pursuant to Article 20 of the SHIAC Arbitration Rules, where a party submits a document electronically, the Secretariat of SHIAC or the tribunal may require it to submit an identical document in paper form. Unless otherwise agreed by the parties or decided by the tribunal, the electronic version shall prevail in case of inconsistency between the electronic version and the paper version.
- c) Pursuant to Article 20 of the SHIAC Arbitration Rules, where a party submits a hard-copy arbitration document or evidence, it shall ensure that the Secretariat, the tribunal, and other parties can receive at least one copy; where the parties have multiple contact addresses, the number of copies shall be increased accordingly.
- d) Pursuant to Article 19 of the SHIAC Arbitration Rules, you may apply to amend your claims. However, the arbitral tribunal has the power to refuse any such amendment if it considers that the amendment is so late that it may affect the arbitration proceedings.
- e) Pursuant to Article 11 of the SHIAC Arbitration Rules, for cases heard in camera, the Parties, their representatives, witnesses, interpreters, etc., should not disclose to any outsiders any substantive or procedural matters of this case.
- f) According to the written materials submitted by you, unless the relevant documents can be transferred in-person or through fax, the Secretariat of SHIAC will send the relevant documents to you at your registered address.
- g) If the Claimant changes the recipient and/or the address for document transference during these arbitral proceedings, the Claimant should promptly notify the Secretariat.
- h) The Secretariat endeavors to provide effective, high quality case management services in a timely fashion to the Parties involved in these arbitral proceedings. The Secretariat also hopes that the Parties may cooperate with good faith and settle the disputes with efficiency.

The Secretariat of SHIAC

Date: November 5, 2024

Attached with:

1. SHIAC Arbitration Rules
2. SHIAC Panel of Mediators
3. SHIAC Panel of Arbitrators



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Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

22. SHIAC Notice of Arbitration to Super Nova

The Notice of Arbitrator for SHIAC arbitration case No. SHIAC 2024-3600 Regarding the LONG TERM SUPPLY CONTRACT (2016)

Respondent: Super Nova Ltd.

Via EMS/DHL

With regard to the above-referenced arbitration case, please be noted that the Claimant **East Star Paving Ltd.** has submitted its application for arbitration to Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center, hereinafter referred to as "SHIAC") with reference made to the above-referenced contract, in which **Super Nova Ltd.** is designated as the Respondent (the Claimant and the Respondent are hereinafter jointly referred to as "the Parties"). The Secretariat of SHIAC hereby encloses one copy of the Claimant's Application for Arbitration and its attachments, as well as one copy of the SHIAC Arbitration Rules (effective as from January 1, 2024) and one copy of the SHIAC Panel of Arbitrators and SHIAC Panel of Mediators for the Respondent, and notifies the Respondent as the followed:

I. The Acceptance of the Case

- a) This case is accepted by SHIAC pertaining to the arbitration clause contained in the disputed 2016 contract as referenced above. The docket number of this case is SHIAC 2024-3600. Please state the docket number of this case in your correspondence.

II. The Application of Arbitration Rules

- a) The SHIAC Arbitration Rules, effective as from January 1, 2024, are applied for the arbitration procedures of this case.
- b) The Secretariat of SHIAC draws your kind attention that, in accordance with the *prima facie* contents of the case materials, this case is designated under Article 3.1.1 of the SHIAC Arbitration Rules.

III. The Constitution of the Arbitral Tribunal

- a) Pursuant to the arbitration clause in the 2016 Contract, this case will be heard by three arbitrators. Each party shall appoint one arbitrator, and these two arbitrators shall jointly choose a third arbitrator who shall be the Chair of the Tribunal.
- b) Within 20 days upon receipt of this Notice of Arbitration, you may appoint or entrust the Chairman of SHIAC to appoint an arbitrator (referred to as the "co-arbitrator") from the SHIAC Panel of Arbitrators and notify the Secretariat in writing; If you do not appoint or entrust the Chairman of SHIAC to appoint the co-arbitrator within the said time limit, the Chairman of SHIAC will appoint the co-arbitrator on your behalf.
- c) If you nominate co-arbitrator outside the SHIAC Panel of Arbitrators, such a nomination should be



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submitted in writing to the Secretariat of SHIAC within **20 days** upon receipt of this Notice of Acceptance. The person may act as the arbitrator of the case upon the approval of the Chairman of SHIAC after confirmation in accordance with law; if there is no confirmation, you shall appoint or entrust the Chairman of SHIAC to appoint the arbitrator in the Panel of Arbitrators within **10 days** from the date of receipt of the decision. Where you fail to do so, the Chairman of SHIAC shall appoint the arbitrator.

- d) The Secretariat of SHIAC kindly reminds you that if the co-arbitrator appointed by you is not domiciled in Shanghai, you should pay the expenses for the co-arbitrator to deal with this case, in advance including the travel and accommodation expenses, etc. If such expenses are not paid in advance, the co-arbitrator will be deemed as not appointed unless you appoint another arbitrator who is not required to pay the fees within **10 days** upon the date of receipt of the notice to appoint another arbitrator, and the Chairman of SHIAC will appoint the co-arbitrator on your behalf.
- e) In respect of the nomination of the presiding arbitrator, in accordance with the arbitration clause in the disputed 2016 contract, the presiding arbitrator will be appointed jointly by the two co-arbitrators appointed by the Parties.
- f) If the co-arbitrators fail to jointly appoint the presiding arbitrator pursuant to the methods given above, the Chairman of SHIAC will appoint the presiding arbitrator.

IV. The Certification Documents and the Legal Authorisation

- a) Within **30 days** upon receipt of this Notice of Arbitration, you shall submit one copy of the documents certifying your legal identity to the Secretariat of SHIAC.
- b) If you authorise representatives to conduct these proceedings, you should submit one copy of the legal authorisation to the Secretariat of SHIAC.

V. The Defense and the Counterclaims

- a) Pursuant to Article 17.1 of the SHIAC Arbitration Rules, within **30 days** upon receipt of this Notice of Arbitration, you should submit the Defense and the relevant proof documents. Please be noted that under Article 17.4 of the SHIAC Arbitration Rules, the failure of the Respondent to submit its Defense will not affect the conduct of the arbitral proceedings; the arbitral tribunal has the power to decide whether to accept overdue Defense and/or Counterclaims or not.
- b) The Respondent's Defense should include the documents prescribed in Article 17.2 of the SHIAC Arbitration Rules.
- c) Pursuant to Article 18.1 of the SHIAC Arbitration Rules, if you apply for counterclaims, you should submit the Application for Counterclaims within **30 days** upon receipt of this Notice of Arbitration. You should also pay the arbitration fees in accordance with the Schedule of Arbitration Fees in the SHIAC Arbitration Rules in advance.
- d) You may apply to extend the time limits given in the above paragraph a and c with justifiable reasons. Please be noted that the arbitral tribunal has the power to decide on your application

for extension of the time limits. Please be noted that if the Defense and/or the Application for Counterclaims is submitted after the expiration of the said time limits, the arbitral tribunal has the



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power to decide whether to accept or refuse such overdue documents.

- e) Pursuant to Article 19.2 of the SHIAC Arbitration Rules, you may apply to amend your counterclaims. However, the Secretariat or the tribunal shall have the discretion to refuse if the amendment would be so late, unfair to the other party, or cause any other circumstance that would make the amendment undesirable.

VI. The Case Managers of the Secretariat

- a) According to Article 16.3 of the SHIAC Arbitration Rules, the Secretariat of SHIAC designates the following case managers to be in charge of the case management work for this case:

Angela, Tel: (8621)-63875588; E-mail: moot@shiac.org

David, Tel: (8621)-63875588; E-mail: moot@shiac.org

VII. The Seat of Arbitration and the Language

- a) Pursuant to the arbitration clause in the disputed 2016 Contract, the seat of arbitration for this case is Shanghai, P.R.C.
- b) Pursuant to the arbitration clause in the disputed 2016 Contract, the working language for this case is ENGLISH.

VIII. Miscellaneous

- a) Pursuant to Article 20 of the SHIAC Arbitration Rules, unless otherwise agreed by the parties or otherwise decided by the tribunal, the arbitration documents and evidence submitted under these Rules may be preferably submitted by the parties in electronic forms through the E-Platform.
- b) Pursuant to Article 20 of the SHIAC Arbitration Rules, where a party submits a document electronically, the Secretariat of SHIAC or the tribunal may require it to submit an identical document in paper form. Unless otherwise agreed by the parties or decided by the tribunal, the electronic version shall prevail in case of inconsistency between the electronic version and the paper version.
- c) Pursuant to Article 20 of the SHIAC Arbitration Rules, where a party submits a hard-copy arbitration document or evidence, it shall ensure that the Secretariat, the tribunal, and other parties can receive at least one copy; where the parties have multiple contact addresses, the number of copies shall be increased accordingly.
- d) Pursuant to Article 11 of the SHIAC Arbitration Rules, for cases heard in camera, the Parties, their representatives, witnesses, interpreters, etc., should not disclose to any outsiders any substantive or procedural matters of this case.
- e) According to the written materials submitted by the Claimant, unless the relevant documents can be transferred in-person or through fax, the Secretariat of SHIAC will send the relevant documents to you at your registered address.
- f) If the Respondent changes the recipient and/or the address for document transference during these



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Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center) arbitral proceedings, the Respondent should promptly notify the Secretariat.

- g) The Secretariat endeavours to provide high quality effective case management services in a timely fashion to the Parties involved in these arbitral proceedings. The Secretariat also hopes that the Parties may cooperate with good faith and settle the disputes with efficiency.

The Secretariat of SHIAC

Date: November 5, 2024

Attached with:

- a) Claimant's Application for Arbitration and its Attachments
- b) SHIAC Arbitration Rules
- c) SHIAC Panel of Mediators
- d) SHIAC Panel of Arbitrators



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23. SHIAC Notice of the Constitution of the Arbitral Tribunal

Notice regarding the Constitution of the Arbitral Tribunal in SHIAC arbitration case No. SHIAC 2024-3600

Presiding Arbitrator: Mr. X

Co-arbitrators: Mr. Z, Mr. Y

Claimant: East Star Paving Ltd.

Respondent: Super Nova Ltd.

Via EMS/DHL

With regard to the above referenced arbitration case, the Secretariat of SHIAC hereby notifies the Parties of the constitution of the arbitral tribunal as followed:

I. The Claimant appointed Mr. Z as the co-arbitrator; the Respondent appointed Mr. Y as the co-arbitrator; the two co-arbitrators jointly appointed Mr. X as the presiding arbitrator.

II. The above three arbitrators have signed their statement of acceptance and declaration of independence, and constituted the arbitral tribunal for this case on the date of March 28, 2025. The original copies of the arbitrators' statement of acceptance and declaration of independence are docketed in the Secretariat and their scan copies are enclosed for the Claimant and the Respondent. If any party applies to challenge the sitting arbitrator(s), please submit the challenge in writing within the time limit specified in Article 36 of the SHIAC Arbitration Rules, in order to ensure the smooth conduct of the arbitral proceedings.

III. The Secretariat of SHIAC transfers the case materials to the arbitral tribunal on the date of this correspondence.

Attached:

(a) the statement of acceptance and declaration of independence (for Claimant and Respondent)

(b) the case materials (for the arbitral tribunal)

The Secretariat of SHIAC

Date: March 28, 2025



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

Case No.: **SHIAC 2024-3600**

ARBITRATOR'S DECLARATION OF ACCEPTANCE

AND STATEMENT OF INDEPENDENCE

(Please mark the relevant box or boxes)

I, the undersigned,

Name: Mr. X

ACCEPTANCE

I hereby declare that **I accept** to serve as arbitrator under the SHIAC Rules of Arbitration in the instant case. In so declaring, I confirm that I have familiarized myself with the requirements of the SHIAC Rules of Arbitration and am able and available to serve as an arbitrator in accordance with all of the requirements of those Rules and accept to be remunerated in accordance therewith.

INDEPENDENCE *

I am independent of each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, that need be disclosed because they might be of such nature as to call into question my independence in the eyes of any of the parties.

Or (或)

- I hereby declare that I am impartial and independent** of each of the parties and intend to remain so; However, I do wish to disclose such facts and circumstances as follows that may give rise to justifiable doubts as to my independence and impartiality:



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

NON-ACCEPTANCE

- hereby declare that **I decline** to serve as arbitrator in the subject case.

(If you wish to state the reasons for checking this box, please do so.)

Signature: Mr. X

Date: March 28, 2025

* Article 34 of Arbitration Law of the People's Republic of China:

In any of the following circumstances, an arbitrator must withdraw from the arbitration, and the parties shall have the right to apply for his withdrawal if he: 1. is a party or a close relative of a party or of a party's representative; 2. is related in the case; 3. has some other relationship with a party to the case or with a party's agent which could possibly affect the impartiality of the arbitration; 4. meets a party or his agent in private, accepts an invitation for dinner by a party or his representative or accepts gifts presented by any of them.



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Case No.: **SHIAC 2024-3600**

ARBITRATOR'S DECLARATION OF ACCEPTANCE

AND STATEMENT OF INDEPENDENCE

(Please mark the relevant box or boxes)

I, the undersigned,

Name: Mr. Y

ACCEPTANCE

I hereby declare that **I accept** to serve as arbitrator under the SHIAC Rules of Arbitration in the instant case. In so declaring, I confirm that I have familiarized myself with the requirements of the SHIAC Rules of Arbitration and am able and available to serve as an arbitrator in accordance with all of the requirements of those Rules and accept to be remunerated in accordance therewith.

INDEPENDENCE *

I am independent of each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, that need be disclosed because they might be of such nature as to call into question my independence in the eyes of any of the parties.

Or (或)

- I hereby declare that I am impartial and independent** of each of the parties and intend to remain so; However, I do wish to disclose such facts and circumstances as follows that may give rise to justifiable doubts as to my independence and impartiality:



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

NON-ACCEPTANCE

- hereby declare that **I decline** to serve as arbitrator in the subject case.
(If you wish to state the reasons for checking this box, please do so.)

Signature: Mr. Y

Date: March 27, 2025

*** Article 34 of Arbitration Law of the People's Republic of China:**

In any of the following circumstances, an arbitrator must withdraw from the arbitration, and the parties shall have the right to apply for his withdrawal if he: 1. is a party or a close relative of a party or of a party's representative; 2. is related in the case; 3. has some other relationship with a party to the case or with a party's agent which could possibly affect the impartiality of the arbitration; 4. meets a party or his agent in private, accepts an invitation for dinner by a party or his representative or accepts gifts presented by any of them.



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Case No.: **SHIAC 2024-3600**

ARBITRATOR'S DECLARATION OF ACCEPTANCE

AND STATEMENT OF INDEPENDENCE

(Please mark the relevant box or boxes)

I, the undersigned,

Name: Mr. Z

ACCEPTANCE

I hereby declare that **I accept** to serve as arbitrator under the SHIAC Rules of Arbitration in the instant case. In so declaring, I confirm that I have familiarized myself with the requirements of the SHIAC Rules of Arbitration and am able and available to serve as an arbitrator in accordance with all of the requirements of those Rules and accept to be remunerated in accordance therewith.

INDEPENDENCE *

I am independent of each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, that need be disclosed because they might be of such nature as to call into question my independence in the eyes of any of the parties.

Or (或)

- I hereby declare that I am impartial and independent** of each of the parties and intend to remain so; However, I do wish to disclose such facts and circumstances as follows that may give rise to justifiable doubts as to my independence and impartiality:



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

NON-ACCEPTANCE

hereby declare that **I decline** to serve as arbitrator in the subject case.

(If you wish to state the reasons for checking this box, please do so.)

Signature: Mr. Z

Date: March 26, 2025

*** Article 34 of Arbitration Law of the People's Republic of China:**

In any of the following circumstances, an arbitrator must withdraw from the arbitration, and the parties shall have the right to apply for his withdrawal if he: 1. is a party or a close relative of a party or of a party's representative; 2. is related in the case; 3. has some other relationship with a party to the case or with a party's agent which could possibly affect the impartiality of the arbitration; 4. meets a party or his agent in private, accepts an invitation for dinner by a party or his representative or accepts gifts presented by any of them.

24. East Star’s challenge on the presiding arbitrator Mr. X on March 31, 2025**East Star’s Challenge to Presiding Arbitrator Mr. X**

TO: Shanghai International Arbitration Center (“SHIAC”)

East Star hereby submits this formal challenge to the continued appointment of presiding arbitrator Mr. X on the grounds of material breaches of disclosure obligations and justifiable doubts as to his impartiality. The factual and legal bases for this challenge are set forth below:

1. East Star have recently found that Mr. X repeatedly posted public commentary on his verified X account praising Super Nova as his favourable player in the market of oil products for its appealing company name.
2. Notably, an arbitrator’s public commentary on a case through channels such as social media—now a significant platform for public discourse—qualifies as a scenario expressly described under the Orange List of the 2024 IBA Guidelines on Conflict of Interest. Mr. X’s social media post expressing favourable views toward Super Nova aligns precisely with the Orange List’s criteria, demonstrating his specific connection with Super Nova that may materially impact his and the Tribunal’s impartiality. Mr. X’s failure to disclose his public advocacy for Super Nova has constituted a procedural default with substantive consequences. Such commentary, irrespective of their timing relative to Mr. X’s formal appointment, has objectively established a preferential alignment with Super Nova under Section 3.4.2 of the Orange List (The arbitrator has publicly advocated a position on the case, whether in a published paper or speech, through social media or on-line professional networking platforms, or otherwise).
3. Even if Mr. X’s social media post is not considered as the situation under Section 3.4.2 of the Orange List, General Standard 3(d) under 2024 IBA Guidelines mandates that arbitrators shall disclose all facts or circumstances that may give rise to reasonable concerns about impartiality, irrespective of subjective intent. A reasonable third-party observer would also conclude that the statements made by Mr. X on social media create justifiable doubts about Mr. X’s ability to adjudicate impartially, per General Standard 2(c).

For the reasons articulated in this submission, and pursuant to General Standard 3(d) and the Orange List of the 2024 IBA Guidelines, East Star respectfully submits that the challenge is well- founded and urges SHIAC to disqualify Mr. X as presiding arbitrator. SHIAC’s timely intervention is essential to safeguard the legitimacy of the arbitration proceedings.

East Star Paving Ltd.

March 31, 2025

25. The screenshot of Mr. X's recent comments about Super Nova on the social media platform X

 **Mr. X**
@iloveastronomy_X

I really appreciate Super Nova's rapid growth in its market share, just like its name.

10:31 AM · 12/29/2024 · **3.9K** Views

2 0 38 0

 **Mr. X**
@iloveastronomy_X

Super Nova Oil Company, incorporated in Splendentius, has become the second largest supplier of asphalt in Orientenus 🇺🇸!

2:45 PM · 1/17/2025 · **4.8K** Views

5 0 52 0

 **Mr. X**
@iloveastronomy_X

Super Nova is indeed a nova in oil products market!

8:08 PM · 2/28/2025 · **5.6K** Views

2 0 46 0



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

26. Procedure Order No.1

Procedural Order No.1

regarding the SHIAC arbitration case No. SHIAC 2024-3600

Presiding Arbitrator: Mr. X

Co-arbitrators: Mr. Z, Mr. Y

Claimant: East Star Paving Ltd.

Respondent: Super Nova Ltd.

Via EMS/DHL

The Arbitral Tribunal makes the following procedural order:

I. In the next submissions and at the Oral Hearing in Shanghai, the Parties are required to address the following issues:

i. Can East Star proceed to arbitration in the absence of a prior mediation pursuant to the terms of the contract between East Star and Super Nova; if so, should the Tribunal grant Super Nova's request for early dismissal on the claims of East Star.

ii. Has the challenge to Mr. X over his lack of impartiality been made in a timely manner and should the challenge be upheld; if not, is there any other remedies available to East Star apart from the attempted removal of an arbitrator following a successful challenge.

iii. Is "price protection" a term in the parties' contract pursuant to: (a) trade usage, (b) party conduct, or, (c) the doctrine of good faith and fair dealing.

iv. Should the Tribunal consider the reference of hardship by Super Nova, if so, in which way the assertion of hardship will be supportive to the case made by Super Nova.

II. The Parties are free to decide in which order they address the various issues. No further questions entering to the merits of the claims should be addressed at this stage of the proceedings, in particular no questions relating to the remedies requested and their availability. The Tribunal reserves the right to raise them at a later stage should it consider that opportune in light of the Parties' submissions.

III. The Tribunal requests the Claimant to submit its memorial on the requested issues by July 29, 2025 and the Respondent to submit its memorial on the requested issues by July 29, 2025.

IV. The first oral hearing will be held by the Tribunal on November 3-4, 2025 in Shanghai, China.



上海国际经济贸易仲裁委员会(上海国际仲裁中心)

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

On behalf of the Arbitral Tribunal, this P.O. 1 is signed by Presiding Arbitrator: Mr. X

Date: April 23, 2025

This Procedural Order No.1 is sent by the Secretariat of SHIAC on behalf of the Tribunal