

一般条款和条件
摩丁中国地区

买方从卖方处购买产品时所进行的业务交易受以下一般条款和条件的约束。

1. 定义和解释

1.1 定义

“交付”或“交货”是指卖方按订购单所述的条件（包括但不限于运费、保险、风险转移等）将产品运至买方指定的交付地点。

“汇率”是指当日结束时的参考汇率，或中国人民银行发布的美元兑人民币的中间汇率。

“国际贸易术语解释通则 2000”是国际商会制订的英文版贸易术语解释规则，该规则已得到联合国国际贸易法委员会（UNCITRAL）的认可。

“单方”或“双方”是指买方和/或卖方。

“产品”是指订购单上说明的产品。

“买方”是指摩丁热能技术（上海）有限公司、摩丁机械（常州）有限公司或美国摩丁制造公司 100%控股的其他任一摩丁集团名下所属公司。

“订购单”是指买方发送给卖方、标有“订购单”字样，包含定购产品的数量及交付等条款

**GENERAL TERMS AND CONDITIONS OF
PURCHASING FOR MODINE CHINA**

These General Terms and Conditions stipulate and provide the terms and conditions of the business transaction where the Purchaser buys the Product from the Seller.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

“Deliver” or “Delivery” shall mean the delivery of the Product by the Seller to a location designated by the Purchaser in accordance with the terms stated in the Purchase Order, including, but not limited to, the freight cost, insurance and transfer of risk etc.;

“Exchange Rate” shall mean daily closing reference rate or middle rate between US dollars and Chinese renminbi as posted by the People’s Bank of China;

“Incoterms 2000” shall mean the English text version of the trade definitions published by the International Chamber of Commerce, which has been endorsed by the United Nations Commission on International Trade Law (UNCITRAL);

“Party” or “Parties” shall mean the Purchaser and/or the Seller;

“Product” shall mean the goods described on the Purchase Order;

“Purchaser” shall mean Modine Thermal System (Shanghai) Co., Ltd., Modine Thermal System (Changzhou) Co., Ltd., or any other Modine entities owned 100% by Modine Manufacturing Company of U.S.A.;

“Purchase Order” shall mean the document with the title ‘Purchase Order’ which is issued by the

的文件。

“**卖方**”是指生产或采购并向买方交付订购单产品的公司，并应为卖方在订购单上明确其名称和地址。

1.2 解释原则 除非另有规定，合同条款中的下列情况适用一般条款和条件：

(a) 输入的单数单词包括复数的意思，反之亦然；以及

(b) 合同所指“合同方”亦包括合同权利和义务的合法受让人及继承人。

1.3 国际贸易术语解释通则 2000 除非双方另有约定，有关产品交付的一切条款和条件，包括合同双方的权利、义务及风险等适用国际贸易术语解释通则 2000。

1.4 有关订购单的约定 如果各文件间的内容有任何争议或冲突，则按下列原则解决：一般条款与订购单冲突，以后者为准；不同订购单间的内容冲突，以最后签订者为准；订购单或一般条款与卖方报价单有出入，以订购单或一般条款为准。

2. 订购单和交付

经双方协商并一致同意，买方发出订购单及卖方交货的程序按以下规则执行：

2.1 订购单

Purchaser to the Seller and which describes the details of the order such as quantity and Delivery;

“**Seller**” shall mean a company, whose name and address appear on the Purchase Order and who produces or procures and Delivers the Product for the Purchaser.

1.2 Rules of Interpretation In these general terms and conditions, unless the context otherwise requires:

(a) words importing the singular include the plural and vice versa; and

(b) references to any Party include references to its respective successors, permitted transferees and assigns.

1.3 Incoterms 2000 Unless otherwise agreed to by the Parties, all terms and conditions in respect of the Delivery of the Products, including, without limitation, the rights, obligations, and risks of the Parties, shall be governed by Incoterms 2000.

1.4 Relation with Purchaser Order If there arises any conflict or discrepancy between these General Terms and Conditions and an individual Purchase Order, the latter shall prevail. If there arises any conflict or discrepancy between Purchase Orders, the latest shall prevail. If there arises any conflict or discrepancy between these General Terms and Conditions or the Purchase Order on the one hand and Seller's quotation papers on the other, these General Terms and Conditions or the Purchase Order shall prevail.

2. PURCHASE ORDER AND DELIVERY

The procedures for the issuance of the Purchase Order by the Purchaser and the Delivery of the Product by the Seller shall be as follows:

2.1 Purchase Order

当买方决定向卖方购买产品时，应以书面形式向卖方发出订购单，并在订购单上注明：（1）购买的产品；（2）产品数量；（3）单价，（4）交付条款；和（5）技术规范。

2.2 订货确认书

卖方收到买方的订购单五（5）天内，应以书面形式（1）向买方确认已收到订购单并（2）告知是否接受其订货（以下简称为“确认通知书”）。

如果卖方接受订购单及其交付条款，则应一并接受订购单所述产品数量、单价和技术规范的条款。如果卖方未能在五（5）天内给予买方确认通知书，则将被视为卖方接受此订购单。

2.3 交付。

如果卖方接受订购单或被视为接受订购单，则卖方有义务按一般条款和条件以及订购单的规定向买方交付产品。

2.4 延迟交货。

尽管订购单另有约定，如果发生不可预测事件导致买方认为有必要延迟交货，则买方有权以书面通知卖方延迟交货，卖方应无条件的接受延迟交货的请求，但是延迟交货的时间不应超过引起延迟的不可预测事件消除之日。

When the Purchaser decides to purchase the Product from the Seller, the Purchaser shall provide the Seller with a written purchase order specifying (i) the Product to be purchased, (ii) its quantity, (iii) unit price, (iv) the Delivery terms and (v) specifications.

2.2 Confirmation of Purchase Order

Within five (5) days of the date of the Purchase Order, the Seller shall provide the Purchaser with a written notice of (i) its receipt of the Purchase Order and (ii) its acceptance or rejection of the Purchase Order (hereinafter referred to as the “Confirmation Notice”).

The Seller shall accept the Purchase Order and its Delivery terms together with the price and quantity and specifications of the Purchase Order. If the Seller fails to provide the Purchaser with a Confirmation Notice within such five (5) day period, the Purchase Order shall be deemed to have been accepted by the Seller.

2.3 Delivery.

Upon acceptance of the Purchase Order by the Seller or the deemed acceptance of the Purchase Order, the Seller shall Deliver the Product to the Purchaser in accordance with these General Terms and Conditions and the Purchase Order.

2.4 Postponement of Delivery.

Notwithstanding the Purchase Order, if due to the occurrence of an unforeseeable event the Purchaser determines in its sole discretion that a postponement of the Delivery of the Product is necessary, then (i) the Purchaser may postpone the Delivery of the Product by giving written notice to the Seller and (ii) the Seller shall, without further consideration, postpone Delivery of the Product in accordance with such request; *provided, however*, such postponement shall not extend beyond the date on which the cause contributing to the occurrence of an unforeseeable event is eliminated.

2.5 取消定购

尽管本一般条款和条件另有约定，在订购单中的产品交付前，买方可以书面通知取消或废除订购单。除非卖方能证明订购单的取消或废除给其带来了无法挽回的实际损失，否则买方将不承担任何赔偿责任，但无论如何，买方的赔偿不应超过其取消或废除的订购单产品总价。

3. 购买价格和支付条款

3.1 购买价格。

买方应按订购单价格以人民币或根据订货单所约定的其他货币支付卖方货款，且第一张订购单确定的单价将在一年（或 365 个公历日）内对双方持续有效。

因产品技术规格的改变引发价格变动的，则无论是否在一年期内，双方进行合理估价后可根据 3.3 款的规定，按原材料价格及实时汇率另行商议定价，但此价格只适用于特殊规格的商品，不具有普遍适用性。

3.2 价格调整。

根据 3.1 款规定，购买价格在适用一年后可根据下列原因进行调整：

(a) 汇率变动

(b) 原材料的价格变动； 或

2.5 Cancellation.

Notwithstanding anything to the contrary contained herein, the Purchaser may, without cause, cancel or rescind any Purchase Order by giving the Seller a notice thereof prior to the Delivery of the Product described in the said Purchase Order. The cancellation or rescission made pursuant hereto shall be without cost to the Purchaser unless the Seller proves that a loss has been incurred and is not recoverable. The compensation to be paid by the Purchaser to the Seller shall not exceed in any case the Purchase Price of the Purchase Order that has been cancelled or rescinded.

3. PURCHASE PRICE AND PAYMENT

3.1 Purchase Price.

The Purchaser shall pay to the Seller the Purchase Price in Renminbi or such other currency as stated on the Purchase Order. The unit price written on the first Purchase Order shall be frozen for one year (or 365 calendar days).

Despite the one-year price freeze, if a change in Product specifications is required and it involves change in the production cost, the Parties may agree to adjust the price the unit price, in accordance with the reasonable estimate on the effect of the change. Any changes to reflect the current Exchange Rate and the current raw material price shall be made in accordance with Section 3.3. This price adjustment shall only apply to a specific Product and should not be applied generally.

3.2 Purchase Price Adjustment.

After the lapse of the one-year freeze under Section 3.1, the Purchase Price may be adjusted only when at least one of the following events takes place:

(a) Change in the Exchange Rate;

(b) Change in raw material price; or

(c) 除 (a) 或 (b) 项原因以外, 买卖双方确定价格变动。

3.3 基于汇率变动的价格调整。

合同双方以下达第一桩订购单后 12 个月为一年, 每年应按汇率变动调价一次, 调价的标准是: 将合作年度最后三个月的平均汇率与第一桩订购单的前后三个月的平均汇率 (以第一桩订购单为基准, 前 45 天及后 45 天的平均汇率, 以下简称“基准汇率”) 作对比, 如果最后三个月的汇率与基准汇率相差五 (5) 个百分点或以上, 则购买价格应据此汇率 (最后三个月的汇率, 此汇率将作为下次调整的基准汇率) 调整, 并适用于此后合作的 12 个月, 12 个月以后双方应依此原则对价格再做调整。

任何因汇率变动以外的原因引起的价格变动, 均须经双方协商一致才能达成。

3.4 暂定价格。

条款 3.1~3.3 中提及的价格变动, 可能会持续一段时间。在对新价格达成一致前, 双方应适用以前约定的价格 (“暂定价格”), 当确定新价格后, 对所有在运的产品都将具有追溯效力。

3.5 年度降价。

双方每合作满一年, 卖方都应给予买方一定的价格折扣 (具体数额由双方约定), 此种折扣与前文所述的价格调整无关。

3.6 价格支付。

(c) When the Purchaser and the Seller agree on the price change due to reasons other than (a) or (b) above.

3.3 Adjustment per Exchange Rate.

The adjustment of the Purchase Price as per Exchange Rate change shall be made once a year. After the end of the twelfth month from the first Purchase Order date, the Parties shall compare the last three month average of the Exchange Rate with the average Exchange Rate for the three months around the first Purchase Order date's Exchange Rate (45 days before and after the first Purchase Order date respectively, which is called hereinafter “Base Exchange Rate”) and if the last three month average varies from the Base Exchange Rate by five percent (5%) or more, the Purchase Price shall be adjusted accordingly (which shall become the Base Exchange Rate for the next adjustment) and remain effective for the next 12 months. At the end of the next 12 months, the Parties shall repeat the adjustment the same way.

Any adjustments other than Exchange Rate-related adjustment shall be agreed separately by the Parties.

3.4 Tentative Price.

The price changes mentioned in Sections 3.1~3.3 may take time or are possible only after a lapse of time. Until the new price is finalized, both Parties shall use the price agreed before (“Tentative Price”). When the new price is agreed, any shipments done with the Tentative Price shall be settled retroactively.

3.5 Annual Price Reduction.

The Purchase Price shall be reduced by a certain percentage (which shall be agreed by the Parties) on each anniversary date. This annual price reduction shall be separate from the other price adjustments mentioned in this Section.

3.6 Payment of the Purchase Price.

买方应在收到每笔产品的 90 天内，以电汇的方式将货款存入卖方指定的银行账户，双方以人民币或根据订购单所约定的其他货币结算。

4.产品规格

4.1 规格说明书。

卖方交付的产品应与买方产品规格说明书的规定相符，此处所称的“规格说明书”包括以下内容（买方可自行决定或征得卖方同意省略其中某一部分内容）：

- (a) 样图和规格说明；
- (b) 测试规范和公差数据；
- (c) 包装标准说明；

以及卖方对以上规格说明书如有任何疑问，请及时告知买方。

每批装运产品都应附有质量控制测试报告，其内容和及格式应当与测试规范所规定的相符。

4.2 保密性。

未经买方的书面授权，卖方应保证所有规格说明书的安全及保密性，卖方不得向任何第三方透露文件信息。

4.3 更改。

任何一方均可提出更改以上规格说明书，但必须获得另一方同意。

The Purchase Price shall be wire transferred by the Purchaser in Renminbi or such other currency as stated on the Purchase Order to a bank account of the Seller within 90 days upon receipt of each Delivery.

4. SPECIFICATIONS

4.1 Specification Document.

The Product shall be in accordance with the specification documents given to the Seller by the Purchaser. The specification documents shall be composed of the followings (a part of which may be omitted by the Purchaser at its sole discretion or upon agreement with the Seller):

- (a) Approved drawings and specifications;
- (b) Test specifications and tolerance data;
- (c) Instructions on standard packing; and

If the Seller has any questions on the specification documents of Section 4.1, the Seller should notify the Purchaser immediately.

Each shipment shall be accompanied by a quality control test report, the form and contents of which shall be in accordance with the test specifications.

4.2 Confidentiality.

The Seller shall keep the specification, pricing and all other documents, proprietary information, safely and confidentially. No specification documents shall be disclosed by the Seller, without a prior written consent of the Purchaser, to any third parties.

4.3 Change.

Either Party may propose changes to the specification documents, which shall be agreed by the Parties.

4.4 文件的归还。

当买方不再需要与文件相关的产品，应及时告知卖方，而卖方则应将从买方处获得的规格说明书及其他文件全数归还。

5 买方来料

5.1 买方来料。

在双方协商一致的基础上，买方可以为卖方提供加工产品的原材料、零件以及其他材料（以下简称“买方来料”）。

5.2 价格。

买方有权决定其来料价格，且卖方应按相同价格在交付产品时向买方收取。基于“买方来料”而产生的任何其他费用，由双方协商后单独核算。

5.3 收到买方来料后，卖方应认真核对来料的质量及数量，如有任何误差，应及时通知买方，并按买方的指示处理。卖方每月底应对买方的来料进行盘点入账并以书面形式告知买方。包括材料、成品、半成品以及不良品数量。

6 模具及其所有权问题

6.1 卖方投资的模具生产。

卖方应自费投资生产产品所需的模具（或工具）。关于生产模具所耗成本应当或买方确认，并在买方向卖方定购的产品价款中分期

4.4 Return of Documents.

When the Product is no longer in production, the Purchaser shall send a notice to that effect, and the Seller shall return all specification documents and other documents which it received from the Purchaser.

5. MATERIALS SUPPLIED BY THE PURCHASER

5.1 Purchaser's Materials.

If it is agreed between the Parties, the Purchaser may supply the raw materials, parts or any other materials for the Seller to use them in producing the Product ("Purchaser's Materials").

5.2 Pricing.

The price of the Purchaser's Materials shall be determined by the Purchaser and when the Seller delivers the Product, the same amount shall be charged by the Seller to the Purchaser. Any other costs incurred in relation with the movement of the Purchaser's Materials shall be separately calculated and agreed by the Parties.

5.3 Upon the receipt of the Purchaser's Materials, the Seller shall check the quality and the quantity and, if there are any discrepancies, the Seller shall immediately notify the Purchaser and follow Purchaser's instruction. The Seller shall take stock of the Purchaser's Materials and inform the Seller in writing of the result, including the quantity of raw material, finished products, semi-finished products and defective products by the end of each month.

6. MOLDS, SELLER-OWNED OR PURCHASER-OWNED

6.1 Seller-Invested Molds.

The Seller shall make molds (or toolings) for the Product at its own expense. The cost of the Seller in making the molds shall be agreed by the

摊销。

6.2 所有权的转让。

(1) 模具的所有权将随着卖方向买方提供产品的数量及进程而逐渐转移至买方，即使买方所定购的产品数量还不足抵偿模具生产费用而完整拥有模具的所有权，双方也可进行协商，并以适当的价格将所有权转移给买方，支付相应价款后，买方将拥有模具所有权，而产品单价中相应的模具费用应被扣除。

(2) 如果买方另外支付模具款项的则模具所有权立即转移至买方。

6.3 租用。

买方也可以向卖方出租夹具及其他辅助设备，租用条款中关于租金的约定应由双方商议决定。

6.4 保管责任。

卖方有义务谨慎保管其占用的模具、夹具及其他辅助设备，如果以上设备发生损毁或正常范围外的磨损，卖方应承担赔偿责任。

上述所有模具，夹具及其他辅助设备除了用于买方定购的产品，不能另作他用，也不得为买方以外的其他个人或公司所用。

卖方有义务妥善管理上述所有买方全部或部分拥有或租用的模具、夹具及其他辅助设备，其应有明显的标识以区别于卖方所拥有的设备及模具，从而表明买方所有权。

Purchaser and it shall be amortized over the volume the Seller shall be asked to make.

6.2 Transfer of Ownership.

(1) The ownership of the molds shall be gradually transferred from the Seller to the Purchaser in proportion with the progress of the production. Even before the production volume has not reached the volume where the Seller can recover 100% of the agreed mold cost, the Purchaser may make payment to the Seller in an amount equal to the unamortized value of the molds. The ownership shall be transferred to the Purchaser upon the payment and the unit price shall be reduced by the per-unit amortization expense.

(2) If the Purchaser pays for the molds separately, the molds shall immediately belong to the Purchaser.

6.3 Other Rentals.

The Purchaser may also rent jigs and other auxiliary equipment to the Seller and, in this case, the terms of the rent including rental fees shall be agreed by the Parties.

6.4 Responsibility of Care.

The Seller shall take good care of the molds, jigs and any other auxiliary equipment in its hands and if any of them is damaged or impaired beyond reasonable wear and tear, the Seller shall be responsible for such damages.

None of the molds, jigs and any other auxiliary equipment shall be used to produce anything other than the Product. They shall not be used for any individuals or companies other than the Purchaser.

The Seller shall duly manage the molds, jigs and any other auxiliary equipment, which is wholly or partly owned or rented by the Purchaser to the Seller. They should be separated from those of

the Seller's and clearly marked to show the Purchaser's ownership.

包括但不限于以下情况：若发生破产、清算、劳动纠纷或其他潜在或明显的可威胁到买方对上述所有模具、夹具及其他辅助设备的全部或部分所有权时，卖方应及时通知买方，并尽一切可能保障买方的权利，及时将上述模具、夹具及其他辅助设备交还买方。卖方应当赔偿买方与上述情况有关或因此而产生的所有损失和费用。

Any events including, but not limited to, receivership application, bankruptcy filing, labor disputes (whether latent or manifest), which may adversely affect ownership (whether partial or total) of the Purchaser in the above molds, jigs and any other auxiliary equipment, the Seller shall notify the Purchaser promptly and the Seller shall use his best endeavor to protect the Purchaser's interest and return the molds, jigs and other auxiliary equipment to the Purchaser promptly. The Seller shall indemnify the Purchaser all losses and expenses in connection with or arising from the above events.

7. 验货及收货

7. INSPECTION AND ACCEPTANCE

7.1 验货

7.1 Inspection.

当买方收到产品后应及时按验收程序对产品进行验收，并且买方在产品到达双方约定的交货地点后，十（10）天内决定是否收货。

Upon receipt of the Product by the Purchaser, the Purchaser shall inspect the Product in accordance with its inspection procedure promptly. The acceptance decision shall be made by the Purchaser within ten (10) days after the Delivery of the Products to the location mutually agreed by the Parties.

7.2 买方的修正

7.2 Correction by Purchaser.

如果产品不符合产品说明书或其他性能要求，或者存在其他缺陷，卖方有义务更换产品。但如买方认为其可以自行修复产品缺陷或更换报废的零件，则买方可进行修复，相关费用由卖方承担。

If any of the Delivered Products is found to be defective, fails to conform to the specifications or the performance requirement, the Seller shall replace them at its own cost. If the Purchaser thinks that the defect or faulty part can be rectified by the Purchaser, the Purchaser may repair the Product's defect or change the defective parts on its own but the Seller shall be responsible for such costs. .

如果产品的缺陷已超出买方修复能力的范围，买方有权废弃产品并要求卖方承担一切损失，也可应卖方要求，由卖方付费将产品运回卖方所在地。

If the defect of the Product is beyond Purchaser's capacity to repair, the Purchaser shall scrap it and charge all the relevant expenses to the Seller. Alternatively, if the Seller so requests, the Purchaser shall send the Product in question back

to the Seller at the expense of the Seller.

8. 产品质量保证

8.1 产品质量保证

(a) 规格说明书。

卖方出售给买方的产品应始终符合产品说明书的要求，具备说明书中说明的一切质量、特征及功能。如果产品的制作程序、方法、原材料、模具或器具具有任何变动或更改，卖方都应立即书面通知买方，并且在未经买方书面确认前，卖方不得将任何上述更改或变动的产品交付买方。

(b) 无缺陷。

卖方提供给买方的产品不应存在任何做工或原料方面的缺陷。

(c) 质量标准。

在产品的整个生产过程和程序中，卖方应具备良好的质量保证，如果买方要求，卖方也应无偿地达到双方协定的质量标准。

(d) 程序审查。

此一般条款和条件及订购单生效前提是卖方的生产程序和设备能同时通过买方及买方的客户（如需）的审查。如果不能通过任何一方的审查，则卖方应立即归还从买方处取得的一切材料、模具、夹具、设备、图纸、文件及其他物品。此外，只要提前 3 天通知，买方及其客户有权随时检查卖方的生产程序。

8. PRODUCT WARRANTIES.

8.1 Product Warranties.

(a) Specification.

The Product sold by the Seller to the Purchaser shall at all times meet the specifications and have all of the qualities, features, and be capable of performing all of the functions described in the specifications. The Seller shall immediately inform the Purchaser with written notice of any modification or change in the process or method, materials, molds or tools, and shall not Deliver any Product that has been modified or changed in any way without the prior written consent of the Purchaser.

(b) No Defects.

Product sold by the Seller to the Purchaser shall be free from defects in workmanship and material.

(c) Quality Standards.

The Seller shall have in place and well maintain a quality assurance system covering the whole process or procedure to manufacture the Product. When required by the Purchaser, the Seller shall also attain the quality designation at no additional cost to the Purchaser.

(d) Process Audit.

The precondition of these General Terms and Conditions and the Purchase Order shall be Seller's successfully passing the audit on Seller's processes and plant facilities to be conducted both by the Purchaser and by Purchaser's customers (if necessary). If the Seller fails to pass any of the audits, the Seller shall immediately return to the Purchaser all the materials, molds, jigs, equipment, drawings, documents or any other items provided or paid by the Purchaser. The Purchaser or its customers shall also be entitled to inspect, from time to time, the manufacturing process of the

Seller by serving a three-day prior notice.

(e) 不得私自转包。

除非获得买方的事先批准，否则卖方不得进行产品的任何生产部分的转包，并就转包方的行为向买方承担责任

(f) 保修期。

在保修期内，卖方有义务为买方处理产品缺陷或更换缺陷产品，赔偿买方因其产品缺陷造成的一切费用和损失。保修期的期限应与买方提供给客户的保修期期限相同。

8.2 即使本一般条款和条件终止和与之相关的订购单终止，包括但不限于由买方过失造成的合同终止，本条所述的产品质量保证条款在期限内（如下述规定）和/或一般条款和条件终止后仍有效。

9. 索赔及程序

索赔分为三种：品质索赔，交付索赔以及修正索赔。

9.1 品质索赔。

品质索赔是指与交付产品的缺陷以及因此缺陷产品作为其他相关产品系统或体系的一部分而造成的损害相关的索赔。

品质索赔又可再分为：In-line 索赔，OEM 索赔，A/S 索赔，Campaign 索赔及召回索赔。

(e) No Subcontracting.

The Seller shall not subcontract any part of the Product unless the Purchaser approves in writing the subcontracting in advance. The Seller shall be liable for the act of its subcontractor.

(f) Warranty Period.

During the warranty period, the Seller shall, among other things, be responsible to rectify the defect of the Product, replace the defective Product, and compensate for any Purchaser's expenses and losses caused by Seller's defective Product. The warranty period shall be the same in length with the Purchaser's warranty period given to Purchaser's customers.

8.2 Notwithstanding the termination of these General Terms and Conditions and the Purchase Order, including, without limitation, the termination due to the occurrence of an Event of Default attributable to the Purchaser, the Product Warranties set forth in this Section shall survive the Term (as defined below) and/or the termination of these General Terms and Conditions.

9. CLAIMS AND PROCEDURES

Claims are classified into three categories : Quality Claim, Delivery Claim and Correction Claim.

9.1 Quality Claim.

Quality Claim shall mean the relevant claim caused by the defects of the Delivered Product and the damage that the defective Product causes to any other product of which the defective Product is a part of the relevant product.

Quality Claim is classified into the following sub-categories: In-line Claim, OEM Claim, A/S Claim, Campaign Claim and Recall Claim.

In-line 索赔是指买方在将货物交付客户前，在其生产车间或其转包商的生产车间发现产品缺陷。

OEM 索赔是指在买方客户的生产车间发现产品缺陷。

A/S 索赔是指终端客户在保修期内发现产品缺陷。

Campaign 索赔是指为了防止产品缺陷给买方及其客户带来的安全隐患，不论是否在保修期内，为客户免费更换一些产品的缺陷部分。

召回索赔是指为了使用者的安全，根据政府或买方的命令更换具有潜在危险的产品。

In-line Claim shall mean defect(s) of the Product found at the plant of the Purchaser or its subcontractors before the product is delivered to Purchaser's customers.

OEM Claim shall mean defect(s) of the Product found at the plant of Purchaser's customers.

A/S Claim shall mean defect(s) of the Product found by consumers during the Warranty Period.

Campaign Claim shall mean for the sake of preventing any potential safety-related incident caused by the defect(s) of the Product by Purchaser's or its customer's, the Seller shall replace the defective parts free of charge for a certain production lot irrespective of the Warranty Period.

Recall Claim shall mean the replacement of the potentially defective Product as ordered by the associated government authorities or the Purchaser for safety purposes.

9.2 交付索赔。

交付索赔指买方对因卖方提供的缺陷产品而不能进行生产所遭受的损害进行索赔。

9.2 Delivery Claim.

Delivery Claim shall mean the claim against the damage the Purchaser has suffered from not being able to produce due to the defective Product supplied by the Seller.

9.3 修正索赔。

修正索赔指针对因时间限制或产品缺陷不太严重而由买方进行修理或修整产品进行索赔。

9.3 Correction Claim.

Correction Claim shall mean the claim on the defective Product, which was corrected or repaired by the Purchaser due to the time restraint or the minor character of the defect(s).

9.4 卖方责任

如果上述索赔由卖方引起，则应由卖方承担责任。

9.4 Responsibility of the Seller

If any of the claims occur due to the reason attributable to the Seller, the Seller shall be made responsible for the claims.

9.5 索赔裁定

无论是否接受索赔，卖方均应在收到买方索

9.5 Judgment on Claim

Within fifteen (15) days of the date of

赔偿通知的十五（15）天内作出回复。如果卖方未能在十五（15）天内回复，则将被视为接受索赔。如果卖方对索赔持有异议，双方应协商解决争议。

9.6 品质索赔的赔偿

如果发生品质索赔，则卖方应赔偿买方以下款项：

(a) 缺陷产品的交付费用以及遭受缺陷产品损害的其他产品的生产成本；以及

(b) 买方支付客户的所有赔偿，或因为此品质索赔，买方雇用厂商修复所花费的一切费用。

已确定精确的索赔数额应通知卖方。

9.7 交付索赔的赔偿

如果发生交付索赔，则卖方应赔偿买方以下款项：

(a) 赔偿数额 = 因延迟交付损失的工作时间 x 标准小时费率 x 2；以及

(b) 买方因延迟交付承受的任何其他损失。

已确定精确的索赔数额应通知卖方

9.8 修正索赔的赔偿

如果发生修正索赔，则卖方应赔偿买方以下款项：

(a) 赔偿数额 = 修复所费工作时间 x 标准

Purchaser's Claim Notice, the Seller shall send its reply to confirm or argue on a claim. If the Seller fails to reply within such fifteen (15) days, the claim notice shall be deemed to be accepted by the Seller. If the Seller argues against Purchaser's claim notice, both Parties shall discuss to resolve the claim.

9.6 Compensation for Quality Claim

The Seller shall compensate the Purchaser for the following amounts in the case of Quality Claim:

(a) Delivery cost of the defective Product plus the manufacturing cost of the other product(s) which has been damaged by the defective Product; and

(b) Any compensation the Purchaser paid to its customers or any cost incurred to the Purchaser in hiring a supplier to correct the claim with respect to the Quality Claim; and

The exact amount shall be forwarded to the Seller upon finalization of claim amount.

9.7 Compensation for Delivery Claim

The Seller shall compensate the Purchaser the following amounts in the case of Delivery Claim:

(a) Claim Amount = Lost Man-hours due to late Delivery x Standard Hourly Rate x 2; and

(b) Any other loss the Purchaser has suffered due to the delayed Delivery.

The exact amount shall be forwarded to the Seller upon finalization of claim amount.

9.8 Compensation for Correction Claim

The Seller shall compensate the Purchaser the following amounts in the case of Correction Claim:

(a) Claim Amount = Input Man-hours for

小时费率；以及

(b) 买方因修复工作承受的任何其他损失。

已确定精确的索赔数额应通知卖方。

9.9 索赔结算

赔偿款可与买方之前或以后应支付卖方的货款相抵，如果没有相关应付款，则卖方应以电汇方式将赔偿款汇入买方指定的银行账户。

10. 成本/费用/支出/收费

在产品交付前所发生的一切因产品买卖而产生的成本、费用、支出、收费等，包括但不限于所有关税、出口许可证、政府或权威机构颁发的许可证、税收、国内运费和/或单证费用（包括但不限于商品原产地证明）都应由卖方独自承担。属于卖方的单方成本或费用。

卖方可随时被要求向买方支付或偿还因买方在一般条款和条件下行使任何权利或权力，诉讼或追回任何款项，保留或加强其权利，或为抗辩与一般条款相关索赔要求而产生的所有合理成本、收费及支出进行支付或赔偿（包括法定费用、其他补偿费用及其他现金支出）。

correction x Standard Hourly Rate; and

(b) Any other loss the Purchaser has suffered due to the correction work.

The exact amount shall be forwarded to the Seller upon finalization of claim amount.

9.9 Settlement of Claims

The claim amount may be offset with Purchaser's account payable to the Seller with respect to previous or future orders. If there is no account payable, the Seller shall wire transfer the claim amount to the bank account designated by the Purchaser.

10. COSTS/FEES/EXPENSES/CHARGES.

All costs, fees, expenses, and charges associated with the sale and purchase of the Product, including, without limitation, all customs duties, export licenses, permits, governmental or regulatory authorizations, taxes, inland freight charges, and charges and/or fees for documents (including, without limitation, the certificate of origin) incurred prior to the Delivery of the Product shall be the sole responsibility of the Seller and at the sole cost and expense of the Seller.

The Seller shall from time to time forthwith on demand pay to or reimburse the Purchaser for all reasonable costs, charges and expenses (including legal and other fees on a full indemnity basis and all other out-of-pocket expenses) incurred by the Purchaser in exercising any of its rights or powers under these General Terms and Conditions or in suing for or seeking to recover any sums due under these General Terms and Conditions or otherwise preserving or enforcing its rights under these General Terms and Conditions or in defending any claims brought against it in respect of these General Terms and Conditions.

11. 一般条款和条件的期限

双方当事人一般在一般条款和条件的签名空格处签名后，该一般条款和条件生效。一般条款和条件（以下简称为“条款”）的有效期为买卖双方结束合作关系后的 5 年。

12. 不可抗力

当事人不应为超出其合理控制范围的事件（以下简称“不可抗力事件”）造成的延迟负责。根据一般条款和条件，不可抗力事件是指自然灾害、火灾、暴动、罢工或战争。尽管如此，我们仍然认为除非得到买方的书面同意，买方基于订购单条款和条件和/或一般条款和条件的收货权利，即卖方的交付义务，不能因此而推迟三十（30）天以上。

若任何一方发生不可抗力事件，都应在不可抗力事件发生之日起三（3）天内立即以书面形式通知对方，并提供合理的相关信息和文件，以证明不可抗力事件的发生，以及其怎样对延迟交货造成影响。

13. 争议的解决

双方一致同意所有一般条款和条件以及订购

11. TERM OF GENERAL TERMS AND CONDITIONS.

These General Terms and Conditions shall become effective on the date when Purchaser's and Seller's signatures are signed on the signing block of these General Terms and Conditions. These General Terms and Conditions shall remain effective until five (5) years after the termination of the cooperation between the Parties (hereinafter referred to as the "Term").

12. FORCE MAJEURE.

No Party shall be liable for delays in performance hereunder due to causes beyond its reasonable control (hereinafter referred to as the "Events of Force Majeure"). For purposes of these General Terms and Conditions, Events of Force Majeure shall mean acts of God, fires, riots or strikes, or acts of war. However, each Party undertakes to minimize any such delay to the extent possible. Notwithstanding the foregoing, it is understood that, without the written consent of the Purchaser, the Purchaser's right to receive Delivery and the Seller's obligation to Deliver, under the terms and conditions of a Purchase Order and/or these General Terms and Conditions shall not be delayed by more than thirty (30) days.

Any Party claiming the occurrence of an Event of Force Majeure must provide written notice to the other Party of no later than three (3) days from the date of the occurrence thereof, and provide information and documentation reasonably satisfactory to the other Party evidencing the occurrence of an Event of Force Majeure and how the delay in the performance of its duties can be attributed to the Event of Force Majeure.

13. SETTLEMENT OF DISPUTES.

The Parties agree that this Section shall apply to

单的争议，均按本条解决。

(a) 如果双方因一般条款、订购单或相关的解释发生任何争议，或发生任何与一般条款和条件、订购单或相关的解释相关的争议，包括但不限于这些文件的存在性、合法性以及其终止问题。双方应在争议发生之日（一方收到另一方的争议通知之日）起的三十（30）天内尽一切努力友好协商解决。如果双方无法通过友好协商解决相关争议，则任何一方可以向买方所在地具有管辖权的法院提出诉讼。

(b) 在任何情况下，卖方均不得停止或威胁停止供货，如果卖方需终止供货或终止此一般条款，至少应提前 6 个月书面通知买方。

14. 转让

在未经另一方书面授权的情况下，任何一方均无权利转让、转移或授予任何或所有的基于一般条款和条件的权利、利益和/或义务予任何第三方。

15. 完整的协议

本一般条款和条件构成双方的完整协议，生效后取代此前的所有意向文件或基于交易目的达成的谅解性文件。

16. 修正

对于此一般条款和条件的任何修正、更改和/

any and all disputes arising from these General Terms and Conditions and the Purchase Orders.

(a) In the event of any dispute arising out of or in connection with these General Terms and Conditions, a Purchase Order or the interpretation hereof, including, but without limitation to its existence, validity or termination, the Parties shall use their best efforts to resolve the dispute through friendly negotiation within thirty (30) days from the date of receipt by a Party of a notice of such dispute from the other Party. If the Parties fail to resolve the dispute through friendly negotiation, either Party may bring a lawsuit at a competent people's court in which the Purchaser is located.

(b) The Seller shall not in any event be allowed to stop or threaten to stop the Delivery due to disputes. If the Seller wants to stop the Delivery or terminate these General Terms and Conditions, it shall give the Purchaser a written notice at least six months prior to the intended termination date.

14. ASSIGNMENT.

No Party to these General Terms and Conditions shall have the right to assign, transfer, or delegate any or all of its rights, interests, benefits and/or obligations under these General Terms and Conditions to any third party without the prior written consent of the other Party.

15. ENTIRE AGREEMENT.

These General Terms and Conditions constitute the entire agreement of the Parties and supersede any prior expressions of intent or understandings with respect to the transaction contemplated herein.

16. AMENDMENT.

Any amendment, modification and/or change of

或变化均需双方签字才可生效。

17. 弃权

除非以书面方式明确表示弃权，当事人的延迟、放弃、拖延等行动不能被视为已放弃任何权利、赔偿或已默许另一方当事人代表的任何误解、不为或另一方违反一般条款和条件中包含的任何事实陈述、担保、约定或协议。当事人不能以此认为对方弃权，而不履行、延迟履行义务以侵害上述方拥有的权利、权力和特权，亦不能据此单方面或部分的履行其不具有的权利、权力和特权或其他权利、权力和特权。

18. 独立性条款

如果一般条款和条件中的任何条款违反了任何法律法规，或被认为无效，则一般条款和条件应视为不包含该条款，而当事人相应的权利、义务也应据此强制性变动。

19. 标题

标题的应用仅是为了方便起见，不影响一般条款和条件内容的解释或理解。

20. 累计赔偿

此处规定的赔偿并不排斥法律规定的其他赔偿，二者可累计进行。

any provision of these General Terms and Conditions shall only be effective if made in writing and signed by the Parties.

17. WAIVER.

A Party shall not, by any act, delay, indulgence, omission or otherwise, except by an express written instrument clearly indicating an intention to waive, be deemed to have waived any right or remedy hereunder or have acquiesced in any misrepresentation, non-fulfillment, failure to comply or breach by the other Party of any representation, warranty, covenant or agreement contained in these General Terms and Condition. No failure to exercise nor any delay in exercising on the part of the said Party, any rights, powers or privileges hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power, privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

18. SEVERABILITY.

If any of the provisions of these General Terms and Conditions shall contravene any law or regulation or be held invalid, these General Terms and Conditions shall be construed as if not containing those provisions, and the rights and obligations of the Parties hereto shall be construed and enforced accordingly.

19. HEADING.

Headings and titles herein are for convenience only and shall not affect the construction or interpretation of these General Terms and Conditions.

20. REMEDIES CUMULATIVE.

The rights and remedies provided herein are cumulative and not exclusive of any other rights or

remedies provided by law.

21. 约束力和利益

一般条款只涉及双方当事人的利益，不存在任何关于第三人的权利、赔偿、义务、债务的明示或暗示内容。

22. 适用法律

此一般条款和条件以及所有订购单都适用中国法律。

23 副本

本一般条款和条件以多份副本执行，所有副本共同构成同一份文件。

24 有效期限

本合同自 20 年 月 日至 20 年 月 日有效。

但期满前六个月，甲乙双方均未提出表示其它意思的文书时，即视为自动延期 1 年。以后亦然。

鉴于此，此一般条款和条件由买卖双方授权的代表在以下日期签字盖章并生效。双方各执一般条款和条件的原本一（1）份。

21. BINDING EFFECT AND BENEFIT.

These General Terms and Conditions shall inure to the benefit of and be binding upon the Parties hereto. Nothing in these General Terms and Conditions, express or implied, is intended to confer upon any other person any rights, remedies, obligations, or liabilities.

22. APPLICABLE LAW.

These General Terms and Conditions and Purchase Orders shall be governed by and construed in all respects in accordance with the laws of the People Republic of China.

23. COUNTERPARTS.

These General Terms and Conditions may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

24. CONTRACT EXPIRATION

This contract is valid from 20 to 20

This contract will be extended to next 12 month or longer unless buyer or seller has different opinions on the terms with notifying other party 6 month before the expiration date

IN WITNESS WHEREOF, these General Terms and Conditions have been executed by the duly authorized representative of the Parties on the day and year first written below. One (1) original copy of these General Terms and Conditions is given to each Party.

买方:

- ☐ 摩丁热能技术（上海）有限公司/
☐ 摩丁机械（常州）有限公司
(*请删去不适用者)

签 署 人 : _____

(签署日期)

姓名:

职务:

卖方:

XXXXX

签 署 人 : _____

(签署日期)

姓名:

职务:

PURCHASER:

- ☐ Modine Thermal Systems (Shanghai) Co.,
Ltd./
☐ Modine Thermal System (Changzhou) Co.,
Ltd.

By: _____ (Date

of Signing)

Name:

Title:

SELLER:

XXXXX

By: _____

(Date of Signing)

Name:

Title: