

**MODINE MANUFACTURING COMPANY**  
**ADDITIONAL PURCHASE ORDER TERMS AND CONDITIONS IN SUPPORT OF A**  
**U.S. GOVERNMENT PRIME CONTRACT OR SUBCONTRACT**

**1. RATED ORDER.** If this is a “rated order” certified for national defense use, Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulations (15 C.F.R. Part 700).

**2. CERTIFICATIONS.** By accepting or performing this Purchase Order, Seller certifies that:

a. Neither Seller nor any of its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency. “Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

b. Neither Seller nor any of its affiliates are owned or controlled by the government of a country that is a state sponsor of terrorism.

c. Seller: (i) is in compliance with Sec. 202 of Executive Order 11246, as amended by Executive Order 11375, and subsequent Executive Orders and the Rules and Regulations set forth by the Secretary of Labor in effect as of the date of this Executive Order; (ii) does not and will not provide or maintain at any of its establishments, nor permit its employees to perform their services at any location under its control where there are maintained segregated facilities; and (iii) agrees that a breach of this Certification violates the Equal Employment clause of Executive Order 11246. “Segregated Facilities” means facilities which are in fact segregated on a basis of race, color, religion, sex or national origin. Seller agrees to: (1) obtain an identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; and (2) maintain such certifications in its files. The penalty for making a false representation is prescribed under 18 U.S.C. 1001 and any such false representation shall be a material breach of this Purchase Order.

d. If it has participated in a previous prime contract or subcontract subject to FAR 52.222-26, “Equal Opportunity,” that Seller has filed all required compliance reports.

e. If it has previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), that Seller has developed and has on file at each establishment affirmative action programs required by such rules and regulations.

f. If Seller is registered in the System for Award Management (“SAM”), the size or socioeconomic representations and certifications in SAM (or any other successor system) are current, accurate and complete as of the date of Seller’s offer.

g. To the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this Purchase Order. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of Seller with respect to this Purchase Order, Seller shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Seller need not report regularly employed officers or employees of Seller to whom payments of reasonable compensation were made. Submission of this certification and disclosure is a prerequisite for making or entering into this Purchase Order imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure. As used in this Certification, "Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8) and the remaining terms are defined in FAR clause 52.203-12, "Limitation on Payments to Influence Certain Federal Transactions."

**3. EQUAL EMPLOYMENT OPPORTUNITY. Modine and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), 60-741.5(a) and 29 CFR Part 471, Appendix A to Subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Seller shall include this Paragraph 3 in each lower-tier subcontract it issues.**

**4. CERTIFICATES OF CONFORMANCE.**

a. Seller shall include with each shipment of Supplies a Certificate of Conformance as follows:

I certify that on [*insert date*], the [*insert Seller's name*] furnished the supplies or services called for by Purchase Order No. [*insert Purchase Order number*] via [*insert Carrier*] on [*identify the bill of lading or shipping document*] in accordance with all applicable requirements. I further certify that the supplies or services are of the quality specified and conform in all respects with the contract requirements, including specifications, preservation, packaging, packing, marking requirements, and physical item identification (part number), and are in the quantity shown on this or on the attached acceptance document. I further certify that, except as stated below, the supplies have been mined, produced, or manufactured in the United States and, if the supplies contain specialty metals, the supplies comply with the restrictions on

specialty metals, as implemented through the Department of Defense Federal Acquisition Regulation Supplement.

Date of Execution: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

The following Supplies supplied under this order have not been mined, produced, or manufactured in the United States:

Item Number or Identifier: \_\_\_\_\_

Country of manufacture: \_\_\_\_\_

Modine will not accept shipments of Supplies that do not contain a properly executed Certificate of Conformance as required in this Paragraph 4.

**5. EXPORT CONTROLS AND ECONOMIC SANCTIONS:**

a. Seller agrees to comply with all applicable export control and economic sanctions laws including, but not limited to: (i) the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce; (ii) the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State; (iii) the various economic sanctions programs administered by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC regulations) and the U.S. Department of State's Office of Terrorism Finance and Economic Sanctions Policy; and (iv) any export controls or economic sanctions maintained by the European Union ("EU"), United Kingdom, or any other governmental authority to which Seller is subject (collectively "Export Control Laws").

b. Seller shall obtain any authorizations, licenses, or registrations required under the aforementioned Export Control Laws, including those required for the sale at issue to Modine. Seller will furnish Modine with: (i) documentation identifying: any articles, services, software, technology, and/or technical data requiring subject to these Export Control Laws; (ii) written confirmation of the relevant Export Classification Control Numbers ("ECCNs"), U.S. Munition List ("USML") category numbers, or other export classification designators for each such item; and (iii) copies of any related export licenses or authorizations. If Seller sources such items outside the United States, then Seller shall notify Modine and take all necessary measures to comply with all foreign Export Control Laws that may relate to the sale or transfer of the same.

c. Seller shall clearly and appropriately label any controlled technical data (including, but not limited to, drawings, designs, specifications, blueprints, CAD information, and other technical documents or electronic information related to the production, manufacture, or maintenance of a controlled article) that it provides to Modine with as controlled pursuant to the EAR, ITAR, and/or other applicable laws.

Seller shall provide any controlled technical data communicated to Modine using secure communication protocols designed for the purpose of complying with the aforementioned Export Control Laws. Under no circumstances should such information be emailed using systems that are not designed for the secure communication of controlled technical data.

d. Seller agrees that it will not source any articles, services, software, technology, or technical data that originate from any country, government, organization, or person that is: (i) subject to U.S., EU, or British economic sanctions or other applicable sanction regimes; or (ii) any party that is debarred or restricted pursuant to the aforementioned Export Control Laws, or the U.S. Department of Defense Federal Acquisition Regulations.

e. Seller is solely and exclusively responsible for safeguarding all export controlled articles, services, software, technology, or technical data until Modine receives the items at issue. This includes both exports to a non-U.S. destination and allowing non-U.S. persons to access such items while located within the United States. Seller will also take appropriate steps to ensure that no export controlled articles, services, software, technology, or technical data can be shipped to a controlled country (or otherwise accessed by unauthorized foreign nationals) without the appropriate export licenses. Where the Seller is shipping of a controlled article, the Seller shall use a carrier that maintains procedures designed to comply with the aforementioned Export Control Laws, and to provide any required notifications to the carrier that the shipment involves controlled items.

f. If the Seller is a signatory to a Technical Assistance Agreement (“TAA”) or Manufacturing License Agreement (“MLA”) with Modine, Seller shall promptly notify Modine of any changed circumstances that would require modifying the terms of such an agreement, including any potential violation of the terms of the agreement, any ineligibility to export, any investigation into alleged violations of the aforementioned Export Control Laws, any self-disclosure of potential export controls violations, any addition of foreign personnel to any project covered by such an Agreement, or any other circumstances that may affect the Seller’s ability to perform pursuant to the terms of the Agreement.

g. Seller shall immediately notify Modine if it is or becomes listed on any Excluded or Denied Party List maintained by any U.S. EU, or British agency, or if any government denies, suspends, or revokes its export privileges.

h. Seller shall prepare and provide accurate invoices and documentation for each shipment that will allow Modine to comply with the export and import requirements administered by U.S. Customs & Border Protection (“CBP”), including: (i) the Seller’s name and address; (ii) the terms of sale; (iii) the total quantity of goods being shipped; (iv) a description of the goods being shipped; (v) the country of origin of the goods; (vi) the valuation of the goods; (vii) the currency in which the goods are priced; and (viii) any discounts that have been included for the shipment that are not otherwise reflected in the unit price.

i. Seller shall promptly notify Modine of any suspected violation of the aforementioned Export Control Laws. Seller further agrees that it will fully cooperate in any investigation related to the subject matter of the Purchase Order, including by providing full access to relevant personnel and records to aid Modine in the identification and evaluation of any suspected violation, following reasonable notice from Modine.

j. Seller agrees to indemnify Modine for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses, and liabilities (including costs of investigation of potential violations of the aforementioned Export Control Law) that may arise as a result of Seller's breach of any of the provisions within this Section.

**6. CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM.**

a. The following definitions apply to this Paragraph 6:

i. "*Counterfeit Electronic Part*" means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

ii. "*Electronic Part*" means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly (section 818(f)(2) of Pub. L. 112-81). The term "electronic part" includes any embedded software or firmware.

iii. "*Suspect Counterfeit Electronic Parts*" means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.

b. Seller shall not deliver Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts to Modine under this Purchase Order.

c. Seller shall only purchase Supplies to be delivered or incorporated in Supplies delivered to Modine directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Seller may use another source only if: (i) the foregoing sources are unavailable; and (ii) Seller's inspection and other counterfeit risk mitigation processes will be employed to ensure the authenticity of the parts.

d. Seller shall maintain counterfeit risk mitigation processes in accordance with industry recognized standards and with any other specific requirements identified in this Purchase Order.

e. Seller shall immediately notify Modine with the pertinent facts if Seller becomes aware that it has delivered Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts. When requested by Modine, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. Seller at its expense, shall provide reasonable cooperation to Modine in conducting any investigation regarding the delivery of Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts under this Contract.

f. This Paragraph 6 applies in addition to and is not altered, changed, or superseded by any quality provision, specification, statement of work, regulatory flow-down, or other provision included in this Purchase Order addressing the authenticity of parts.

g. Seller shall include subparagraphs (a) through (f) and this subparagraph (g) of this Paragraph 6 or equivalent provisions in lower tier subcontracts for the delivery of electronic parts that will be included in or ultimately furnished to Modine.

## 7. COMPLIANCE WITH LAWS.

a. **General Compliance.** Seller hereby represents, warrants, certifies and agrees that all work performed and all Supplies delivered to Modine pursuant to this Purchase Order shall be performed, provided, manufactured, produced, packaged, labeled, shipped, delivered, invoiced, sold and – if required – registered in accordance and compliance with all applicable federal, national, state and local laws, orders, rules, ordinances and regulations, including without limitation the following (unless and to the extent Seller has demonstrated to Modine’s reasonable satisfaction that Seller is exempt from any of the following):

- i. Sections 6, 7, and 12 of the federal Fair Labor Standards Act, as amended, and regulations and orders of the U.S. Department of Labor issued under Section 14 of said Act;
- ii. the Federal Motor Vehicle Safety Laws, as amended; and
- iii. the federal Clean Air Act, Subchapter II, Emissions Standards for Moving Sources, 42 U.S.C. §§ 7521-7590, as amended.

b. **REACH Regulation.** Seller hereby confirms that any Product supplied to Modine and used in Modine’s Supplies complies with the obligations provided for in Regulation (EC) 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of chemicals (the “EU REACH Regulation”). Confirmation of compliance includes proof of compliance with national, federal, state, provincial, municipal and local environmental laws, regulations, and requirements globally related to or comparable to obligations provided in the EU REACH Regulation. To demonstrate compliance with the obligations for which this subparagraph (b) provides, Seller must, in respect of the Supplies supplied to Modine, and at all times:

i. Show proof of compliance with obligations provided in the EU REACH Regulation, as from time to time amended, including without limitation Registration, Authorization and other applicable supplier requirements (such Registration must cover Modine's use for the Supplies purchased);

ii. Provide appropriately completed Chemical Safety Reports and Safety Data Sheets for all Substances and Mixtures for which Chemical Safety Reports and Safety Data Sheets are legally required (for all Substances or Mixtures that meet the criteria of Art. 31 para. 1, 3 of the EU REACH Regulation, the Safety Data Sheets must be made available in a format that is in accordance with Annex II of the EU REACH Regulation);

iii. Provide the information concerning all Substances and Mixtures for which no Safety Data Sheet is required that is referred to in Art. 32 of the EU REACH Regulation, including:

(1) necessary registration numbers, if available;

(2) whether the substance is subject to authorization and, if so, details of any authorization granted or denied in this supply chain under the Authorization provisions in Title VII of the EU REACH Regulation;

(3) details of any restriction imposed under Title VIII of the EU REACH Regulation regarding manufacturing, placing on the market and use of certain dangerous substances, mixtures and articles;

(4) any other available and relevant information about the substance that is necessary to enable appropriate risk management measures to be identified and applied including specific conditions resulting from the application of Section 3 of Annex XI of the EU REACH Regulation concerning general rules for adaptation of the standard testing regime.

iv. Provide the information referred to in Art. 33 of the EU REACH Regulation on the duty to communicate on all substances in each Article; and

v. Inform Modine immediately if:

(1) there are changes to the Registration or Authorizations of Substances for Substances, Mixtures, or Articles purchased by Modine;

(2) any of the Substances, Mixtures, or Articles purchased by Modine meet the criteria referred to in Art. 57 of the EU REACH Regulation for inclusion on the list of substances subject to Authorization found in Annex XIV of the EU REACH Regulation or are on the candidate list for eventual inclusion in the list provided in Annex XIV of the EU REACH Regulation;

- (3) Seller intends not to pre-register a phase-in substance;
- (4) Seller has failed to pre-register a phase-in substance in time;
- (5) a Registration has been rejected by the European Chemicals Agency; or
- (6) absorb and pay directly any and all costs of Registration, testing, and maintenance of Registration in connection with the EU REACH Regulation.

vi. If Seller fails to comply with the applicable obligations imposed by the EU REACH Regulations or the related or comparable national implementing laws of individual EU Member States or fails to follow Modine's requirements in this regard, Seller shall indemnify and hold Modine harmless from and against any and all damages, losses, claims, demands, or expenses arising from, or relating to, such non-compliance.

vii. Capitalized terms used in this Paragraph 7 dealing with the EU REACH Regulation shall have the meanings given thereto in the EU REACH Regulation. These terms relate in particular to:

- (1) The Registration of substances as provided in Title II, Articles 5-24 of the EU REACH Regulation;
- (2) The Evaluation of substances as provided in Title VI, Articles 40-54 of the EU REACH Regulation;
- (3) The Authorization of substances as provided in Title VII, Article 55-66 of the EU REACH Regulation;
- (4) The Restrictions on the manufacturing, placing on the market and use of certain dangerous substances, mixtures and articles as provided in Title VIII, Articles 67- 73 of the EU REACH Regulation;
- (5) Chemical Safety Reports as provided in Annex I of the EU REACH Regulation "General provisions for assessing substances and preparing Chemical Safety Reports";
- (6) Safety Data Sheets as provided in Annex II of the EU REACH Regulation "Requirements for the compilation of Safety Data Sheets";
- (7) "Substance" shall have the meaning provided in Article 3.1 of the EU REACH Regulation "(...)a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving



from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition”;

(8) “Mixtures” shall have the meaning provided in Article 3.2 of the EU REACH Regulation “(...) a mixture or solution composed of two or more substances”;

(9) “Article” shall have the meaning provided in Article 3.3 of the EU REACH Regulation as “(...) an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition”;

(10) European Chemical Agency (ECHA) shall mean the EU regulatory authority in Helsinki, Finland, established to assist companies with compliance with the EU REACH Regulation. It advances and promotes the safe use of chemicals, provides information on chemicals and addresses chemicals of concern;

(11) EU Member States shall mean the 28 Member States of the European Union are Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

c. **WEEE; RoHS.** Seller also hereby confirms that it understands and agrees to fully comply with its obligations under EU Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) and EU Directive 2011/65/EU on the restriction on the use of certain hazardous substances in electrical and electronic equipment (RoHS recast), and under other related or comparable national, federal, state, provincial, municipal and local environmental laws, regulations, and requirements globally. Seller warrants that all substances included in the Supplies to be supplied to Modine under this Purchase Order, and all activities associated with the design, manufacture, testing and storage of said Supplies, will comply with all applicable WEEE and RoHS Directives and all related or comparable national, federal, state, provincial, municipal and local governmental authorities throughout the world, as applicable.

d. **Conflict Minerals.**

i. Modine advises Seller that Modine is required to comply with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the implementing regulations issued by the United States Securities and Exchange Commission (together the “Act”). Seller must comply with the provisions of this subparagraph (d) to ensure that Supplies do not include conflict minerals sourced from mines or smelters in the Democratic Republic of the Congo (“DRC”) or an adjoining country that are providing financial support to

groups who are operating in violation of human rights. In addition, Seller acknowledges that Modine will rely on the accuracy and completeness of information that Seller furnishes to Modine as the basis for Modine's decisions regarding its compliance with the Act and its disclosures under the Act.

ii. The terms "adjoining country", "conflict mineral", and "conflict minerals from recycled or scrap sources", and variations of those terms, are used herein as those terms are defined for purposes of the Act. As of December 17, 2012, the term "conflict mineral" includes columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, limited to tantalum, tin, and tungsten. That definition is used here unless the U.S. Secretary of State determines and publishes a list of additional derivatives financing conflict in the DRC or an adjoining country and states that the Act applies to those minerals as well.

iii. Seller represents, warrants, covenants and certifies that it has adopted or is in the process of adopting supply chain policies and processes that will require (i) a reasonable inquiry into the country of origin of conflict minerals incorporated into Supplies it sells to Modine to determine whether any conflict minerals are from the DRC or adjoining countries or are from recycled or scrap sources, (ii) due diligence of Seller's supply chain, as necessary, to determine where conflict minerals were sourced, including whether the source of any conflict minerals was certified as conflict-free by the EICC or a similarly-recognized certification agency, and (iii) disclosure of the findings of the country of origin inquiry and due diligence to Modine as it becomes available or in response to Modine's request.

iv. Seller further agrees to take all other measures reasonably requested by Modine to enable Modine to comply with the Act, including its implementing regulations, as they may be amended over time. Specifically, Seller agrees: (1) to respond to each request from Modine by certifying in writing to Modine whether Seller is complying with subparagraph (d) of this Paragraph 7; (2) to provide Modine with such information regarding the source and chain of custody of all conflict minerals that may be contained in Supplies furnished hereunder as Modine may request from time to time and to certify in writing as to the accuracy and completeness of such information; (3) to cooperate promptly as requested by Modine with Modine's efforts to comply with the Act, including permitting Modine, at any time, to review Seller's processes, procedures and all other documentation regarding Seller's obligations to comply with subparagraph (d) of this Paragraph 7; and (4) without limiting Seller's obligations to comply fully with subparagraph (d) of this Paragraph 7 for Supplies furnished under this Purchase Order, to use commercially reasonable efforts to cause its subcontractors and sub-suppliers of every tier to provide Modine and Seller with the information and cooperation that Seller is required to provide under sub-paragraphs (1), (2) and (3).

e. If Seller fails to comply with any applicable federal, national, state and local laws, orders, rules, ordinances and regulations, including without limitation those

laws and regulations referenced in this Paragraph 7, Seller shall indemnify and hold Modine harmless from and against any and all damages, losses, claims, demands, or expenses arising from, or relating to, such non-compliance.

## **8. WARRANTY**

a. Seller warrants that: (1) Modine shall receive good title to all Supplies purchased hereunder, free and clear of all liens, encumbrances and security interests; (2) all Supplies purchased hereunder that are goods shall be free from all defects in materials and workmanship, shall be of good and merchantable quality, shall conform exactly to, and shall have been manufactured, produced, packaged, labeled, shipped, delivered, invoiced and sold in strict accordance with, Modine's specifications, drawings and designs, shall (in the case of goods manufactured by Seller in accordance with its own designs) be free from all defects in design, and shall (unless otherwise set forth on this Purchase Order) be made from new and unused materials and components; (3) all services purchased hereunder shall be provided in a professional and timely manner and in accordance with industry standards applicable to a world-class provider of such services, by personnel who are properly trained and supervised; and (4) all Supplies shall comply, and shall have been manufactured, produced, packaged, labeled, shipped, delivered, invoiced and sold or otherwise performed and provided, as applicable, in compliance with all applicable federal, national, state and local laws, orders, rules, ordinances and regulations.

b. The foregoing warranties shall survive inspection, delivery, acceptance, payment and completion or termination of this Purchase Order and shall run in favor of Modine and its customers, both direct and indirect. If any Supplies furnished under this Purchase Order shall be found to be defective or inferior in quality, or not to conform to Modine's specifications or to Seller's warranties during the applicable Warranty Period (as defined below), Modine shall have all rights and remedies available to it under this Purchase Order and under applicable law. Without limiting the foregoing, Modine shall also have the right to: (i) cancel any unshipped portions of any such Purchase Order, and/or to return any such defective or nonconforming Supplies to Seller at Seller's expense, and/or (ii) retain and rework or repair any such defective or nonconforming Supplies, in which case Seller shall reimburse Modine on demand for material and labor charges associated with the rework or repair, with material, labor, travel and freight charges calculated at Modine's then-current hourly rates, and/or (iii) cover by purchasing goods from another vendor, in which case Seller shall reimburse Modine for the amount (if any) by which the cost of such goods exceeds the contract price of the defective or nonconforming Supplies hereunder, along with all other cover damages, and/or (iv) impose upon Seller any predetermined charge-back associated with such defective or nonconforming Supplies that may have been agreed upon by Seller and Modine, and if Modine imposes such charge-back, Seller shall within fifteen (15) days' pay to Modine the amount of such charge-back. Modine shall also be reimbursed by Seller for all of its costs and expenses in connection with the inspection, storage, handling, packing and/or transporting of any such defective or nonconforming Supplies, and Seller shall assume all risk of loss or damage in transit to goods returned by Modine pursuant hereto.

c. In the event Seller becomes aware of any circumstance that would reasonably cause Seller to believe that any of its warranties may have been breached or that it may not be capable of delivering Supplies which conform to such warranties set forth in this Paragraph 8, Seller shall immediately notify Modine in writing of the problem and the extent of such problem.

d. For purposes of this Purchase Order, "Warranty Period" means the period commencing upon the date on which the applicable Supplies were delivered or furnished to Modine and expiring on the later to occur of (i) three years after the date on which such Product was delivered or furnished to Modine; and (ii) three years after the date on which the vehicle, equipment or other product into which such Supplies are installed or incorporated is delivered by Modine to its customer, but not later than the third anniversary of the date on which such Supplies were delivered or furnished to Modine. Notwithstanding anything in the immediately preceding sentence to the contrary, if Seller's standard warranty with respect to any particular Product would continue beyond the expiration of the Warranty Period as determined in accordance with that sentence, then the Warranty Period for that Product shall be deemed to be of the same duration as Seller's standard warranty. Notwithstanding anything in this Purchase Order to the contrary, in the event that Seller and Modine agree in a separate written warranty agreement to a different warranty or Warranty Period, such different warranty and/or Warranty Period shall be controlling over the Supplies purchased by Modine pursuant to this Purchase Order.

**9. REPAIR PART SUPPORT.** Seller agrees to make available to Modine (at a location mutually agreed upon by the parties) all assembly and assembly components for service requirements for the articles furnished under this Purchase Order at Seller's list price in effect from time to time less a discount at least equivalent to that offered its most favored customers, taking into account further such other relevant factors as the cost savings that may be effected through quantity purchases, for a minimum of fourteen (14) years from the delivery by Modine's customer to the government of the last article, or part or assembly therefor, under the applicable prime contract.

**10. IDENTIFICATION OF NON-U.S. SUPPLIERS.** Seller agrees to use reasonable efforts to identify the foreign content of goods that Seller either produces itself and/or procures from subcontractors for work directly related to this Purchase Order. Promptly after selection of a non-U.S. subcontractor for work under this Purchase Order, Seller shall notify Modine of the name, address, subcontract point of contact (including telephone number and e-mail address) and dollar value of the subcontract.

**11. MANUFACTURER'S IDENTIFICATION SYMBOL LISTING REQUIREMENT**

**a. Definitions.**

i. "Manufacturer," as used in this Paragraph 11, means the actual source which substantially makes a product out of raw materials.

ii. “Manufacturers Identification Symbol,” as used in this Paragraph 11, means a unique marking or logo normally applied to threaded steel fasteners during the manufacturing process that distinguishes such products from similar products of other manufacturers.

b. This Paragraph 11 establishes requirements to advance the Government's objective that all threaded steel fasteners procured from a Government or contractor-owned technical data package (“TDP”), as further described herein, be identified by a manufacturer's identification symbol listed by the Defense Industrial Supply Center (“DISC”).

c. This Paragraph 11 applies to end items:

i. Where the government TDP specifies the use of Steel Cap Screws (threaded steel fasteners) in accordance with Federal Specification FF-S-85C, American National Standards Institute B 18.2.1-1981, and various Military Standard drawings which specify SAE Alloy Steel; or

ii. In which threaded steel fasteners of a unique contractor design are employed pursuant to a contractor-owned TDP.

d. The Seller agrees to furnish to the Modine end items which contain only threaded steel fasteners procured by a manufacturer whose identification symbol has been listed by DISC. If the manufacturer's symbol has not been listed by this agency, the manufacturer should submit its symbol to DISC at the following address without delay for immediate listing:

Defense Industrial Supply Center  
ATTN: DISC-ESA  
700 Robbins Avenue  
Philadelphia, PA 19111-5096  
Phone (877) 352-2255  
<http://www.dscp.dla.mil>

e. The DISC list of manufacturer's identification symbols includes those manufacturers that were listed with the American Society of Mechanical Engineers (ASME) as of June 30, 1988. Manufacturers listed with ASME as of June 30, 1988 need not apply for listing by DISC.

f. The Seller is responsible for ensuring that all hardware procured from a Government TDP meets the specifications of the TDP, and that all threaded steel fasteners employed in end items procured from either a Government or contractor-owned TDP reflect a manufacturer's identification symbol listed by DISC.

**12. LIMITATION OF LIABILITY.** In no event shall Modine be liable to Seller for anticipated profits or for incidental, special or consequential damages. Modine’s liability to Seller for a claim of any kind or for any loss or damage arising out of or in connection with or

resulting from this Purchase Order, or from any performance or breach, shall in no case exceed the price allocable to the goods or services which directly gives rise to the claim.

**13. DISPUTES.**

a. If Modine elects to prosecute any dispute involving this Purchase Order under the disputes procedure applicable to the U.S. Government prime or higher-tier contract, Seller shall cooperate fully with Modine in prosecuting the dispute. Seller shall be bound by the final outcome of the disputes procedure if: (i) Modine has afforded Seller an opportunity to participate in Modine’s prosecution of the dispute; or (ii) Modine, having decided to discontinue its own prosecution of the dispute, has afforded Seller an opportunity to continue to prosecute the dispute in Modine’s name. Modine and Seller shall each bear their own costs of prosecuting any dispute. Pending the final resolution of any dispute arising out of or relating to this Purchase Order, Seller shall proceed diligently with performance of this Purchase Order, including the delivery of Supplies.

b. For all other disputes, the parties shall strive to settle amicably and in good faith any dispute arising in connection with this Purchase Order using the following escalation process: (1) by the technical and contractual personnel for each party; (2) by executive management of each party; (3) by mediation, or (4) by a court of competent jurisdiction in the State of Wisconsin.

c. Pending resolution of any dispute hereunder, Seller shall proceed diligently with the performance of work, including the delivery of goods in accordance with Modine’s direction, as long as Modine continues to pay Seller for Supplies accepted at the Purchase Order price.

**14. FAR/DFARS CLAUSES.** The following clauses set forth in the Federal Acquisition Regulation (“FAR” available at <http://www.acquisition.gov/FAR>) and the Department of Defense FAR Supplement (“DFARS” available at <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>) in effect as of the date identified below are incorporated herein by reference with the same force and effect as if they were given in full text. For purposes of this Purchase Order, the following clauses shall operate, impose the obligations and responsibilities of the parties and be interpreted as if “Government” means “Modine,” “Contracting Officer” means an authorized representative of Modine’s purchasing department, “Contract” means this “Purchase Order,” “Offeror” means “Seller,” “Contractor” means “Seller,” and “Disputes clause” means Paragraph 13, Disputes above. Seller shall also include these FAR and DFARS clauses in each lower-tier subcontract it issues, as applicable.

<b>FAR</b>	<b>Clauses</b>	<b>Date</b>
52.202-1	Definitions	NOV 2013
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	MAY 2014
52.203-6	Restrictions on Subcontractor Sales to the Government, (applies to Purchase Orders with a value over \$150,000)	SEP 2006
52.203-7	Anti-Kickback Procedures (applies to Purchase Orders with a	MAY 2014

	value over \$150,000, except paragraph (c)(1))	
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	MAY 2014
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	MAY 2014
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (applies to Purchase Orders with a value over \$150,000)	OCT 2010
52.203-13	Contractor Code of Business Ethics (applies to Purchase Orders that: (i) have a value exceeding \$5.5 million; and (ii) have a performance period of more than 120 days)	OCT 2015
52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (applies to Purchase Orders funded in whole or in part by Recovery Act funds)	JUN 2010
52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (applies to Purchase Orders with a value exceeding \$150,000)	APR 2014
52.204-2	Security Requirements (applies to Purchase Orders that involve access to classified information; excludes reference to the Changes clause in paragraph (c))	AUG 1996
52.204-9	Personal Identity Verification of Contractor Personnel (applies to Purchase Orders when the Seller's employees are required to have routine physical access to a federally controlled facility or routine access to a federally controlled information system)	JAN 2011
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (applies to Purchase Orders with a value exceeding \$35,000)	OCT 2015
52.211-5	Material Requirements	AUG 2000
52.219-8	Utilization of Small Business Concerns	OCT 2014
52.222-1	Notice to the Government of Labor Disputes	FEB 1997
52.222-3	Convict Labor	JUN 2003
52.222-4	Contract Work Hours and Safety Standards – Overtime Compensation (applies to Purchase Orders that may require or involve the employment of laborers and mechanics)	JUL 2005
52.222-19	Child Labor-Cooperation with Authorities and Remedies	FEB 2016
52.222-20	Contracts for Materials, Articles, and Equipment Exceeding \$15,000 (applies to Purchase Orders with a value exceeding \$15,000)	MAY 2014
52.222-21	Prohibition of Segregated Facilities	APR 2015
52.222-26	Equal Opportunity	APR 2015
52.222-35	Equal Opportunity for Veterans (applies to Purchase Orders with a value equal to or exceeding \$100,000)	OCT 2015 SEP 2010
52.222-36	Affirmative Action for Workers with Disabilities (applies to Purchase Orders with a value exceeding \$15,000)	JUL 2014
52.222-37	Employment Reports on Veterans (applies to Purchase Orders with a value equal to or exceeding \$100,000)	OCT 2015
52.222-40	Notification of Employee Rights Under the National Labor	DEC 2010

	Relations Act (applies to Purchase Orders with a value exceeding \$10,000 that will be performed wholly or partially in the United States)	
52.222-41	Service Contract Labor Standards (applies to Purchase Orders for services that are subject to the Service Contract Labor Standards)	MAY 2014
52.222-50	Combating Trafficking in Persons	MAR 2015
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (applies to Purchase Orders for exempt services)	MAY 2014
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (applies to Purchase Orders for exempt services)	MAY 2014
52.222-54	Employment Eligibility Verification (applies to Purchase Orders that: (i) are for services; (ii) have a value exceeding \$3,000; and (iii) include work performed in the United States)	OCT 2015
52.222-55	Minimum Wages Under Executive Order 13658 (applies to Purchase Orders for services that are subject to the Service Contract Labor Standards and are to be performed in whole or in part in the United States)	DEC 2014
52.223-3	Hazardous Material Identification and Material Safety Data	JAN 1997
52.223-7	Notice of Radioactive Material (applies to Purchase Orders for radioactive materials meeting the criteria of paragraph (a) of the clause)	JAN 1997
52.223-11	Ozone-Depleting Substances	MAY 2001
52.223-15	Energy Efficiency in Energy-Consuming Products	DEC 2007
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (applies to Purchase Orders with a value exceeding \$3,000)	AUG 2011
52.225-8	Duty-Free Entry	OCT 2010
52.225-13	Restrictions on Certain Foreign Purchases	JUN 2008
52.227-1	Authorization and Consent (applies to Purchase Orders with a value exceeding \$150,000)	DEC 2007
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (applies to Purchase Orders with a value over \$150,000)	DEC 2007
52.227-9	Refund of Royalties (applies to Purchase Orders in which the amount of royalties reported during negotiation of the Purchase Order exceeds \$250)	APR 1984
52.227-11	Patent Rights—Ownership by the Contractor	MAY 2014
52.227-14	Rights in Data – General	DEC 2007
52.227-16	Additional Data Requirements	JUN 1987
52.227-19	Commercial Computer Software License	DEC 2007
52.227-21	Technical Data Declaration, Revision, and Withholding of Payment—Major Systems	MAY 2014
52.227-22	Major System—Minimum Rights	JUN 1987



52.227-23	Rights to Proposal Data (Technical)	JUN 1987
52.228-5	Insurance—Work on a Government Installation (applies to Purchase Orders that require work on a Government installation)	JAN 1997
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (applies to Purchase Orders issued to small business concerns)	DEC 2013
52.233-3	Protest After Award (Modine may issue a stop-work order if the Government or higher-tiered contractor issues a stop-work order under this clause)	AUG 1996
52.234-1	Industrial Resources Developed Under Defense Production Act Title III	DEC 1994
52.242-15	Stop-Work Order (In paragraph (b)(2), the term “30 days” is changed to “10 days”)	AUG 1989
52.243-1	Changes-Fixed-Price (in paragraph (c), the terms “30 days” is changed to “10 days”)	AUG 1987
52.244-6	Subcontracts for Commercial Items	DEC 2015
52.247-63	Preference for U.S.-Flag Air Carriers (applies to Purchase Orders that may involve international air transportation)	JUN 2003
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels	FEB 2006
52.248-1	Value Engineering (applies to Purchase Orders with a value exceeding \$150,000)	OCT 2010
52.249-2	Termination for Convenience of the Government (Fixed-Price) (In paragraph (c), the term “120 days” is changed to “30 days”, in paragraph (d) the term “15 days” is changed to “30 days” and the term “45 days” is changed to “60 days”, in paragraph (e), the term “1 year” is changed to “60 days”, and in paragraph (l), the term “90 days” is changed to “30 days”)	APR 2012
52.249-8	Default (Fixed-Price Supply and Service) (In paragraph (a)(2), the term “10 days” is changed to “5 days”)	APR 1984
<b>DFARS</b>	<b>Clauses</b>	<b>Date</b>
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (applies to Purchase Orders with a value exceeding \$150,000)	DEC 2008
252.204-7000	Disclosure of Information (applies to Purchase Orders when the Seller will have access to or generate unclassified information that may be sensitive and inappropriate for public release)	AUG 2013
252.204-7003	Control of Government Personnel Work Product	APR 1992
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting	DEC 2015
252.204-7015	Disclosure of Information to Litigation Support Contractors	FEB 2014
252.209-7002	Disclosure of Ownership or Control by a Foreign Government	JUN 2010
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals (excluding paragraph (d))	OCT 2014
252.225-7013	Duty-Free Entry	NOV 2014
252.225-7031	Secondary Arab Boycott of Israel	JUN 2005
252.225-7033	Waiver of United Kingdom Levies (applies to Purchase Orders	APR 2003

	with a value exceeding \$1 million with U.K. firm)	
252.225-7048	Export-Controlled Items	JUN 2013
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (applies to Purchase Orders with a value exceeding \$500,000)	SEP 2004
252.244-7000	Subcontracts for Commercial Items	JUN 2013
252.246-7003	Notification of Potential Safety Issues (applies to Purchase Orders for (i) Parts identified as critical safety items; (ii) Systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)	JUN 2013
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System (applies to Purchases Orders where the supplies include electronic parts or assemblies containing electronic parts)	MAY 2014
252.247-7023	Transportation of Supplies by Sea	APR 2014
252.247-7024	Notification of Transportation of Supplies by Sea	MAR 2000