

SPP Pumps (Asia) Co., Ltd.
General Terms and Conditions

1. Definitions

- 1.1 The terms listed below shall have the following definitions as written:
- 1.2 “Purchaser” means the company, firm, or person which has entered into a Contract with SPP Pumps (Asia) Co., Ltd. for the supply of Goods and/or Services.
- 1.3 “SPP (Asia)” means SPP Pumps (Asia) Co., Ltd. which has entered into a Contract with the “Purchaser” for the supply of Goods and/or Services.
- 1.4 “Contract” means SPP Pumps (Asia) Co., Ltd.’s quotation for the supply of Goods and/or Services based upon these General terms and conditions of sale together with the Purchaser’s acceptance thereof as received by SPP Pumps (Asia) Co., Ltd. and/or any relevant current schedules of prices, rates or conditions which relate to the supply of Goods or Services.
- 1.5 “Goods or Services” means the deliverable Goods and/or services stated in the Contract or in the absence of a quotation in accordance with SPP Pumps (Asia) Co., Ltd. published schedules.
- 1.6 “Price” means the price of Goods or Services which is stated in the Contract.
- 1.7 “Order” means all Sales of SPP (Asia)’s Goods or Services to Purchaser

2. Conditions of Sale and Precedence

- 2.1 The conditions of sale that bind the parties to the Contract are stated in this document, unless otherwise agreed to in writing by SPP (Asia). These conditions of sale shall take precedence over any other conditions which may be proposed by the Purchaser and/or may be included in requests for or acceptances of quotations or purchase orders or any other document.
- 2.2 The Purchaser acknowledges that it has not relied on any statement, promise, or representation made or given on behalf of SPP (Asia) which is not expressly stated in the Contract.
- 2.3 Any offer submitted by SPP (Asia) shall be non-binding. Orders submitted by the Purchaser and acknowledged by SPP (Asia) are binding.
- 2.4 In the event of an ongoing business relationship, these General terms and conditions of sale shall apply to all transactions with the Purchaser, unless differing terms and conditions are explicitly agreed to in writing by SPP (Asia).

3. Documents and Product Design

- 3.1 Drawings and documents provided by SPP (Asia) for the purpose of description of Goods and/or installation and operation of Goods shall remain the property of SPP (Asia) and shall not be transferred without the express written consent of SPP (Asia).
- 3.2 SPP (Asia) shall provide an Electronic English manual with each order. Printed English manuals may be acquired at an additional cost.
- 3.3 Provision of manufacturing drawings will be at the sole discretion of SPP (ASIA) unless explicitly agreed to in writing.
- 3.4 Intellectual property rights of all Goods provided to Purchaser shall remain SPP (Asia) property at all times. The Purchaser may not replicate or reproduce the Goods or any part thereof without the express written consent of SPP (Asia).

4. Works Testing

- 4.1 If works testing is included in the scope of Goods provided, such testing will be conducted at an authorized SPP (Asia) facility during normal working hours and in accordance with SPP (Asia) standards. The results obtained from such tests will take precedence over any other testing and will be conclusive for the demonstration of the performance of said Goods.
- 4.2 Testing in accordance with standards other than SPP (Asia)’s standards may be considered and conducted at an additional cost.
- 4.3 If works testing is not included in the scope, the performance data provided by SPP (Asia) will be conclusive for the demonstration of the performance of the Goods.
- 4.4 Testing will always be unwitnessed unless otherwise specified in the Contract. In the event that witnessing of works testing is required, such works testing will take place during normal working hours. SPP (Asia) will provide the Purchaser with the minimum of a seven (7) calendar day notification prior to the testing date. If the Purchaser is unable to or decides not to attend the previously ordered works tests, the test results will be conducted in accordance with Condition 4.1 herein and the witnessing cost will be invoiced as quoted.

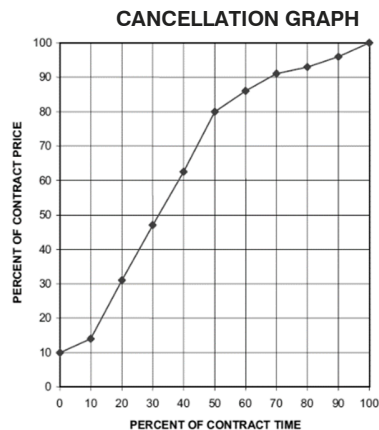
5. Delivery and Risk

- 5.1 Delivery lead time will commence from the time that SPP (Asia) is in receipt of full and sufficient information from the Purchaser to enable SPP (Asia) to proceed with the uninterrupted manufacture of Goods. Unless explicitly stated otherwise, delivery dates are estimates only and time for delivery shall not be made of the essence by notice. SPP (Asia) will advise the Purchaser promptly of any change in delivery time from that which was included in SPP (Asia)’s quotation or order acknowledgement. SPP (Asia) shall not be liable for any direct or consequential loss to the Purchaser which results from delayed delivery of the Goods not attributable to SPP (Asia) nor shall the Purchaser be entitled to terminate or rescind the Contract on the grounds of delayed delivery not attributable to SPP (Asia).
- 5.2 SPP (Asia) shall make every effort to meet delivery dates and shall take reasonable steps to avoid any delays. If, as an exception, SPP (Asia) has expressly agreed in writing to any binding delivery dates and delivery is delayed more than 40 working days after such dates, then the purchaser’s sole remedy shall be liquidated damages applied at the rate of 0.45 per every seven (7) days thereafter to a maximum of 4.5% of the value (excluding VAT and carriage) of the delayed portion only. If the delay continues beyond 10 weeks, the Purchaser shall be entitled by notice in writing to make a demand for delivery within four weeks from the date of the notice (“Grace Period”). If SPP (Asia) does not deliver the Goods by the end of the Grace Period, then the Purchaser

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- shall be entitled to terminate the Contract in respect to the undelivered Goods. The Purchaser shall forfeit his right to liquidated damages if he has not lodged a claim for such damages within six months after the time when delivery was due.
- 5.3 Delivery terms and passing of risk shall be in accordance with Incoterms 2010 as stated in the Contract. If delivery terms are not stated in the Contract, the delivery terms and passing of risk will be in accordance with Incoterms 2010 FCA. At SPP (ASIA)'s discretion, the Goods may be provided in partial shipments.
 - 5.4 Where SPP (Asia) is responsible for the delivery of Goods, the Purchaser shall advise SPP (Asia) in writing within 72 hours of SPP (ASIA)'s notice that the Goods have been dispatched as to whether the Goods have not been received or were received in a damaged condition. In the absence of such advisement the Goods will be deemed to have been received in good condition.
 - 5.5 In the event that the Goods are ready for dispatch or collection and the Purchaser requires dispatch or collection to be delayed, the risk of accidental loss or damage passes to the Purchaser as soon as notification of readiness for shipment has been given. The risk of accidental loss or damage also passes to Purchaser if the Goods are delivered to the site and commissioning is delayed due to reasons that are not SPP (Asia)'s responsibility.
 - 5.6 Any cancellation after acceptance is subject to a cancellation charge as illustrated in the graph below.



- 5.7 In the event of cancellation, this pre-determined graph shall prevail and not be subject to audit.
- 5.8 All goods or services provided in the final condition (buy out items such as drivers, systems, couplings, seals, etc.) shall be billable to the Purchaser at the buyout supplier's charge of 15% for administration and handling charges

6. Force Majeure

Neither party in this contract shall be held liable for its delay or failure to fulfill one of its obligations under the contract if such delay or failure is the direct or indirect consequence of an event of force majeure such as, but not limited to the occurrence of a natural disaster, earthquakes, storms, fires, floods, conflicts, wars, attacks, labor conflicts, total or partial strikes, mandatory orders of the public authorities (import prohibitions, embargos, pandemics), operating and transport accidents, machine breakdowns, explosions, serious defects of suppliers. The affected party shall immediately upon awareness inform the other party of the occurrence of a case of force majeure, which, in its opinion, is of a nature to affect the performance of the contract.

7. Termination

SPP (Asia) may terminate the Contract by written notice and with immediate effect if the Purchaser becomes insolvent or is unable to pay its debts. In the event that the Purchaser terminates the Contract, SPP (ASIA) shall be entitled to immediate payment for all work conducted and all equipment which has been purchased by SPP (ASIA) on behalf of the Purchaser, including but not limited to, all overhead related costs and loss of profit, up to and including the termination date.

8. Bonds and Guarantees

- 8.1 Unless agreed upon text for a bond or guarantee is included in the Contract, the text for any bond or guarantee which SPP (ASIA) subsequently agrees to provide will be in accordance with the guarantor's standard text and at an additional cost issued by SPP (ASIA)'s house bank.
- 8.2 Where SPP (ASIA) specifies that payment will be made by letter of credit, the Purchaser must establish the letter of credit at a minimum of one month prior to the agreed delivery date and maintain in favor of SPP (ASIA) an irrevocable and confirmed letter of credit by SPP (ASIA)'s nominated bank, payable at sight.

9. Payment

- 9.1 Other than in circumstances whereby SPP (ASIA) requires payment for the Goods or Services in advance or where payment is to be made by an irrevocable letter of credit, payment for the Goods will become due on collection, dispatch or, in case of a default of acceptance, as soon as notification of readiness for shipment has been given or if commissioning is delayed for reasons not being SPP (ASIA)'s responsibility or for Services with provision of the same.
- 9.2 SPP (ASIA) will issue an invoice to the Purchaser at the time when the Goods are dispatched or collected or stored or the Services are provided. Payment is to be made in full by the Purchaser within thirty (30) calendar days from when the dispatch or collection occurs or the Goods are placed into storage or the Services are provided, unless otherwise explicitly agreed to in writing by SPP (ASIA).

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- 9.3 Time for the payment of SPP (ASIA)'s invoice is of the essence. In the event of late payment of SPP (ASIA)'s invoice, SPP (ASIA) shall be entitled to recover late payment interest at an annualized rate of 8% above the Bank of Thailand base rate at the time of the debt.
- 9.4 In the event of non-payment of SPP (ASIA)'s invoice SPP (ASIA) may suspend all further work on the Contract and any other contract with the Purchaser until such payment is received. In the event of extended non-payment SPP (ASIA) may recover the debt by selling the Goods which are the subject of the Contract or any other contract with the Purchaser and by taking legal action.
- 9.5 In the event of non-payment of SPP (ASIA)'s invoice SPP (ASIA)'s liability for the rectification of defects pursuant to Condition 11 herein will be suspended.

10. Retention of Title

- 10.1 Until the Purchaser has paid SPP (ASIA)'s invoice for the Goods in full, title to the Goods remains with SPP (ASIA). In the event of non-payment of SPP (ASIA)'s invoice pursuant to Condition 9.4 herein SPP (ASIA) will be entitled to repossess the Goods. SPP (ASIA) shall retain title to Goods which it has rented to a user under the terms of a rental agreement.
- 10.2 Where Goods are being resold by the Purchaser, the Purchaser must not grant title to the Goods to any other party until SPP (ASIA) has been paid in full for the Goods.
- 10.3 All of SPP (ASIA)'s costs and expenses which it may incur in repossessing the Goods from the Purchaser or the Purchaser's customer will be paid by the Purchaser.
- 10.4 The retention of title shall not affect the passing of risk pursuant to Condition 5.3 herein.

11. Liability for Defects

- 11.1 New Goods – SPP (ASIA) will use reasonable effort to rectify any product defect in relation to the design, manufacture, or workmanship twelve (12) months from commissioning or eighteen (18) months from shipment readiness, whichever comes first.
- 11.2 Spare parts and repaired or reconditioned Goods – SPP (ASIA) will use reasonable effort to rectify any product defect in relation to the design, manufacture, or workmanship for a period of six (6) months from shipment readiness.
- 11.3 Site services - SPP (ASIA) will use reasonable effort to rectify any defect in work conducted by its site services personnel for a period of six (6) months from the completion of the work.
- 11.4 The Purchaser shall give SPP (ASIA) written notice of its belief that all or part of the Goods or Services are defective before the expiry of the periods stated in Conditions 11.1 to 11.3 inclusive to be able to obtain repair or rectification of the Goods or Services under the warranty provisions.
- 11.5 At SPP (ASIA)'s option during the defects liability period(s), SPP (ASIA) will repair, replace or supply replacement parts in order to return the Goods to their condition at the time of dispatch or collection.
- 11.6 Parts which are removed from the Goods due to repair or replacement will become the property of SPP (ASIA) to facilitate an investigation into the root cause of the failure or defect.
- 11.7 Parts of the Goods which are free issued to SPP (ASIA) by the Purchaser and/or defects which arise because of the Purchaser's design or specification are not covered by these defect liability provisions.
- 11.8 Consumable parts will include but will not be limited to lubricating oil and grease, antifreeze, coupling rubbers, filter elements, drive belts and other failures caused by normal wear and tear or deterioration which are not covered by these defect liability provisions. Consumable parts will be replaced under the warranty provision if replacement is required due to another defect for which SPP (ASIA) is responsible.
- 11.9 SPP (ASIA) will agree with the Purchaser whether the Goods or any part thereof which require repair or replacement shall be returned to SPP (ASIA)'s works or will be repaired or replaced at the place of use during normal working hours. In either case and if after examination of the Goods or any part thereof which is claimed to be defective it is determined by SPP (ASIA) that the Goods or any part thereof were not defective pursuant to the terms of Condition 11 herein, SPP (ASIA) will issue an invoice to the Purchaser for the work which was conducted on the Purchaser's behalf. SPP (ASIA) will immediately notify the Purchaser in writing if it determines that a failure was not covered by SPP (ASIA)'s defect liability provisions so that the Purchaser can instruct SPP (ASIA) to cease work or continue with the work at the Purchaser's cost.
- 11.10 In the event that replacement or repair work is conducted at the place of use, the Purchaser shall provide adequate access to the Goods. If the Purchaser is unable or unwilling for the replacement or repair work to be undertaken during normal working hours, SPP (ASIA) will require prior written agreement from the Purchaser to pay SPP (ASIA)'s overtime costs to conduct the work in accordance with the Purchaser's requirements. Where it is untenable for SPP (ASIA) to conduct work at the place of use of the Purchaser and SPP (ASIA) requests for Goods to be returned to SPP (ASIA)'s premises, then all costs of removal, carriage packing, and re-installment will be borne by the Purchaser.
- 11.11 The Purchaser shall install and operate the Goods strictly in accordance with SPP (ASIA)'s instructions. Warranty claims may not be validated nor authorized by SPP (ASIA) due to the following conditions or causes.
- a. when any faulty drawings, designs or specifications were supplied by the Purchaser.
 - b. when modifications or repairs of any kind are performed by the Purchaser or a third party without the expressed written consent of SPP (ASIA).
 - c. when normal wear and tear items are the cause of failure as determined by SPP (ASIA).
 - d. when the Purchaser performs inadequate maintenance or fails to observe the operating instructions as determined by SPP (ASIA).
 - e. when over-loading or usage of any unsuitable material not intended for original use is determined by SPP (ASIA).
 - f. when caused by the effects of chemical or electrolytic action as determined by SPP (ASIA).
 - g. when erosion, corrosion or other harsh environmental jobsite conditions exist as determined by SPP (ASIA).
 - h. when product is stored or installed incorrectly as determined by SPP (ASIA).

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- i. when a “force majeure” or any other reasons exist that are beyond SPP (ASIA) control.

11.12. In the event of a SPP (ASIA) authorized warranty claim by the Purchaser, replaced or repaired equipment by SPP (ASIA) shall be warranted as follows: SPP (ASIA)’s standard warranty of eighteen (18) months from shipment readiness or twelve (12) months from commissioning shall apply to replaced or new equipment. SPP (ASIA) repaired equipment shall be warranted for six (6) months from the repair completion date or the duration of the original warranty period provided, whichever is longer. In the event the Purchaser’s warranty claim is authorized by SPP (ASIA), shipping terms shall be FCA SPP (ASIA) facility in Amata, Chonburi in Thailand. In the event that the Purchaser’s warranty claim is not authorized by SPP (ASIA), the Purchaser shall arrange and be responsible for associated shipping cost.

11.13 SPP (ASIA) shall not be responsible for any on-site costs including removal and reinstallation of any warranted Goods. Purchaser agrees to provide SPP (ASIA) reasonable and clear access to its Goods which may include removal of materials or other structures to accommodate this work. The purchaser shall also provide any other materials, structures or equipment deemed necessary to provide reasonable access to the Goods being repaired or replaced. These items will only remain under warranty for the remainder of the original warranty period.

11.14 Rented Goods – SPP (ASIA) will use every reasonable effort to rectify any defect in the design, manufacture or workmanship during the rental period.

12. Consequential Loss / Third Party Liability

- 12.1 SPP (ASIA) shall not be liable for any loss of production, loss of use, loss of profit or any other consequential economic or indirect loss whatsoever which may be sustained or incurred by the Purchaser in relation to the Contract.
- 12.2 SPP (ASIA) shall not accept any liability towards third parties with the exception of liabilities imposed by law.
- 12.3 The Purchaser’s statutory rights are not limited or affected by any of the terms in these general conditions of sale.
- 12.4 The remedies set forth herein are exclusive, and the total liability of SPP (ASIA) with respect to this Order, or any breach thereof, whether based on contract, warranty, tort (including negligence), indemnity, and strict liability or otherwise, **shall not exceed the price of the specific Goods or Services which give rise to the claim**, excluding commissioning fees and other costs. In all cases where Purchaser claims damages allegedly arising out of defective or nonconforming Goods and Services, Purchaser’s exclusive remedies and SPP (ASIA)’s sole liability shall be those specifically provided for under section 11 “Liability for Defects”

IN NO EVENT, WHETHER ARISING BEFORE OR AFTER COMPLETION OF ITS OBLIGATION UNDER THE CONTRACT, SHALL SPP (ASIA) BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF USE, REVENUE OR PROFIT, INVENTORY OR USE CHARGES, COST OF CAPITAL, OR CLAIMS OF CUSTOMERS) INCURRED BY THE PURCHASER OR ANY THIRD PARTY.

13. NON-DISCLOSURE AND NON-USE OF SPP (ASIA) INFORMATION

Purchaser agrees that it will not use SPP (ASIA)’s data for the manufacture or procurement of Goods which are the subject of an order or any similar Goods or cause said Goods to be manufactured by, or procured from any other source or reproduce said data and information or otherwise appropriate them without the expressly written authorization of SPP (ASIA). Purchaser agrees that it will not disclose or make available to any third party any of SPP (ASIA)’s intellectual property or other information pertaining to this Order which is proprietary to SPP (ASIA) without obtaining SPP (ASIA)’s prior written consent.

14. TAXES

SPP (ASIA)’s price shall be firm and fixed and SPP (ASIA) is not responsible for payment of any taxes levied for sales including usage, excise, value-added, goods and services, business franchise or privilege or any duties, charges or other such taxes. SPP (ASIA) is only responsible for taxes imposed on SPP (ASIA) by taxing authorities in SPP (ASIA)’s jurisdiction. If SPP (ASIA) is required to pay any taxes or other charges that are the responsibility of the Purchaser, the Purchaser shall immediately reimburse SPP (ASIA) those amounts.

15. Storage and Storage Charges

SPP (ASIA) shall notify the Purchaser when their Goods are shipment ready at an authorized SPP (ASIA) facility. SPP (ASIA) will allow the Purchaser up to a ten (10) working day grace period to arrange for and take possession of the Goods.

SPP (ASIA) may then agree to allow the Purchaser to store the Goods at a SPP (ASIA) warehouse and/or other designated SPP (ASIA) facility only if notified by the Purchaser in advance of the scheduled delivery date. All shipment ready finished Goods held by SPP (ASIA) in storage on behalf of the Purchaser shall be deemed the property of the Purchaser and will be placed in an authorized SPP (ASIA) controlled area/location. The following terms and conditions below apply to the temporary storage agreement between the Purchaser and SPP (ASIA):

- 15.1 Purchaser must sign storage agreement and agree to accept the invoice from SPP (ASIA) on the first (1st) day of storage and upon expiration of the ten (10) working day grace period.
- 15.2 Storage for one (1) calendar day to twenty-eight (28) calendar days will be at no charge to the Purchaser.
- 15.3 Storage for twenty-nine (29) calendar days to ninety (90) calendar days will be charged to the Purchaser at 0.5% of the total Goods value including VAT for each seven (7) calendar day period beginning on the twenty-ninth (29th) day of storage.
- 15.4 Maximum storage period allowed is ninety (90) calendar days.
- 15.5 Beginning on the twenty-ninth (29th) calendar day of storage, SPP (ASIA) will commence storage billing terms as stated and shall invoice the Purchaser for storage every thirty (30) days thereafter. Warranty of Goods shall become effective and commence on the same day as the shipment readiness date and/or the original invoice date, or whichever comes first.

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- 15.6 In such case that the Purchaser is willing to take a partial shipment of the stored Goods from SPP (ASIA) warehouse and/or facility, the Purchaser will still be charged for the 0.5% value of the remaining value of Goods plus VAT held by SPP (ASIA) in storage.
- 15.7 Upon expiration of the ninety (90) calendar day storage limit, the Purchaser is obligated to pick up the Goods. If the Purchaser is unwilling or unable to do so, SPP (ASIA) shall ship the Goods to the Purchaser and invoice for actual transportation costs including a 10% service charge.

16 TRANSLATION/GOVERNING LANGUAGE

English shall be the legal language of this transaction. In the event of any inconsistencies or interpretation disputes, the English language version shall prevail.

17. Disputes and Applicable Law

- 17.1 The governing laws of Thailand shall apply to the validity, construction and performance of the Contract and these General Conditions of Sale.
- 17.2 In the event of a dispute arising under the Contract and/or these General Conditions of Sale, SPP (ASIA) and the Purchaser shall make every reasonable effort to settle the dispute amicably. In the event of a failure to reach an amicable agreement either party may give the other party fourteen (14) days written notice that they wish the dispute to be resolved by arbitration in accordance with the rules and procedures of the Thai Arbitration Institute, Office of the Judiciary. Unless otherwise agreed, the arbitrator will be nominated by the Thai Arbitration Institute, Office of the Judiciary.

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