

STANDARD TERMS AND CONDITIONS OF SALE

GOODS AND SERVICES SOLD BY SPENCER FLUID POWER, INC. ("SPENCER FLUID POWER") ARE EXPRESSLY SUBJECT TO THE TERMS AND CONDITIONS SET FORTH BELOW. ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS IN BUYER'S PURCHASE ORDER OR SIMILAR COMMUNICATION ARE OBJECTED TO AND SHALL NOT BE BINDING ON SPENCER FLUID POWER UNLESS AGREED TO IN WRITING BY A SPENCER FLUID POWER OFFICER. BUYER'S ACCEPTANCE OF SHIPMENT OR PERFORMANCE AND/OR PAYMENT FOR THE GOODS OR SERVICES CONSTITUTES ACCEPTANCE OF SPENCER FLUID POWER'S TERMS AND CONDITIONS.

PRICE: Prices in effect at time of shipment of goods or performance of services shall prevail. All prices quoted by SPENCER FLUID POWER are subject to change without notice. Prices do not include any present or future sales, use, excise, value-added or similar taxes and, where applicable, such taxes shall be billed as a separate item and paid by Buyer. A standard shipping charge is applied to each invoice for goods to cover the material preparation, packaging, freight and/or any additional costs associated with each shipment based on the value and/or weight of the shipment. Additional charges for local delivery may also apply.

PAYMENT TERMS: Unless otherwise agreed in writing, terms of payment are thirty (30) days net, without setoff or deduction, from date invoice was mailed or goods are delivered, whichever is earliest, if Buyer's credit has been approved prior to sale. A late payment charge of 1 1/2% per month (an annual percentage rate of 18%) shall be charged on all past due accounts and Buyer shall pay SPENCER FLUID POWER all costs incurred by it in collecting any past due account from Buyer, including, but not limited to, all court costs and attorney's fees. However, if the foregoing charges exceed that rate which is the maximum permitted by law, then such charges shall be calculated to be the highest allowable lawful rate. The remittance portion of the invoice shall accompany payment. Alternatively, payments and other adjustments must reference the invoice number to assure proper credit.

CREDIT BALANCE: Any credit balance issued will be applied within one (1) year of its issuance. IF NOT APPLIED WITHIN ONE (1) YEAR, THE BALANCE REMAINING SHALL BE CANCELLED, AND SPENCER FLUID POWER SHALL HAVE NO FURTHER LIABILITY EXCEPT AS REQUIRED BY APPLICABLE LAW.

DELIVERY: Unless otherwise noted, all sales of goods are made f.o.b. point of shipment and, in all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon Buyer. Delivery dates given in advance of actual shipment of goods or performance of services are estimates and shall not be deemed to represent fixed or guaranteed delivery dates.

WARRANTIES: Goods are sold only with such warranties as may be extended by the manufacturer of the product. Services performed by third parties are subject only to those warranties extended by such third parties. SPENCER FLUID POWER MAKES NO WARRANTY AND ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS ARE HEREBY EXCLUDED. Buyer is responsible for installation and use in accordance with manufacturer's instructions. SPENCER FLUID POWER personnel are not authorized to alter this policy.

LIMITATION OF LIABILITY: SPENCER FLUID POWER's liability on any claim for loss or damage arising out of this contract or from the performance or breach thereof, or connected with any goods or services supplied hereunder, or the sale, resale, operation or use of goods, whether based on contract, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such goods or services or part thereof involved in the claim, REGARDLESS OF CAUSE OR FAULT. This limitation of liability reflects a deliberate and bargained-for allocation of risks between SPENCER FLUID POWER and Buyer and constitutes the basis of the parties' bargain, without which SPENCER FLUID POWER would not have agreed to the price or terms of this contract. SPENCER FLUID POWER shall not under any circumstances, be liable for any labor charges without its prior written consent. SPENCER FLUID POWER SHALL NOT IN ANY EVENT BE LIABLE whether as a result of breach of contract, warranty, tort (including negligence) or other grounds FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES including, but not limited to, loss of profits or revenue, loss of use of goods or associated products, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of customers of Buyer for such damage. If SPENCER FLUID POWER furnishes Buyer with advice or other assistance regarding any goods or services supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to this contract, the furnishing of the advice or assistance will not subject SPENCER FLUID POWER to any liability, whether based on contract, warranty, tort (including negligence) or other grounds.

SUBSTITUTIONS/INTERCHANGEABILITY: Unless specifically restricted on a purchase order, SPENCER FLUID POWER reserves the right to interchange an equivalent available product in place of the product ordered where the interchangeability of the product is based on form, fit, and function.

NUCLEAR OR OTHER HAZARDOUS ACTIVITIES: Unless specifically agreed to in writing by an authorized officer of SPENCER FLUID POWER, goods sold hereunder are not intended for use in connection with any nuclear facility or any other application or hazardous activity where failure of a single component could cause substantial harm to persons or property. If so used, SPENCER FLUID POWER disclaims any and all liability for any nuclear damage, contamination or other damage or injury and Buyer shall indemnify and hold SPENCER FLUID POWER harmless from such liability whether as a result of breach of contract warranty, tort (including negligence) or other grounds. SPENCER FLUID POWER and its suppliers shall not be liable to Buyer or its insurers based on contract, warranty, tort (including negligence), or other grounds for onsite damage to property located at a nuclear facility.

SHORTAGE/OVERAGES: All shortages and/or overages must be identified within 14 days of the date of shipment.

FORCE MAJEURE: SPENCER FLUID POWER shall not be liable for failure to deliver or for delay in delivery or performance due to: (i) a cause beyond its reasonable control; (ii) an act of God, act or omission of Buyer, act of civil or military authority, governmental priority or other allocation or control, fire, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation; or, (iii) any other commercial impracticability. If such a delay occurs, delivery or performance shall be extended for a period equal to the time lost by reason of delay.

CHANGE IN BUYER'S FINANCIAL CONDITION: SPENCER FLUID POWER reserves the right by written notice to cancel any order or require full or partial payment or adequate assurance of performance from Buyer without liability to SPENCER FLUID POWER in the event of: (i) Buyer's insolvency, (ii) the filing of a voluntary petition in bankruptcy by Buyer, (iii) the appointment of a receiver or trustee for Buyer, or (iv) the execution by Buyer of an assignment for the benefit of creditors. SPENCER FLUID POWER reserves the right to suspend its performance until payment or adequate assurance of performance has been received. SPENCER FLUID POWER also reserves the right to cancel Buyer's credit at any time for any reason. Buyer, in order to provide security for the payment of the full price of goods furnished hereunder, grants SPENCER FLUID POWER a security interest in the goods and the proceeds thereof. Title to the goods shall remain in SPENCER FLUID POWER, and goods furnished by SPENCER FLUID POWER shall not become a fixture by reason of being attached to real estate, until paid in full. Buyer agrees to execute any documents or furnish information necessary to perfect this security interest. A copy of the invoice may be filed at any time as a financing and/or chattel mortgage, in order to perfect SPENCER FLUID POWER's security interest.

CANCELLATION AND RETURNS: Buyer may cancel an order by mutual agreement based upon payment to SPENCER FLUID POWER of reasonable and proper cancellation charges. Buyer shall not return goods without SPENCER FLUID POWER's prior written authorization and payment by Buyer of a restocking charge of 15%. Special order items are NOT subject to return. No returns shall be accepted following 60 days after delivery.

ASSIGNMENT OR DELEGATION: Buyer shall not assign or delegate any or all of its duties or rights hereunder without SPENCER FLUID POWER's prior written consent.

WAIVER AND CHOICE OF LAW: The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition will not constitute a waiver of that right or excuse any subsequent nonperformance of any such term or condition by the other party. All transactions shall be governed by the laws of the State of Ohio, United States of America, excluding conflict of law rules. Any dispute arising out of or relating to transactions hereunder shall be settled by binding arbitration in Cleveland, Ohio under Ohio law administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitrators will have the powers a state court judge would have had if the matter had been filed in such court, including equitable powers, except for the power to award punitive damages, which they shall not have. Actions by SPENCER FLUID POWER for nonpayment by Buyer of the purchase price of goods or services sold, may be brought by SPENCER FLUID POWER, at SPENCER FLUID POWER's option, before any court of competent jurisdiction in Cuyahoga County, Ohio and to the extent permitted by applicable law. Trial by jury is hereby waived. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

GENERAL: All orders are subject to acceptance by SPENCER FLUID POWER. Any representation, affirmation of fact and course of dealing, promise or condition in connection therewith or usage of trade not incorporated herein, shall not be binding on either party. If any provision hereof shall be unenforceable, invalid or void for any reason, such provision shall be automatically voided and shall not be part of this agreement and the enforceability or validity of the remaining provisions shall not be affected thereby.

SPECIAL TOOLS: Unless specifically agreed in writing by SPENCER FLUID POWER, and unless paid for by Buyer as shown on the invoice, all special tools, dies, jigs, patterns, machinery and/or equipment needed by SPENCER FLUID POWER for the performance of this sale are, and shall remain, the property of SPENCER FLUID POWER.