

## Terms of Sale

Canadian Pump & Packing Co. Ltd. ("CPP Distribution" or "CPP") Standard Terms and Conditions

**Please read these Terms and Conditions ("Terms") carefully.** These Terms apply to the purchase of products and ancillary services (collectively the "Products") by the customer ("Customer"), each of which is identified in accompanying quotation, credit application, proposal, order acknowledgement, or invoice (the "Sales Confirmation"). These Terms and the Sales Confirmation comprise the entire agreement between the Customer and CPP (collectively, the "Agreement"). These Terms contain important information concerning Customer's legal rights, warranties, obligations, and available dispute resolution remedies. They also provide that if CPP Distribution is unable to resolve any matter to Customer's satisfaction, Customer will exclusively use arbitration to decide the dispute and Customer will bring its claim solely on an individual basis and not in a class action or representative proceeding.

These Terms shall apply to all sales of Products unless CPP and a business customer ("Business Customer") enter into a separate written contract for the purchase of Products that provides for separate terms of sale (the "Written Contract"). For clarification the term "Customer" also includes Business Customer.

### A. Sales Policy for Products

1. Tax:

Any taxes, including, but not limited to sales, use, excise, Goods and Services Tax (GST) and Harmonized Sales Tax (HST), that CPP is required to collect or pay with respect to the sale, shipment or delivery of Products are the responsibility of Customer, and Customer agrees to either pay such taxes directly or to provide CPP with a valid sales tax exemption certificate.

2. Payment and Credit Terms:

Except as otherwise provided in the Written Contract, Customer shall pay all invoiced amounts within thirty (30) days following the date of CPP Distribution invoice. CPP Distribution accepts checks, Visa, Mastercard, and American Express (US only) for payment. All payments with credit cards are subject to a 5% surcharge. For Customers with established CPP Distribution credit, payment terms are subject to Customer's initial approval process upon account inception and payments are due within the agreed terms from the date of invoice, shipment, or pick-up of products ("Credit Terms"). CPP Distribution's preferred method for Customer payment is via Electronic Funds Transfer (EFT). All credit extended by CPP and the limits of such credit, is at CPP's sole discretion, and may be reduced or revoked by CPP at any time, for any reason. As a condition for the continued extension of credit, Customer agrees to provide CPP with all requested information on their credit application.

If Customer fails to comply with Credit Terms, CPP Distribution may defer shipments until Credit Terms are complied with, require cash in advance of any further shipments, demand immediate payment of all amounts owed, elect to pursue collection action (including without limitation, attorneys' fees, and expenses and any and all other associated costs of collection) and/or may, at its option, cancel all or any part of an unshipped order.

If Customer fails to comply with these payment terms, CPP may, at its sole discretion and without notice, immediately terminate any agreements it has with its Customer. Upon such termination all amounts owed

by Customer to CPP shall become immediately due and payable. Customer may not withhold payment of any amounts due and payable as a set-off of any claim or dispute with CPP, regardless of whether relating to CPP breach, bankruptcy, or otherwise.

## **B. Delivery, Freight Policy**

CPP will deliver the Products within a reasonable time after receiving Customer's purchase order, subject to their availability. The delivery date provided by CPP for the Products is only an estimate and is based upon prompt receipt of all necessary information from Customer. If Customer causes CPP to delay shipment or completion of Products, CPP will be entitled to any and all extra costs and expenses resulting from the delay. CPP will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of contract on CPP's part.

Unless otherwise agreed in writing by the parties, CPP will deliver the Products, at the location specified in the Sales Confirmation (the "Delivery Location"), using CPP standard methods for packaging and shipping the same. All Products are shipped with all costs imposed by the carrier related to the shipment charged to Customer on Customer's invoice and/or charged to Customer's preferred carrier's account number, unless otherwise stated.

Risk of loss passes to Customer upon tender of shipments to the carrier. If Product is damaged in transit, Customer's only recourse is to file a claim with the carrier.

Title passes to Customer upon Customer's payment in full for the Products.

## **C. Inspection; Rejection of Products**

As used in this Section, "Nonconforming Products" means only the following: (i) the items shipped are different from those identified in Customer's purchase order; or (ii) the labels or packaging of the items incorrectly identifies them. Customer will inspect the Products within forty-eight (48) hours following receipt thereof (the "Inspection Period"). The Products will be deemed accepted at the end of the Inspection Period unless Customer notifies CPP in writing of any Nonconforming Products and furnishes CPP with written evidence or other documentation reasonably required by CPP.

Unless otherwise noted herein, if Customer timely and properly notifies CPP of any Nonconforming Products and returns the Nonconforming Product within 30 days of date of invoice along with proof of purchase, then CPP will, in its sole discretion, (i) replace the Nonconforming Products with conforming products or (ii) credit or refund the purchase price for the Nonconforming Products, together with any reasonable shipping and handling expenses incurred by the Customer. The Customer will be charged a standard 20% re-stocking fee for any exchange or refund. CPP does not take title to returned Products until the item is received by CPP at the applicable location of return. Returned Product must be in original packaging, unused, undamaged, unexpired and in saleable condition.

Exceptions apply to special order Products, which are final sale.

## **D. Product Warranty Policy**

### **1. Suppliers Warranty**

All represented brands may provide warranty on defects; however, the inquiry must contain a proof of purchase and warranty details should be confirmed prior to purchase

2. **Product Compliance and Suitability**  
Jurisdictions have varying laws, codes and regulations governing construction, installation and/or use of Products for a particular purpose. CPP does not guarantee compliance or suitability of the Products it sells with any laws, codes, or regulations, nor does CPP accept responsibility for construction, installation and/or use of a Product. It is the Customer's responsibility to review the Product application and all applicable laws, codes, and regulations for each relevant jurisdiction to be sure that the construction, installation, and/or use involving the Products are compliant with all applicable laws, codes, and regulations for each relevant jurisdiction.
3. **Cross Reference Information**  
Product cross-reference comparisons or product alternatives that are presented to the Customer do not imply that products are available or perfectly comparable. Customer shall review all cross-referenced product or product alternative specifications prior to purchase and use to determine suitability of the Product for Customer's intended use.

#### **E. Termination**

In addition to any other remedies that CPP may have, CPP may terminate this Agreement with immediate effect upon written notice to Purchaser, if Purchaser: (i) fails to pay any amount when due under this Agreement and the failure continues for five (5) days after Purchaser's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

#### **F. Limitations of Liability**

In no event will CPP be liable for any indirect, special, incidental, exemplary or consequential damages, including but not limited to any loss of use or under-utilization of labor or facilities, loss of revenue or anticipated profits, lost data, and costs of procurement of substitute goods, regardless of the form of action, whether in contract, tort, or otherwise, even if CPP has been advised of the possibility of the damages.

Except for death or bodily injury resulting from CPP's negligence or wilful misconduct, CPP's total liability for all claims arising out of, or relating to, the Products will be limited to general money damages in an amount not to exceed the total purchase price for the Products giving rise to the claim.

#### **G. General Terms**

1. **Intellectual Property**  
Customer shall have no right, title or interest in the trade names, trademarks, trade dress, copyrights, patents, domain names, product names or any other intellectual property rights ("IP") reserved by CPP Distribution, or any IP owned by manufacturers and/or suppliers to CPP. All materials contained in CPP flyers or on its websites are subject to the ownership rights of CPP and its manufacturers or suppliers. Customers shall have no right to copy or use any IP of CPP or its manufacturers or suppliers without CPP permission.
2. **Confidentiality**  
All non-public, confidential, or proprietary information of CPP, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, that CPP discloses to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and regardless of whether marked, designated, or otherwise

identified as “confidential,” in connection with the Agreement is confidential, solely for the use of performing the Agreement, and may not be disclosed or copied unless authorized in advance by CPP in writing. Upon CPP request, Customer will promptly return all documents and other materials received from CPP. CPP will be entitled to injunctive relief for any violation of this Section, without having to post bond or establish the insufficiency of a remedy at law. This Section does not apply to information that is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by CPP on a non-confidential basis from a third party.

3. Sourced Product

CPP may procure product not available through our regular offering for a Customer from the manufacturer or other sources (“Sourced Product(s)”). Sourced Product is priced according to current market conditions on a per order basis. Special-order items may not be returned. No cancellations, refunds or credits are allowed for Sourced Product(s) on a “Final Sale” basis.

4. Custom Product

CPP may offer products manufactured or assembled to Customer specifications (“Customer Product(s)”). CPP is not responsible for verifying or confirming the accuracy of the specifications provided by Customer to CPP for Custom Products. All Customer Product(s) are sold on a Final Sale basis and no cancellations, returns, refunds or credits are allowed.

5. Cancellation

Cancellation or modifications of all or part of any order are subject to CPP’s prior written consent in each instance. If cancellation or modification is allowed, Customer agrees to pay CPP all expenses incurred and damage sustained by CPP on account of the cancellation or modification, plus 20% re-stocking fees.

6. Force Majeure

CPP Distribution shall not be liable for any delay in, or impairment of, performance resulting in whole or in part from any force majeure event, including but not limited to acts of God, labor disruptions, acts of war, acts of terrorism (whether actual or threatened), governmental decrees, controls or acts of authority, states of emergency, insurrections, epidemics, pandemics, quarantines, shortages, communication or power failures, fires, accidents, explosions, inability to procure or ship product or obtain permits and licenses, inability to procure supplies or raw materials, severe weather conditions, catastrophic events, or any other circumstance or cause beyond the reasonable control of CPP in the conduct of its business.

7. Compliance

The Customer will comply with all applicable laws, regulations and ordinances, and will comply with the export and import laws and regulations in effect as of the date of shipment of the Products of any country involved in the transactions contemplated by the Agreement.

8. Governing Law; Venue; Dispute Resolution

All matters arising out of or relating to the Agreement are governed by and construed in accordance with the internal laws of the Province of Alberta without giving effect to any choice or conflict of law provision or rule (whether of the Province of Alberta or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Province of Alberta. Any legal suit, action or proceeding arising out of or relating to these Terms will be instituted in the federal or Provincial courts located in the City of Edmonton, Alberta. Each party irrevocably submits to the exclusive jurisdiction of the courts in any the suit, action or proceeding.

The Parties agree that in the event of a dispute or any allegation of breach concerning the Parties’ performance under the terms of the Agreement, that the Parties shall, for a period not to exceed fifteen

(15) calendar days following notice by one Party to the other Party that a dispute exists, endeavor to resolve such dispute through good faith negotiations. In the event that the Parties fail to resolve their dispute in the foregoing manner, the alleged breach or dispute shall be submitted to binding arbitration. The arbitration shall be held in Alberta and shall be construed in accordance with the *Arbitration Act* (Alberta), by a single arbitrator appointed by a Justice of the Alberta Court of King's Bench. The arbitration shall be conducted in the English language. Arbitration shall be the sole and exclusive remedy with respect to any such dispute or alleged breach. These proceedings shall be private and confidential. The arbitral tribunal shall have no power to add to, detract from, or alter the Agreement in any way. All costs and expenses incidental to and arising out of the arbitration shall be borne by the losing Party, including reasonable attorneys' fees. The award rendered shall be final and conclusive and judgment entered on the award rendered by the arbitral tribunal may be entered in any court having competent jurisdiction thereof.

9. Miscellaneous

Customer acknowledges that is has not been induced to purchase any the Products from CPP by any representation or warranty not expressly set forth in this Agreement. These Terms and the Sales Confirmation constitute the entire agreement of the parties and supersede all existing agreements and all other oral or written communications between them concerning its subject matter. None of the Terms may be added to, modified, superseded, or otherwise altered, except by a written document signed by an authorized representative of CPP that specifically references these Terms and states that it modifies them. If there is a conflict between the provisions of the Sales Confirmation and these Terms, then the terms of the Sales Confirmation will govern. No waiver by CPP of any of the provisions of these Terms is effective unless explicitly set forth in writing that specifically references these Terms and is signed by CPP. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The Section headings contained in these Terms are for convenience only and will not affect the interpretation of any provision. If any provision of this Agreement is held to be prohibited or unenforceable, the provision will be changed and interpreted to accomplish the objectives of the provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Customer will not assign any quotation or accepted order for the Products, in whole or in part, without CPP prior written consent.