

GENERAL: These Standard Conditions of Sale (“Standard Conditions”), together with any special conditions of sale set forth in the applicable product-line specification bulletins, any supplements or modifications hereto or thereto confirmed in writing by the acknowledgment of S&C Electric Company (“S&C”), and any written specifications or certifications signed by an authorized executive of S&C (collectively, “Conditions of Sale”), shall constitute the complete and exclusive conditions for the sale of goods (“Goods”) by S&C to the immediate purchaser, and such Conditions of Sale shall supersede all prior communications and agreements regarding same. In no event shall the sale of Goods be subject to any affirmation of fact or promise that relates to the application, performance, or description of the Goods unless such affirmation or promise is in writing and signed by an authorized executive of S&C or is confirmed in writing by S&C’s acknowledgment. ANY TERMS, WHETHER IN A PURCHASE ORDER OR OTHER DOCUMENT OF THE IMMEDIATE PURCHASER, IRRESPECTIVE OF THEIR MATERIALITY, THAT ARE EITHER DIFFERENT FROM OR ADDITIONAL TO S&C’S CONDITIONS OF SALE AS SET FORTH HEREIN, ARE OBJECTED TO AND ARE EXCLUDED UNLESS EXPRESSLY AGREED TO IN WRITING BY S&C. Acceptance of the Goods shipped shall constitute assent to be bound by the Conditions of Sale. The immediate purchaser shall inspect the Goods within seven (7) days of receipt (“Inspection Period”). The immediate purchaser will be deemed to have accepted the Goods unless it notifies S&C in writing of any nonconforming goods within the Inspection Period. Failure to reject the Goods or otherwise object to the Conditions of Sale in writing within seven (7) days of receipt shall constitute assent to these Conditions of Sale. In special transactions involving a formal invitation to bid and a formal award by purchase contract, or in the event a master purchase agreement signed by S&C and the immediate purchaser is in existence, these Conditions of Sale apply only to the extent not inconsistent with the purchase contract.

NONASSIGNABLE SOFTWARE LICENSE: Certain software, computer programs, source code, object code, listings, and related materials, in machine-readable or printed form, including firmware and all types of media, and all updates and modifications thereto (“Software”), may be delivered by S&C to the immediate purchaser together with each product. Such Software is furnished to the immediate purchaser or, if the product is purchased by a third party for installation in third-party equipment, the end user of the Goods, under a nonexclu-

sive license for use solely on a single product, and may not be modified or copied, in whole or in part, nor may it be transferred or sublicensed. The immediate purchaser shall preserve any and all copyright notices included in the Software. Except as set forth herein, or as may be permitted in writing by S&C, the immediate purchaser shall not provide or otherwise make available the Software or any part of copies thereof to any third party. Title to, ownership of, and all applicable rights in patents, copyrights, and trade secrets in the Software shall not transfer to the immediate purchaser or end user. The immediate purchaser agrees to take appropriate action by instruction or agreement with its employees who are permitted access to the Software to fulfill its obligations hereunder.

LIMITED WARRANTY:

(1) **General:** S&C warrants to the immediate purchaser for a period of two (2) years from the date of shipment that the Goods delivered (excluding Software, which is warranted as specified in paragraph (2) below) will be of the kind and quality specified in the contract description and will be free of defects of workmanship and material. Should any failure to conform to this warranty (or to any additional warranty contained in the special conditions of sale set forth in the applicable product-line specification bulletin) appear under proper and normal use within two (2) years after the date of shipment, S&C agrees, upon prompt notification thereof and confirmation that the Goods have been stored, installed, operated, and maintained in accordance with recommendations of S&C and standard industry practice, to correct the nonconformity either by repairing any damaged or defective parts of the Goods or at S&C’s sole option by shipment of necessary replacement parts. S&C shall not be liable for a breach of the warranty set forth herein if the immediate purchaser makes any further use of the Goods after giving notice of a defect. S&C’s warranty does not apply to any Goods that have been disassembled, repaired, or altered by anyone other than S&C. This limited warranty is granted only to the immediate purchaser or, if the Goods are purchased by a third party for installation in third-party equipment, the end user of the Goods. S&C’s duty to perform under any warranty may be delayed, at S&C’s sole option, until S&C has been paid in full for all Goods purchased by the immediate purchaser. No such delay shall extend the warranty period.



S&C further warrants to the immediate purchaser or end user that for a period of one (1) year from the date of shipment, the Software will perform substantially in accordance with the then-current release of specifications if properly used in accordance with the procedures described in S&C's instructions. S&C's liability regarding any of the Software is expressly limited to exercising its reasonable efforts in supplying or replacing any media found to be physically defective or in correcting defects in the Software during the warranty period. S&C does not warrant the use of the Software will be uninterrupted or error-free.

- (2) **Limitation:** The warranty and/or obligations described in the foregoing paragraphs, including any additional warranty contained in the special conditions of sale, are exclusive, and the remedies provided herein for breach of these warranties shall constitute the immediate purchaser's or end user's exclusive remedies and a fulfillment of all of S&C's liability. In no event shall S&C's liability to the immediate purchaser or end user exceed the price of the specific product that gives rise to the immediate purchaser's or end user's claim. S&C shall not be responsible for providing temporary power, reimbursement for lost revenue, costs associated with the removal, installation, or labor costs or obtaining working access to the nonconforming Goods, including any disassembly and reassembly of equipment that was not supplied by S&C. S&C shall also not be responsible for providing transportation to or from any repair facility, or for any other expenses incurred in connection with the repair or replacement of the Goods, all of which shall be at the immediate purchaser's risk and expense. S&C's warranties do not apply to major components not of S&C manufacture. However, S&C will assign to the immediate purchaser or end user all manufacturers' warranties that apply to such major components. All other warranties whether express or implied or arising by operation of law, course of dealing, usage of trade or otherwise, are excluded. The only warranties are those stated herein, and THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ANY EXPRESS WARRANTY OR OTHER OBLIGATION PROVIDED HEREIN IS GRANTED ONLY TO THE IMMEDIATE PURCHASER AND END USER, AS DEFINED HEREIN. OTHER THAN AN END USER, NO REMOTE PURCHASER MAY RELY ON ANY AFFIRMATION OF FACT OR PROMISE THAT RELATES TO THE GOODS DESCRIBED HEREIN, ANY DESCRIPTION THAT RELATES TO THE GOODS, OR ANY REMEDIAL PROMISE INCLUDED IN THESE STANDARD CONDITIONS OF SALE.

LIMITATION OF LIABILITY:

- (1) S&C shall not be liable, in contract, tort, or otherwise (including for negligence, breach of warranty, indemnity, and strict liability) for any penalty or for any special, consequential, indirect, or incidental damages, whether for personal injury or property damage, including specifically but without limitation, loss of profits or revenue, loss of other equipment, loss of full or partial use of any equipment or facility, downtime costs, business interruption, any claim arising out of loss of electrical power, cost of capital, loss of goodwill, claims of third parties, costs associated with the removal of the Goods and/or other equipment from service or reinstallation or disassembly or reassembly, or similar damages, arising out of or resulting from this order or transaction.
- (2) In no event shall S&C's aggregate liability arising out of or related to the Conditions of Sale, any purchase order, or the Goods, or any claim whatsoever, exceed the value of the applicable purchase order for the Goods sold under the applicable purchase order.
- (3) All causes of action against S&C arising out of or relating to the Conditions of Sale, or the performance or breach hereof shall expire unless brought within one year of the time of accrual thereof.
- (4) In no event, regardless of cause, shall S&C be liable for penalties or penalty clauses of any description or for indemnification of the immediate purchaser or others for costs, damages, or expenses arising out of or related to the Goods.

NUCLEAR: For applications in a nuclear facility, the immediate purchaser and/or end user shall have complete insurance protection against liability and property damage resulting from a nuclear incident and shall indemnify S&C, its affiliates, subcontractors, suppliers, and vendors against all claims resulting from a nuclear incident.

WILDFIRE: For applications in Wildfire-Prone Regions, the immediate purchaser and/or end user shall have complete insurance protection against liability and property damage resulting from a Wildfire Incident and shall indemnify S&C, its affiliates, subcontractors, suppliers, and vendors against all claims resulting from a Wildfire Incident. As used in this document, Wildfire-Prone Regions means mountainous, forest-covered land; brush-covered land; grass-covered land; land covered with flammable material; and/or land designated by a federal, state, or local government or agency as a fire hazard zone. Wildfire Incident means an unplanned or unwanted wildland fire, including authorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.

TERMS OF DELIVERY:

- (1) **Risk of Loss.** Unless otherwise agreed, for all shipments, risk of loss of the Goods or any part thereof shall pass to the immediate purchaser upon S&C's delivery of the Goods to the common carrier.
- (2) **Fuel Surcharge.** For orders with S&C's selection of transportation prepaid to common carrier delivery point nearest first destination, a fuel surcharge will be added to the invoice if specified in the quotation. This fuel surcharge will be calculated at the time of shipment, and will be equal to 0.00875% of the net value of the order for every \$0.05 increase in fuel price above a base fuel price of \$1.20 per gallon. The fuel price at the time of shipment will be determined from the National Average Diesel Fuel Price Index provided by the United States Department of Energy.
- (3) **Method of Transportation and Routing.** S&C will determine the method of transportation and the routing of the shipment. Where the immediate purchaser requires shipment by a method of transportation or routing other than that of S&C's selection, any additional transportation and/ or packing expense is to be borne by the immediate purchaser.
- (4) **Export Packing.** Where "export packing" is required, an extra charge will be made not to exceed 5% of the net selling price.
- (5) **Unloading of Shipments.** Provision of suitable facilities and personnel at delivery point for unloading of shipments shall be the responsibility of the immediate purchaser.
- (6) **Partial Shipments.** S&C may, in its discretion, without liability or penalty, make partial shipments of Goods to the immediate purchaser. Each shipment shall constitute a separate sale, and the immediate purchaser shall pay for the units shipped whether such shipment is in whole or partial fulfillment of immediate purchaser's order. In the event the immediate purchaser requests that S&C hold some or all of the Goods or otherwise postpones shipment beyond the scheduled date of shipment, a storage fee will apply, and a separate bill-and-hold agreement will be required.

TERMS OF PAYMENT: Net 30 days. Except with respect to Software (for which title shall not pass, use being licensed), title of the Goods shall pass to the immediate purchaser only upon full and complete payment to S&C. As collateral security for the payment of the purchase price of the Goods, the immediate purchaser grants to S&C a lien on and security interest in the Goods.

S&C, in its sole discretion, may require revision of payment terms, including, but not limited to, a prepayment

requirement, deposit, or progress/milestone payments, as set forth in the relevant quotation issued by S&C to the immediate purchaser, or if not specified in the quotation, as set forth herein. Further, S&C shall be entitled to cancel or defer any orders or items or quantities thereon then outstanding, without obligation by either the immediate purchaser or S&C with respect to unshipped Goods.

If any payment is not made in full when due, S&C, in addition to any and all remedies hereunder and under law, shall be entitled to: (i) recover possession of the Goods shipped; (ii) require immediate purchaser to assemble any Goods shipped that are in its possession or control at a place to be designated by S&C; and (iii) with respect to any orders or items or quantities thereon then outstanding, require full or partial payment in advance or cancel or defer any of such orders or items or quantities thereon and require immediate purchaser to pay any and all damages incurred in connection with such cancellation or deferment.

In the event any proceeding is brought by or against the immediate purchaser under any bankruptcy or insolvency laws, S&C shall be entitled to cancel any orders or items or quantities thereon outstanding as of the date of such bankruptcy or insolvency without liability. The immediate purchaser shall not withhold payment of any amounts due and payable by reason of any setoff of any claim or dispute with S&C, whether relating to S&C's alleged breach, bankruptcy or otherwise.

HANDLING CHARGES FOR IMMEDIATE SHIPMENTS: When immediate shipment of products, components, and/or parts is required, premium freight methods will be employed to minimize transportation time. Because of the extra attention required by such orders, a handling charge may apply, in addition to the extra charges for premium freight.

PRICE ADJUSTMENTS: Prices stated on S&C's acknowledgment for orders, or items or quantities thereon, are not subject to upward or downward adjustment for a period of one (1) year from the date of order ("Initial Pricing Period") unless otherwise specified. Prices for orders, or items, or quantities may be increased after the Initial Pricing Period at S&C's discretion.

QUOTATIONS: Any price, quantity, or condition of sale stated in any quotation is effective for 30 days from date of quotation ("Effective Period") unless changed by written notice from S&C. No quotation shall have any force or effect after the Effective Period unless such Effective Period is expressly extended in writing by S&C.

All orders, whether or not based upon specific quotations, are subject to acceptance by S&C only at its principal office in Chicago, Illinois.

Subsequent to the issuance of quotations, S&C may, without notice, make design changes for product mod-

ernization or improvement. Catalog numbers may be supplemented with the letter “R” followed by a digit identifying the latest design revision. S&C may make changes in the Goods as it deems necessary, in its sole discretion, to conform the Goods to the applicable specifications. If the immediate purchaser objects to any such changes, S&C shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.

A materials surcharge may be applied to the net selling prices of Goods at the time of shipment, depending on the cost levels of purchased parts and materials in the preceding month.

TAXES: Where S&C is required to pay or collect sales, use, or other taxes, the amount will be added to any invoice for Goods as a separate item.

LOSS, DAMAGE, OR DELAY: Shipping dates are approximate and are based upon prompt receipt of all necessary information. S&C shall not be liable for any loss, damage, detention, or delay.

INTELLECTUAL PROPERTY: S&C shall defend any suit or proceeding brought against the immediate purchaser so far as based on a claim that any product, or any part thereof, sold to the immediate purchaser constitutes an infringement or misappropriation of intellectual property rights of others if notified promptly in writing and given authority, information, and assistance (at S&C’s expense) for the defense of same, and S&C shall pay all direct and measurable damages and actual costs awarded by a court of competent jurisdiction in any such action against the immediate purchaser, provided, however, that this agreement shall not extend to any infringement based upon the manufacture, use, or sale of said product or any part or parts thereof, in combination with apparatus or things not furnished by S&C. In case the product, or any part thereof, furnished under a purchase order subject to the Conditions of Sale is in such suit held to constitute infringement and its use enjoined, S&C shall, at its own expense and at its option, either (1) procure for the immediate purchaser the right to continue using said product or part thereof; (2) replace the same with a noninfringing product; (3) modify said product or part thereof so that it becomes noninfringing; or (4) remove said product and refund the purchase price thereof. The foregoing states the entire liability of S&C with respect to infringement by said product or any part thereof.

The preceding paragraph shall not apply to any equipment or product, or any part thereof, manufactured to the immediate purchaser’s design or specifications. As to such equipment or product, or any part thereof, S&C assumes no liability whatsoever for infringement or misappropriation.

To the extent that the Goods or any part thereof are modified by the immediate purchaser or combined by the

immediate purchaser with equipment or processes not furnished under a purchase order subject to the Conditions of Sale (except to the extent that S&C is a contributory infringer), and by reason of said modification or combination, an action is brought against S&C, the immediate purchaser shall defend and indemnify S&C in the same manner and to the same extent that S&C would be obligated to indemnify the immediate purchaser under this paragraph.

CLERICAL ERRORS: S&C reserves the right to correct clerical errors or omissions in quotations, acknowledgments, invoices, or other documents.

MODIFICATION, CANCELLATION, OR DEFERMENT BY THE IMMEDIATE PURCHASER: Except as otherwise set forth herein, orders or purchase contracts may be modified or cancelled, and scheduled shipments may be deferred, upon the immediate purchaser’s prior written notice; provided, however, that S&C shall have sole discretion to modify, cancel or defer any such order, purchase contract or scheduled shipments by issuing a revised acknowledgement to immediate purchaser; provided, further, that, in the event of cancellation by the immediate purchaser, the immediate purchaser shall be liable to pay S&C a cancellation charge as set forth in the relevant quotation issued by S&C to the immediate purchaser, or if not specified in the quotation, in accordance with the following schedule: (i) 25% of the purchase price of the Goods if the Order has been accepted/acknowledged by S&C and the Goods have not been shipped; (ii) 50% of the purchase price of the Goods upon S&C’s commencement of drawings, ordering of long lead time items, or general material requirements being driven (as applicable); or (iii) 100% of the purchase price of the Goods upon S&C’s commencement of production of subassembly or final units, or if the Goods have shipped either in whole or in part.

In the event of cancellation by the immediate purchaser occurring at a time after (i) or (ii), but before (iii) above, and the impacted production space cannot be utilized, S&C reserves the right to charge a cancellation fee of 100% of the purchase price of the Goods. The immediate purchaser shall be liable to pay all damages and charges incurred by S&C as a result of the immediate purchaser’s modification, cancellation or deferment of any Order, including without limitation, carriage, packing and insurance charges imposed on S&C by its suppliers, and any other costs resulting from cancellation of the order or purchase contract.

Additional catalog number items may be added to, and/or quantities of specified catalog numbers adjusted on, unshipped orders up to 10 business days from the order or purchase contract date. Shipment schedules for additional items are dependent upon product availability; these items may not ship with the items originally specified on the order or purchase contract.

TERMINATION: In addition to any remedies that may be provided under the Conditions of Sale or at law, S&C may terminate the Conditions of Sale and any sale or transaction subject to the Conditions of Sale with immediate effect upon written notice to the immediate purchaser, if the immediate purchaser: (i) fails to pay any amount when due under the Conditions of Sale or any purchaser order; (ii) has not otherwise performed or complied with any of the Conditions of Sale, 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. No termination by the immediate purchaser shall be effective unless S&C breaches or defaults under the Conditions of Sale and fails to initiate and pursue corrective action with due diligence to cure such default within a commercially reasonable period of time.

ASSIGNMENT: S&C shall have the right, upon written notice to the immediate purchaser, to assign all or a portion of its rights and obligations under the Conditions of Sale or any purchase order. Purchaser may not assign any of its rights or delegate any of its obligations under the Conditions of Sale or related purchaser orders or agreements with the prior written consent of S&C. Any purported assignment by the immediate purchaser of the Conditions of Sale or related purchase order to which S&C does not consent in writing shall be null and void.

FORCE MAJEURE: Neither party shall be liable to the other party, nor be deemed to have defaulted under or breached the Conditions of Sale, for any failure or delay in fulfilling or performing any obligations under the Conditions of Sale or any purchase order (except for any obligations of the immediate purchaser to make payments to S&C hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the party's reasonable control, such as, but not limited to: acts of God, acts of civil or military authority, priorities, fires, strikes, labor issues or difficulties, floods, earthquake, weather, pandemics, epidemics, quarantine restrictions, war, riot, delays in transportation, government restrictions or embargoes, or difficulties in obtaining necessary labor, materials, and manufacturing facilities from usual sources because of such causes. In the event any such causes delay S&C's performance, the date of performance shall be extended by a period of time reasonably necessary to overcome the effect of such delay, and S&C's compensation shall be adjusted accordingly.

S&C'S REMEDIES: The rights of S&C specified herein are cumulative and in addition to the rights available to S&C at law, in equity, by statute or under any other agreement between S&C and the immediate purchaser. No delay or failure by S&C to exercise any right or remedy shall impair any rights or remedies or be construed to be a waiver of any breach or acquiescence therein. Any single or partial exercise of any right or remedy shall not preclude other or further exercise thereof or the exercise of any other right or remedy.

EXPORT COMPLIANCE: S&C is required to comply with applicable export laws and regulations of the U.S. For any sale made under this contract, the immediate purchaser or end user shall not export, reexport, distribute, download, or supply any Goods, product, component, part, and/or Software other than to the ultimate country of destination specified in this contract, without obtaining prior, written authorization from S&C and the applicable U.S. Government agency. S&C reserves the right to suspend or cancel delivery of Goods, components, parts, and/or Software to the immediate purchaser or end user or cancel this contract in its entirety, without liability to S&C, if S&C has a good faith basis for believing the immediate purchaser or end user has violated or intends to violate this paragraph.

COMPLIANCE WITH ANTI-BRIBERY LAWS: The U.S. Foreign Corrupt Practices Act ("FCPA") and laws in other countries strictly prohibit the payment of bribes, kickbacks, or similar payments to influence business. The immediate purchaser or end user agrees not to take any action whatsoever to wrongfully influence any decisions in its or S&C's favor relating to Goods sold hereunder, either directly or indirectly.

EEO COMPLIANCE: S&C shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(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, 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, national origin, protected veteran status or disability.

GOVERNING LAW AND JURISDICTION: The Conditions of Sale are governed by, and construed in accordance with, the laws of the State of Illinois, without regard to conflicts of law principles. The immediate purchaser consents and submits to the personal jurisdiction and exclusive venue of Illinois state courts and the Northern District of Illinois for the purpose of any suit, action, or other proceeding arising out of or with respect to the Conditions of Sale, any purchase order, or the Goods.

Note: To report any ethics or compliance concerns, please contact, openly or anonymously, the S&C Helpline at sandc.ethicspoint.com.

POLICIES RELATING TO SALES

CHANGES TO PRICES AND CONDITIONS OF SALE: Prices and conditions of sale are subject to change without notice.

WITNESS OF TEST: Normal production procedures do not provide opportunity for the immediate purchaser to witness routine factory tests on their apparatus. Witness of such tests by the immediate purchaser requires special processing of the order and usually entails delays in production and additional charges, information on which can be furnished on request.

RETURNS: Products may not be returned by the immediate purchaser without first securing authorization and a return goods authorization number. Where S&C authorizes the immediate purchaser to return unused, recently received products, charges will be made to cover outgoing transportation paid by S&C plus cost of restocking, repackaging, reinspection, repair, or disassembly as applicable. Only products manufactured within the past two years and still of current design will be eligible for return. In general, charges over and above the transportation, will be based on the following schedule:

1. 25% of the net selling price for standard catalog products regularly carried in S&C's active warehouse stock and returnable directly to stock without reinspection, repackaging, repair, or modification;

2. 35% of the net selling price for standard catalog products not regularly carried in S&C's active warehouse stock, but which are sufficiently active to warrant being placed in stock and which can be returned directly to stock without reinspection, repackaging, repair, or modification;

3. 50% of the net selling price for standard catalog product not sufficiently active to warrant being placed in stock and which therefore must be unpacked and disassembled;

4. 60% or more of the net selling price for products of a custom nature which must be unpacked and disassembled and from which only certain parts and subassemblies are salvageable.

Authorized returns, with the return goods authorization number identified on the material to be returned, should be shipped, freight prepaid and at the immediate purchaser's risk, to S&C Electric Company, Repair Center. For product returns, contact the local S&C representative for proper return material authorization documentation and instructions.