

**GENERAL:** The standard conditions of sale contained herein and the special conditions of sale set forth in the applicable product-line specification bulletins, and any supplements or modifications thereto confirmed by the seller's acknowledgment, together with any written specifications or certifications signed by one of the seller's authorized executives●, shall constitute the complete and exclusive statement of the seller's conditions of sale. In no event shall transactions 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 one of the seller's authorized executives● or is confirmed by the seller'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 THE SELLER'S CONDITIONS OF SALE AS SET FORTH ABOVE ARE OBJECTED TO AND ARE EXCLUDED UNLESS EXPRESSLY AGREED TO IN THE SELLER'S ACKNOWLEDGMENT. Acceptance of the goods shipped shall constitute assent to the seller's conditions of sale. In special transactions involving a formal invitation to bid and a formal award by purchase contract, the seller's 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" hereafter), may be delivered by the seller 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 equipment, under a nonexclusive license for use solely on a single product, and may not be copied, in whole or in part, nor may it be sub-licensed. 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 the seller, 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.

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● Authorized executives are the chairman of the board, president, vice president of any rank, or any other executive expressly designated by S&C.

#### LIMITED WARRANTY AND EXTENT OF LIABILITY:

(1) **General:** The seller warrants to the immediate purchaser for a period of two years from the date of shipment that the equipment delivered 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 years after the date of shipment the seller agrees, upon prompt notification thereof and confirmation that the equipment has been stored, installed, operated, and maintained in accordance with recommendations of the seller and standard industry practice, to correct the non-conformity either by repairing any damaged or defective parts of the equipment or (at the seller's option) by shipment of necessary replacement parts. The seller's warranty does not apply to any equipment that has been disassembled, repaired, or altered by anyone other than the seller. This limited warranty is granted only to the immediate purchaser or, if the equipment is purchased by a third party for installation in third-party equipment, the end user of the equipment. The seller's duty to perform under any warranty may be delayed, at the seller's sole option, until the seller has been paid in full for all goods purchased by the immediate purchaser. No such delay shall extend the warranty period.

The seller further warrants to the immediate purchaser or end user that for a period of one 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 the seller's instructions. The seller'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. The seller 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 paragraph, including any additional warranty contained in the special conditions of sale, are exclusive; and the remedies provided hereinabove for breach of these warranties shall constitute the immediate purchaser's or end user's exclusive remedy and a fulfillment of all of the seller's liability. In no event shall the seller's liability to



the immediate purchaser or end user exceed the price of the specific product which gives rise to the immediate purchaser's or end user's claim. The seller's warranties do not apply to major components not of S&C manufacture, such as: surge arresters, current-limiting fuses, instrument transformers, relays and meters, low-voltage circuit breakers, remote terminal units, and terminators. However, the seller 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. The seller 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, down-time 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 equipment from service or reinstallation or disassembly or reassembly, or similar damages, arising out of or resulting from this order or transaction.

**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 the seller, its 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 the seller, its 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.

**EXPORT COMPLIANCE:** The seller is required to comply with applicable export laws and regulations of the U.S. For any sale made under this contract, the purchaser shall not export, re-export, distribute, download, or supply any product, component, part, and/or Software other than to the ultimate country of destination specified in this contract, without obtaining prior, written authorization from the seller and the applicable U.S. Government agency. The seller reserves the right to suspend or cancel delivery of products, components, parts, and/or Software to the purchaser or cancel this contract in its entirety, without liability to the seller, if the seller has a good faith basis for believing the purchaser 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 purchaser agrees not to take any action whatsoever to wrongfully influence any decisions in its or the seller's favor relating to goods sold hereunder, either directly or indirectly.

**TERMS OF DELIVERY:**

**(1) Risk of Loss.** Unless otherwise agreed, for all shipments, risk of loss of the products or any part thereof shall pass to the immediate purchaser upon delivery to the common carrier, but the seller will assist the immediate purchaser in submitting claims for loss or damage.

**(2) Allowance for Freight.**

- (a) **Deliveries within the United States except Alaska and Hawaii (The Lower 48).** For orders with net value of \$5000.00 or more, prices include freight by the seller's selection of transportation, to common carrier delivery point nearest first destination. For orders with net value less than \$5000.00, freight is collect, or prepaid and added to the invoice.
- (b) **Alaska and Hawaii.** For orders with net value of \$5000.00 or more, prices include freight by the seller's selection of transportation, to common carrier delivery point nearest first destination within The Lower 48. For orders with net value less than \$5000.00, freight is collect, or prepaid and added to the invoice.

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- (3) **Fuel Surcharge.** For orders with the seller'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.
- (4) **Method of Transportation and Routing.** The seller 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 the seller's selection, any additional transportation and/or packing expense is to be borne by the immediate purchaser.
- (5) **Export Packing.** Where "export packing" is required an extra charge will be made not to exceed 5% of the net selling price.
- (6) **Unloading of Shipments.** Provision of suitable facilities and personnel at delivery point for unloading of shipments is to be the responsibility of the immediate purchaser.

**TERMS OF PAYMENT:** Net 30 days. The goods shall remain personal property and the seller retains a security interest therein until fully paid.

If, in the judgment of the seller, the credit status of the immediate purchaser, at any time, does not justify the continuation of production or shipment of goods ordered on the terms of payment agreed upon, the seller, in its sole discretion, may require revision of payment terms to its satisfaction or shall be entitled to cancel or defer any orders or items or quantities thereon then outstanding, without obligation by either the immediate purchaser or the seller with respect to unshipped goods.

If any payment is not made in full when due, the seller is entitled to recover possession of the goods shipped, and if they are in the immediate purchaser's possession or control the immediate purchaser shall assemble them at a place to be designated by the seller. Repossession by the seller shall not exclude or modify any remedy provided by law. Also, if payment is not made in full when due, the seller may require, with respect to any orders or items or quantities thereon then outstanding, full or partial payment in advance or shall be entitled to cancel or defer any of such orders or items or quantities thereon and shall be entitled to payment by the immediate purchaser for all damages.

In the event any proceeding is brought by or against the immediate purchaser under any bankruptcy or insolvency laws, the seller shall be entitled to cancel any orders or

items or quantities thereon outstanding as of the date of such bankruptcy or insolvency.

**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. Due to the extra attention required by such orders, a handling charge of \$100.00 will apply, in addition to the extra charges for premium freight.

**PRICE ADJUSTMENTS:** Prices stated on the seller's acknowledgment for orders, or items or quantities thereon, for which the earlier of the actual or scheduled date of shipment (the "Controlling Date") is within 360 days from date of order, are not subject to upward or downward adjustment unless specified in the quotation. Prices for orders, or items or quantities thereon, for which the Controlling Date is beyond 360 days after date of order, may be increased at time of shipment by percentages which will not cumulatively exceed 1% for each full 30-day period or fraction thereof by which the Controlling Date is beyond 360 days after date of order.

**QUOTATIONS:** Any price, quantity, or condition of sale stated in any quotation is effective for 30 days from date of quotation unless changed by notice. No quotation shall have any force or effect after 30 days from date of quotation unless effective period of such quotation is expressly extended in writing by the seller.

All orders, whether or not based upon specific quotations, are subject to acceptance by the seller only at its general offices in Chicago, Illinois.

Subsequent to the issuance of quotations, the seller may, without notice, make design changes for product modernization or improvement. Catalog numbers may be supplemented with the letter "R" followed by a digit identifying the latest design revision.

If specified in the quotation, a materials surcharge may be applied to the net selling prices of products at the time of shipment, depending on the cost levels of purchased parts and materials in the preceding month.

**TAXES:** Where the seller is required to pay or collect sales, use, or other taxes, the amount will be added to the invoice as a separate item.

**LOSS, DAMAGE, OR DELAY:** Shipping dates are approximate and are based upon prompt receipt of all necessary information. The seller is not liable for loss, damage, detention, or delay due to causes beyond its reasonable control such as, but not limited to: acts of God, acts of the immediate purchaser, acts of civil or military authority, priorities, fires, strikes, labor issues or difficulties, floods, earthquake, weather, 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 due to such causes.

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**INTELLECTUAL PROPERTY:** The seller 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 hereunder constitutes an infringement or misappropriation of intellectual property rights of others if notified promptly in writing and given authority, information, and assistance (at the seller's expense) for the defense of same, and the seller shall pay all damages and costs awarded therein against the immediate purchaser, provided 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 the seller. In case the product, or any part thereof, furnished hereunder is in such suit held to constitute infringement and its use enjoined, the seller 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; or (2) replace the same with a noninfringing product; or (3) modify it so that it becomes noninfringing; or (4) remove said product and refund the purchase price and the transportation and installation costs thereof. The foregoing states the entire liability of the seller 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. As to such equipment or product, or any part thereof, the seller assumes no liability whatsoever for infringement or misappropriation.

**CLERICAL ERRORS:** The seller reserves the right to correct clerical errors or omissions in quotations, acknowledgments, invoices, or other documents.

**MODIFICATION, CANCELLATION, OR DEFERMENT BY THE IMMEDIATE PURCHASER:** Orders or purchase contracts may be modified or cancelled, and scheduled shipments may be deferred, only upon the immediate purchaser's prior written notice and upon confirmation by the seller's revised acknowledgment and upon terms, satisfactory to the seller, which compensate the seller for all damages suffered by reason of such

modification, cancellation, or deferment. Any modification, cancellation, or deferment hereunder shall become effective no earlier than the date set forth in the seller's revised acknowledgment.

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.

**SELLER'S REMEDIES:** The rights of seller specified herein are cumulative and in addition to the rights available to seller at law or in equity. No delay or failure by seller to exercise any right or remedy shall impair any of such 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.

**EEO COMPLIANCE:** The seller 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.

**ILLINOIS LAW GOVERNS:** The laws of Illinois shall govern the interpretation and effect of all contracts and the rights and remedies of the parties.

**Note:** To report any ethics or compliance concerns, please contact, openly or anonymously, the S&C Helpline at [sandc.ethicspoint.com](http://sandc.ethicspoint.com).

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**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 the seller authorizes the immediate purchaser to return unused, recently received products, charges will be made to cover outgoing transportation paid by the seller 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 the seller'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 the seller'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 products 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 the address below unless otherwise instructed:

S&C Electric Company  
Repair Center  
1800 Devon Avenue  
Chicago, Illinois 60660-1010

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