

Terms and Conditions for the Sale of Goods & Services

Digital Factory Division, Process Industries and Drives Division and Energy Management
Division's Low Voltage Products

1. DEFINITIONS

The term "Terms and Conditions" means these Terms and Conditions for the sale of Goods and Services. The term "Order" means any written purchase order, release, contract or agreement which attaches, incorporates, or otherwise references these Terms and Conditions. The term "Contract" means these Terms and Conditions, together with any Order. The term "Seller" means Siemens Canada Limited or its Canadian subsidiary(ies) or affiliate(s) executing the Order. The term "Purchaser" means any individual, corporation, or other entity that purchases the Goods and Services offered by Siemens pursuant to this Contract. The term "Goods and Services" means the items described in an Order and purchased by Purchaser under this Contract. As applicable, the term "Goods" means any equipment, products, software, or other goods purchased by Purchaser under this Contract. As applicable, the term "Services" means project, engineering, maintenance, or other services provided by Seller pursuant to this Contract.

2. GENERAL

In the event of any conflict or inconsistency between the Terms and Conditions of sale herein and the terms and conditions contained in Purchaser's Order or in any other form issued by Purchaser, whether or not any such form has been acknowledged or accepted by Seller, Seller's Terms and Conditions herein shall prevail. No waiver, alteration or modification of these Terms and Conditions shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller. SELLER OBJECTS TO ANY DIFFERENT OR ADDITIONAL TERMS. Where alternate forms exist, the Purchaser explicitly recognizes, by acceptance of Goods and/or Services, that the terms contained herein shall take precedence over different or conflicting terms contained in the Purchaser's terms. Purchaser recognizes in particular the terms of delivery, warranty, liability, intellectual property, and export controls. Unless party to a distributorship agreement with the Seller, Purchaser agrees that it shall not and is not authorized to resell Goods purchased under this Contract. The re-sale of Goods, outside of a distribution agreement, will void all warranties and any applicable licenses.

3. QUOTATIONS

Unless otherwise stated, Seller's quotation shall be null and void unless accepted by Purchaser within thirty (30) days from the date of quotation.

4. PRICES/COST OF TRANSPORTATION

Pricing in the Order is subject to: (i) any exclusions or adjustments as set forth in the Order and (ii) any increased costs incurred by Seller or additional time required for delivery by Seller due to changes to any laws, codes, standards, taxes, customs or duties coming into force after the date of the Order.. Unless otherwise stated, all prices are FCA (Incoterms 2010) Seller's facility and include domestic packing. Customary methods of transportation shall be selected by Seller (unless agreed otherwise by the parties) and such transportation will be at Purchaser's expense. Special methods of transportation will be used upon Purchaser's request and at Purchaser's additional expense provided reasonable notice of Purchaser's transportation requirements are given by Purchaser to Seller prior to shipment.

5. TAXES

Prices do not include GST, HST, or other value-added or similar tax. Accordingly, in addition to the price specified herein, the amount of any present or future sales, use, value-added or similar tax applicable to the sale of the Goods hereunder to or the use of such Goods by Purchaser shall be paid by Purchaser.

6. DELIVERY

Delivery schedules are approximate and are based on prevailing market conditions applicable respectively at the time of Seller's quotation and Seller's acceptance of Purchaser's order. Delivery shall also depend on the prompt receipt by Seller of the necessary information to allow maintenance of the manufacturer's engineering and manufacturing schedules. Seller may extend delivery schedules or may, at its option, cancel Purchaser's order in full or in part without liability other than to return any deposit or prepayment which is unearned by reason of the cancellation.

7. FORCE MAJEURE

Neither party shall be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event provided that the party relying upon this provision: (i) gives prompt written notice thereof, and (ii) takes all steps reasonably necessary to mitigate the effects of the force majeure event. If a force majeure event extends for a period in excess of 60 days in the aggregate, either party may immediately terminate the Order upon written notice.

8. SHIPMENT/DAMAGES OR SHORTAGES IN TRANSPORT /RISK

Except for obligations stated under "Warranty" herein, Seller's responsibility for Goods ceases upon delivery to the carrier. In the event of loss or damage during shipment, Purchaser's claim shall be against the carrier only. Seller will, however, give Purchaser any reasonable assistance to secure adjustment of Purchaser's claim against the carrier provided immediate notice of such claim is given by Purchaser to Seller. Where the Order states that Goods are to be accepted by the Purchaser as part of delivery, the Purchaser will provide notice of acceptance or rejection of the Goods (with written reasons for rejection) in accordance with the inspection and test plan agreed to by the parties. If there is no inspection and test plan, the Purchaser will provide notice of acceptance or rejection of the Goods (with written reasons for rejection) within seven (7) days of delivery; if the Purchaser does not provide notice within this period it will be deemed to have accepted the Goods. Unless agreed upon otherwise in writing, Seller reserves the right to make partial shipments and to submit invoices for partial shipments.

9. TITLE

Title to the Goods or any part thereof shall not pass from Seller to Purchaser until all payments due hereunder have been duly made in cash, except as otherwise expressly stipulated herein. The Goods shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments herein,

Purchaser agrees that Seller may retain all payments which have been made on account of the purchase price as liquidated damages, and Seller shall be free to enter the premises where the Goods may be located and remove them as Seller's property, without prejudice to Seller's right to recover any further expenses or damages Seller may suffer by reason of such nonpayment.

10. INTELLECTUAL PROPERTY

Seller or its affiliates shall be the exclusive owner of the intellectual property rights in any Goods and Services. Seller hereby grants to Purchaser an irrevocable, perpetual, royalty-free, world-wide, non-exclusive license (without the right to sublicense), to use the intellectual property in the Goods and Services for the sole purpose of operation, maintenance, modification and repair of the Goods and Services.

11. CONFIDENTIALITY

Seller and the Purchaser agree that all confidential information supplied or obtained by either party shall be kept confidential and secure. Each party agrees to exercise the same degree of care in maintaining the other party's confidential information as it does with its own confidential information and to confine knowledge of confidential information only to its employees, affiliates, servants or agents who require such knowledge for use in the ordinary course and scope of their employment, service or agency and consistent with this Agreement. The parties shall not, during the term of this Agreement or thereafter, use, disclose, divulge or make available each other's confidential information to any third party either directly or indirectly in any manner whatsoever without the prior written consent of the other party or as otherwise required by law. Confidential information does not include any data or information which: (i) is or becomes publicly available through no fault of the receiving party; (ii) is documented as being in the rightful possession of the receiving party prior to its receipt from the other party; (iii) is documented as independently developed by the receiving party; or (iv) is rightfully obtained by the receiving party from a third party. In the event Seller is required by any applicable Law to make disclosure of any confidential information, Seller shall consult with the Purchaser to the extent reasonably practicable in advance as to the contents and timing of such disclosure.

12. SOFTWARE

Seller grants the Purchaser a non-exclusive, non-transferable, non-sublicensable, limited license to use the executable form of included or embedded software, to the extent to which the same has been enabled for the Purchaser's use (the "Software") for the operation and maintenance of the Goods and Services. Any other use of the Software constitutes an infringement of Seller's intellectual property rights and a material breach of the Contract. Purchaser may reproduce Seller's Software only as far as necessary for the use specified above. Purchaser shall not engage in, cause, or permit the reverse engineering, disassembly, decompilation or any similar manipulation of the Software or any part thereof. Purchaser shall not use any mechanical, electronic, or other method to trace, profile, decompile, disassemble or identify the source code of the Software or any part thereof. Purchaser shall not bypass, alter, or tamper with any security or lock-out features of the Software. In the event that there are software elements contained in the medium delivered to the Purchaser in respect of which rights are not granted by the Contract, Purchaser shall be prohibited from accessing or using said elements. Where the software contains open source or third-party software Purchaser shall be entitled to use such open source or third-party software only in accordance with the open source license conditions or the license conditions provided by the third-party owner, which conditions shall take precedence over the provisions of the Contract. Title to the Software and applicable rights in patents, copyrights, trade secrets and other intellectual property inherent in the Software or related to its use remain with Seller or relevant third parties. No transfer of title or ownership to such intellectual property passes to Purchaser and

Seller reserves for itself and such third parties all such intellectual property rights, subject only to the licenses granted herein.

13. LIABILITY

Seller's, and its affiliates', maximum liability for any matters relating to any Goods or Services provided pursuant to this Contract shall be the actual purchase price received by Seller for the Goods or Services at issue or one million dollars, whichever is less. Notwithstanding anything in this Contract to the contrary, in no event shall Seller (including its affiliates, partners and subcontractors) be liable for any consequential, incidental or indirect claims, losses, damages or expenses of any kind, including for loss of profits or revenue, loss of goodwill, loss of expected savings or expected profits, loss of power, costs of purchased or replacement power, business interruption, lost business or opportunity, loss of use of equipment or plant, loss of production, cost of capital or financing, loss of information or data, or for any special, punitive, aggravated or exemplary losses, damages or expenses of any nature incurred, suffered or arising out of this Contract or any Goods or Services (or the use thereof) provided by Seller under this Contract, even if Seller or the Purchaser has been advised of or is aware of the possibility of such damages. The parties agree that the exclusions and limitations set forth in this article are separate and independent from any remedies which either party may have hereunder and shall be given full force and effect whether or not any or all such remedies shall be deemed to have failed of their essential purpose.

14. WARRANTY

(A) During the warranty period, the Goods provided under this Contract will be free from defects in material and workmanship under normal use. Seller will provide the Services using personnel that have the necessary knowledge, experience and skills to perform the Services in a safe, professional and workmanlike manner, in compliance with this Contract and conforming with recognized industry practices applicable to services of a similar nature for a similar project in terms of scope, character and magnitude. (B) The applicable warranty period for Goods is twelve (12) months from the date of installation or eighteen (18) months from shipping date to Purchaser of any item of the Goods, whichever occurs first. Seller shall, upon prompt written notice from the Purchaser, correct any failure to conform to any of the applicable foregoing warranties for Services which may appear within a period of one (1) year after completion of the Services, or any other warranty period otherwise agreed to in writing by Seller under this Order. For components not supplied by Seller, the original manufacturer's warranty shall apply to the extent assignable by Seller. The warranty for repaired or replaced Goods or Services will end on the earlier of (i) 6 months from the date of repair, replacement or re-performance. (C) The obligation under this warranty is limited to the repair or replacement, at Seller's option, of nonconforming Goods or Services provided that prompt notice of any defect is given by Purchaser to Seller in writing within the applicable warranty period and that upon the Purchaser's return of the defective Goods to Seller or, if designated by Seller, to the location where the Goods are made, properly packed and with transportation charges prepaid by Purchaser, an inspection thereof shall reveal to Seller's satisfaction that Purchaser's claim is valid under the terms of this warranty. Purchaser shall assume all responsibility and expense for dismantling, removal, re-installation and freight in connection with the foregoing. The same obligations and conditions extend to replacement parts furnished by Seller hereunder. (D) Seller makes no warranty other than the one set forth herein. ALL OTHER WARRANTIES AND CONDITIONS, LEGAL, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESSED OR IMPLIED WARRANTY OF MERCHANTABILITY, OF FITNESS FOR THE INTENDED USE THEREOF OR AGAINST INFRINGEMENT ARE HEREBY EXPRESSLY EXCLUDED. Correction of any non-conformity in the manner and for the period of time provided above shall constitute complete fulfillment of all the liabilities of Seller whether the claims of the Purchaser are based in contract, including

fundamental breach, in tort or delict, including negligence, or otherwise with respect to or arising out of the work performed hereunder. (E) The applicable warranty ceases to be effective if the Goods are altered, modified, or repaired other than by persons authorized or approved by Seller to perform such work. The warranty ceases to be effective if Purchaser fails to operate and use the Goods sold hereunder in a safe and reasonable manner and in accordance with any written instructions from Seller or the manufacturers.

15. INSTALLATION

Unless otherwise expressly stipulated, the Goods shall be installed by and at the risk and expense of Purchaser. In the event that Seller is requested to supervise such installation, Seller's responsibility shall be limited to exercising that degree of skill as stated for Services in article 14 (A) above. Purchaser shall remain responsible for all other aspects of the work including compliance with the local regulations including obtaining permits or licenses required to be in Seller's name for the supply of the Goods or Services pursuant to this Contract.

16. RETURNED GOODS

No Goods may be returned to Seller without Seller's prior written permission. Seller reserves the right to decline all returns or to accept them subject to a handling/restocking charge. Even after Seller has authorized the return of Goods for credit, Seller reserves the right to adjust the amount of any credit given to Purchaser on return of the Goods based on the conditions of the Goods on arrival in Seller's warehouse. Credit for returned Goods will be issued to Purchaser only where such Goods are returned by Purchaser and not by any subsequent owner of the Goods. Goods will be considered for return only if they are in their original condition and packaging.

17. LEASED GOODS

Any leased Goods provided by Seller shall at all times be the property of Seller with the exception of certain miscellaneous installation materials purchased by the Purchaser, and no right or property interest is transferred to the Purchaser hereunder, except the right to use any such Goods as provided here. Purchaser agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the Goods. Purchaser shall be responsible to maintain the Goods in good and efficient working order. Upon the expiration or termination of this Contract, Purchaser shall promptly make any leased Goods available to Seller for removal. Purchaser hereby agrees that it shall grant Seller access to the Goods location and shall permit Seller to take possession of and remove the Goods without resort to legal process and hereby releases Seller from any claim or right of action for trespass or damages caused by reason of such entry and removal.

18. SAFETY

Purchaser shall furnish a safe and healthy worksite and take all necessary precautions to ensure the safety of Seller's personnel at all times, including instructing them in the Purchaser's safety practices and ensuring a safe and effective lock-out tag procedure is in effect with respect to all electrical or mechanical equipment. Except as otherwise agreed, Purchaser shall be responsible for the operation of all equipment (including cranes, rigging, and tools), and shall provide free access to all utilities that Seller may require to carry out any of its services. Purchaser shall immediately take such precautions as may be required to legally eliminate any hazardous or toxic substances or wastes or other contaminants so that the provision of services required hereunder may proceed. If the presence of the foregoing causes an increase in the cost of carrying out this agreement, an equitable adjustment will be made to the contract price to reflect such increased costs. Purchaser shall indemnify Seller with respect to any claims, damages, losses, or expenses arising out of the Purchaser's failure to properly notify and protect Seller and its on-site personnel about and from any hazards existing at the site.

19. HAZARDOUS MATERIALS PROVISIONS

(A) The Services do not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of asbestos, polychlorinated biphenyl ("PCBs"), oil or other Hazardous Materials ("HM"). Except as disclosed pursuant to this Article, Purchaser represents that, to its best knowledge, there is no asbestos or any other hazardous or toxic materials, as defined in applicable federal, provincial or local law, present at Purchaser's Sites where the Services are performed. Seller will notify Purchaser immediately if it discovers or suspects the presence of any HM. All Services have been priced and agreed to by Seller in reliance on Purchaser's representations as set forth in this Article. The presence of HM constitutes a change in this Contract whose terms must be agreed upon by Seller before its obligations hereunder shall continue. (B) Purchaser is solely responsible for testing, abating, encapsulating, removing, remedying or neutralizing such HM, and for the costs thereof. Purchaser is responsible for the proper disposal of all HM that at any time are present at the Services site in accordance with all applicable federal, state, provincial, and local laws, regulations, and ordinances. Even if change order has been entered into pursuant to this Article, Seller shall have the right to stop the Services until the site is free from HM. In such event, Seller shall receive an equitable extension of time to complete the Services, and compensation for delays caused by HM remediation. In no event shall Seller be required or construed to take title, ownership or responsibility for such HM. Purchaser shall sign any required waste manifests in conformance with all government regulations, listing Purchaser as the generator of the waste. (C) Purchaser warrants that, prior to the execution of this Contract, it shall notify Seller in writing of any and all HM which to Purchaser's best knowledge are present, potentially present or likely to become present at the Services site and shall provide a copy of any site safety policies, including but not limited to lock-out and tag procedures, chemical hygiene plan, MSDSs or other items required to be disclosed or maintained by federal, provincial, or local laws, regulations or ordinances. (D) Purchaser shall indemnify, defend and hold Seller harmless from and against any damages, losses, costs, liabilities or expenses (including attorneys' fees) arising out of any HM or from Purchaser's breach of, or failure to perform its obligations under this Article. (E) This Article shall apply to the servicing, processing or repairing of PCB contaminated electrical equipment, including the handling or disposing by Seller or its subcontractor(s) of PCBs, PCB solid material and/or equipment or materials containing or contaminated with PCBs more particularly described in the attached Order, if applicable.

20. TERMS OF PAYMENT

Unless otherwise stated, invoices on "open account" shipment are payable within thirty (30) days of invoice date. Unless specifically provided, no cash discount shall be available to Purchaser. When cash discount is offered, the discount price is computed from the date of invoice. Seller does not offer cash discount on C.O.D. shipments. Should payment not be made to Seller when due, Seller reserves the right, until the price has been fully paid in cash, to charge Purchaser with interest on such overdue payments at the rate of eighteen percent (18%) per annum. The charging of such interest shall not be construed as obligating Seller to grant any extension of time in the terms of payment. Seller will have the right to suspend or terminate performance of this Contract if at any time the Purchaser fails to pay any undisputed sums to Seller within sixty (60) days of the date such payments were due.

21. CHANGES AND CANCELLATION

Orders accepted by Seller are not subject to changes or cancellation by Purchaser, except with Seller's written consent. In such cases where Seller authorizes changes or cancellation, Seller reserves the right to charge Purchaser in accordance with the agreed upon cancellation schedule or, if none exists, with

reasonable costs based upon expenses already incurred and commitments made by Seller, including, without limitation, any labour done, material purchased and also including Supplier's usual overhead and reasonable profit and cancellation charges from Seller's suppliers.

22. EXPORT CONTROLS

If Purchaser transfers Goods (hardware and/or software and/or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Seller or works and Services (including all kinds of technical support) performed by Seller to a third party, Purchaser shall comply with all applicable national and international (re-)export control regulations. In any event, Purchaser shall comply with the (re-)export control regulations of Canada, of the Federal Republic of Germany, of the European Union and the United States, to the extent permissible under Canadian law. If required to conduct export control checks, Purchaser, upon request by Seller, shall promptly provide Seller with all information pertaining to the particular end customer, the destination and the intended use of Goods, works and Services provided by Seller, as well as any export control restrictions existing. Purchaser shall indemnify and hold harmless Seller from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by Purchaser, and Purchaser shall compensate Seller for all losses and expenses resulting thereof. This provision does not imply a change in burden of proof.

23. RESERVATION CLAUSE

Seller shall not be obligated to fulfill this Contract if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

24. PRIVACY

Purchaser and Seller are each responsible for complying with their respective obligations under applicable data and privacy protection laws as they apply to this Order.

25. THE AGREEMENT

An acceptance and official confirmation of Purchaser's order by Seller shall constitute the complete agreement, subject to the terms and conditions of sale herein set forth, and shall supersede all previous quotations, orders or agreements. The parties acknowledge that they require that this Contract be drawn up in the English language only. Les parties reconnaissent qu'elles ont exigé que la présente convention soit rédigée en langue anglaise seulement.

26. GOVERNING LAW

The law of the Province of Ontario shall govern the validity, interpretation and enforcement of these terms and conditions of sale and of any contract of which these terms and conditions are a part. The Parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to this Contract nor to any dispute or transaction arising out of this Contract.