



Simply Automated, Incorporated
("Seller")
STANDARD TERMS AND CONDITIONS OF SALE

These Terms and Conditions, the attendant quotation or acknowledgment and all documents incorporated by specific reference therein, will be the complete and exclusive statement of the terms of the agreement governing the sale of products ("Products") by Simply Automated, Incorporated ("Seller") to its customer ("Customer"). If a contract is not earlier formed by mutual agreement in writing, Customer's acceptance of Products will manifest Customer's assent to these Terms and Conditions. All contracts for the sale of Products shall be construed under and governed by the law of the location of Seller's plant from which the Products are shipped.

CUSTOMER'S TERMS AND CONDITIONS

Seller desires to provide its Customers with prompt and efficient service. However, to negotiate individually the terms and conditions of each sales contract would substantially impair Seller's ability to provide such service. Accordingly, Products and services furnished by Seller are sold only on the terms and conditions stated herein. Notwithstanding any terms or conditions on Customer's order, Seller's performance of any contract is expressly made conditional on Customer's agreement to Seller's Terms and Conditions of Sale unless otherwise specifically agreed to in writing by Seller. In the absence of such agreement, commencement of performance and/or delivery shall be for Customer's convenience only and shall not be deemed or construed to be acceptance of Customer's terms and conditions or any of them.

QUOTATIONS AND PRICES

All quotations are subject to the terms and conditions stated herein as well as any additional terms and conditions that may appear on the face hereof. In the case of a conflict between the terms and conditions stated herein and those appearing on the face hereof, the latter shall control. Seller's prices and quotation are subject to the following: (a) All published prices are subject to change without notice. (b) UNLESS OTHERWISE SPECIFIED IN WRITING, ALL QUOTATIONS ARE FIRM FOR A PERIOD OF THIRTY (30) DAYS FROM THE DATE THEREOF AND CONSTITUTE OFFERS, provided that, budgetary quotations and estimates are for preliminary information only and shall neither constitute offers, nor impose any responsibility or liability upon Seller. (c) Unless otherwise stated in writing by Seller, all prices quoted shall be exclusive of transportation, insurance, taxes (including without limitation, any sales, use or similar tax, and any tax levied on or assessed to Seller after Product delivery by reason of Seller's retention of title as provided herein), license fees, customs fees, duties and other charges, premiums, taxes, fees, duties and other charges related thereto, and shall hold Seller harmless therefrom, provided that, if Seller, in its sole discretion, chooses to make any such payment, Customer shall reimburse Seller in full upon demand. (d) Stenographical, typographical and clerical errors are subject to correction. (e) Prices quoted are for Products only and do not include technical data, proprietary rights of any kind, patent rights, qualification, environmental or other than Seller's standard tests and other than Seller's normal domestic commercial packaging unless expressly agreed to in writing by Seller. (f) Quotation made against specified print and revision, or if not so stated, the applicable Simply Automated part number and standards shall govern. Any changes in specified customer print shall require requote for price and delivery.

ORDERS

All orders not responding to a quotation issued by Seller shall be subject to acceptance by Seller only at its plant.

TERMS OF PAYMENT

Unless credit is granted, payment is due upon delivery. All payments for Products released and shipped on approved credit accounts shall be due in full thirty (30) days from date of invoice therefor. Past due balances shall be subject to a service charge of 1% per month (12% per annum), but not more than the amounts allowed by law. Partial payment shall not be withheld for delay in delivery of required documentation unless a separate price is stated therefor, and then only to the extent of the price stated for such undelivered documentation. Seller may cancel or delay delivery of Products in the event Customer fails to make prompt payment. Title for financial security purposes shall remain in Seller until Customer has made payment in full in accordance with the terms hereof. Customer shall cooperate fully with Seller to execute such documents and to accomplish such filings and/or recordings thereof as Seller may deem necessary for the protection of Seller's interests in the Products furnished.

TRANSPORTATION AND RISK OF LOSS

Transportation will normally follow Customer's shipping instructions, but Seller reserves the right to ship Products freight collect and to select the means of transportation and routing when Customer's instructions are deemed unsuitable. Unless otherwise advised, Seller may insure to full value of the Products or declare full value thereof to the transportation company at the time of delivery and all freight and insurance costs shall be for Customer's account. Risk of loss or damage shall pass to Customer upon delivery of the Products to the transportation company at the EXW point, whether or not installation is provided by or under supervision of Seller. Confiscation or destruction of, or damage to Products shall not release, reduce or in any way affect the liability of Customer therefore. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss or damage shall remain in Customer until the Products are returned at Customer's expense to such place as Seller may designate in writing. Customer, at its expense, shall fully insure Products against all loss or damage until Seller has been paid in full therefor, or the Products have been returned, for whatever reason, to Seller. All Products must be inspected upon receipt and claims should be filed with the transportation company when there is evidence of shipping damage, either concealed or external. As used in the clauses appearing herein or attached hereto, "delivery" shall occur when the Product is delivered at the EXW point, which shall be the point of manufacture or such other place as Seller shall specify in writing, notwithstanding installation by or under supervision of Seller.

PERFORMANCE

Seller will make all reasonable effort to observe its dates indicated for delivery or other performance. However, Seller shall not be liable in any way because of any delay in performance hereunder due to unforeseen circumstances or to causes beyond its control, including, without limitation, strike, lockout, riot, war, fire, act of God, accident, failure or breakdown of components necessary to order completion, subcontractor, supplier or Customer caused delays, inability to obtain labor, materials or manufacturing facilities, or compliance with any law, regulation or order, whether valid or invalid, of any cognizant governmental body or any instrumentality thereof whether now existing or hereafter created. Performance shall be deemed suspended during and extended for such time as any such circumstances or causes delay its execution. Whenever such circumstances or causes have been remedied, Seller will make and Customer shall accept performance hereunder. In addition, Seller's inventories and current production must be allocated so as to comply with applicable Government regulations. In the absence of such regulations Seller reserves the right, in its sole discretion, to allocate inventories and current production and substitute suitable materials when, in its opinion, such allocation or substitutions is necessary due to such circumstances or causes. No penalty clause of any kind shall be effective. As used herein, "performance" shall include, without limitation, fabrication, shipment, delivery, assembly, installation, testing and warranty repair or replacement as applicable.

ACCEPTANCE

Seller reserves the right to ship orders complete with yield quantities plus or minus five percent (5%). Justified reject parts within yield quantity limits shall be credited to customer account and not be replaced unless reordered. Each Product furnished by Seller shall be deemed accepted by Customer unless notice of defect or nonconformity is received within ten (10) days of delivery thereof, provided that Products for which Seller agrees in writing to provide installation by its personnel, shall be deemed accepted by Customer upon completion by Seller of its applicable acceptance tests or execution of Seller's acceptance form by Customer. Notwithstanding the foregoing, use of any such Product by Customer, its agents, employees or licensees, for any purpose after delivery thereof, shall constitute acceptance of the Product by Customer.

CUSTOMER CANCELLATIONS & RESCHEDULES

Customer may cancel any order for convenience on the following terms: (a) For standard active Products, Customer may cancel or reschedule a product without penalty if Seller is notified of the cancellation or reschedule more than thirty (30) days prior to the confirmed shipping date (as specified in Seller's Order Acknowledgement or other document); cancellations within 30 days of a confirmed shipping date must be approved in writing by Seller's sales manager and may be subject to special charges; standard products with minimum order requirements or quantity pricing may be subject to cancellation charges in the event such minimum order or quantity requirements are not met as a result of any cancellation or reschedule. (b) For nonstandard Products, custom Products, brand-labeled Products or standard Products with minimum usage, Customer may cancel or reschedule more than sixty (60) days prior to the confirmed shipping date, except that Customer shall accept delivery of all such Products which are completed at the time of cancellation or rescheduling. Those nonstandard Products which are in the work-in-process inventory at the time of cancellation or rescheduling shall be paid for by Customer at a price equal to the completed percentage of the product multiplied by the lot price of the finished product; Customer also shall pay promptly to Seller the costs of settling and paying claims arising out of the termination of work under Seller's subcontracts or vendors and any accounting, legal and clerical costs arising out of the cancellation.

SELLER CANCELLATIONS

Seller shall have the right to cancel any unfilled order without notice to Customer in the event that Customer becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business.

SUPPLIES OR SERVICES FOR THE UNITED STATES GOVERNMENT

To the extent that services or Products furnished hereunder are furnished for delivery pursuant to, or for use in the performance of any contract with the United States or any related subcontract, and to the extent that any contractual provisions are expressly required by the laws or procurement regulations of the United States to be included in such contracts or subcontracts, such contractual provisions are expressly incorporated herein by this reference, with necessary changes in points of detail, e.g., references to parties.

EXPORT COMPLIANCE

Customer shall not, directly or indirectly, export any Products or technical data acquired hereunder or the direct Product thereof to any country for which the United States government or any agency thereof, at the time of export, requires an export license or other governmental approval, without first obtaining such license or approval.

PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS

Seller will hold Customer harmless, as set forth herein, in respect to any claim that the design or manufacture of any Product in Seller's commercial line of products or manufactured to specifications set by Seller and furnished hereunder constitutes an infringement of any patent or other industrial property rights of the United States or Canada. Seller will pay all damages and costs either awarded in a suit or paid in Seller's sole discretion, by way of settlement, which are based on such claim of infringement, provided that Seller is notified promptly in writing of such claim of infringement and is given full authority, information and assistance in settling or defending such claim. Seller shall have no liability whatsoever hereunder with respect to any claims settled by Customer without Seller's prior written consent, Seller will in its sole discretion and at its own expense, either procure for Customer the right to continue using said Product, replace it with a non-infringement product, or remove it and refund an equitable portion of the selling price and transportation costs thereof. THIS SHALL CONSTITUTE SELLER'S ENTIRE LIABILITY FOR ANY CLAIM BASED UPON OR RELATED TO ANY ALLEGED INFRINGEMENT OF ANY PATENT OR OTHER INDUSTRIAL PROPERTY RIGHTS. Customer shall hold Seller harmless against any expense, loss, costs or damages resulting from claimed infringement of patents, trademarks or other industrial property

rights arising out of compliance by Seller with Customer's designs, specifications, or instructions. SELLER DISCLAIMS LIABILITY FOR U.S. PATENT OR COPYRIGHT INFRINGEMENT ARISING FROM USE OR MANUFACTURE BY ANYONE OF INVENTIONS IN CONNECTION WITH PRODUCTS OR SERVICES SOLD, USED OR INTENDED FOR SALE OR USE IN PERFORMING CONTRACTS WITH THE UNITED STATES OR RELATED SUBCONTRACTS.

QUALITY ASSURANCE

Quality assurance provisions applicable to the Product(s) specified herein shall be in accordance with Simply Automated standard practices and procedures unless otherwise specified by mutual agreement.

WARRANTY

Simply Automated, Incorporated (the "Company") warrants to the original purchaser that each product delivered shall be free from defects in material or workmanship at time of shipment, and that each product delivered will meet the published specifications for that product, or any contractually agreed upon specifications, for a period of time defined as the "warranty period" as measured from the date of original shipment. The Company's obligation under the Warranty contained herein is limited to the repairing or replacing of any product that does not meet this Warranty, provided that said product is returned to the Company, transportation charges pre-paid, and provided that upon the Company's examination, the product, when tested within the specified ratings and in accordance with good engineering practice, does not meet the Warranty contained herein. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

WARRANTY PERIOD

The warranty period for all Simply Automated UPB (Universal Powerline Bus) products is two (2) years. The warranty period for all software products is ninety (90) days.

WARRANTY REPLACEMENT AND ADJUSTMENT

All claims under warranty must be made promptly after occurrence of circumstances giving rise thereto and must be received within the applicable warranty period by Seller or its authorized representative. Such claims should include the Product type and serial numbers and a full description of the circumstances giving rise to the claim. Before any Products are returned for repair and/or adjustment, **written authorization** from Seller or its authorized representative for the return and instructions as to how and where these Products should be shipped must be obtained. Any product returned to Seller for examination shall be sent prepaid via the means of transportation indicated as acceptable by Seller. Seller reserves the right to reject any warranty claim not promptly reported and any warranty claim on any item that has been altered or has been shipped by non-acceptable means of transportation. When any Product is returned for examination and inspection, or for any other reason, Customer will be responsible for all damage resulting from improper packing or handling and for loss in transit, notwithstanding any defect or nonconformity in the Product. In all cases Seller has sole responsibility for determining the cause and nature of failure, and Seller's determination with regard thereto shall be final. If it is found that Seller's Product has been returned without cause and is still serviceable, Customer will be notified and the Product returned at its expense. In addition, a charge for testing and examination may, in Seller's sole discretion, be made on Products so returned.

DAMAGES AND LIABILITY

SELLER'S LIABILITY FOR DAMAGES SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY SELLER FOR THE UNIT OF PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED AS THE CASE MAY BE WHICH IS THE SUBJECT OF CLAIM OR DISPUTE. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. LIABILITY TO THIRD PARTIES, FOR BODILY INJURY INCLUDING DEATH, RESULTING FROM SELLER'S PERFORMANCE SHALL BE DETERMINED IN ACCORDANCE WITH APPLICABLE LAW AND THE TOTAL LIABILITY LIMITATION STATED ABOVE SHALL NOT BE CONSTRUED AS A LIMITATION ON SELLER FOR DAMAGES FOR ANY SUCH BODILY INJURY, INCLUDING DEATH.

LIFE SUPPORT POLICY "WARNING: DO NOT USE IN LIFE SUPPORT"

SELLER'S PRODUCTS ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN LIFE SUPPORT DEVICES OR SYSTEMS WITHOUT THE EXPRESS PRIOR WRITTEN APPROVAL OF THE PRESIDENT OF SIMPLY AUTOMATED, INCORPORATED. As used herein, "Life Support Devices or Systems" are devices which support or sustain life and whose failure to perform when properly used in accordance with instructions for use provided in the labeling can be reasonably expected to result in a significant injury to the user. A "Critical Component" is any component in a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system or to affect its safety or effectiveness.

DISPUTES

All disputes under any contract concerning Products not otherwise resolved between Seller and Customer shall be resolved in a court of competent jurisdiction for the location of Seller's plant from which the Products are shipped, and in no other place. Provided that, in Seller's sole discretion such action may be heard in some other place designated by Seller (if necessary to acquire jurisdiction over third persons), so that the dispute can be resolved in one action. Customer hereby consents to the jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof. No action, regardless of form, arising out of, or in any way connected with the Products or services furnished by Seller, may be brought by Customer more than one (1) year after the cause of action has accrued if any part of the terms and conditions stated herein is held void or unenforceable, such part will be treated as severable, leaving valid the remainder of the terms and conditions notwithstanding the part or parts found void or unenforceable.