



## TERMS & CONDITIONS

### 1. GENERAL

SM Ventas de Mexico, S. de R.L. de C.V., a limited liability company incorporated under the laws of the United Mexican States ("Southwire"), domiciled in Nogal 405, Parque Industrial Tecate, Tecate, Baja California, C.P. 21430, Mexico, is responsible for selling directly and without intermediaries, the products offered by Southwire.

All orders received by Southwire are subject to these terms and conditions ("the Terms"), including the Southwire order acknowledgment form, and any special terms and conditions specified on Southwire product price sheets, unless the parties have entered into a separate written agreement regarding such order, in which case the terms and conditions of the separate written agreement shall govern and prevail. In the absence of a separate written agreement between the parties regarding such order. In the case of any conflict between these Terms and any other document between Southwire and customer, these Terms shall govern and prevail.

### 2. ORDER ACCEPTANCE AND PO ACCEPTANCE

Where a purchase order ("PO") is issued pursuant to these Terms, acceptance of the PO by customer may occur by performance by Southwire. Acceptance of the PO constitutes a legally binding agreement, and buyer agrees to these Terms and any terms of the applicable PO, if any, except to the extent that the parties have entered into a separate written agreement regarding the subject matter of the applicable PO. Southwire's failure to insist upon strict performance of these Terms or any terms and conditions specifically negotiated or applicable to an PO as may be set forth in a separate written agreement, shall not constitute a waiver of any subsequent breach by the customer.

Acceptance of an offer is based on Southwire providing customer an order acknowledgement form incorporating these Terms. Prices and delivery dates stated on any order acknowledgment form shall prevail in the event of a discrepancy between Southwire and the customer's written order. Stock products are subject to prior sale.

CONTRACTS OF SALE ARE ACCEPTED IN THE UNITED MEXICAN STATES TERRITORY AND SHALL BE GOVERNED AND CONSTRUED UNDER THE MEXICAN COMMERCIAL CODE AND APPLICABLE LAWS AND REGULATIONS OF THE UNITED MEXICAN STATES. EACH PARTY HEREBY (A) SUBMITS TO FEDERAL JURISDICTION FOR THE ENFORCEMENT OF THESE TERMS, AND (B) WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAW OF ANY STATE TO OBJECT TO THE JURISDICTION AND FORUM SET FORTH HEREIN. THE FEDERAL COURTS IN MEXICO CITY, AND ITS SUPERIOR COURTS, SHALL HAVE THE EXCLUSIVE JURISDICTION AND VENUE OVER ALL DISPUTES ARISING FROM OR IN CONNECTION WITH THE INSTANT TERMS.

### 3. PRICES

The customer shall pay the prices quoted or acknowledged within the order acknowledgement form including, all taxes (sales, use, excise, and/or others incurred through commercial transaction), as well as charges stated in the special terms and conditions for a specific product, and charges for customer-requested special packaging, design and specifications. Southwire reserves the right to modify prices for accepted POs upon a material increase in any of such costs, including without limitation, increases in costs of materials, tariffs and/or regulatory fees. Prices are subject to adjustment without notice to conform to prices in effect on the date of order shipment and apply only to the specific product ordered.

### 4. PAYMENT

Unless specific credit terms are approved by the Southwire Credit Department, payment terms shall be in cash in advance.

If credit is approved, unless otherwise specified in the order acknowledgment, payment shall be due in thirty (30) days from the date of invoice. A FINANCE CHARGE OF 1.5% PER MONTH WILL BE ADDED TO THE UNPAID BALANCE ON ALL ACCOUNTS NOT PAID IN FULL ON OR BEFORE THE DUE DATE. THIS FINANCE CHARGE IS EQUIVALENT TO AN ANNUAL PERCENTAGE RATE OF 18%.

Accounts not paid in full according to established credit terms shall be considered in default case, the customer

agrees that a lien will attach upon all property in customer's possession which was purchased on account from Southwire and all proceeds resulting therefrom.

Southwire may, at its discretion, reclaim the product under lien or take any other action that may be permitted under law. In the event of default, customer shall also assign to Southwire the right to collect all accounts receivable which may have occurred to customer from the sale of said products. Customer shall furnish, upon demand by Southwire, copies of all invoices covering sales of such products so that Southwire may notify the purchaser thereof this assignment.

Credit approval is subject to revocation upon discovery of significant changes in the customer's financial condition, previously undisclosed information, or other reasons which Southwire, in good faith, feels adversely affect the credit agreement. Stoppage in transit is authorized. Upon revocation of credit, the terms of sale revert to cash in advance.

## **5. DELIVERY**

Transportation terms and charges shall be according to special terms and conditions stated in the Freight Policy located at <https://www.southwire.com/freight-policy>. Delivery dates specified on the order acknowledgment are approximate only, and any reasonable variation of the delivery date shall constitute adequate performance on the part of Southwire.

Southwire's responsibility for shipping shall be limited to shipping at a competitive rate. Any excess costs for shipping, including special handling costs, will be charged to the customer, in addition to above-mentioned prices (see PRICES).

Southwire warrants that it has good title to merchandise shipped. Delivery of the merchandise shall be made F.O.B. Southwire's designated shipping point. In addition, title and risk of loss shall pass to customer at Southwire's shipping point.

Failure or refusal to accept delivery without just cause is considered a default by the customer on the purchase agreement. For standard products, customer is liable for damages or loss suffered by Southwire, including but not limited to, storage, shipping and restocking costs, anticipated profits and losses due to market fluctuation. In the case of default on specially designed, construed, or packaged products, customer shall be liable for damages amounting to the contract price less the net salvage value of the product.

Force Majeure: Southwire shall not be liable for failure to perform hereunder as a result of any cause beyond Southwire's reasonable control, including any failure to meet delivery terms if such failure is a result of and includes but is not limited to, accidents, machinery or equipment breakdown, strikes or labor troubles, material shortages, supply chain shortages, fires, floods, war, public disturbances or riots, government allocations, acts of God, acts of terrorism, epidemics, pandemics, or quarantines or other measures taken to ensure compliance with government issued health guidelines or other circumstances beyond Southwire's control.

Southwire will not be liable for any installation costs, incidental or consequential damages or costs, or loss of profits resulting from failure to deliver.

## **6. QUANTITY TOLERANCE**

Quantities shall be subject to standard industry shipping tolerances or other special terms and conditions of sale for that product. The quantity stated on invoice will be final quantity shipped.

Any shortage must be stated in writing on the carrier's freight receipt. Customer claims for shipping shortages must be received by Southwire in writing, within thirty (30) days from date of invoice.

## **7. DEFERRAL OF SHIPMENT**

Customer may only defer any shipment of products for a maximum of six (6) months provided a written request for deferral is received by Southwire ninety (90) days prior to the scheduled shipment date if agreed upon in

advance, in writing by Southwire, in Southwire's sole discretion. CUSTOMER WILL BE ASSESSED A 1.5% PER MONTH DEFERRAL CHARGE, TO BE BILLED MONTHLY AND UPON SHIPMENT OF ORDER MATERIAL INVOICED AT THE ORIGINAL CONTRACT PRICE. THIS DEFERRAL CHARGE IS EQUIVALENT TO AN ANNUAL PERCENTAGE RATE OF 18%.

## **8. NO CANCELLATION**

All orders are non-cancellable and non-refundable.

## **9. RETURNS**

Permission must be obtained in writing from Southwire before any product is returned. The product must be returned to Southwire within 30 days, or such permission shall be null and void. Product returned without prior written permission will be refused.

A restocking charge of 20% of the product value will be assessed for authorized returns of standard stock products in re-sellable condition. The product value is determined as either the invoiced price or the current market level, whichever is lower. Also, customer is responsible for return freight cost.

## **10. RETURNABLE REELS/RETURNABLE PROPERTY**

Steel reels are often required for transportation and storage of product. Each reel will have an associated charge. Southwire will reimburse customer for the charge of the reel if reel is returned in a specified timeframe as outlined below.

- (a) Reels should be returned based on terms listed on invoice.
- (b) Reels should be returned in good condition. Normal wear is expected; charges are made only for "exceptional damage" (that which makes the reel unusable through abuse or unauthorized modifications) as determined by Southwire in its sole discretion.
- (c) Prompt notification of reels available for return should be given to Southwire's Steel Reel Manager at 1-866-SW-REELS, [swreels@southwire.com](mailto:swreels@southwire.com), or via a Reel Pick-up Request Form found at [www.southwire.com/reels-data](http://www.southwire.com/reels-data). Notification should specify:
  - Original consignee
  - Date shipped
  - Charge invoice number
  - Serial numbers of reels to be returned
- (d) No reels should be returned without prior consent from Southwire. Upon receipt of return notification, Southwire will provide customer with complete shipping instructions. Charges incurred over and above the least-cost mode of return (as determined by Southwire in its sole discretion) by unauthorized return shipment, may be charged to the customer.

## **11. ERROR, CONTRADICTION OF TERMS, ADJUDICATION**

Southwire reserves the right to correct any clerical or stenographic error made in the preparation of orders, quotes, acknowledgments, or invoices. Corrections shall be considered as binding amendments to the original contract of sale.

No special terms and conditions take precedence over these Terms unless specific reference is made to any conflict, waiving the requirements of these Terms. In the event any of these Terms are declared invalid by a Court of competent jurisdiction, all other terms and conditions contained herein shall remain in full force and effect.

## **12. LIMITED WARRANTY; DISCLAIMERS**

- (a) Southwire warrants: (i) all products manufactured by Southwire will materially conform to the specifications provided by Southwire and will be free of defects in material and workmanship ("Defects") for 12 months following ship date, under normal use and regular service and maintenance, and if installed pursuant to Southwire's instructions. Customer's sole and exclusive remedy for Southwire's breach of this Section 12 or Defect found and reported within the warranty period, shall be at Southwire's

sole discretion, to repair, replace or refund the defective product.

- (b) Southwire does not warrant and shall have no obligation with respect to any products that: (i) have been repaired or altered by someone other than Southwire; (ii) have been subject to misuse, abuse, neglect, intentional misconduct, accident, customer or third party negligence, unauthorized modification or alteration, use beyond rated capacity, a force majeure event, or improper, or a lack of, maintenance; (iii) are comprised of materials provided by, or designed pursuant to instructions from, customer; (iv) have failed due to ordinary wear and tear; or (v) have been exposed to adverse operating or environmental conditions. Products supplied by Southwire but manufactured or created by third parties are warranted only to the extent of the original manufacturer's warranty and to the extent such manufacturer permits Southwire to pass any third-party warranty through to customer. Further, notwithstanding anything to the contrary herein, Southwire will have no liability for any (a) costs necessary to extract or uninstall the products that fail to conform to the warranties set forth herein, and/or (b) any costs to reinstall any repaired non-conforming products or new products replacing any such non-conforming products.
- (c) (1) Customer is solely responsible for determining the fitness and suitability of products for the use contemplated by customer. Customer shall ensure that (i) the products are used only for the purposes and in the manner for which they were designed and supplied, (ii) all persons likely to use or come into contact with the products receive appropriate training and copies of applicable instructions and documentation supplied by Southwire, (iii) all third parties who use or may be affected by or rely upon the products are given full and clear warning of any hazards associated with them or limitations of their effectiveness and that safe working practices are adopted and complied with, (iv) any warning notices displayed on the products are not removed or obscured, (v) any third party to whom the products are supplied agrees not to remove or obscure such warning notices. Customer assumes all responsibility for any loss, damage, or injury to persons or property arising out of, connected with, or resulting from the use of products, either alone or in combination with other products or components.  
(2) Southwire does not warrant that the products manufactured by Southwire will comply with applicable U.S. laws concerning federal, state and local government requirements and compliance obligations, including, without limitation, domestic content requirements, such as the Buy America Act, the Buy America, Build America Act, the Trade Agreements Act, and similar laws. Customer is solely responsible for determining whether the products delivered by Southwire are compliant with applicable U.S. law before furnishing such products in support of or for use in any U.S. public sector projects and, in any event, Southwire assumes no responsibility or liability for any claims arising out of or relating to delivery of its products in support of such projects.
- (d) THE WARRANTIES SET FORTH IN THIS SECTION 12 ARE SOUTHWIRE'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO PRODUCTS AND ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AGAINST INFRINGEMENT AND/OR TITLE, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, USAGE OF TRADE, AND FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES PROVIDED IN THIS SECTION 12 ARE CUSTOMER'S SOLE REMEDIES FOR ANY AND ALL CLAIMS ARISING FROM OR RELATED TO PRODUCTS. All warranty claims must be received by Southwire on or before the end of the applicable warranty period.
- (e) WARRANTIES AND REPRESENTATIONS TO CONSUMERS WHO PURCHASE SOUTHWIRE PRODUCTS TO BE USED FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES, ARE MADE SEPARATELY AND ARE AVAILABLE UPON REQUEST.

### **13. RESTRICTION ON RENTALS TO END CUSTOMERS OF PRODUCTS.**

Customer agrees and acknowledges that unless Southwire and customer have executed Rental Terms and Conditions, which are available upon request, customer is expressly prohibited from renting, leasing or otherwise temporarily transferring the products sold under these Terms and/or any PO entered into pursuant to these Terms. Customer is expressly prohibited from renting and/or leasing any products purchased hereunder and any violation of this restriction by customer shall void any and all warranties provided by Southwire for the products, whether express or implied. Customer is prohibited from making any representations and/or warranties regarding the products in excess of the limited warranty that is provided by Southwire. If customer makes any

representation and/or warranty regarding the products in excess of the limited warranty offered by Southwire, Southwire shall not be responsible or liable for any claims or losses relating thereto.

#### **14. CUSTOMER'S ACTS AND OMISSIONS; CUSTOMER'S COMPLIANCE WITH LAWS.**

If Southwire's performance is prevented or delayed by any act or omission of customer or its agents, subcontractors, consultants, or employees, Southwire shall not be deemed in breach of its obligations or otherwise liable for any costs, charges, or losses sustained or incurred by customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

Customer shall comply with applicable laws and regulations, including without limitation, those relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) irrespective of the place of performance; (ii) the Federal Penal Code and applicable criminal statutes of the United Mexican States governing anti-corruption compliance, as well as any and all administrative statutes and regulations in connection therewith; and (iii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in customer's country or any country where delivery of products will occur. Customer warrants and represents that at the time of order placement, it is not subject to any national or international trade sanctions, and it is not identified in any country listing of trade sanctioned persons, and Customer shall timely inform Southwire of trade sanctions imposed on Customer while such order remains open.

In the event that customer breaches any applicable laws or regulations, Southwire may immediately terminate these Terms and all fees due hereunder shall become immediately due and payable.

#### **15. LIMITATION OF LIABILITY.**

- (a) Notwithstanding anything to the contrary in these Terms, Southwire shall not be liable for indirect, special, delay/liquidated, incidental, or consequential damages, including but not limited to, the loss of profits or revenue, loss of use of any equipment, down time costs, loss of opportunity, loss of goodwill, cost of purchased or replacement power, or claims of customers of the other party for such damages.
- (b) Notwithstanding anything to the contrary in these Terms, in no event shall either party's aggregate liability arising out of or related to these Terms, whether arising out of or related to breach of contract, extra contractual liability (including negligence) or otherwise, exceed one hundred percent (100%) of the total of the amount paid to Southwire for the applicable portion of the PO subject to the claim.
- (c) Customer hereby irrevocably waives to assert any cause of action based on the damages set forth in Section 15(a) of the instant Terms, which shall not give rise to liability against Southwire as provided thereunder.

#### **16. OWNERSHIP.**

- (a) Any designs, manufacturing drawings or other information submitted to customer (the "Southwire IP") remain the sole and exclusive property of Southwire and no right or license, either express or implied, is granted hereunder to any Southwire IP. Customer shall not, without Southwire's prior written consent, copy such information or disclose such information to a third party. All the Intellectual Property Rights (as such term is defined hereinbelow) of Southwire shall be deemed as Southwire IP.
- (b) For the purposes of the instant Terms, "Intellectual Property Rights" shall mean all Southwire's and Southwire's affiliates and subsidiaries rights in and to US and foreign (a) patents, patent disclosures, and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, and other similar designations of source or origin, together with the goodwill symbolized by any of the foregoing, (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases, (d) trade secrets, know-how, and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all registrations and applications for, and renewals and

extensions of, such rights, all improvements thereto and all similar or equivalent rights or forms of protection in any part of the world.

- (c) Customer shall not violate, tamper with, or interfere with the Southwire IP. Customer shall be held liable for the breach of the obligations contained hereunder.

#### **17. DATA COLLECTION AND TREATMENT.**

All data collection and its treatment under these Terms will be exclusively used for the commercial means contained in these Terms in accordance with the Mexican Federal Law on Personal Data Protection in Possession of Individuals and Southwire's global privacy notice available in the following website: <https://www.southwire.com/privacy-policy> (the "Privacy Notice").

Customer who wishes to exercise his/her "ARCO" (Access, Rectification, Cancellation, or Opposition) rights set forth in the Mexican Federal Law on Personal Data Protection in Possession of Individuals may do so by directly requesting it to Southwire via the following email address: [privacy@southwire.com](mailto:privacy@southwire.com).

Customer agrees that his/her data will be collected and stored by Southwire for the term of the commercial relationship subject under these Terms. Customer hereby agrees, accepts, and acknowledges that Southwire will keep, store, and utilize such information in accordance with the Privacy Notice.

#### **18. CONFIDENTIAL INFORMATION.**

(a) Customer shall not disclose any Confidential Information (as such term is defined hereinbelow) to any party without the express written consent of Southwire.

(b) For the purposes of the instant Terms, "Confidential Information" shall mean any and all information of Southwire and its affiliates and subsidiaries that is not generally available to the public, including but not limited to Intellectual Property Rights and trade secrets as defined by applicable law, as well as lists of and any information pertaining to the clients, customers, vendors, and any party with whom Southwire performs business with. Confidential Information also includes any information received by Southwire and its affiliates and subsidiaries from any person with any understanding, express or implied, that it will not be disclosed. Confidential Information does not include (a) information that is in or enters the public domain, other than through the Customer's breach of his or her obligations under these Terms or any other agreement between the Customer and Southwire and/or its affiliates and subsidiaries; or (b) Customer's own information.

#### **19. ENTIRE AGREEMENT.**

These Terms constitute the entire agreement between the parties and supersedes all other communications between the parties relating to the subject matter of these Terms. Southwire's quotations are offers that may only be accepted in full. No conditions, usage or trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, reject, or supplement these Terms shall be binding unless made in writing and signed by both parties, expressly and specifically referencing these Terms, and no modification or objection shall be caused by Southwire's receipt, acknowledgment, or acceptance of POs, shipping instruction forms, or other documentation containing different or additional terms to those set forth herein.