

STANDARD TERMS AND CONDITIONS OF SALE OF
FIGARO USA, INC.

1. General

The Standard Terms and Conditions of Sale of Figaro USA, Inc. ("Seller") shall govern and apply to the sale of Seller's products described on the applicable invoices regardless of any purchase order form(s) submitted by Purchaser to Seller or the inconsistency of any term therein and herein. Purchaser has read and understands the Standard Terms and Conditions of Sales of Figaro USA, Inc. and accepts these Terms and Conditions only.

2. Price

All prices set forth on the invoices issued by Seller are FOB location for U.S. domestic sales and FCA for sales outside of the U.S. All prices are exclusive of any and all taxes, including, but not limited to, excise, sales, use property, transportation or occupational taxes and such other like taxes related to the sale or use of the Product, now or hereafter imposed, together with all penalties and expenses. Purchaser shall be responsible for collecting and/or paying any and all such taxes, whether or not they are stated in any invoice for Product shipped. Purchaser shall indemnify and hold Seller free and harmless from and against the imposition and payment of such taxes. Seller, at its option, may at any time, separately bill Purchaser for any taxes not included in Seller's invoice and Purchaser shall pay said taxes, or in lieu thereof, shall provide Seller with a tax exemption certificate acceptable to taxing authorities. Purchaser shall pay all applicable import duties, unless otherwise agreed. Unless otherwise specified herein, all prices are exclusive of freight, insurance and other costs and expenses relating to the shipment of the Product from the FOB point to Purchaser's plant. In the event Seller shall make arrangements for such transportation, all costs and expenses relating to such transportation shall be for the account of Purchaser and shall be paid by Purchaser to Seller upon presentation of Seller's invoice therefor. In the event delivery of the Product, or any part thereof, is delayed due to the fault of Purchaser, any and all additional costs and expense incurred by Seller resulting from such delay in delivery shall be chargeable to and paid by Purchaser.

3. Cancellation

Purchaser shall not countermand or cancel any purchase order issued hereunder or cause the work or shipment to be delayed, except with the written consent of, and upon terms agreed to by Seller, and with full compensation to Seller for any loss sustained by reason of cancellation or delay.

4. Payments

Purchaser shall pay to Seller any and all amounts payable to Seller in U.S. dollars. Unless otherwise agreed in writing, Purchaser shall pay any and all taxes, insurance, freight, cartage, warehousing and other costs and expenses incurred with respect to the delivery of the Products to Purchaser. Seller reserves the right to charge one and one half percent (1.5%) per month (but not more than the maximum percentage permitted by law) on all balances not paid by Purchaser within the designated net terms.

5. Acceptance of Products

Purchaser shall be deemed to have effected final acceptance of the Products seven (7) days from the date that the Purchaser has received the Products.

6. Damage or Defective Units

With respect to Product units received by Purchaser in damaged or defective condition, Purchaser shall notify Seller within seven (7) days and upon Seller's authorization and instruction return such damaged Products to Seller whereupon, Seller shall forward to Purchaser unit to replace a previous defective unit in accordance with the return policy described below. Seller shall pay freight costs associated with return of the damaged Products.

7. Delivery

Seller shall exert its best efforts to cause the Products to be shipped and delivered. Title to and risk of loss of Products shall pass from Seller to Purchaser when the Products are placed in possession of a carrier, for U.S. domestic sales, the risk of loss point is FOB Seller's shipping point for shipment to Purchaser; for international sales outside of the U.S., the risk of loss point is controlled by Incoterms, and is Incoterm FCA. All risk of damage or loss to the Products at any time after the arrival at the FOB point is assumed by Purchaser and such damage or loss shall not operate in any way to release Purchaser from any of its obligations hereunder or otherwise. Notwithstanding any provisions contained herein to the contrary, Figaro Engineering Inc. ("Manufacturer") and Seller shall not be responsible or liable to Purchaser for any loss or damage whatsoever resulting from Manufacturer's or Seller's delay in performance in the manufacture, shipment or delivery of the Products for any reason including loss of income and/or profits, incidental, special and consequential damages.

8. LIMITED WARRANTY AND LIMITATION OF LIABILITY

SELLER AND MANUFACTURER WARRANT THAT THE PRODUCTS SOLD HEREUNDER WILL BE FREE OF DEFECTS IN MATERIAL AND WORKMANSHIP FOR A PERIOD OF ONE YEAR FROM THE DATE OF DELIVERY. THIS WARRANTY IS LIMITED TO THE ORIGINAL PURCHASER AND ORIGINAL CUSTOMER OF PURCHASER AND CANNOT BE ASSIGNED OR TRANSFERRED. NO PERSON IS AUTHORIZED TO AMEND OR EXPAND THIS WARRANTY OR GRANT ANY OTHER WARRANTY ON BEHALF OF SELLER OR MANUFACTURER. SELLER SHALL NOT BE RESPONSIBLE FOR ANY REPAIR, REPLACEMENT OR MATERIAL CHARGES INCURRED BY PURCHASER DURING THE TERM OF THIS WARRANTY UNLESS SELLER GIVES ITS PRIOR WRITTEN CONSENT TO THE PAYMENT OF SUCH CHARGES. IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION, STORAGE, MAINTENANCE OR OPERATION; OR ELECTRICAL FAILURE, OR WHICH HAS BEEN TAMPERED WITH, ALTERED, MODIFIED, OR INCORRECTLY REPAIRED WHETHER PRIOR TO, DURING OR AFTER INCORPORATION OF THE PRODUCT INTO THE FINISHED GOODS OF PURCHASER.

OTHER THAN THE FOREGOING WARRANTY, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR ANY AFFIRMATION OF FACT OR PROMISES BY SELLER AND MANUFACTURER WITH RESPECT TO THE PRODUCTS. SELLER AND MANUFACTURER DISCLAIM ANY WARRANTIES, EXPRESS, IMPLIED OR

STATUTORY NOT CONTAINED HEREIN AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, INFRINGEMENT AND ANY AFFIRMATION OF FACT OR QUALITY NOT CONTAINED HEREIN.

9. REMEDY

SELLER'S AND MANUFACTURER'S SOLE RESPONSIBILITY AND LIABILITY INCURRED BY THE SALE OF THE PRODUCTS AND PURCHASER'S EXCLUSIVE REMEDY AGAINST SELLER AND MANUFACTURER, UNDER THE WARRANTY SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT, AT SELLER'S OR MANUFACTURER'S OPTION, OF PRODUCT NOT CONFORMING TO THIS WARRANTY. PURCHASER'S FULL AND COMPLETE PERFORMANCE OF ALL OBLIGATIONS REQUIRED HEREUNDER IS A CONDITION PRECEDENT TO SELLER'S AND MANUFACTURER'S WARRANTY OBLIGATIONS HEREIN. SELLER AND MANUFACTURER SHALL BE UNDER NO OBLIGATION TO PERFORM UNDER THIS WARRANTY UNTIL THIRTY (30) DAYS AFTER SELLER HAS RECEIVED WRITTEN NOTICE FROM PURCHASER OF AN ALLEGED DEFECT AND IS DETERMINED UPON REASONABLE INSPECTION A DEFECT EXISTS. IN NO EVENT SHALL SELLER OR MANUFACTURER BE LIABLE TO PURCHASER, ITS CUSTOMER, ITS ASSIGNS OR AGENTS, FOR ECONOMIC LOSS, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER BASED UPON WARRANTY, CONTRACT, OR TORT INCLUDING NEGLIGENCE AND PRODUCT LIABILITY WHETHER AT EQUITY OR AT LAW, INCLUDING BUT NOT LIMITED TO ANY DAMAGES FOR WORKMANSHIP ARISING DIRECTLY OR INDIRECTLY FROM USE OF THE PRODUCTS.

10. Performance and Operation

There are no representations as to the performance or specifications of the Products other than those attached hereto and made a part hereof. Any affirmation of facts or statement of performance or quality not set forth in said attachment is expressly disclaimed by the parties as an element hereof and as an inducement for entering into this agreement.

11. Confidentiality

All drawings designs, specifications, manuals and programs furnished to Purchaser by Seller shall remain the confidential and proprietary property of Seller. All such information, except as may be found in the public domain, shall be held in strict confidence by purchaser and shall not be disclosed by Purchaser to any third parties. Copyright in all materials made available by Seller shall remain in Seller at all times.

12. Force Majeure

Any delay or failure of a party to perform its obligations hereunder shall be excused if and to the extent that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, provided that written notice of such delay shall be given by the effected party to the other party within ten days.

13. Arbitration

Any and all controversies or claims arising out of or relating to these Terms and Conditions and the transaction contemplated hereunder to which these Terms and Conditions relate, including particularly any warranty extended to Purchaser herein or otherwise, or any alleged breach hereof (whether involving Seller, the Manufacturer of the Product or any other parties) shall be resolved by arbitration in Chicago, Illinois, such arbitration to be conducted in accordance with the rules then pertaining of the American Arbitration Association. The arbitration award shall be final and binding upon the parties to the arbitration and judgment thereon may be entered in any court having jurisdiction. For the purposes hereof, Purchaser and Seller hereby submit to the jurisdiction of the federal and state courts in Cook County, Illinois and notice of process, in connection with arbitral or jurisdictional proceedings may be served upon Purchaser, Seller by registered or certified mail with the same effect as if personally served.

14. Statute of Limitation

No claim, action or cause of action arising out of any claimed breach of these Terms and Conditions or the transaction hereunder contemplated may be asserted or brought by either party in any forum whatsoever more than one year after the date on which cause of action or claim has occurred.

15. Notices

All notices permitted or required hereunder shall be in writing and shall be effective, unless otherwise noted, herein as of the date on which deposit in the U.S. mail in a properly stamped and addressed envelope.

16. Return Policy

Subject at all times to the limitations and exclusions of warranty provisions contained above:

- a. Seller may accept the return of any item of Product which was rejected by Purchaser's acceptance test, provided such returns are made within one year after shipment (shipped at customer's expense). Replacement items can be shipped at the Purchaser's option, subject to the conditions stated below.
- b. If evaluation tests conducted by Manufacturer on returned items show such items to be outside of standard specifications (which failure is solely the responsibility of Seller), items will be replaced free of charge with a new unit of the identical item.
- c. By accepting replacement parts, Purchaser agrees to pay for such replacements if Manufacturer's evaluation testing of returned items determines that:
 - i. returned items are within standard specifications,
 - ii. damage has clearly been caused by the Purchaser's mishandling,
 - iii. identification of the item and/or lot numbers on the casing is not possible due to contamination or intentional removal of such markings, or
 - iv. items have been deformed in some manner, i.e. casings have been removed or modified, pins have been cut short, pins have been soldered, etc.

If replacements have been issued, the return shipment of evaluated items to the Purchaser will be accompanied by an invoice for the replacement items.

- d. Refunds or replacement with other than identical items will not be made.

17. Miscellaneous Provisions

- a. The Terms and Conditions constitute the entire agreement between Seller and Purchaser as it relates to this transaction and their respective liabilities and the liability of the manufacturer of the Product, and any other entity involved in the sale or servicing of the Product and their respective subsidiaries, and affiliated and related companies and supersedes any and all prior agreements correspondence, quotations or understandings heretofore in force between the parties. There are no agreements between Seller and Purchaser with respect to the Product herein except those specifically set forth and made part of the Terms and conditions. Any additional terms, conditions and/or prices are rejected by Seller unless expressly agreed to in writing by Seller.
- b. The parties hereto acknowledge that Product sold to Purchaser hereunder is being purchased for such purpose by Seller from the Manufacturer or its subsidiary, affiliated or related parties and as such, Purchaser and Seller intend and agree that such parties, while not parties to the Terms and Conditions being entered into, shall nevertheless be extended the benefits and protection hereof.
- c. If any term or condition or part of the Terms and Conditions is held invalid, the remaining sections of the Terms and Conditions shall not be affected thereby.
- d. The Terms and Conditions may be modified, cancelled or rescinded only by a written agreement of both parties executed by their duly authorized agents.
- e. No claim arising out of any breach of the Terms and Conditions may be discharged in whole or in part by waiver or renunciation of such claim unless such waiver or renunciation is in writing and signed by the parties hereto.
- f. These Terms and Conditions may not be assigned without the express written consent of the parties hereto. Any attempted assignment of rights or delegations of duties shall be void.
- g. All rights available to Purchaser and Seller under the Uniform Commercial Code except as specifically limited or excluded herein (even though not specifically enumerated), are reserved to Purchaser and Seller as remedies available in the event of default of the other party.
- h. The Terms and Conditions shall be construed in accordance with the laws of the State of Illinois.