

# Terms and Conditions of Sale

## 1. ACCEPTANCE OF ORDER

All Buyer's orders must either be written on the Buyer's Purchase Order or Manaras-Opera's Order Form and signed by the Buyer. Manaras-Opera is not bound by any terms listed on the Buyer's Order Form which are in variance with Manaras-Opera's Terms and Conditions of Sale. Upon receiving Manaras-Opera's Order acknowledgement, the Buyer is considered to have accepted Manaras-Opera's Terms and Conditions of Sale. No order, quotation or acknowledgements and no provisions of Manaras-Opera's Terms and Conditions of Sale shall be subject to change in any respect, except as may be expressly agreed to in writing by an authorized representative of Manaras-Opera. Failure of Manaras-Opera to object to provisions contained in any Purchase Order or other communication from a Buyer, (including without limitations penalty clauses or labor charges) shall not be construed as a waiver of these Terms and Conditions of Sale, nor an acceptance of any such provisions. The Terms and Conditions herein constitute the entire Agreement between Manaras-Opera and the Buyer. No other representations or warranties shall be binding against Manaras-Opera. In no event shall Manaras-Opera be responsible or liable for any special indirect or consequential damages arising out of this Agreement with the Buyer. These conditions of sale do not constitute a franchise or establish an agency relationship and do not grant a trademark or any other expressed or implied license.

**Minimum order:** There is a minimum charge of **\$50.00 Net** (excluding tax and freight). We recommend that you consolidate your orders to meet or exceed this amount.

## 2. PRICES

Prices do not include any federal, state, provincial or local taxes. Prices and specifications are subject to change without notice. Written quotations expire 30 days from the date of the quotation, unless otherwise specified. In the event that the Buyer wants to postpone the delivery date of a previously accepted order, Manaras-Opera, on its sole discretion, reserves the right to approve such postponement. If Manaras-Opera agrees in writing to a postponed delivery date then the price that will apply to this Order shall be the price in effect on the postponed shipping date.

## 3. TERMS OF PAYMENT

Terms of payment are as specified in Manaras-Opera's Order Acknowledgment and in Manaras-Opera's Invoice, regardless of terms indicated in the Buyer's Order Form or other documents. Any outstanding balances unpaid on the due dates shall be subject to payment of an interest charge until paid at the maximum legally permissible rate of interest in the state or province having jurisdiction of the transaction. Accounts with outstanding balances may be placed on credit hold until the account is brought to date. Accounts past 60 days may be placed on collection and all charges incurred in the collection process will be invoiced to the Buyer. Furthermore, the account will be reclassified to 100% prepayment status; work in process will be placed on hold and warranty will no longer be honored. Payment on time and in accordance with the terms stated is of essence, and whenever the Buyer is in default, or in the event of substantial changes in the financial situation of the Buyer's Company, including but not limited to bankruptcy, change of ownership, change in credit rating, Manaras-Opera reserves the right to cancel the Purchase Order without any liability for damages to the Buyer, or defer or discontinue shipments until all past due payments are made and assurances furnished to Manaras-Opera's satisfaction, of the Buyer's ability to pay for such shipments. If an order involves partial shipments, failure to pay for a partial shipment entitles Manaras-Opera to hold subsequent deliveries until payment of past due shipments is made.

## 4. DELIVERY

All shipments are FCA Manaras-Opera warehouse (Incoterms 2010), unless otherwise specified by Manaras-Opera. Manaras-Opera shall specify Point of Shipment on its Purchase Order Acknowledgement, and Manaras-Opera shall select routing and method of transportation if not specified on Customer's Purchase Order. Claims for loss or damaged shipments shall be reported immediately to the carrier, and annotations shall be placed on all delivery receipts signed by the Buyer. The Buyer is further requested to inspect the merchandise upon delivery and in the event defects or damages should be noticed after delivery, the carrier should be immediately contacted by telephone and, if carrier fails to send an inspector within 5 days, a request should be made in writing to the carrier, confirming the telephone request for an inspection. Should the Buyer, in the first instance, fail to file a claim with the carrier properly substantiated in accordance with its rules and within allowable time-limit, any possibility of claim for defect against Manaras-Opera is eliminated.

## 5. SHIPPING DELAYS

Unless otherwise specified by Manaras-Opera, shipping dates provided by Manaras-Opera at the request of the Buyer are approximate, deviation from estimated shipping schedules shall not entail penalties or damages, nor shall it be an acceptable ground for cancellation of the order. Manaras-Opera shall not be responsible for any losses or damages to the Buyer (or any third party) occasioned by the non-performance of any of Manaras-Opera's obligations under the contract when due to any cause beyond Manaras-Opera's reasonable control, including without limitations an act of God, act or omission of the Buyer, embargo or other governmental act or authority regulations or request, fire, theft, accidents, strikes, slow-down, war, riot, delays in transportation, inability to obtain necessary labor, material or manufacturing facilities.

## 6. WARRANTY

Manaras-Opera warrants its operators to be free from defects in material and workmanship under normal and proper use for a period of two years from date of invoice, unless otherwise stated. Mechanical, electrical and electronic accessories are warranted for one year from date of invoice, unless otherwise stated. Wearing parts such as, but not limited to, clutch pads, V-belts, and brake bands are excluded from warranty. Manaras-Opera's only obligation shall be to repair or replace defective equipment which does not conform to the warranty. Manaras-Opera shall not be liable for any injury, loss or damage, direct or consequential, arising out of the inability to use the equipment. Before using, the Buyer and/or the ultimate User shall determine the suitability of the product for its intended use, and User assumes all risks and liability in connection therewith. The foregoing may not be changed except by an Agreement signed by an authorized representative of Manaras-Opera. The articles that are replaced pursuant to the terms of this warranty shall be retained by Manaras-Opera, and the User is responsible for any freight costs relating to repair or replacement.

The foregoing warranty is exclusive and in lieu of all other warranties of quality, whether written, oral or implied (including any other warranty of merchantability or fitness for purpose).

The following are **exclusions** from warranty:

- If usage, product modification, adaptation or installation are not in accordance with our installation and operating instructions.
- If the product has been opened, dismantled or returned with clear evidence of abuse or other damage.
- If our written specifications are not properly applied by the Buyer when selecting the equipment.
- If our written instructions for installation and wiring of the electrical connections have not been followed.
- If our equipment has been used to perform functions other than the functions it was designed to handle.
- If Manaras-Opera equipment is used with electrical accessories (switches, relays, etc.) that have not been previously approved in writing by the Manaras-Opera Engineering Department.
- If electrical accessories and other components have been used in disregard of the basic wiring diagram for which they were designed.

All costs related to installation and reinstallation of the Manaras-Opera equipment covered by this warranty are not the responsibility of Manaras-Opera. Manaras-Opera will not be responsible for any consequential damages following installation procedures performed by the Buyer or the User. If the Buyer resells any Manaras-Opera products to another Buyer or User, it shall include all of the terms and provisions of this warranty in such resale. Manaras-Opera's responsibility to any such Third Party shall be no greater than Manaras-Opera's responsibility under the warranty to the original Buyer.

## 7. RETURNS

No returns will be accepted without prior written authorization by Manaras-Opera. All returns must be accompanied by a Return Authorization Number issued by Manaras-Opera, and all unauthorized returns will be refused. The return shipment is to be freight prepaid by the Buyer, and under no circumstances shall the Buyer deduct the value of the returned merchandise from any remittance due. A restocking fee of 15% of the Manaras-Opera sale price will be charged for all returns not covered under warranty.

## 8. TITLE

Risk of loss on all products shall pass to the Buyer at the FCA Manaras-Opera warehouse (Incoterms 2010). However, Manaras-Opera shall retain a security interest in the products until fully paid and the Buyer agrees to perform all acts which may be necessary to perfect and assure the security interest in such equipment by Manaras-Opera. In the event that Manaras-Opera wishes to file a security interest in the products, pursuant to the Uniform Commercial Code, the Buyer authorizes Manaras-Opera to file such financing statement without the Buyer's signature.

## 9. DEFAULT

In the event of the Buyer's default in payment for the products purchased hereunder upon the terms and conditions agreed upon with Manaras-Opera, to the extent permissible for applicable State or Provincial Law, Buyer shall be responsible for all reasonable costs and expenses incurred by Manaras-Opera in collecting any sums owed by the Buyer, and Manaras-Opera shall not be obligated to make any further deliveries to the Buyer.

## 10. SUBSTITUTES

Manaras-Opera may furnish substitutes for materials not obtainable because of priorities or regulations established by governmental authorities or because of non-availability of materials from suppliers, provided such substitutes will not affect the technical soundness of the product or its performance.

## 11. ERRORS

All typographical or clerical errors made are subject to correction.

## 12. DIMENSIONS

The dimensions and measurements in our printed documents are approximate at the date of publication and may be superseded thereafter. Buyer should consult factory before utilizing such information.

## 13. WAIVER

The failure of Manaras-Opera to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this agreement shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Manaras-Opera of any payment with knowledge of the breach of any covenant of this agreement shall not be deemed a waiver of such breach and no provision of this agreement shall be deemed to have been waived by Manaras-Opera unless such waiver be in writing and is signed by Manaras-Opera.

**Manaras-Opera Standard Terms and Conditions of Sale apply to all prices. Prices and design modifications are subject to change without notice. The prices listed herein are for Manaras-Opera components and do not include the cost of installation. All text, images and trademarks used in this document are copyright of Manaras-Opera and are not to be used by any third party unless expressly authorized by Manaras-Opera. The reproduction in whole or in part, in any form, of any information found in this document is illegal.**

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