



TERMS AND CONDITIONS OF PURCHASE (Rev 9.1.2016)

- 1. PRIORITY OF TERMS AND CONDITIONS** - These Terms and Conditions of Purchase ("Terms and Conditions" or "order") shall govern all orders for goods and/or services from Makino, Inc. or any of its subsidiaries ("Buyer") to a seller or service provider ("Seller"), except as otherwise expressly agreed in writing by Buyer. This order is Buyer's offer to Seller and becomes a binding contract subject to the terms hereof, when accepted by acknowledgement, shipment of any goods, or commencement of performance by Seller. Buyer objects to any terms and conditions in Seller's quotation, invoice or other document that are additional to or different than these Terms and Conditions, whether or not the additional or different terms would materially alter these Terms and Conditions, unless such terms and conditions are expressly approved in writing by Buyer. To the extent there are any inconsistencies between these Terms and Conditions and the terms on the face of Buyer's purchase order, the latter will control. Any proposal or quote of Seller attached hereto is incorporated in this order only to the extent of (i) the descriptions of the goods and services to be provided; (ii) project scheduling and (iii) pricing but not including Seller's terms and conditions which Buyer hereby specifically rejects.
- 2. ACCEPTANCE** - Seller is requested to promptly acknowledge receipt of this order and (without limiting acceptance by other methods) such acknowledgement shall constitute an acceptance binding on Seller as to all requirements, specifications, terms and conditions stipulated in this order.
- 3. PRICE / PAYMENT** - Payment is due NET60 days from date of invoice, receipt of goods, or acceptance of services, whichever is later. Sales and use taxes not subject to exemption shall be stated separately in Seller's invoice. The PO number and the line item number must be on all shipping and invoice paperwork received. Upon shipment of the goods or acceptance of services on this order, Seller must submit its invoice and proof of delivery or acceptance to Buyer so that payment can be authorized. Failure to do so will result in delayed payment.
- 4. DELIVERY SCHEDULE** - Time is of the essence of this order. If there are any delays in the delivery date, Seller shall notify Buyer immediately. Any premium shipping expenses and other related expenses necessary to meet Buyer's delivery schedules shall be Seller's sole responsibility. Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. Goods shipped in advance of schedule may be returned at Seller's risk and expense.
- 5. TRANSPORTATION** - Goods will be delivered F.O.B. Buyer-specified destination. Risk of loss will remain with Seller until delivery to Buyer at the specified location. No transportation other than normal surface is to be used without consent of the Buyer.
- 6. WARRANTY** - Seller warrants that the goods and/or services furnished shall be free from defects in workmanship, material and manufacture, shall comply with any drawings or specifications provided by Buyer to Seller or samples furnished by Seller, and shall be free from defects in design. The foregoing warranties are in addition to all other warranties, express or implied, and shall survive any delivery, inspection, acceptance, or payment by Buyer. All warranties shall run to Buyer, its successors, customers, and the users of the goods or services. Seller warrants the goods or services furnished for a period of one year from the date of delivery. If any warranties specified herein or otherwise applicable are breached by Seller, Buyer may at its election, (1) require Seller to correct at Seller's sole expense any defect or non-conformance by repair, replacement or re-performance, or (2) in the case of goods, return the defective or nonconforming goods to Seller at Seller's risk and expense and recover from Seller the price thereof, together with related costs incurred by Buyer. The foregoing remedies are in addition to all other remedies at law and shall not be deemed to be exclusive.
- 7. RIGHT TO INSPECT** - Payment before inspection of goods or services shall not constitute acceptance. Buyer may, but is not obligated to, inspect the goods and the results of the services covered by this order at all reasonable times and places, whether before or after delivery. All goods and services shall be subject to inspection by Buyer and acceptance at destination. Any nonconforming goods or services may, at Buyer's option, either be returned or held for Seller's instruction at Seller's risk. Inspection, reshipment, and return costs incurred with respect to nonconforming goods or services will be borne by Seller. Unless Buyer directs, Seller shall not replace returned goods.
- 8. PATENTS** - Seller warrants that the goods and/or services provided do not, alone or in any reasonably foreseeable combination, infringe any patent or other rights; and Seller agrees to indemnify and hold harmless Buyer and its customers from all claims, damages and expense (including reasonable attorneys' fees) arising from any suit, claim or demand for actual or alleged infringement of any patent or other right. Seller shall, at the request of Buyer, defend at Seller's cost any or all such suits or proceedings with counsel reasonably acceptable to Buyer.
- 9. NON-DISCLOSURE** - Seller warrants that none of the details herein shall be published or disclosed to any third party without Buyer's written approval. Seller shall not, without first obtaining the written consent of Buyer, in any manner, advertise or publish the fact that Seller has contracted to furnish Buyer the goods and/or services herein ordered. If Seller fails to observe this provision, Buyer shall have the right to terminate the order without any obligation to accept deliveries after the date of termination or make further payments except for completed articles delivered prior to the termination date.
- 10. INDEMNITY** - Seller shall indemnify and save Buyer harmless against all claims, costs, expenses (including reasonable attorneys' fees) or other liability incurred by Buyer as a result of bodily injury or property damage caused by (a) Seller's negligence or willful misconduct or (b) the goods being defective or failing to conform to Seller's warranties and (c) breach of Section 20.
- 11. INSURANCE** - If this order covers the performance of labor for Buyer, Seller agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property arising out of the performance of such labor, including claims made by Seller, its servants, employees, agents or representatives. Seller further agrees to furnish upon Buyer's request insurance carrier's certificate showing that Seller has adequate workers' compensation, public liability, and property damage insurance coverage.
- 12. ASSIGNMENTS** - This order shall not be assigned in whole or in part without prior written permission of Buyer.
- 13. MODIFICATIONS** - No modification of this order shall be binding, nor shall goods other than those specified be substituted, unless Buyer consents in writing.
- 14. FORCE MAJEURE** - Neither party shall be liable for damages for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
- 15. TERMINATION** - Buyer may, by written notice, terminate this order for default with respect to all or any part of undelivered goods and/or services if Seller (a) does not meet Buyer's delivery or performance schedules or (b) breaches any other terms hereof, including any warranties.
- 16. BUYER'S PROPERTY** - Buyer retains title to all information and materials (including, but not limited to, all drawings, designs, specifications, and technical data) furnished to Seller to facilitate performance of the order, and all such information and materials shall be (a) treated as Buyer's confidential information, (b) used exclusively by Seller to complete the order, and (c) returned to Buyer at its direction or upon completion, termination, or cancellation of the order, unless otherwise agreed to in writing by Buyer. Seller shall not use, or permit any third party to use, any such information or materials for the benefit of any party other than Buyer without Buyer's prior written consent. Seller agrees to maintain such property in good condition and assumes all risks and liability for loss or damage, except normal wear and tear.
- 17. COMPLIANCE** - Seller shall comply with all applicable federal, state and local laws, orders, standards and regulations, including but not limited to all applicable laws and regulations governing occupational safety and health, equal employment opportunity, fair labor standards, and environmental health and safety.



TERMS AND CONDITIONS OF PURCHASE (Rev 9.1.2016)

Without limiting the foregoing, Seller and its suppliers and subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and the posting requirements of 29 CFR Part 471, Appendix A to subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex sexual orientation, gender identity, national origin, protected veteran status or disability.

Additionally, Seller will comply with Makino's policies regarding conflict minerals, human trafficking and sustainability and the environment found at <https://www.makino.com/about/social-responsibility/>.

- 18. CONTROLLING LAW** - This agreement shall be governed by the laws of the State of Ohio, without regard to the conflict of laws rules thereof. Any litigation or other legal proceeding based upon or related to this agreement, its subject matter, or the rights or obligations of Seller and Buyer, must be brought and shall remain exclusively in an appropriate court of competent jurisdiction (state or federal) located in Warren County, Ohio (if the action is brought in state court) or in the Southern District of Ohio (if the action is brought in federal court). The rights and obligations of the parties to this contract will not be governed by the provisions of the 1980 UN Convention on Contracts for the International Sale of Goods; rather these rights and obligations will be governed by the laws of the State of Ohio.
- 19. ENTIRE AGREEMENT** - Except as otherwise expressly agreed in writing by Buyer, these Terms and Conditions and Buyer's purchase order contain the entire agreement between the parties with respect to Buyer's order and supersede all prior or contemporaneous understandings, statements or agreements. Seller acknowledges and agrees that no employee, officer, agent or representative of Buyer has the authority to make any representations, statements or promises in addition to or in any way different than those contained herein, and that Seller is not entering into this contract or transaction in reliance upon any representation, statement or promise of Buyer except as expressly stated herein. No changes, amendments or clarifications of these Terms and Conditions will be valid or effective unless in writing and signed by an authorized representative of the party to be bound.
- 20. COMPLIANCE WITH WORKPLACE RULES OF BUYER'S CUSTOMERS** - In the course of fulfilling this order, Seller may perform services at the facilities of Buyer's customer. While working at the facilities of Buyer's customer, Seller will comply with all of the customer's rules regarding health, environment, safety, security and any other applicable rules of the customer.