

TERMS AND CONDITIONS

MAKINO CUSTOMER SUPPORT / SERVICE PARTS

Any quotation, contract or acceptance of any order issued by MAKINO INC. ("Seller") in relation to the sale of customer support and/or service parts ("goods") shall be subject to the following terms and conditions. Seller hereby objects to any terms and conditions in Buyer's purchase order or other document which are additional to or different than these Terms and Conditions of Sale, whether or not the additional or different terms would materially alter the contract. These Terms and Conditions of Sale will prevail over any conflicting or different terms or conditions of any other document forming a part of the contract.

PRICES

1. All prices for service parts are F.O.B. Seller's factory.
2. All prices are subject to change without notice and may be withdrawn at any time prior to Seller's acceptance of Buyer's order by Seller's Home Office. In any event, prices become invalid ninety (90) days after date of quotation.
3. Prices do not include excise, sales, use, and transportation taxes of any taxing authority. If not included in the invoice for the goods, such taxes may be invoiced at a later date.

CANCELLATION CHARGES

1. Buyer may terminate this contract only with the written consent of Seller authorized factory personnel - Customer Support.
2. Cancellation charges, if any, including field service, design modifications or special accessories / components will be promptly furnished by Seller to Buyer. Failure to pay cancellation charges promptly (within 10 days) when invoiced will void any prior agreement by Seller to cancel.
3. Restocking and Processing Fees:
 - * Standard restocking fee = 15% (\$250 Maximum or \$500 Maximum for Spindles).
 - * Standard processing fee = 15% (\$250 Maximum).
 - * Additional processing fee (replaces standard fee) for return items without RGA or Spindle Incident Report = 30%.

DELIVERY

1. Delivery times stated in the quotation are given as estimates only and are subject to prior sale and to confirmation by the Home Office at the time of placing the order.
2. Delivery may be subject to unavoidable delays, and Seller shall be free of any and all liability and penalty for delayed shipment because of any cause not within Seller's control, including but not limited to: strikes, fire, accident explosion, or acts of God, or because of any priority system established by the United States Government, any of its agents, or any other authority having jurisdiction. (Any applicable priority rating must be clearly indicated on each order). Seller shall under no circumstances be liable for any direct or indirect or special, incidental or consequential losses, costs or penalties incurred or suffered by Buyer as a result of Seller's inability or failure for any reason to meet specified delivery dates.
3. Estimated delivery times are based on the assumption that all required technical data, including approval drawings, special documentation, or special components, if applicable are received from Buyer in accordance with the schedule specified by Seller.

SECURITY INTEREST

Seller reserves a security interest in all goods sold to Buyer to secure all obligations of Buyer to Seller, whether or not arising under this contract.

TERMS OF PAYMENT

Unless otherwise specified, terms of payment are NET thirty (30) days from date of invoice, subject to approval by Seller's Finance Group, and payable in U.S. funds.

EXCLUSION OF WARRANTIES; LIMITATION OF LIABILITY

1. Seller warrants that goods manufactured by it will be free from defects in workmanship and material for the applicable time period described below. The foregoing warranty is in favor of the original purchaser only, and not any other person or entity. Goods manufactured by others than Seller are sold exclusively under such warranty as the manufacturer may give to Seller and to the extent transferable to Buyer. Seller further warrants that its goods will be designed and manufactured to perform the mechanical functions expressly stated in Seller's specifications; provided the equipment is maintained and operated under proper conditions by competent, adequately trained personnel.

a.) Goods - Service Parts: If any service part, excluding replacement spindles, be found within 90 days from date of shipment to have been defective when shipped, and provided immediate notification in writing is given to Seller,

Seller will replace or repair such part at the option of Seller.

b.) Goods - Replacement Spindles: If any replacement spindle be found within one (1) year from date of installation or eighteen (18) months from shipment, whichever comes first, to have been defective when shipped, and provided immediate notification in writing is given to Seller, Seller will replace or repair such spindle at the option of Seller.

NOTE:

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FREEDOM FROM INFRINGEMENT CLAIMS, AND FITNESS FOR A PARTICULAR PURPOSE AND CONSTITUTES THE ONLY WARRANTY WITH RESPECT TO THE GOODS OR SERVICES SOLD HEREUNDER AND NO OTHER WARRANTY IS GIVEN WHICH EXTENDS BEYOND THE DESCRIPTION ON THE FACE HEREOF.

2. Because of conditions over which Seller has no control attending Buyer's use of the goods sold, the parties agree that Buyer's sole and exclusive remedy against Seller for any breach of warranty or other term or condition shall be for the replacement or repair of the defective goods, in Seller's sole discretion. Buyer shall assume responsibility and expense for removal, reinstallation and freight in connection with the foregoing remedies. Seller shall have the right to dispose of any products or parts replaced by it.

3. IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY OTHER PARTY UNDER ANY CLAIM OR CIRCUMSTANCES (INCLUDING, BUT NOT LIMITED TO, ANY CIRCUMSTANCE INVOLVING A FINDING THAT A WARRANTY OR REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE), WHETHER THE CLAIM SOUNDS IN CONTRACT, TORT OR OTHER LEGAL THEORY, FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS OR REVENUE, LOST SALES, LOST GOODWILL, OR LOSS OF USE OF ANY GOODS OR OTHER PRODUCTS.

4. FOR ANY CLAIM OF ANY KIND AGAINST SELLER CONCERNING THE GOODS OR SUPPORT SERVICES, BUYER WILL BE LIMITED TO RECOVERING ONLY ITS DIRECT DAMAGES UP TO THE AMOUNT PAID TO SELLER FOR SUCH GOODS OR SERVICES (EXCLUSIVE OF TRAINING CHARGES (IF ANY), SHIPPING CHARGES, FREIGHT, TAXES AND SIMILAR CHARGES).

SERVICE

All service work for defects in goods repaired or replaced during standard hours under the warranty provisions as described above, will be provided during straight time working hours, using commercial transportation means at no cost to Buyer except that service work for purchased accessories will be provided only under those terms as the manufacturer may give to Seller, and to the extent enforceable by Seller. Buyer agrees to make the equipment immediately available and to provide at no cost, operators, programmers, maintenance personnel, tools and other assistance as required. All service work on equipment not covered by Seller's warranty, or all service work performed after the warranty period has expired will be charged at the prevailing rate, plus all expenses, transportation, materials and parts.

CLAIMS

All claims by Buyer against Seller that goods shipped hereunder or customer support provided hereunder do not conform to any applicable warranty or specification, and all other claims made hereunder by Buyer, must be in writing and received by Seller within the warranty period, and within 10 days of the date of Buyer's detection of defect. Failure to give such notice within such time period shall constitute a waiver by Buyer of all claims with respect to such goods. Also, no goods are to be returned to Seller without a Return Goods Authorization (RGA). Goods shipped to Seller without such approval may be returned to Buyer at Buyer's expense.

PART RETURNS

- * All part returns require a Return Goods Authorization (RGA) and may require an Incident Report.
- * All spindle core returns require a Spindle Incident Report.
- * Any part return may be subject to a restocking or processing fee. Returns without an RGA are subject to additional fees and/or will be returned freight collect. Returns in excess of quantity approved are subject to additional fees. Credit will be issued for items deemed to be in saleable (or in the case of Cores - repairable) condition.
- * A returned part that is deemed to be non-repairable or non-resellable will receive no credit, and will be scrapped. An exception will be made for parts returned as defective or ruined.
- * All Electrical and Electronic Parts must be unused and in the original sealed container to receive full credit. The part will otherwise receive a core credit for 10% of the listed value.
- * An exception will be made for parts that have been approved to be provided for troubleshooting purposes. When a part is used by a Seller representative to troubleshoot: the part will receive full credit with no restocking fee. When used by Buyer personnel: the part will receive full credit less a standard restocking fee.
- * Seller will issue warranty return credit upon certification of the warranty claim. A failure analysis will be performed where warranty determination requires it.

TITLE

Delivery of goods to a carrier by Seller, consigned to Buyer or as Buyer may direct, shall constitute transfer of title, ownership, possession and property in, and to the goods at such point of delivery and such carrier shall thereafter be deemed to be acting for Buyer and Buyer shall have risk of loss or damage to the goods.

ENGINEERING CHANGES

The specifications referenced herein were in effect at the time the proposal and / or catalog were approved for printing and represent only a general guide to the goods and services described therein. Seller reserves the right to discontinue or to make changes on any model at any time and to change specifications or designs without notice, and without incurring any obligation to Buyer.

EXPORT TERMS

Certain goods and/or customer support services supplied by Seller are regulated for export by the United States. Where the goods and/or customer support services are supplied for export from the United States, the provisions of this section shall (subject to any special terms agreed to in writing between Buyer and Seller) apply notwithstanding any other provision of these Terms and Conditions of Sale. Seller shall be responsible for complying with any United States export legislation and regulations governing the exportation of the goods and/or support services (including technical data). Seller, at its sole discretion, will determine whether an export license must be obtained from a United States governmental agency. Provided, however, Buyer shall provide all necessary information for Seller to make such licensing determination, including but not limited to end-user statements, letters of assurance, foreign national information, or other information as requested by any United States governmental agency. Seller's acceptance of a purchase order is expressly made conditional on the issuance of any required United States government export license.

Buyer agrees that it shall not, directly or indirectly, export or transmit any Seller goods and/or support services covered by this Agreement to any country or end-user to which such export or reexport is restricted by the applicable regulations of the United States or any agency thereof, without the prior written consent from the U.S. Department of Commerce, Washington, D.C. 20230, and any other required governmental agency.

PRECEDENCE

Seller's acceptance of an order is expressly made conditional on assent to these Terms and Conditions of Sale. Goods shipped prior to such assent are shipped as an accommodation only. If Buyer does not accept the goods on these terms, they are to be returned at once, unopened and unused, subject to prompt payment of appropriate cancellation/ restocking charges. Otherwise, receipt of such goods will be deemed assent to these Terms and Conditions of Sale.

TAXES

It is understood that if no sales or use taxes are collected on these purchases, the reason therefore is that it is believed by Seller and Buyer that no such taxes are applicable thereto. If either Seller or Buyer is hereafter required to collect or make payment of any such taxes on these purchases, Buyer will make payment of any such taxes, together with any interest and penalties thereon to the appropriate tax authorities and if Seller for any reason makes payment thereof, Buyer will forthwith reimburse Seller for the entire amount so paid.

GOVERNING LAW AND FORUM SELECTION; LIMITATIONS

This contract, the construction of this contract, all rights and obligations between Seller and Buyer, and any and all claims arising out of or relating to the subject matter of this contract (including all tort claims), will be governed by the laws of the State of Ohio U.S.A., without regard to its conflict of laws principles. 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 Ohio. Any litigation or other legal proceeding based upon or in any way related to this contract, its subject matter, or the rights or obligations of Seller and Buyer, will be brought exclusively in an appropriate court of competent jurisdiction (state or federal) located in Hamilton County, Ohio or Warren County, Ohio, and must be brought within two (2) years after the claim accrued. Any action brought in any such court may not be transferred or removed to any other court. Each party consents to the exercise of jurisdiction over it by the above-named courts as its freely negotiated choice of forum for all actions subject to this forum selection clause.

(Revised 1/2013)