



MAGNA
Machine Co.

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Cincinnati, OH 45240
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CONDITIONS AND ASSUMPTIONS OF QUOTATION

These Conditions and Assumptions (C&A) are an integral part of any quotation ("Quote") issued by Magna Machine Company ("MAGNA") and submitted to a prospective customer/buyer ("BUYER") in response to that BUYER's request for quotations ("RFQ") to deliver goods and/or perform services as described therein.

Notwithstanding any language to the contrary contained in BUYER's terms and conditions, issuance by BUYER of any purchase order ("PO") based on a Quote shall be deemed acceptance of these C&A as a condition precedent, and these C&A shall apply to all POs thereafter issued by BUYER to MAGNA under the same terms and conditions (including all future revisions that contain the same or similar language), unless exception is acknowledged by express written consent of both parties. Nothing herein is intended to affect any mandatory flow-down clauses to be included in subcontracts made pursuant to U.S. Government contracts.

1. **Enforceability and order of precedence.** Any Assumption contained herein as to which no exception is acknowledged by express written consent of both parties prior to the issuance of a PO shall be fully enforceable and incorporated as if set forth in writing in BUYER's terms and conditions, and with the same order of precedence prescribed therein. Any dispute that may arise after the issuance of a PO regarding these C&A shall be governed in accordance with the provisions of section 10 hereof (**Changes and disputes**) to allow MAGNA an opportunity to consider the impact on prices and/or deliveries contained in its original underlying Quote.
2. **Pricing, payment, and taxes.** All prices shall be in U.S. Dollars payable in cash or equivalent, due **Net-30 days** from date of invoice unless otherwise noted in the Quote. A finance charge of 1½% per month shall be assessed on all past due invoices. The prices set forth in a Quote shall not include any amount for sales, use or transfer taxes. Any such taxes will be separately billed on MAGNA's invoice and BUYER shall be liable for them unless proper proof of exemption is furnished to MAGNA.
3. **Credit approval.** Acceptance of a PO from BUYER shall be contingent upon approval by MAGNA of BUYER's credit worthiness, based on payment history, credit references, or otherwise at MAGNA's sole discretion.
4. **Delivery.** All deliveries shall be **FOB-shipping point** from MAGNA's facilities in Cincinnati, Ohio. Delivery dates quoted are approximate only and assume timely receipt by MAGNA of all details necessary for performance.
5. **Scrap and rework.** Each individual line-item price shall include an allowance for scrap and rework as considered necessary based on specific engineering estimates, course of dealings between BUYER and MAGNA, or in accordance with industry practice. However, whenever raw materials, commercial components, or other goods are to be furnished by the BUYER for use by MAGNA in the performance of a PO, the individual line-item price cannot and therefore will not include any allowance for the related cost of scrap and the BUYER shall assume all risk of loss for scrap and replacement of its own raw materials, commercial components, or other goods.
6. **Customer Supplied Material.** **When BUYER supplies the material, a Customer Supplied Material (CSM) number must be obtained from MAGNA** prior to shipping the material to MAGNA. The BUYER is responsible for including this identification number on all shipping documentation, and the customer will need to flow this CSM identification down to any supplier that is drop-shipping material to include on their shipping documents as well. If the CSM identification is not included on the shipping documentation, potential consequences include delivery delays, loss of material, etc.. MAGNA is not responsible for lost material that does not include the CSM identifier.
7. **Returned goods.** Goods or services that are non-conforming may be repaired, replaced, or re-performed by mutual agreement of the parties. **BUYER must notify MAGNA of any non-conformance** that may result in rejection of goods immediately upon inspection thereof, but in any event **not later than 90 days** after shipment by MAGNA. A Return Material Authorization (RMA) number must be obtained from MAGNA prior to return of any goods. In the event the parties agree that the purchase price of non-conforming goods previously paid by BUYER are to be reimbursed by MAGNA, BUYER must immediately return all related tangible and intangible work products to MAGNA.
8. **No setoff rights.** BUYER shall not be permitted to unilaterally offset amounts owed (or alleged) regarding any claims from the past against amounts otherwise due to MAGNA for unrelated services performed or goods delivered thereafter.
9. **BUYER warranties.** In addition to any warranties that may be implied by law, BUYER expressly warrants and agrees that: (a) its drawings and specifications may be relied upon for design-compliant manufacturing; (b) when its drawings are followed using customary manufacturing processes, results will meet final drawing dimensions; and (c) MAGNA is under no obligation to verify BUYER's design intent or drawing accuracy before accepting a PO.

In the event MAGNA determines any one of the following, all affected work shall be halted and the BUYER shall be notified immediately for resolution: (a) that an individual drawing or specification (or revision) is in conflict or inconsistent with any other



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drawing or specification (or revision), or with the PO; (b) that the overall drawings and specifications are inadequate to perform the scope of work; or (c) that BUYER is in breach of its warranties contained in the preceding paragraph. Such notification shall be treated as if a formal change had been issued by BUYER, effective on the date BUYER receives it from MAGNA, and the change shall be governed in accordance with the provisions of section 10 hereof (Changes and disputes).

10. Warranties. MAGNA warrants that any and all goods supplied to or services performed for BUYER shall: (a) Conform fully to all specifications contained in BUYER's request for quotation unless specific exception is taken thereto on the face of the Quote; (b) Be manufactured consistent with current industry practice and free from defects in materials and workmanship; and (c) Be free and clear of all liens, claims, security interests and encumbrances whatsoever. MAGNA specifically disclaims any other warranties express or implied, including but not limited to merchantability or fitness for a particular use.
11. Changes and disputes. Any changes requested by BUYER must be evaluated and considered by MAGNA, in its sole discretion, for potential cost and delivery impact and any resulting claims will be submitted by MAGNA in writing, adequately supported, within the response time prescribed by BUYER's terms and conditions. Likewise, any claims made by MAGNA shall be deemed unconditionally accepted unless BUYER provides a dispositive answer, in writing and adequately supported, within the same response time (beginning on the date received by BUYER) as that prescribed for MAGNA in initiating such claims.

MAGNA shall not be excused from continuing to perform its obligations under an existing PO during the pendency of a claim, subject only to one or both of the following exceptions: (a) as provided under the second paragraph of section 9 hereof (BUYER warranties); or (b) in the event of a material breach by BUYER. Regarding exception (b), BUYER's complete rejection of a claim and/or its failure to negotiate a reasonable settlement of any such claim in good faith shall be deemed a material breach of contract.

If after the issuance of a PO a dispute arises between the parties regarding any provision of these C&A, and for which no exception has been acknowledged by express written consent of both parties, such dispute shall be treated as a change requested by BUYER and shall be resolved in accordance with this clause.

12. Confidentiality. All information disclosed by either BUYER or MAGNA pursuant to or in furtherance of a RFQ, Quote or PO, and the goods or services described therein, shall be treated as trade secret and proprietary and the recipient shall protect and keep confidential such information and shall not disclose nor convert such information for its own use in any way whatsoever without the prior written consent of the disclosing party.
13. Costs and attorneys' fees. BUYER shall indemnify, save, defend, and hold MAGNA harmless from any loss, cost, expense, or liability, including fees of accountants, attorneys, consultants, and expert witnesses reasonably incurred in defending or enforcing MAGNA's rights in connection with its Quote or a resulting purchase order from BUYER, or otherwise relating to the relationship of the parties, regardless of whether they are incurred before, during, or after any litigation or other dispute resolution procedure, regardless of success on the merits, and regardless of whether they relate to issues arising out of contract, tort, bankruptcy, intellectual property, or some other area of law.
14. Limited liability for damages. MAGNA shall not be responsible for any incidental or consequential damages and in no event shall MAGNA's total liability for any and all damages exceed the individual line-item price contained in BUYER's purchase order.
15. Partial invalidity. If any provision of these C&A are prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, that prohibition or determination shall not affect the validity of the remaining provisions herein.
16. Jurisdiction, forum, and governing law. Any legal action by either party against the other PO may be brought in a court of competent jurisdiction in Hamilton County, Ohio. For this purpose, each party consents to personal jurisdiction in such court and waives any right to dismiss or transfer such action or proceeding because of the inconvenience of the forum. Nothing in this section shall prevent enforcement in another forum of any judgment so obtained.

All time bars to actions (i.e., statutes of limitations) by either party shall be consistent with the statutory law of the governing jurisdiction. Any disputes that arise regarding a PO having a clear nexus to the State of Ohio shall be governed and construed in accordance with the laws of Ohio without regard to its conflict of laws principles.