



General Terms and Conditions of Sale MAXIMATOR TEST, LLC

(Current as of September 2017)

Unless the parties specifically agreed otherwise, these "General Terms and Conditions of Testing Services MAXIMATOR TEST, LLC. (Current as of September 2017)" (hereinafter "Terms and Conditions") govern all testing services provided by MAXIMATOR TEST, LLC., an Illinois Limited Liability Company (hereinafter MAXIMATOR).

I. Purchase prices, terms of payment

1. Unless specifically agreed otherwise with the Customer, the purchase price for any Machine, machine part, or parts is due as follows:
 - 50% upon the execution of the agreement, payable within ten days;
 - The balance upon delivery, including all costs of shipping, of the machine, machine parts, or parts.

II. Delivery period and partial deliveries

1. The contractually agreed delivery period applies. Insofar as goods are to be shipped or transported, delivery periods and dates refer to the time of delivery to the shipper, freight carrier or other third party entrusted with the transport.
2. In the event of force majeure, including but not limited to business disruptions, transport delays, collective action (especially strike and lock-out) and the failure of MAXIMATOR's suppliers to effect timely and correct deliveries, irrespective of grounds (provision of proper self-supply), as well as all other impediments to performance arising through no fault of MAXIMATOR, MAXIMATOR may postpone delivery for the duration of such impediment plus a reasonable lead time. Insofar as such events significantly impede – or render impossible – MAXIMATOR's deliveries and performance, and the impediment is not just temporary in nature, MAXIMATOR may withdraw from the agreement. To the extent that, on account of such delays, the Customer cannot reasonably be expected to accept deliveries or performance, it may rescind the agreement by promptly providing MAXIMATOR with written notice to that effect.
3. Partial deliveries are permissible if:
 - The Customer has use for partial deliveries as part of the agreed purpose of use;
 - The supply of all remaining machine components or parts is assured; and
 - The Customer does not incur – or MAXIMATOR agrees to bear any – significant added expenditures or costs.

III. Transfer of risk, acceptance, and default

1. The Customer bears any and all risks associated with shipment and transport, which pass to the Customer upon the delivery of the goods (as defined as the beginning of the loading process) to the shipper, freight carrier or other third party entrusted with the transport even in the event of (i) partial deliveries or (ii) MAXIMATOR having assumed other costs, such as the cost of shipping or transportation and set-up, save for cases subject to Item III No. 2.
2. In the event that the Customer refuses acceptance of ordered goods or if their shipment is delayed for other reasons culpably caused by the Customer, the risk of the machine's accidental demise or deterioration passes to the Customer upon the beginning of such default.
3. In the event that the Customer is in default with acceptance or if it violates other duties of cooperation, it must indemnify MAXIMATOR against any damages incurred to such extent, including but not limited to added expenditures. Specifically, the Customer bears the costs of MAXIMATOR's storage of any machine so affected, which MAXIMATOR may invoice at a flat rate of 0.5% of the machine's full agreed purchase price, unless the Customer furnishes proof to the effect that MAXIMATOR did not incur any – or less – damages as a result of storing such machine. MAXIMATOR's other legal rights arising from default in acceptance, if any, are not affected.
4. The Customer must accept delivery of any ordered goods even if the goods have minor defects; the Customer's rights under Item VIII are not affected.

IV. Retention of title

1. The goods MAXIMATOR supplies to the Customer (in this Item IV, hereinafter the "Goods Subject to Retention of Title") remains MAXIMATOR's property, with full right and title to the goods, until all secured claims have been paid in full.
2. In the event that the Customer fails to meet its obligations under these Terms and Conditions,
 - MAXIMATOR may prohibit the resale, treatment and/or processing of Goods Subject to Retention of Title as well as their combination or compounding with other goods;
 - MAXIMATOR may withdraw from the agreement with the Customer, in which case (i) the Customer's right to possess Goods Subject to Retention of Title lapses, (ii) MAXIMATOR may demand that such goods be returned, (iii) MAXIMATOR is entitled to enter the Customer's premises, take possession of Goods Subject to Retention of Title at the Customer's expense and, without prejudice to the Customer's payment and other obligations, put them to the best possible use by either selling them in the open market or auctioning them off, applying the proceeds, as adjusted for related costs, to the Customer's liabilities and disbursing any surplus to the Customer; and
 - the Customer must identify to MAXIMATOR upon request the debtors of the claims assigned to MAXIMATOR to enable MAXIMATOR to disclose the assignment and collect receivables; all proceeds to which MAXIMATOR is entitled under assignments must be disbursed to MAXIMATOR without delay upon receipt once MAXIMATOR's claims against the Customer are due.

V. No Set-Off

The Customer shall have no right of set-off or withholding, and no deduction of any amounts due from Customer to MAXIMATOR shall be made without MAXIMATOR's prior, express written approval.

VI. Warranty for Defects

The warranties set forth herein or in MAXIMATOR's warranty documents with respect to a product are only the warranties made by MAXIMATOR in connection with the products and the transactions contemplated as a result of this sale. MAXIMATOR makes no other warranties or representations to Customer or any other person of any kind, whether express or implied, with respect to the products, and MAXIMATOR specifically disclaims all implied warranties including, without limitation, the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Products sold hereunder are sold only to the specifications specifically set forth by MAXIMATOR in writing. MAXIMATOR's sole obligation for a remedy to the Customer are contained hereunder. The Customer assumes all risk whatsoever as to the result of the use of products purchased, whether used alone or in combination with other products or substances.

1. The Customer holds claims based on defects only if and to the extent that it met its duties of inspection and defect notification contained herein.
2. Defects shall be remedied by MAXIMATOR, at MAXIMATOR's option, through free-of-charge removal of defects (repair) or replacement. If such remedial action fails, the Customer may, at its option, withdraw from the agreement or demand that the purchase price be adequately reduced.
3. Irrespective of circumstances, the Customer holds no claims based on defects if and to the extent that damages resulted from inapt or improper handling, improper installation or commissioning by the Customer or third parties, regular wear and tear, improper or negligent treatment or maintenance, inappropriate operating resources or substitute materials, poor construction work, unsuitable building areas or chemical, electrochemical or electrical interference, provided and to the extent that such circumstances have not been culpably caused by MAXIMATOR.



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4. The Customer's claims for damages or indemnification for expenditures incurred in vain are limited as set forth in Item VIII and otherwise excluded.
5. The warranty period lapses one (1) year from the delivery, or upon acceptance if acceptance was agreed.

VII. Limitation of Liability

1. No claim by Customer of any kind including, but not limited to, claims for indemnification, whether as to quality or amount of product delivered or non-delivery, shall be greater in amount than the purchase price for the products in respect of which damages are claimed.
2. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOSS BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, OR LOSS OF DATA, ARISING OUT OF, OR AS A RESULT OF, THE SALE, DELIVERY, SERVICING, USE OR LOSS OF THE PRODUCTS SOLD HEREUNDER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

VIII. Inspection

Customer shall inspect the products promptly upon receipt for non-conformity (including but not limited to non-conformity for quantity, quality, and/or defects). Failure by Customer to provide MAXIMATOR with written notice of a claim within thirty (30) days from the date of delivery or, in the case of non-delivery, from the date fixed for delivery, shall constitute a waiver by Customer of all claims with respect to such products.

IX. Governing Law

This agreement shall be construed, and the respective rights and duties of Customer and MAXIMATOR shall be determined, according to the laws of the State of Illinois, without giving effect to its principles of conflicts of laws. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

X. Dispute resolution

Any dispute, controversy or claim arising out of or related in any way to these Terms and Conditions and/or any sale and purchase of products hereunder or any transaction contemplated hereby which cannot be amicably resolved by the parties shall be solely and finally settled by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall take place before an arbitrator sitting in the State of Illinois, County of Cook. The

language of the arbitration shall be English. The arbitrator will be bound to adjudicate all disputes in accordance with the laws of the State of Illinois. The decision of the arbitrators shall be in writing with written findings of fact and shall be final and binding on the parties. The arbitrator shall be empowered to award money damages, but shall not be empowered to award incidental damages, consequential damages, indirect damages, statutory damages, special damages, exemplary damages, punitive damages or specific performance. Each party shall bear its own costs relating to the arbitration proceedings irrespective of its outcome. This section provides the sole recourse for the settlement of any disputes arising out of, in connection with, or related to this Agreement.

XI. Validity/Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision or provision, which shall remain in full force and effect. The Customer and MAXIMATOR shall use their reasonable efforts to achieve the purpose of the invalid provision by a new legally valid stipulation.

XII. Miscellaneous

1. These Terms and Conditions are the sole and exclusive statement of the parties' understanding and agreement with respect to the transactions contemplated by this sale, notwithstanding any other terms that might be contained in any purchase order or other document received from Customer or submitted to MAXIMATOR. These Terms and Conditions constitute the entire agreement between the parties regarding the subject matter hereof and can only be modified or changed in writing and signed by authorized representatives of both parties. No waiver by MAXIMATOR of any of MAXIMATOR's Terms and Conditions or any breach hereof shall constitute or be deemed to be a waiver of any such term or any such breach in any other case. No waiver shall be deemed to occur as a result of the failure to enforce any term or condition of these MAXIMATOR's Terms and Conditions. If any clause or portion hereof shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining clauses or portions shall remain in full force and effect. The paragraph headings are for convenience only and shall not be used in interpreting or construing these Terms and Conditions.
2. Declarations and notices of legal relevance, which the Customer must issue to MAXIMATOR following the execution of the agreement (e.g., notices to cure default, of defect, rescission or abatement) must be provided in writing.
3. The Customer is not entitled to assign to third parties claims against MAXIMATOR under the agreement without MAXIMATOR's prior written consent.
4. For purposes hereof, transactions with businesses are no different than transactions with legal entities or special funds under public law.