

General Terms and Conditions of MAXIMATOR AS Sales

I. Applicability of “General Terms and Conditions of MAXIMATOR AS Sales” and offer

1. Unless the parties specifically agreed otherwise, these “General Terms and Conditions of MAXIMATOR AS”, (hereinafter “Terms and Conditions”) govern all supplies of Goods by MAXIMATOR AS (hereinafter “MAXIMATOR”).
2. The Customer’s order constitutes a binding offer made by the Customer to MAXIMATOR, by which the Customer is bound for a period of four weeks after MAXIMATOR’s receipt thereof. The agreement is not concluded unless MAXIMATOR has expressly accepted the Customer’s order by issuing a written order confirmation.
3. Any oral commitments made by MAXIMATOR prior to the execution of the agreement are non-binding in a legal sense, and a written agreement supersedes any oral agreement made between the parties that does not specify that it is to continue in full force and effect. Changes and amendments to agreements made, including these Terms and Conditions, must be made in writing – a formal requirement that a transmission by facsimile satisfies but transmissions using means of telecommunications, such as electronic mail, do not.
4. MAXIMATOR specifically notes that information supplied about Goods (e.g., weight, dimensions, present utilization value, load, tolerance level and technical data) as well as any representation of such information (e.g., drawings and illustrations) are approximations unless a precise match is needed for the Goods’s fitness for the intended and agreed purpose. Such information shall not constitute guaranteed characteristics but instead serves as a description or characterization. Common deviations and those resulting from legal provisions or technical improvements are permissible, as is the replacement of components by parts of equal value, provided that the fitness for the intended and agreed purpose is not compromised as a result.
5. General terms and conditions of the Customer or third parties do not apply even if MAXIMATOR does not specifically object to them in a given case. Even if MAXIMATOR references a letter containing the general terms and conditions of the Customer or third parties, such reference does not imply MAXIMATOR’s agreement with the applicability of such general terms and conditions.

II. Purchase prices, terms of payment

1. The purchase price is stated “ex works,” with the Customer bearing any and all costs of packaging, shipping and transport as well as duties, taxes and other public dues. If the Customer so wishes, the Goods may be insured at the Customer’s expense against theft, breakage, shipping, fire and water damages as well as any other insurable risk.
2. The purchase price is exclusive of sales tax in the applicable amount.
3. Unless specifically agreed otherwise with the Customer, the purchase price for the Goods is due net within 30 days from invoicing.
4. All invoiced amounts are payable in full.
5. In the event of overdue payments, interest will be charged from the due date until payment takes place in accordance with the Norwegian Act on Overdue Payment.

III. 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
 - a. The customer has use for partial deliveries as part of the agreed purpose of use,
 - b. The supply of all remaining Goods and components is assured, and
 - c. The Customer does not incur – or MAXIMATOR agrees to bear any – significant added expenditures or costs.

IV. Transfer of risk, acceptance, 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 IV 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 Good'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 so affected, which MAXIMATOR may invoice at a flat rate of 0.5% of the Good'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 Goods. 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 V are not affected.
5. In the event that MAXIMATOR is in default, causing the Customer to suffer damages, the latter is entitled to demand compensation for default at a flat rate of 0.5% per week of default, the sum of which must not exceed 5% of the value of the part of the entire delivery that cannot be put to timely – or the agreed – use due to default.

V. Warranty for defects

1. The Customer holds claims based on defects only if and to the extent that it met its duties of examination and defect notification. In the event that a defect is identified upon examination or at a later point in time, MAXIMATOR must be given written notice thereof immediately, which for purposes hereof means that notice must be dispatched within two weeks. If the Customer fails to properly discharge its duties of examination and/or defect notification, it forfeits any claims related to the defect not notified.
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.
4. The Customer's claims for damages or indemnification for expenditures incurred in vain are limited as set forth in Item VI and otherwise excluded.
5. The warranty period lapses one (1) year from the delivery, or upon acceptance if acceptance was agreed.

VI. Liability

1. Both parties shall mutually hold each other harmless from and against losses or damages to their respective properties and personnel.
2. The Customer shall indemnify MAXIMATOR for all Customers indirect losses and damages according to this provision, unless misconduct or gross negligence can be proven. MAXIMATOR's liability shall under all circumstances be limited to maximum sales unit price for the specified Goods or parts in question.
3. If a defect is discovered, MAXIMATOR is entitled to rectify or redeliver the Goods or parts in question.
4. Any other liability on the part of MAXIMATOR is expressly excluded.
5. The period of limitation for claims for damages against MAXIMATOR equals one (1) year.

VII. Governing Law and Disputes

1. This agreement shall be governed by and construed in accordance with the laws of the kingdom of Norway. Disputes between the parties shall, at first, tried to be solved through negotiations.
2. Legal venue shall be MAXIMATOR' court of domicile. Court proceedings will be brought before Stavanger City Court.