



General Terms and Conditions of Testing Services 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. Applicability of "General Terms and Conditions of Testing Services MAXIMATOR TEST, LLC" and offer.**
- As stated herein "Customer" is the recipient of the quotation.
 - Quotations for testing services are offered for acceptance within thirty (30) days unless a longer time is specified on the face of the quotation, and if not so accepted within the designated period shall be deemed withdrawn. Unless otherwise specified, the prices quoted are based upon receipt of all Customer furnished articles, technical data, and support equipment in good condition within thirty (30) days after receipt of order. If the Customer-supplied items are not provided in a timely manner, the prices and delivery schedule quoted shall be subject to change. MAXIMATOR's acceptance of any order is contingent upon MAXIMATOR's approval of Customer's credit.
 - 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.
 - General terms and conditions of the Customer or third parties do not apply to these Terms and Conditions, 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**
- 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, and any other relevant charges for the products to be tested unless otherwise contained herein. MAXIMATOR will not take back shipping and other packaging materials unless described herein. With the exception of pallets, such packaging materials become the Customer's property. If the Customer so wishes, the products to be tested may be insured at the Customer's expense against theft, breakage, shipping, fire and water damages, as well as any other insurable risk.
 - All accounts are due and payable within thirty (30) days unless otherwise agreed in writing. When credit terms are extended, it is with the express agreement that a 1½% per month service charge will apply to all amounts past due. On any test program or order requiring more than thirty (30) days to complete, invoices will be submitted for services performed on a monthly basis and are due within thirty (30) days of submission.
 - Payment of MAXIMATOR's invoices by Customer shall not be delayed by, or contingent upon, approval or payment by Customer's customer or any other third party.
 - Customer agrees to pay all costs associated with collection of any overdue amount including reasonable attorney's fees and court costs. In addition to other remedies provided by law, where conditions warrant, MAXIMATOR reserves the right to withhold test data, reports, and test samples until payment of all amount due is received.
 - In the event customer shall become insolvent or makes a general assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy, or for reorganization, or pursues any other remedy under law relating to debt relief, or in the event a receiver be appointed of customer's property or business, MAXIMATOR may, at its option, terminate its performance under the contract and treat the customer as in default.
- III. Specifications and Drawings**
- MAXIMATOR agrees to perform the services quoted in compliance with procedure(s) and specification(s) furnished by the Customer at the time of quotation, except for deviations accepted by MAXIMATOR in writing. In any event or instance not covered by the Customer's specification(s), MAXIMATOR reserves the right to perform services in accordance with its standard practices and at quoted hourly rates.
- IV. Tooling and Set-Ups**
- Where applicable, partial tooling and set-ups quoted and made by MAXIMATOR are designed for MAXIMATOR's special testing techniques, and will not be released from MAXIMATOR's plant. MAXIMATOR may dispose of any fixtures, special tooling, drawings, or the like which are the property of Customer and are left unclaimed for thirty (30) days after MAXIMATOR gives notice to Customer as provided in Article XXIV Section 2 herein.
 - Except as otherwise agreed, in writing, all right, title and interest to fixtures, special tooling drawings, designs and other data is and shall remain the property of MAXIMATOR.
 - Customer owned equipment at MAXIMATOR's facilities shall be subject to additional charges for storage, transportation and taxes to the extent applicable.
- V. Schedules**
- The estimated schedule is based on MAXIMATOR's current commitments, and MAXIMATOR's acceptance of the Customer's supplied documents and materials. Firm schedules will be acknowledged by MAXIMATOR from time to time.
 - ALL DATES ARE APPROXIMATE.** All prices are F.O.B. MAXIMATOR's facility unless otherwise specified. If MAXIMATOR's performance is prevented, restricted, or interfered with by reason of a force majeure event (as defined below), then MAXIMATOR shall be excused from that performance to the extent of that prevention, restriction, or interference. MAXIMATOR shall resume its performance promptly whenever such causes are removed. "Force majeure events" shall be any cause or condition beyond the reasonable control of MAXIMATOR, including but not limited to natural catastrophes, acts or omissions of a government or its agencies or departments, labor unavailability for any reason, energy shortages, shortage of suitable parts or materials, computer malfunctions, transportation problems, customer's failure to fulfill its obligations, or delays in delivery by MAXIMATOR's vendors.
 - CHANGE ORDERS, INTERRUPTIONS, TERMINATION.** MAXIMATOR is not obligated to perform any additional services not specifically referenced in the quotation, including, but not limited to repeat testing. If MAXIMATOR agrees to perform additional services, charges for the Customer's change orders will be commensurate with the additional requirements and the status of MAXIMATOR's work in process at the time of MAXIMATOR's receipt of the Customer's change requirement, and MAXIMATOR's written or verbal acknowledgement. If, for any reason beyond MAXIMATOR's control, the program is interrupted at Customer's direction or by failure of items under test or Customer's equipment, standby costs will accrue until resumption or termination of testing is directed by Customer in writing.
 - Additional set up charges will apply to resumption of testing. Rescheduling shall be at the discretion of MAXIMATOR. Termination or cancellation, whether partial or complete, may cause the customer to be subject to payment of cancellation charges based upon status of work in process, commitments made and facilities allocated. Additional services (e.g. repeated tests) necessitated by specimen failure or customer provided equipment malfunctions will be construed as a change order and the appropriate charges will be added. If Customer should disagree for any reason with the results or conclusions of the testing and requires additional work for verification, MAXIMATOR shall be entitled to charge for the additional work required to verify results.
- VI. MAXIMATOR'S Obligations**
- Customer agrees that MAXIMATOR's obligation is to perform services and report the results in accordance with specification(s). It does not render opinions on the suitability of the item tested for any intended purpose. Reasonable care will be exercised by MAXIMATOR in the performance of services in accordance with applicable specification(s) and instructions received from the customer. MAXIMATOR's liability for loss, damage, or delay incurred in the performance of, or as a result of testing, handling,



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or reporting shall be limited to a retest, provided such retest is performed by MAXIMATOR. Should MAXIMATOR be unable to perform a test after agreeing to such performance MAXIMATOR's sole obligation shall be to return the test article to the Customer. If the test that cannot be performed is one of a series of tests then any tests already performed successfully will be billed normally and paid by the Customer. Any tests that remain to be performed other than the one in question may also be completed and billed if Customer and MAXIMATOR so agree. Customer shall not be liable for any charges relating to a test, or part of a test, that MAXIMATOR cannot perform.

XII. MAXIMATOR's Rights

If Customer should fail in any manner to fulfill the terms and conditions hereof, MAXIMATOR may defer further shipments until such default is cured. Remedies provided herein shall be in addition to, and not in lieu of, other remedies that may be available to MAXIMATOR. If for any reason, the quantities of the products covered hereby or of any materials used in the production of the products reasonably available to MAXIMATOR shall be less than MAXIMATOR's total needs for its own use and for sale, MAXIMATOR may allocate its available supply of products among its existing or prospective purchasers and/or its own departments, divisions and affiliates in such manner MAXIMATOR deems proper in MAXIMATOR's sole discretion, without thereby incurring liability on account of the method of allocation determined or its implementation or for failure to perform this Agreement.

VII. Hold Harmless Agreement

Since performance of the testing services quoted are, or may be, hazardous, it is a condition to the performance of such testing that customer shall agree, and by acceptance of any quotation does thereby release and agree to indemnify and save harmless MAXIMATOR and its employees, customers and insurers from and against any and all injuries to and deaths of third parties howsoever occurring and damage to all property wheresoever situated and additionally from any and all claims, demands, costs, losses and damages howsoever the same shall be caused, which shall result directly or indirectly from the performance of any or all work to be performed in accordance with the terms, provisions and conditions of this quotation or resulting contract, except to the extent caused by MAXIMATOR's sole gross negligence or willful misconduct.

XIII. Governing Law

This agreement created by MAXIMATOR's quotation, Customer's purchase order, and MAXIMATOR's order acknowledgement shall be governed by and 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.

VIII. Acceptance Of Customer's Order

Acceptance of the Customer's order does not constitute acceptance of the Customer's terms and conditions of sale quoted therein, unless specifically authorized with the written consent by MAXIMATOR. In the event of the lack of enforcement of MAXIMATOR's terms and conditions of sale by MAXIMATOR or by agents of MAXIMATOR, neither waiver of MAXIMATOR's terms and conditions of sale, nor MAXIMATOR's acceptance of Customer's conditions of purchase is to be deemed or implied. In any event, if the Customer fails to notify MAXIMATOR in writing within ten (10) days of MAXIMATOR's order acknowledgement that any terms or conditions of that order are unacceptable to the Customer, the Customer shall be deemed to have accepted the agreement as set forth in the acknowledgement. Upon acceptance in this manner, the contract cannot be canceled, revoked, or modified in any particular without the specific written consent of MAXIMATOR, after appropriate provision for payment by the Customer for any additional costs and expenses resulting from such changes.

XIV. 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 services 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.

IX. 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.

XV. Compliance with Laws; Export Laws

Customer and MAXIMATOR shall comply with all applicable international, national, state, regional and local laws and regulations with respect to their performance of this Agreement.

X. Patents

MAXIMATOR reserves the right to discontinue deliveries of any products, the manufacture, sale or use of which would, in MAXIMATOR's opinion, infringe upon any U.S. Patent, trade mark or design now or hereinafter issued, registered, or existing and under which MAXIMATOR is not licensed.

XVI. 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.

XI. Limitation of Liability

1. Customer agrees that regardless of the claim or the form in which any legal or equitable action may be taken, MAXIMATOR shall not be liable for any amount greater than the charges accrued on the test. MAXIMATOR shall not be liable for any damages arising from delay in the performance of services.
2. The happening of any contingency beyond MAXIMATOR's reasonable control shall not constitute cause for cancellation of the Customer's order, but shall extend MAXIMATOR's time to perform the required service for a period equal to the duration of such contingency.
3. All services furnished by MAXIMATOR, and all tests performed utilizing MAXIMATOR's equipment and facilities, whether conducted by MAXIMATOR or Customer's personnel, shall be at the risk of Customer, and MAXIMATOR shall not be liable for loss of, or damage to, property furnished by Customer while such property is on MAXIMATOR's premises.

XVII. Risk of Loss

The Customer assumes risk of loss through acts of God, fire, forcible entry or other casualty of chattels of Customer left in MAXIMATOR's custody or care.

XVIII. Cancellation

Subject to all provisions of Article VI above, complete or partial cancellation of any order or contract may be made by Customer only upon the payment of any cancellation charges incurred.

XIX. 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



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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 and article 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. Notice shall be deemed effective when received or refused, if sent to the other party at the address provided by

the other party. Unless otherwise advised in writing the address to which any notice to MAXIMATOR should be sent is: MAXIMATOR TEST, LLC., Testing Services Center, 1350 Tri State Parkway, Suite 130, Gurnee, Illinois 60031.

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.