

I. Scope of Application

- A. Maxitrol Company and its Divisions (hereinafter called "Maxitrol") shall offer, sell and deliver components, equipment, accessories, spare parts and services ("Products") subject to the General Terms and Conditions of Sale ("General Conditions") as contained herein unless otherwise expressly agreed to in writing. Customers ordering Maxitrol product (hereinafter called "Customer") expressly agrees to all of the terms and conditions contained in these General Conditions, and any other additional or differing terms and conditions from the customer must be accepted in writing by Maxitrol. Deviation from Maxitrol's General Conditions for purchase of Maxitrol products by Customer shall not be applicable even if the Customer refers to their General Conditions.
- B. Maxitrol must agree to all deviations from Maxitrol's General Conditions in writing. Any questions or inquiries relating to any transaction contained in this statement must be made in writing within sixty (60) days from the billing date and mailed to the address contained on this statement. Failure to do so will result in your recognition of the accuracy of these General Conditions.

II. Purchase of Products and Responsibilities Relating Thereto

- A. Customer shall order Products exclusively pursuant to the General Conditions of Maxitrol. All orders for Products must be submitted to Maxitrol in writing containing a description of the Products being ordered, quantity of products, model number, delivery and billing location, invoice point and requested delivery dates. Any General Conditions contained in the Customer order and/or which are in addition to or inconsistent with the Maxitrol's General Conditions are not applicable, unless expressly accepted in writing by an authorized representative of Maxitrol.
- B. Maxitrol reserves the right not to accept any order in whole or in part.
- C. Orders shall only be deemed binding for Maxitrol, if Maxitrol has confirmed the order in writing.
- D. Maxitrol clerical errors are subject to change.
- E. Technical data printed in brochures or advertising material are only approximate. Data regarding economic usability contained on such printed matters are examples only and do not constitute a warranty of certain qualities unless clearly warranted in writing. Customer shall be solely responsible for testing the usability of the Products for its own purposes. Customer shall hold all Maxitrol information obtained from Maxitrol or obtained from testing as confidential and trade secret information unless shown to be previously available to the public. Customer shall not provide prototypes to any third party and shall not reverse engineer, test or otherwise analyze any product for purposes of design of a product, and shall be responsible for any third party who does so with any of the product herein supplied. Damages are agreed to be \$500,000 per occurrence if either Customer or a third party associated with Customer reverse engineers, tests or otherwise analyzes any part of product for the purpose of designing a product to be supplied by or to Customer and/or any third party, by or for Customer and/or any third party.

III. Prices and Terms of Payment

- A. Prices are net as indicated in the order confirmation. Prices do not include packing or delivery costs. Customer is responsible for all customs cost, all sales tax, excise tax, and other government assessments. All prices are quoted in U.S. Dollars.
- B. Unless indicated otherwise in the confirmation, all payments are due without any deductions within thirty (30) days from the date of the invoice. In addition, Maxitrol reserves the right to request prepayment or submission of a letter of credit or a bank guarantee issued by a major United States Bank at least thirty (30) days prior to the scheduled shipping date. If Customer fails to provide a letter of credit or prepayment, Maxitrol can decline to fill or accept the order.
- C. Maxitrol reserves the right at any time to revoke any credit extended to Customer if Customer fails to pay for any shipments when due, or if in Maxitrol's opinion there is a material adverse change in Customer's financial condition. Maxitrol may, at its option, cancel any accepted order if Customer fails to meet any invoice when due.
- D. In the event that Customer fails to meet payments when due, Maxitrol shall be entitled to charge late fees of one and one-half percent (1-1/2%) interest per month, to the maximum allowed under the laws of Michigan and costs of collection including actual attorney's fees.
- E. In the event that Customer's financial circumstances deteriorate considerably, Maxitrol shall be entitled to effect further deliveries only against cash in advance or against deposition of security deemed appropriate by Maxitrol.
- F. Customer shall be entitled to off sets or retentions against payments only if Customer's claims have been confirmed in the form of a judgment by a court of law or is undisputed.

IV. Delivery, Risk of Loss and Default of Delivery

- A. Risk of loss shall pass to Customer upon shipment by Maxitrol. Upon request of the Customer and at the Customer's expense, Maxitrol shall insure the shipment against theft, breakage and damage caused by transport, fire and water. This shall also apply to partial deliveries.
- B. Delivery dates indicated on quotations and on acknowledgements of orders are approximate and not guaranteed. Maxitrol will do everything possible to maintain the shipping dates given herein, but Maxitrol shall not be liable for delays in delivery or in performance or failure to manufacture or deliver due to causes beyond its reasonable control such as acts of God, civil or military authority, priorities, fires, strikes or other labor disturbances, floods, epidemics, war, riot, delays in transportation, or inability to obtain necessary labor, materials and components. In the event of such delay, the date of delivery or performance shall be extended. Maxitrol shall be entitled to partial deliveries.

V. Limited Warranty, Disclaimers, Exclusive Remedy, and Limitation On Liability

- A. Maxitrol warrants that its products and parts are manufactured free from defects in materials and workmanship under normal use, and if used as specified will remain in such condition for a period of twenty-four (24) months for most products from the date of manufacture. Please contact Maxitrol for a list of products and warranty periods. This limited warranty extends only to the original purchaser. **There are no other warranties expressed or implied.**
- B. Damage and/or injury due to or resulting from shipment, and/or use not in accordance with specifications including, but not limited to, faulty installation, adjustments, repair, exposure to excessive pressure or temperature, exposure to moisture and/or corrosive chemicals, improper application, misuse or abuse, non-specified product or part modification or the negligence of others are not covered by the warranty and are not the responsibility of Maxitrol.
- C. Notwithstanding anything to the contrary contained in Customer's Purchase Documents, Maxitrol expressly rejects any warranty terms proposed by Customer whether contained in Customer's Purchase Documents, acknowledgement, confirmation or otherwise, and such warranty terms are not a part of any order for Products accepted by Maxitrol.
- D. The exclusive remedy for breach of this warranty or any other Maxitrol obligation is, at Maxitrol's sole option, repair, replacement, or refund of the purchase price of Maxitrol's products or parts directly causing the breach. This warranty does **not** cover labor or other costs incurred in repairing, removing, installing, servicing or handling of any parts or products. This is the limit of Maxitrol's liability. **MAXITROL WILL IN NO EVENT BE LIABLE FOR ANY LOSS, DAMAGE, COST OF REPAIR INCIDENTAL, CONSEQUENTIAL, SPECIAL, DIRECT OR INDIRECT DAMAGES OF ANY KIND CAUSED BY DEFECTIVE PRODUCTS OR PARTS, DELAY OR DEFAULT IN DELIVERY, OR OTHERWISE AND ALL OBLIGATIONS OF MAXITROL FOR DAMAGES (INCLUDING ATTORNEY FEES) EXCEEDING THE PURCHASE PRICE ARE EXCLUDED AND DISCLAIMED. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, AND MAXITROL DISCLAIMS ALL OTHER EXPRESS WARRANTIES AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. MAXITROL SHALL HAVE NO DUTY TO INDEMNIFY CUSTOMER AGAINST ANY ACTIONS, CLAIMS, LIABILITY, LOSS, DAMAGES OR EXPENSES OF ANY NATURE CAUSED BY NONCOMPLIANT PRODUCTS OR PARTS, DELAY OR DEFAULT IN DELIVERY, OR OTHERWISE.**

V. Limited Warranty, Disclaimers, Exclusive Remedy, and Limitation On Liability (Cont.)

- E. Written notice of defects must be given to Maxitrol within the stated term of this warranty and any product or part of Maxitrol believed to be noncompliant must be returned, within the stated term of the warranty, to Maxitrol's designated return location at purchaser's cost, which will be refunded if the Product is found to be noncompliant, which noncompliance is the fault of Maxitrol. Maxitrol shall only consider warranty requests which comply with Maxitrol's return goods authorization policy.
- F. No employee, agent, or representative is authorized to increase Maxitrol's liability and no one is authorized to make verbal changes or warranties. Action on any claim against Maxitrol must be commenced during the period of twelve (12) months after the cause of action has occurred.

VI. Retention of Title

- A. Maxitrol retains title to the delivered Products ("Reservation Goods") until full payment by Customer and settlement of all claims resulting from the delivery or of any other claims Maxitrol may have against Customer at the time an order is confirmed.
- B. Customer shall store the Reservation Goods for Maxitrol in a sufficient manner against risks of liability including, but not limited to, fire, water, moisture and theft, at its expense. Upon order confirmation, Customer simultaneously assigns its corresponding claims under the insurance policies to Maxitrol and Maxitrol accepts such assignment.
- C. Customer shall promptly notify Maxitrol in writing of any attempts of seizure or other impairment of the Reservation Goods by third parties. The cost of any measures required to protect the rights of Maxitrol shall be borne by Customer to the extent such goods cannot be reclaimed from a third party.
- D. Customer shall be entitled to process, link or commingle Reservation Goods within the scope of its ordinary course of business. The processing, linking or commingling of Reservation Goods, however, shall only be in favor of Maxitrol who acquires a co-ownership share in the product produced by the Customers finished product. In this respect, section VI. B. shall apply accordingly.
- E. In addition, Customer shall be entitled to resell Reservation Goods or goods in which Maxitrol holds a co-ownership share in the ordinary course of its business subject to retention of title. As a security, and until full settlement of all claims mentioned in Section VI. A., Customer hereby assigns to Maxitrol its future claims resulting from the resale of Reservation Goods in the amount corresponding to the invoice value of such Reservation Goods. Maxitrol shall have priority over all other claims. Customer shall provide Maxitrol, upon the latter's request, with names and addresses of its customers and upon further request inform Maxitrol about the nature and extent of its claims against such customers. Maxitrol shall be entitled to disclose such assignment at any time in order to secure its claims for payment. Reservation Goods may neither be pledged nor assigned by way of security.
- F. To the extent Maxitrol is entitled to take back Reservation Goods, Customer grants to Maxitrol and its authorized representatives the irrevocable right to enter its premises during normal business hours in order to collect the Reservation Goods.

VII. Patents, Trademarks and Copyrights

- A. All patents, trademarks, copyrights, tooling, mask works, trade secrets, confidential information and other industrial property rights existing with respect to the Products and all information and documents pertaining to development, production and sale of the Products (collectively "Proprietary Materials") shall remain the exclusive property of Maxitrol. No Proprietary materials created by Maxitrol in connection with or pursuant to any order shall be considered "works made for hire" as that term is used in connection with the U.S. Copyright Act. To the extent Customer owns any rights in such Proprietary Materials, Customer hereby irrevocably assigns to Maxitrol all rights, title and interest, including all intellectual property rights, in and to such Proprietary Materials. Customer declares and warrants that it shall not use any information received from Maxitrol with respect to the Products in order to develop or manufacture goods, which compete with Maxitrol Products. Customer declares and warrants that it shall not copy any Proprietary Materials or conduct any reverse assembly or reverse engineering on the Products for the purpose of developing or manufacturing any goods which compete with the Products. Customer shall hold Maxitrol free and harmless from all costs and shall indemnify Maxitrol for all losses or loss of profit due to infringement by Customer for patents or other protective rights of Maxitrol.
- B. Customer shall give Maxitrol immediate written notice of all third-party allegations of infringement with respect to the Products. If any such claims are made against the Customer for infringement of the intellectual property or other rights of third parties in the use of the Products, Maxitrol shall decide, at its sole discretion, if and how any litigation arising there from is to be conducted. In this respect, Customer shall not settle or make any other concession without the prior written consent of Maxitrol, which consent Maxitrol may withhold in its sole discretion. Maxitrol's liability vis-à-vis Customer for infringement of the intellectual property or other rights of third parties is in any case limited to the purchase price of the Product.
- C. Maxitrol shall not be liable for the infringement of intellectual property or other rights in connection with the delivered Products, if they are not used in a way specified by Maxitrol, or if the infringement is caused by utilization or linking of the Products with other products neither generated, nor specified in writing, by Maxitrol.

VIII. Cancellation

- Customer may upon five (5) days notice in writing, cancel this contract, in whole or in part, at any time without penalty unless otherwise specified in Maxitrol's confirmation of cancellation. Customer may cancel, in whole or in part, ninety (90) days prior to the date scheduled for shipment of Maxitrol products, but only with the written consent of Maxitrol and upon terms providing for payment to Maxitrol of a cancellation charge satisfactory to Maxitrol which shall take into proper account the work already done, facilities and material acquired and/or commitments made by Maxitrol.

IX. General

- A. Except with the prior written consent by Maxitrol, Customer shall not be entitled to assign any rights arising from its business relation with Maxitrol or any claims it may have against Maxitrol, including any warranty claims, to third parties other than as necessary for the legitimate business purposes of Maxitrol.
- B. Maxitrol may in connection with the business relations with the Customer disclose to Customer information by nature, or identified as, confidential or proprietary to Maxitrol. Customer or its employees shall not disclose or provide such confidential or proprietary information to any third party or make use of it. Except with the prior written consent by Maxitrol, Customer and its affiliated companies are not entitled to use any element of Maxitrol's names or trademarks.
- C. Any changes, amendments or modifications of these General Conditions and of confirmed orders shall be invalid, unless made in writing and signed by both parties. This written form requirement may only be waived by written Agreement concluded between Maxitrol and Customer. Failure to do so will result in your recognition of the accuracy of this document.
- D. The law of the State of Michigan shall apply exclusively. If any authorization or certificate by a public authority or any third party is needed for the Products as is needed for the use of the Products as intended by Customer, Customer is exclusively responsible for obtaining such authorization or certificate.
- E. In the event that one or more provisions of these General Conditions should be invalid, the validity of the remaining provisions shall not be affected. All headlines contained in these General Conditions are for reference purposes only and are not part of these General Conditions.