

GENERAL TERMS AND CONDITIONS MAX EUROPE B.V.

Definitions:

Unless explicitly stated otherwise, the following capitalised definitions shall have the meanings in the Agreement as set out hereunder:

Agreement: any agreement or order, entered into between the Supplier and the Customer including pursuant to a dealership agreement between the Supplier and the Customer and any other sales contract or legal relationship entered into between the Supplier and the Customer with regard to Products;

Article: an article of the General Terms and Conditions;

Customer: the buyer or acquirer of Products under an Agreement;

Dealer: a Customer who resells or distributes the Products to the end user of the Products;

General Terms and Conditions: the general terms and conditions of the Supplier, applicable to the Agreement.

Intellectual Property Rights: has the meaning as indicated in Article 9 of this General Terms and Conditions.

Products: the products to be delivered by Supplier to the Customer under an Agreement;

Spare Parts: any items or parts needed to replace defective items or parts;

Supplier: Max Europe B.V.;

Warranty Period: the warranty period of one year, commencing at the date of the sale of the Products by the Customer to an end-user, with a maximum duration of 18 months from delivery of the Products by the Supplier to the Customer, as set out in the Warranty Instructions;

Warranty Instructions: the warranty instructions of the Supplier with regard to the Products.

Article 1 - General, Applicability

1.1 Sales of Products to the Customer shall be governed exclusively by the terms and conditions of these General Terms and Conditions, unless explicitly agreed otherwise in the Agreement or other written instrument. All general terms and conditions which the Customer wishes to apply to the purchase of Products from the Supplier are hereby explicitly rejected and shall not apply to the Agreement nor to any individual sales contracts for Products concluded between the Supplier and the Customer as a result of the Agreement.

1.2 The General Terms and Conditions are applicable to all legal relationships entered into between the Supplier as supplier and the Customer. The General Terms and Conditions and the Agreement supersede all prior written and oral agreements and arrangements between the Parties hereto with respect to the subject matter dealt with herein.

1.3 In the event of a conflict between any provisions of an Agreement and any provisions of the General Terms and Conditions, the provisions of the Agreement shall prevail.

1.4 If any provision of the General Terms and Conditions or the Agreement is held to be illegal, void or unenforceable by a court or arbitral tribunal of competent jurisdiction, such provision shall have no effect upon and shall not impair the enforceability of any other provision of the General Terms and Conditions or the Agreement. The Parties shall replace the invalid or non-binding part by provisions which are valid and binding and the legal effect of which, given the contents and purpose of the General Terms and Conditions and the Agreement, is, to the extent possible, similar to that of the invalid or non-binding part.

1.5 The Supplier may amend, supplement or change the General Terms and Conditions at all times. Amendments to the General Terms and Conditions shall be effective three (3) months after the announcement of such amendments by the Supplier to the Customer. If the Customer does not agree with the amendment, supplement or change, the Customer may, until the effective date of the amendment, supplement or change, terminate the Agreement in writing with effect from the date that the amendment, supplement or change shall have become effective.

Article 2 - Formation of an Agreement

2.1 All offers of the Supplier are free of engagement and subject to the Supplier's confirmation.

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2.2 An Agreement between the Supplier and the Customer shall come into effect upon the acceptance by the Supplier of an order for Products made by the Customer pursuant to Article 3.1.

Article 3 - Conditions of Supply

3.1 All orders for Products shall be made by the Customer in writing. Orders shall be deemed accepted if the Supplier has sent an order confirmation in writing to the Customer. All confirmed orders are final. Final orders can only be cancelled or changed by the Customer upon payment by the Customer of any costs the Supplier has incurred regarding the processing of the cancelled or changed order.

3.2 The Customer is responsible for the accuracy of every order for Products placed and for ensuring that the Supplier has sufficient information in order to fulfil the order.

3.3 The Supplier shall in principle supply to the Customer the Products agreed upon pursuant to an accepted order, subject to their availability, and provided payment of the Products is adequately warranted. The Supplier shall make its best efforts to fulfil the orders it has accepted.

3.4 The Products shall be delivered EX WORKS Nippon Express/Vabix, Rotterdam or FOB, Japan as this term is defined in the Incoterms 2000, unless agreed otherwise between the Supplier and the Customer.

3.5 The risk of loss, theft or damage shall pass from the Supplier to the Customer upon delivery pursuant to article 3.4.

3.6 The Supplier warrants to the Customer that the Products shall be free from defects in materials and workmanship for the period of the Warranty Period, provided that the Products are handled with utmost care, proper maintenance procedures are followed and instructions in any relevant documentation are strictly adhered to. The limited warranty as described in this Article 3.6 shall be subject to

the terms and conditions of the Warranty Instructions.

3.7 In the event of a defect within the terms of the Warranty Instructions, the Supplier's obligations shall be limited to supply needed spare parts free of charge. The Customer shall not be entitled – except as provided under mandatory provisions of Dutch law – to any remedy or damage arising from the non-conformity, failure or malfunctioning of the Products, except as provided in this Article 3.7. The Customer is obliged to follow the Supplier's instructions with respect to the storage and/or return of the Products to be replaced.

3.8 The Customer is obliged to inspect each Product within five (5) days after delivery of the Products.

3.9 The Supplier shall have no liability for a breach of the above warranty unless:

3.9.1 The Customer gives written notice of the defect to the Supplier within seven (7) days from the time when the Customer discovers or ought to have discovered the defect; and

3.9.2 The Supplier is given a reasonable opportunity after receiving the notice of examining such Products and the Customer returns such Products to the Supplier's place of business at the Customer's sole cost and expense for the examination to take place there.

Article 4 - Invoicing and payment

4.1 The purchase prices for the Products payable by the Customer shall be those set forth in the Supplier's price list in force at the time the order is received by the Supplier. Unless otherwise agreed, such prices are subject to change at any time, subject to one month's notice. Purchase prices are ex works and are exclusive of any tax, registration fee or any other charge.

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- 4.2 The Supplier shall issue an invoice for each order, which invoice shall be paid by the Customer according the agreed payment terms.
- 4.3 Unless otherwise agreed, payment shall be made by bank transfer and shall be made without set-off or counterclaim and without any restriction or condition. The Supplier is entitled to demand that the Customer provides security for the performance of its obligations towards the Supplier.
- 4.4 Title to the Products shall not pass from the Supplier to the Customer until the Supplier has received from the Customer payment for the Products in full.
- 4.5 If the Customer fails to pay any invoice within the term as indicated in Article 4.2, the Supplier shall, without prejudice to its other rights and remedies, be entitled to charge statutory interest on the sum due from the due date until payment is actually received by the Supplier in full, at the statutory rate under 6:119a of the Dutch Civil Code.
- 6.2 The Dealer shall inform the Supplier promptly of any and all complaints it has received from customers in respect of the Products, provided that the complaints concern a defect in the Products that falls within the scope of the warranty given by the Supplier to the Dealer under Article 3.6.
- 6.3 Any other complaints shall be handled by the Dealer and the Dealer shall inform the Supplier on a monthly basis and whenever the Supplier so requests of the complaints as referred to in this Article 6.3.
- 6.4 The Dealer shall provide to the end users, at its expense and with its own personnel and technical means, suitable after-sales services, which shall extent to all the Products in respect of which such assistance may be required.
- 6.5 Any warranty and after-sales services to be provided by the Dealer in respect of the Products shall be provided promptly, adequately and in accordance with the standards designated by the Supplier.

Article 5 - Resale

The Customer is free to fix the resale prices of the Products, the only exception being the maximum prices that the Supplier may impose. The Supplier may, however, set recommended dealer and end user-prices, which the Customer shall use and respect.

Article 6 - End user warranty and after-sales service

- 6.1 The Dealer shall give a warranty to its customers on the Products. At a minimum, this warranty shall contain the contents of the Supplier's Warranty Instructions and the warranty period given by the Dealer shall end when the Warranty Period shall end, provided that the Products are used appropriately by the customers and proper maintenance procedures are followed.
- 6.6 During the Warranty Period, the Dealer shall carry out free of charge all repairs and replacements provided for in the Warranty Instructions and shall bear all the expenses of such service. During the Warranty Period, the Supplier shall provide the Dealer free of charge with Spare Parts under the conditions of the Warranty Instructions, upon receipt of a written request from the Dealer and subject to the availability of the Spare Parts.
- 6.7 After the Warranty Period, the Supplier shall provide the Dealer with the Spare Parts against the regular prices as set by Supplier, subject to the availability of these Spare Parts. The Supplier shall carry Spare Parts for a period of at least five (5) years subsequent to the general discontinuance by Supplier of the sale and delivery of the specific type of the Products.
- 6.8 The Supplier shall provide the Dealer with the support and, to the extent the Supplier deems this to be necessary, knowledge and training

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to Dealer's personnel to enable it to provide the services referred to in Article 6.4.

to use the Intellectual Property Rights for the purposes of the Agreement. The Supplier does not grant the Customer the right to grant sublicenses in this respect.

Article 7 - Liability

7.1 Without prejudice to Article 3.6 etcetera, the Supplier shall never be held liable for any consequential damage, amongst others consisting of lost profits, loss suffered and costs incurred, unless the damage/loss is caused by the intent or wilful recklessness of the Supplier.

7.2 The Supplier shall not be liable for damage caused by intent or wilful recklessness of its subordinates and/or non-subordinates for which the Supplier is liable according to the law.

7.3 Without prejudice to the previous paragraphs of this Article 7, the liability of the Supplier shall always be limited to the amount that its liability insurance covers and pays out in the particular case.

9.2 The Customer shall not use the Intellectual Property rights other than for the purpose of identifying and advertising the Products within the scope and during the term of the Agreement. The Customer shall not use the Intellectual Property Rights to identify itself, as its trade name or otherwise beyond the scope of the previous sentence, without the prior explicit written permission of the Supplier. The Customer shall not, during the term of the Agreement or after termination of the Agreement, use, adopt or register any trademarks, trade names, slogans, patents, models, copyright or other intellectual property which include or are similar to any of the Intellectual Property Rights.

9.3 The Customer shall use its best efforts to discover any infringement of the Intellectual Property Rights and shall immediately report to the Supplier all infringements or possible infringements which come to its attention and that it shall immediately notify the Supplier of any third party claims relating to an alleged infringement of the Intellectual Property Rights.

Article 8 - Information

8.1 Each party to an Agreement shall keep the other party informed of all matters relevant to the other party insofar as they relate to the Agreement.

8.2 The Supplier shall provide the Customer with all information about the Products and all other information necessary to (further) distribute the Products.

Article 10 - Confidentiality

Each party to an Agreement undertakes not at any time to disclose or use, potentially causing any detrimental effect to the other party, any confidential information concerning the Agreement, or concerning the business and affairs of the other party, except:

- (a) to the extent required by the applicable law or stock exchange rules or by any competent authority but in that case only after consulting with the other party about the timing and content of such disclosure.
- (b) to its professional advisers subject to a duty of confidentiality and only to the extent necessary for any lawful purpose.
- (c) to the extent that at the date hereof or hereafter such information is or shall become public knowledge.

Article 9 - Intellectual Property Rights

9.1 The Supplier's trademarks, trade names, slogans, patents, models, copyright and other intellectual property including but not limited related to the Products, including all accompanying know how and goodwill (the "**Intellectual Property Rights**"), are and shall remain the property of the Supplier. The Supplier hereby grants the Customer the right

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Agreement, which provisions shall survive the term of the Agreement for that purpose.

Article 11 - Term and Termination

11.1 The Supplier may terminate or dissolve an Agreement with immediate effect by giving written notice to the Customer if:

- (i) the Customer becomes subject to an insolvency procedure, is declared bankrupt or if the bankruptcy of the Customer has been applied for, is granted a suspension of payments or if any event analogous to these events occurs with respect to the Customer under the laws of the jurisdiction in which the Customer has its principal office;
- (ii) as a result of a transfer or other transmission of shares, or voting rights or the subscription of shares, a merger or demerger, at any time after the date of the Agreement, one or more third parties acquire direct or indirect control of the Customer;
- (iii) the Customer is dissolved, or its business is transferred in whole or in part, liquidated, wound up, discontinued, or relocated abroad, or a decision is taken in this respect.

Article 12 - Dispositions upon Termination

12.1 If an Agreement expires or is dissolved or terminated, the Customer shall return to the Supplier all promotional material and other documents and samples which have been supplied to it by the Supplier and are in the Customer's possession.

12.2 At the Supplier's option, the Supplier may buy from the Customer all Products the Customer has in stock at the purchase price originally paid by the Customer. Products not so repurchased by the Supplier may be sold by the Customer for a period of three (3) months from the date of termination of the Agreement, subject always to the provisions of the

Article 13 - Governing Law and Jurisdiction

13.1 The General Terms and Conditions and the Agreement shall be governed by and construed in accordance with the laws of the Netherlands. The applicability of the Vienna Convention of 1980 is excluded.

13.2 All disputes between the Supplier and the Customer arising under, or in connection with the General Terms and Conditions, the Agreement or further agreements resulting from the Agreement, shall be submitted to and be settled by the district court of Amsterdam, subject to appeal and cassation (*cassatie*) in the Netherlands.