

maxon-Group General Terms and Conditions of Procurement for Products and Other Services

- 1. General Provisions**
- 1.1 Any legal relationships between maxon and Supplier with respect to the delivery of products and other services rendered to maxon by Supplier (hereinafter jointly referred to as "Service" or "Services") shall exclusively be subject to these General Terms and Conditions of Procurement. Any general terms and conditions of Supplier shall only be applicable to the extent to which maxon expressly agreed to them in writing.
- 1.2 By accepting an order, Supplier acknowledges that these General Terms and Conditions of Procurement apply exclusively.
- 1.3 Supplier's offers shall be legally binding and free of charge. Supplier shall have no right whatsoever to increase prices as a consequence of any changed or unforeseen circumstances.
- 1.4 Any and all orders, conclusions and call-offs as well as any and all amendments and supplements to them must be made in writing. Orders and call-offs may also be made on the basis of electronic data transfer, by fax or by e-mails.
- 1.5 Any oral agreements, in particular any subsequent amendments and supplements to these General Terms and Conditions of Procurement – including this written form requirement –, as well as any ancillary agreements must be confirmed by maxon in writing in order to be legally effective.
- 1.6 Supplier is aware of the fact that maxon intends to make use of Supplier's Services for the purpose of manufacturing products which will be distributed and used all over the world (in particular also in the United States of America).
- 2. Prices**
- 2.1 Prices shall be considered to be "Delivered Duty Paid" (DDP according to the 2010 Incoterms) and they shall include packaging, installation and assembly costs as well as any other costs related to installation and assembly works. Unless otherwise agreed upon between the Parties, prices shall be in CHF. In the case where maxon pays any freight costs, these costs shall be reimbursed by Supplier in the amount communicated by maxon to Supplier. In this respect, Supplier waives the right to make any objections and exceptions.
- 2.2 In the absence of any other prior written agreements concluded between maxon and Supplier, maxon shall in no case be obligated to bear any additional costs, irrespective of the legal and/or factual reason on which these are based (including any deviations from the quantities agreed upon in favour of maxon). Supplier shall release maxon from any and all liabilities.
- 3. Delivery Dates/Delay**
- 3.1 Any agreed deadlines and dates shall be binding. Should Supplier completely or partially fail to render a Service by the end of the agreed deadline, Supplier shall be in default without the need of a warning by maxon. Supplier shall compensate maxon for any direct or indirect damage resulting from such default. Unreserved acceptance of delayed Services by maxon may not be deemed a waiver of any claims to which maxon might be entitled in connection with the delayed Services.
- 3.2 In case Supplier is in default, Supplier shall pay to maxon for each started week of delay a penalty in the amount of 2% of the total order value, up to a maximum penalty of 10% of the total order value. Payment of this penalty shall not exempt Supplier from its obligation to fulfil its contractual obligations. The Supplier must pay the penalty in addition to any default damages due according to section 3.1 and the penalty payment will not be deducted from any default damage. Partial deliveries, even if agreed on, do not relieve from the penalty payment.
- 3.3 In the case where Supplier foresees any difficulties which might prevent it from rendering its Services on time or from delivering the quantities and the qualities agreed upon, Supplier shall immediately inform maxon in writing about this, setting out the reasons, the time period and the measures for removing these difficulties.
- 3.4 maxon is not obliged to accept any early and/or any incomplete Services.
- 3.5 Unless proven otherwise, the quantities, weights and measurements determined by maxon shall be binding.
- 4. Resources (Tools, Equipments, Models, etc.) and Provided Material**
- 4.1 Any resources (such as tools, equipments, models, drawings, samples, gauges, etc.) provided by maxon shall not become the property of Supplier; these resources shall in no case be used for any third parties.
- 4.2 Supplier shall treat any resources provided by maxon with utmost care. Supplier shall, at its own expense, store and maintain the resources in such a way that the resources are always operational as if in new condition, insure the resources against any possible damages and, at maxon's first request, transport the resources to any place determined by maxon and to hand over the resources at such place to maxon or to any third party determined by maxon without reservation, free of defects and in a fully functional condition. The transport costs will need to be agreed between the Parties.
- 4.3 To the extent maxon pays Supplier for the resources, Supplier shall transfer ownership of these resources to maxon. The transfer shall be replaced by a loan for use (*Leihverhältnis*) between the Parties which herewith is agreed between the Parties and on the basis of which Supplier shall be entitled to have possession of the resources until revoked by maxon. Supplier has no right of retention with respect to any resources which are the property of maxon.
- 4.4 Any provided materials shall remain the property of maxon. Any property, patents, copyrights, trademarks, designs, topographies and any other industrial and other property rights in any and all materials and documents which maxon themselves or, based on maxon's direct or indirect initiative, any third party submits to Supplier shall continue to be the property of maxon. Supplier shall mark them as property of maxon and shall store, label and manage them separately. They shall exclusively be used for the purpose of fulfilling the agreement and to the benefit of maxon. In the case of any depreciation in value or in the case of loss, Supplier shall compensate maxon.
- 4.5 After any and all Services have been rendered, maxon can dispose of the resources (tools, equipments, models, etc.) and the provided materials at will.
- 4.6 maxon grants no warranty whatsoever and assumes no liability with respect to any and all resources provided by maxon to Supplier.
- 5. Transport / Packaging**
- 5.1 Deliveries shall be made "Delivered Duty Paid" (DDP according to the 2010 Incoterms). Supplier is obliged to render its Services fully, faultless and on time at any place agreed by the Parties and at the agreed price. Supplier is exclusively responsible for the timely organisation and supply of any required specialist staff, tools (for example forklifts, cranes), materials, etc.
- 5.2 Supplier shall be responsible for professional packaging of the products. In addition, Supplier shall choose packaging, labelling and marking which ensures compliance with any and all legal requirements applicable at the place of performance and with any instructions given by maxon. The packaging must be environment-friendly and constructed in such a way that it can be unloaded without delay by forklift or cranes. The delivered goods must be professionally protected from damage and moisture.
- 5.3 Supplier is obliged to comply with any customs obligations, origin regulations as well as with any export control provisions according to applicable national and international law and to provide maxon with any documents and information required in this respect.
- 6. Service and Audit**
- 6.1 The Service shall provide for the highest level of operational safety possible. Designs shall be made under consideration of state-of-the-art technology. In addition, the design should be such that revisions and repairs are minimal and can be executed very quickly.
- 6.2 If software is part of the Services rendered, besides the right to use the software (including its documentation) according to applicable law, maxon has also the right to use the software (including its documentation) in line with the agreed features and to the extent necessary for making contractual use of the rendered Services. Any licence fees shall be paid by Supplier. maxon shall have the right to make backup copies.
- 6.3 To the extent maxon remunerates Supplier for any development Services by one-time payment, allocation to the unit price or in any other way and if in connection with such development for and delivery to maxon Supplier generates new copyright and related rights (*urheberrechtlich*) protected results (for example drafts, drawings, sketches, layouts, blueprints, plans, construction data, information), Supplier shall grant and hereby grants maxon a non-exclusive, irrevocable, transferable and with regard to time, place and content unlimited right, to use, change, process and distribute the respective results in any way free of charge.
- 6.4 Without prior written approval of maxon, Supplier shall have no right whatsoever to make any changes to the Services, the production location or factors influencing the characteristic features of the Services.

- 6.5 Supplier shall immediately inform maxon in writing about any possibilities for improvements and technical changes. Should Supplier have any concerns regarding the performance requested by maxon, Supplier shall immediately notify maxon about its concerns in writing.
- 6.6 Upon maxon's first request, Supplier shall grant maxon access to Supplier's premises within and during a reasonable period of time. Supplier shall allow maxon to take any and all measures which are required for verifying whether Supplier complies with any and all requirements provided for by law, by these General Terms and Conditions of Procurement and by any other contractual agreements between the Parties.
- 7. Warranty / Breach of Contract**
- 7.1 Supplier warrants (a) that from delivery to the end of the warranty period its Service corresponds to the agreed specifications and is free from any material defects and defects in title, (b) that the Service does not violate any third-party rights (copyrights, patents, trademarks, utility models, etc.), (c) that the Service will be rendered in a professional manner in compliance with the drawings by making use of the best, appropriate and new materials, (d) that the Service will be appropriately and suitably designed and assembled without any defects, (e) that state-of-the-art technology is considered and (f) that the Service, in every aspect, complies with any and all applicable statutory provisions as well as with any and all relevant special and security regulations applicable at the place of performance at the time of use, (g) that the Service (irrespective of the place of performance) complies with the standards of REACH, ROHS and regarding conflict minerals (e.g. Dodd-Frank Act). By entering into respective agreements, Supplier shall ensure that also its subcontractors fulfil this warranty.
- 7.2 Acceptance of the Service shall be subject to inspection for defects. maxon is not obliged to perform any receiving inspections and/or suitability tests. Supplier waives its right to object to a delayed inspection and a delayed notification of defects.
- 7.3 In case of any violations of this warranty or in case of any other non- or faulty performance of the agreement, Supplier shall compensate maxon for any direct or indirect damage. Supplier shall be liable for any damage. In addition to damages – and without prejudice to any additional statutory and contractual claims of maxon – it is in maxon's discretion to make use of any of the following rights: (a) replacement, (b) remedy, (c) price reduction, (d) rectification of defects at the expense of Supplier and (e) procurement of replacement elsewhere at the expense of Supplier. The options referred to in the previous sentence shall be reactivated in case Supplier does not fulfil the right exercised by maxon within the time period set by maxon.
- 7.4 In case any third parties assert claims against maxon, upon maxon's first request, Supplier shall hold maxon harmless from any and all claims if and to the extent any Service rendered by Supplier may be causal for the claimed damage.
- 7.5 Supplier shall be liable for any actions committed by its employees and any other vicarious agents (*Erfüllungsgehilfen*) as if these actions were committed by Supplier itself.
- 7.6 The duration of the warranty period shall be 24 months after receipt of the Service (e.g. receipt of the product) by maxon. Regarding replacement and remedy, the warranty period shall be 24 months after replacement or remedy of the Service.
- 8. Invoicing / Conditions**
- 8.1 Supplier shall send invoices to maxon by e-mail (finance-swiss@maxonmotor.com) or as hard copies (letter). Subject to any special instructions given by maxon, any invoice documents must include exact information regarding the order number, the order item, the number of pieces, the maxon item number, the marking of goods and the country of origin. Any invoices not complying with these requirements shall not become due.
- 8.2 Invoices meeting maxon's requirements and instructions shall become due 60 days after maxon accepted the Service. When delivering products, the term of 60 days shall commence after receipt of non-defective goods at the place of performance. For any other Services, the payment term of 60 days shall commence after maxon signed an acceptance report without any reservations. In case the payment is effected within a period of 30 days after acceptance of the Service, maxon shall have the right to deduct a discount of 2%. maxon reserves the right to set off against counterclaims. The payment deadline is met if maxon places a respective payment order within that deadline. Without formal written reminder, maxon is not in default.
- 8.3 Supplier shall submit the respective invoices separately and shall not attach them to the Services rendered. Invoicing by Supplier shall be free of charge and VAT-compliant.
- 8.4 Any payments made are subject to verification of the invoice. Unconditional payment of the invoice does not constitute an acceptance by maxon of the Service as contractually compliant.
- 8.5 In case of noncontractual performance of the Service, maxon shall have the right – without prejudice to any additional statutory and contractual claims of maxon – to retain any payments.
- 9. Performance in Person, Assignment and Set-Off, All-Time Demand**
- 9.1 Supplier shall have no right to have third parties render the Service owed by Supplier.
- 9.2 With regard to maxon and any of maxon's associated companies, Supplier shall have no right of set-off. Supplier shall have no right to assign its claims against maxon to any third parties and to have third parties collect such claims from maxon.
- 9.3 In case Supplier intends to totally or partially stop performance of the Services rendered to maxon, Supplier shall inform maxon in writing at least 12 months in advance and grant maxon the opportunity to procure its all-time demand. With regard to electronic products, Supplier shall inform maxon in writing, allowing a minimum of 6 months from the notice to place final orders, and 12 months from the notice for final shipments. To avoid any misunderstandings: This provision does not grant Supplier any right to stop performance of any contractually promised Services.
- 10. Place of Performance**
- The place of performance for any and all Services shall be the destination determined by maxon. If no destination has been determined by maxon, the place of performance shall be the registered office of maxon.
- 11. "Maxon Supplier Code of Conduct (CoC)"**
- Supplier confirms receipt of the "Maxon Supplier Code of Conduct (CoC)" and will comply with its provisions. Supplier shall subject any third parties supporting Supplier in performance of the agreement (for example component suppliers and their subcontractors) to the "Maxon Supplier Code of Conduct (CoC)" as well and shall conduct inspections in this respect. In case Supplier, one of its associates (*Hilfspersonen*) or one of the third parties supporting Supplier in performance of the agreement violates the "Maxon Supplier Code of Conduct (CoC)", maxon can at its discretion – at no costs and without prejudice to any additional statutory and contractual claims of maxon – with immediate effect either totally or partially withdraw from the agreement or totally or partially terminate the agreement.
- 12. Severability Clause**
- If individual provisions of these General Terms and Conditions of Procurement finally prove to be legally void or unenforceable for legal reasons, the validity of the rest of these General Terms and Conditions of Procurement shall not be affected. In such a case the Parties shall reach an agreement which replaces the provision in question by such effective provision which in economic terms is equivalent to the original provision as far as possible and they shall submit to such provision.
- 13. Applicable Law and Place of Jurisdiction**
- 13.1 All agreements between the Parties shall be governed by Swiss law, without any reference to the conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 13.2 For the resolution of all disputes under or relating to this agreement, the Parties shall submit to the jurisdiction of the courts having jurisdiction for Zurich / Switzerland. In addition, maxon shall have the right to bring an action against Supplier before the competent court at Supplier's registered office or at any of Supplier's branch offices or at the place of performance.
- 13.3 During any legal disputes under or relating to this agreement, Supplier shall have no right to interrupt performance of its Services or to cease from meeting any of its contractual obligations.