

Megapack Maintenance Agreement

Thanks for ordering maintenance services for your Megapack. This Agreement describes the scope of Tesla’s maintenance services, and the terms you are agreeing to as part of this purchase.

1. **Maintenance Order.** Your order means you have agreed to let Tesla maintain your Megapack system (“Your Megapack System”). Tesla will perform this maintenance from time to time after Your Megapack System’s installation and testing has been completed (the “Start Date”).
2. **Price.** The price for the maintenance on Your Megapack System on an annual basis (not including taxes) is listed in your order as the “Annual Price”. Every year, your Annual Price will increase by 2%.
3. **Order Payment.** You agree to pay the Annual Price plus applicable taxes on an annual basis within 30 days after you receive Tesla’s invoice.
4. **Term; Termination.** Tesla will perform maintenance in accordance with this Agreement for 15 years following the Start Date. You may cancel this Agreement at any time, and if you cancel you will owe us for all maintenance we’ve performed.
5. **Tesla’s Scope of Maintenance.** Tesla will perform the following maintenance (at the frequency listed below) on Your Megapack System at the location stated in your order (the “Site”).

Frequency:	Maintenance Services:
<u>Annual Maintenance:</u>	Torque checks within the System, calibration checks, visual inspection (rodents, etc.)
	Harness inspection or replacement in kind if damaged (protective sleeve failure, rodents, etc.)
	Enclosure integrity – touch up paint and gasket inspection or replacement in kind if damaged
	Cabinet cleaning
	Cabinet ventilation system inspection – radiator area cleaning
	Coolant level check
	Battery and meter communications check
<u>Once every 10 Years:</u>	Megapack coolant refill
	Megapack fan replacement
	Megapack pump replacement
	Megapack door gasket replacement

6. **Scheduling.** We will perform the maintenance remotely or in person. We will coordinate with you when we need to perform in-person maintenance at the Site. Tesla will perform the maintenance ourselves or through a subcontractor according to our standard practices. You agree to give Tesla and our subcontractors access to the Site and to Your Megapack System so we can perform maintenance.
7. **Failure to Perform.** If you think Tesla isn’t meeting its obligations, then you have to notify us in writing about it. Similarly, Tesla will notify you in writing if we think you aren’t satisfying your obligations. Whoever is notified of not satisfying its obligations will have 30 days after receiving that notice to correct the issue. If not, whoever gave the notice can terminate this Agreement.
 - In addition, if Tesla notifies you that you have failed to pay the Annual Price, Tesla can suspend our work.
 - If we terminate this Agreement for your failure to perform, we can keep whatever Annual Price payment(s) you have made.
8. **Maintenance Warranty.** Tesla promises that (i) our maintenance workmanship will be free from defects for two years from the date the maintenance is performed, and (ii) we will not damage the Site. If you notify us that we have broken any of these promises, we will repair the defective work or damage (or have someone repair it) at our cost, which will be your only remedy. Tesla’s warranties do not cover any defect or damage caused by events beyond our reasonable control or by your misuse or negligence. You understand and agree that Tesla is not providing any other warranties in connection with this Agreement even if those other warranties are express or implied by any law.
9. **Confidentiality.** You agree to keep this Agreement confidential, as well as any non-public, confidential or proprietary information or documentation provided to you by Tesla in connection with this Agreement, including Tesla specifications, manuals, and similar documents. You also agree not to advertise or issue any public announcement about this Agreement or use our mark, name or logo in any marketing literature, web sites, articles, press releases (including interviews with representatives of media organizations of any form), or any other document or electronic communication, without Tesla’s written consent.

10. Limitation of Liability. You agree that each of your and Tesla's total liability in each year for all damages of any kind arising out of this Agreement will not exceed the Annual Price. You also agree that neither you or Tesla is liable for any incidental, special or consequential damages arising out of this Agreement.
11. Compliance with Law; Governing Law; Arbitration. We both agree to comply with all applicable laws and regulations in connection with this Agreement. This Agreement is governed by the laws of the State of California. Neither of us is bound by any terms relating to Your Megapack System that are not contained in this Agreement. We both also agree to promptly notify the other's senior level management if there is any dispute arises from or relates to this Agreement and to try to resolve the dispute in good faith. If we are unable to resolve a dispute within 20 days after that notice is given, then either of us can take the dispute to arbitration through Judicial Arbitration and Mediation Services ("JAMS") according to JAMS Streamlined Arbitration Rules. The existence, content and result of the arbitration will be confidential. The arbitration will be conducted by a single arbitrator in English and in San Francisco, California, unless otherwise agreed by Tesla. We will each bear our own expenses in the arbitration and will share equally the costs of the arbitration, unless the arbitrator assigns costs to one of us.
12. Privacy Policy. Tesla's Customer Privacy Policy is part of this Agreement and can be viewed at www.teslamotors.com/about/legal.
13. Notices. All notices under this Agreement must be in writing and must be sent via email, express and/or certified mail, to the contacts identified in your order.
14. Relationship of Parties; Assignment. This Agreement does not create a joint venture, partnership or agency relationship between us. Each of us can assign this Agreement as collateral in connection with our financing activities.
15. Authority. By submitting your order, you're representing that you have the authority to bind the person or company identified in the order as being the buyer and you agree that Tesla may rely on that representation.