# Terms and conditions of sale and delivery of Plasmatreat Surface Solution GmbH

## I. Applicability

1. These terms and conditions of sale and delivery apply to all business relationships – including in the future – with entrepreneurs within the meaning of Section 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB), legal entities or special funds under public law for deliveries and other performances, including work contracts and the delivery of non-fungible items.
2. Our terms and conditions of sale and delivery apply exclusively. We object to other terms and conditions, – in particular the buyer's purchasing conditions –now and for the future.
3. If, in a specific individual case, different agreements are made with the buyer which are to take precedence over these general terms and conditions of sale and delivery, this shall require a contract or our express written confirmation.

## II. Offer and acceptance

1. Our offers are subject to change and non-binding unless they are expressly designated as binding or specify a specific acceptance period. Orders are only binding for us if and to the extent that we have confirmed them in writing or have begun to fulfil them. Oral agreements, promises and guarantees made/provided in connection with the conclusion of the contract by our employees – excluding executive bodies, authorised signatories and general agents – only become binding when we confirm them in writing. Any waiver of this written form requirement must also be in writing.
2. Additional clauses to the description of the goods such as "approximately", "as already delivered", "as before" or similar notes in our offers refer exclusively to the quality or quantity of the goods, not to the price. We shall understand such information in the buyer's orders accordingly.
3. Our quantity information is approximate. In the case of delivery in demountable or permanently attached tanks as well as in silo vehicles, deviations of +/- 10% of the agreed quantity shall be considered to be in accordance with the contract. Information about an approximate quantity entitles us to make a corresponding excess/short delivery. Such quantity deviations shall reduce/increase the agreed purchase price accordingly.

## III. Purchase price and payment

1. Our prices are subject to the addition of statutory VAT and packaging, and in the case of export deliveries also subject to the addition of customs duty, as well as fees and other public charges, particularly taking into account the respective place of delivery. They are calculated based on the quantities or weights determined by us or our supplier, unless the recipient determines them using calibrated scales and the goods were transported at our risk, in which case their determinations shall be decisive for the price calculation.
2. The purchase price shall be due net cash upon delivery of the goods, unless otherwise agreed in writing.
3. If the due date is exceeded, we may charge interest in the amount of 5 percentage points.
4. In the event of default, we shall charge default interest in the amount of 9 percentage points above the base interest rate and an additional flat rate of EUR 40.00. We reserve the right to claim further losses.
5. Bills of exchange and cheques shall only be accepted on account of performance and if an appropriate agreement has been made. Standard bank charges for payment transactions shall be borne by the buyer.
6. The buyer shall only have a right of retention and set off to the extent that its counterclaims are undisputed or legally established, are based on the same contractual relationship with us or would entitle it to refuse its performance in accordance with Section 320 BGB.

7. If, after the conclusion of the contract, it becomes apparent that our claim for payment is 2eopardized by the buyer's lack of ability to pay or if other circumstances arise that indicate a significant deterioration of its ability to pay, we will be able to exercise the rights under Section 321 BGB. This also applies insofar as our performance obligation is not yet due. In such cases, we will also be able to declare all claims from the current business relationship with the buyer that have not yet expired to be due for payment. The buyer shall also be deemed to be lacking ability to pay if it is in arrears with a significant amount for at least three weeks, as well as if the existing limit for it in our trade credit insurance is significantly reduced.

## IV. Delivery, delay and impossibility

1. The agreed delivery periods and dates are always deemed approximate unless a fixed deadline has been expressly agreed as such in writing. If we delay in making delivery, the limitation of liability referred to in Section 9 shall apply.
2. We are entitled to make partial deliveries to a reasonable extent. We are also entitled to exceed or fall short of the agreed delivery quantities within the meaning of Section 2c.
3. For deliveries that do not come from our premises (drop shipments), the delivery date and period shall be deemed adhered to if the goods leave the delivery point early enough to ensure that the delivery reaches the recipient on time given the usual transport time.
4. We are not liable for impossibility of delivery or for delays in delivery if they are caused by events of force majeure or other events for which we are not responsible that are not foreseeable at the time the contract was concluded (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, epidemics affecting our supply chain, shortages of labour, energy or raw materials, difficulties in obtaining necessary official permits, official measures). If such events make delivery or performance significantly more difficult or impossible for us and the hindrance is not only of a temporary nature, we shall be entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery or performance periods shall be extended or the delivery or performance deadlines shall be postponed by the period of the hindrance plus a reasonable start-up period. If the buyer cannot be reasonably expected to accept the delivery or performance as a result of the delay, it may withdraw from the contract by way of an immediate written declaration.
5. We are not liable for impossibility or delay in fulfilling delivery obligations if and to the extent that the impossibility or delay is due to circumstances caused by the buyer, in particular if it fails to comply with its public law obligations, e.g. in connection with European Regulation (EC) No. 1907/2006 (REACH Regulation) or other legally binding obligations to submit an end-use declaration, in the currently valid version.
6. Our delivery obligation is subject to correct and timely delivery by our suppliers, unless we are responsible for the incorrect or late delivery.

## V. Shipping and acceptance

1. Delivery shall be made in accordance with the trade clause set out in the individual contract, for the interpretation of which INCOTERMS (the version valid upon the conclusion of the contract) apply. Unless otherwise agreed, our deliveries are made ex works. The risks of transport from the delivery point are always borne by the buyer, even in the case of carriage-free or free-of-charge deliveries.
2. If the buyer collects the goods from the delivery point, it or its representative must load the vehicle and comply with the legal regulations, in particular with regard to the transport of dangerous goods.
3. The buyer is always responsible for unloading and storing the goods.
4. In the case of deliveries in tank vehicles and demountable tanks, the buyer must ensure that its tanks or other storage containers are in flawless technical condition, independently arrange for the filling lines to be connected to its receiving system and, if necessary, obligate the recipient accordingly. Our obligation is limited to operating the

vehicle's own equipment.

5. If our employees assist with unloading or emptying in the cases referred to in paragraphs b) to d), they act at the buyer's sole risk and not as our vicarious agents. Costs due to standing and waiting times shall be borne by the buyer.
6. Storage costs after the transfer of risk and in the event of default in acceptance shall be borne by the buyer. After the lapse of a reasonable time limit ineffectively set for the buyer to accept the goods, we will able to dispose of goods which cannot be used or resold at the buyer's expense if, according to our reasonable judgement, storage of the goods is not feasible or reasonable due to their nature or quality/characteristics.

## VI. Packaging

1. We fulfill our obligations of product responsibility in accordance with the Packaging Act and provide information about the relevance of environmentally friendly disposal of packaging materials. Unless otherwise specified in the individual contract, the customer is obliged to dispose of the packaging materials used by us in an environmentally friendly and properly at its own expense and responsibility. This also applies to the disposal of sales packaging for goods containing hazardous substances. If a return to a central collection point is or becomes necessary, the customer must carry out the return at his own expense and responsibility.
2. If we deliver in loaned packaging, within 30 days of receipt by the buyer at the latest it must be returned to us by the buyer empty and in flawless condition at the buyer's expense and risk, or if necessary, returned to our vehicle free of charge against confirmation of receipt. The terms and conditions of the Deposit Money Association of the Chemical Trade for Reusable Chemical Packaging remain unaffected by this.
3. If the buyer fails to comply with the obligation referred to in item a) within the deadline, we shall be entitled to charge a reasonable fee for the period exceeding 30 days and, after ineffectively setting a time limit for return, to demand the replacement price, crediting the aforementioned fee.
4. Labels attached to packaging may not be removed. Loaned packaging may not be exchanged or refilled. The buyer bears the risk of value depreciation, exchange and loss of goods. The determinations made upon receipt at our company shall be decisive. Use of loaned packaging as a storage container or its transfer to third parties is not permitted unless it is agreed in writing in advance.
5. The buyer is responsible for emptying tank wagons immediately and returning them to us or to the address provided in a proper condition. If the buyer is late in returning them, the tank wagon costs caused by the delay shall be borne by the buyer.

## VII. Retention of title

1. The ownership title to the goods (reserved goods) only transfers to the buyer once the purchase price has been paid in full. All delivered goods remain our property (reserved goods) until all claims have been settled, in particular the respective balance claims to which we are entitled within the scope of the business relationship (balance reservation). This also applies if payments are made for specifically designated claims. The balance reservation shall expire definitively upon settlement of all claims still outstanding at the time of payment and covered by this balance reservation. In the case of advance payment or cash transactions within the meaning of Section 142 of the Insolvency Code (Insolvenzordnung – InsO), only the simple retention of title in accordance with sentence 1 applies. The balance reservation does not apply in that case.
2. As long as the buyer properly fulfils its obligations towards us, it shall be authorised to further utilise the reserved goods in the normal course of business, on the condition that its claims from the resale are transferred to us in accordance with item e).
3. If the buyer fails to meet its payment obligations even after an additional time limit has been set, we shall be entitled to demand the return of the reserved goods without setting an additional time limit and without declaring

rescission. For the purpose of taking them back, we shall be entitled, if necessary, to enter the buyer's premises.

4. Any processing or treatment of the reserved goods shall be carried out on our behalf, without giving rise to any obligation for is.
5. We are considered the manufacturer within the meaning of Section 950 BGB and acquire ownership of the intermediate and final products in the ratio of the invoice value of our reserved goods to the invoice value of third-party goods. To that extent, the buyer shall hold them in trust for us free of charge. The same applies to the combination or blending of reserved goods with third-party goods within the meaning of Sections 947 and 948 BGB.
6. The buyer hereby assigns to us, to secure all of our claims, any claims against third parties arising from the resale of reserved goods. For the event that the buyer sells goods to which we hold a pro rata ownership title in accordance with item d), it assigns to us the claims against the third parties for the corresponding partial amount. For the event that the buyer utilises the reserved goods within the framework of a work contract or similar contract, it assigns the corresponding claim to us.
7. In the normal course of business the buyer is authorised to collect the claims arising from further utilisation of the reserved goods. If we become aware of circumstances that indicate a significant deterioration in the buyer's financial situation, at our request the buyer must inform its customers of the assignment, refrain from any disposal of the claims, provide us with all necessary information about the inventory of the goods owned by us and the claims assigned to us and hand over the documents necessary for asserting the assigned claims. Any interventions by third parties with respect to reserved goods and the assigned claims must be reported to us immediately.
8. If the value of the securities to which we are entitled exceeds the total claim against the buyer by more than 50%, we shall be obliged to release securities of our choice at the buyer’s request.

## VIII. Liability for material defects

1. The internal and external properties of the goods required of us are determined according to the agreed specifications, in the absence thereof by our product descriptions, labels and specifications, and in the absence thereof by practice and commercial custom. References to standards and similar regulations, information in safety data sheets, information on the usability of the goods and statements in advertising materials, declarations of conformity, analysis certificates, test certificates or similar declarations do not constitute warranties or guarantees. In particular, relevant identified uses according to the REACH Regulation (EC) No. 1907/2006 do not represent an agreement of a corresponding contractual quality or a use stipulated in the contract.
2. We only accept liability for the fitness of the goods for the use stipulated in the contract if and to the extent that we have expressly confirmed the fitness of the goods for that use in writing. Insofar as we have to make a delivery promise for certain products dependent on the intended use, the customer shall be liable for any disadvantages that arise for us as a result of incorrect information. In the case of poisons and other substances that may only be used within the limits laid down by legal or official regulations, the customer's order is also considered a declaration that those substances are to be used for a permitted purpose in the above sense. You must observe the legal regulations when handling and using the substances, mixtures and products that you purchase from us. Chemicals may not be supplied to private individuals. Insofar as the goods have the agreed quality/characteristics in accordance with Section 8a or are fit for the use stipulated in the contract and confirmed by us in writing, the buyer cannot claim that the goods are not fit for normal use or do not exhibit quality/characteristics being usual for items of this type and that the buyer expected. If we advise the buyer orally, in writing or through tests, this is done according to the best of our knowledge but without giving rise to any liability for us, and does not release the buyer from the obligation to check the delivered goods itself for their fitness for the intended processes and purposes.
3. The application, use and processing of the goods shall take place outside of our sphere of control and is therefore solely the responsibility of the customer. If a product is provided with specific instructions for use by us, they must be strictly adhered to. We expressly exclude any liability for improper use.

4. The statutory provisions, such as Section 377 of the German Commercial Code (Handelsgesetzbuch - HGB), apply to the inspection of the goods and notification of defects, with the proviso that the buyer must notify us of any defects in the goods in writing. If the goods are delivered in packages, the buyer must also check the labelling of each individual package to ensure that it corresponds to the order. In addition, before discharging it must ensure that the quality/characteristics of the goods conform with the contract by taking samples in accordance with standard commercial practice.
5. If a legitimate and timely complaint concerning defects is submitted, according to our choice we may remedy the defect or deliver defect-free goods (subsequent performance). If the subsequent performance fails or is refused, the buyer is entitled to the statutory rights. If the defect is not significant and/or the goods have already been sold, processed or modified, it shall only be entitled to a price reduction.
6. Further claims, in particular for consequential losses, are excluded in accordance with Section 9.

## IX. General limitation of liability and time limitation of claims

1. We shall only be liable for breach of contractual and non-contractual obligations, in particular due to impossibility, delay, fault in the initiation of the contract and impermissible acts – including for our managerial employees and other vicarious agents—in cases of wilful misconduct or gross negligence. In the absence of wilful misconduct, our liability for compensation for losses shall be limited to the losses under a typical contract foreseeable at the time the contract was concluded. In all other respects, our liability is excluded, including for consequential losses and lost profits.
2. The limitations provided for in Section 9a) do not apply in the case of wilful misconduct or a culpable breach of key contractual obligations. Key contractual obligations include the obligation to deliver on time and the freedom of the goods from defects that impair their functionality or usability more than insignificantly, as well as the duty to provide advice, protection and care in order to protect the buyer or its staff from significant damage. Furthermore, the limitations do not apply in cases of mandatory liability, e.g. under the German Product Liability Act (Produkthaftungsgesetz - ProdhaftG), or in the event of injury to life, limb or health or if and insofar as we have fraudulently concealed defects in the item or guaranteed their absence. The rules on the burden of proof remain unaffected.
3. The buyer's rights of recourse under Section 478 BGB remain unaffected in any event.
4. If we are in default with a delivery or other performance, the buyer can demand compensation for the losses caused by the delay in addition to the performance. In the case of minor negligence, however, it shall be limited to a maximum of 10% of the agreed price for the performance in default. The buyer's right to compensation for losses instead of the performance in accordance with this Section 9 remains unaffected.
5. The limitations under Section 4d) and Section 4e) apply to liability in the event of impossibility of delivery or delays in delivery.
6. Unless otherwise agreed, contractual claims that arise for the buyer against us due to and in connection with the delivery of the goods and our other performances shall expire one year after delivery of the goods. This does not affect the statutory limitation period for our liability arising from intentional or grossly negligent breaches of duty, culpable damage to life, limb and health and mandatory liability, e.g. under the Product Liability Act.

## X. REACH

If the buyer informs us of a use in accordance with Article 37(2) of Regulation (EC) No. 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation) which requires an update of the registration or the chemical safety report or which triggers another obligation under the REACH Regulation, it shall bear all verifiable expenses. We are not liable for delivery delays that arise from the notification of that use and the fulfilment of the corresponding obligations under the REACH

Regulation by us. If it is not possible to include this use as an identified use for reasons of health or environmental protection and if the buyer, contrary to our advice, intends to use the goods in a way that we have advised against, we may withdraw from the contract. The buyer cannot derive any rights against us from the above rules.

## XI. Export and Import Regulations

1. The Customer acknowledges that the goods supplied by Plasmatreat Surface Solution GmbH may be subject to export and/or import regulations, and undertakes to comply with these.
2. Without prior official authorisation, the customer must not supply the products, either directly or indirectly, to countries subject to a US embargo, nor to natural or legal persons from such countries, nor to persons or companies appearing on US sanctions or prohibition lists.
3. Deliveries and services are subject to the proviso that their provision is not precluded by any national or international regulations, in particular export control regulations, embargoes or other restrictions. The contracting parties undertake to provide all information and documents required for export, transit or import. Delays resulting from export checks or authorisation procedures shall extend deadlines and delivery times accordingly. If the necessary authorisations are not granted, the contract shall be deemed not to have been concluded in respect of the parts concerned; claims for damages arising from the non-granting of such authorisations or from corresponding delays are excluded.

## XII. No Re-Export to Russia or Belarus

1. The Buyer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.
2. The Buyer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.
3. The Buyer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).
4. Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of this Agreement, and the Seller shall be entitled to seek appropriate remedies, including, but not limited to:
    - (i) termination of this Agreement; and
    - (ii) a penalty of the total value oft he goods delivered.
5. The Buyer shall immediately inform the Seller about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The Buyer shall make available to the Seller information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information."

## XIII. Place of jurisdiction, applicable law, severability clause

1. The exclusive place of jurisdiction for all disputes arising from the business relationship between us and the buyer is the location of our head office. However, we may also take legal action against the buyer at the location of its registered office. Mandatory statutory provisions on exclusive places of jurisdiction remain unaffected by this regulation.
2. The laws of the Federal Republic of Germany apply, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980, in the currently applicable version.
3. Should any of the above clauses be or become ineffective, the ineffective provisions shall be replaced by provisions that come closest to the economic purpose of the contract while adequately safeguarding the interests of both parties.

## XIV. Data protection

The data protection information on our website applies.