

## General Terms of Business Plasmatreat GmbH

### § 1 General Provisions

1. All deliveries, services and quotations are based on these terms even if they are not expressly referred to in negotiations. Our terms of business shall apply to all future business dealings even if they are not specifically agreed upon. Upon acceptance of our deliveries these terms shall be regarded as agreed.
2. Adverse or diverging customer's terms shall apply only after we have accepted them explicitly and in writing.

### § 2 Quotations

1. Our employees are neither authorized to enter into any oral ancillary agreements nor to make commitments which go beyond the contents of the written contract.
2. Ancillary agreements are valid only if they have been confirmed in writing.
3. Specifications of delivery times are approximate and do not bind us unless a specific delivery date has been guaranteed.
4. Save an agreement to the contrary, drawings, lists, models, plans and computer software remain our property. They may not be made available to third parties without our prior consent.

### § 3 Prices

1. Our prices are exclusive of V.A.T. ex works without installation or assembly and do not include packaging. The costs of any transport insurance or similar insurance have to be borne by the customer unless otherwise. In case of partial deliveries every delivery may be invoiced separately.
2. If prices have not been agreed upon conclusion of the contract, we will charge the prices valid at the date of delivery.

### § 4 Conditions of Payment

1. Payments have to be made at the place of payment cost-free for us.
2. Unless otherwise stated in the order confirmation ( in the alternative the invoice), deductions on the sales price are not admissible.
3. All our claims become due immediately if the customer does not meet the agreed conditions of payment, if he is in default or if circumstances arise which are suited to impair to the customer's creditworthiness.
4. The set-off by counterclaims by the customer is admissible only in so far as the counterclaims are based on the same contract.
5. The customer may assert a retention right only if his claims are based on the same contract.
6. We are not obliged to accept payment by bills and checks. Credit entries are subject to final payment (payment on account of performance, not in discharge of an obligation), with effect from the day we are able to dispose of the value.

### § 5 Delivery Time, Impediments of Delivery

1. The delivery period begins upon dispatch of the order confirmation, however not before the customer has furnished us with all documents, consents, releases and components and only after we have received an agreed advance payment. Another precondition is an understanding about all technical questions. Any specific resource assembly and component instructions have to be stated in the order. Specifications given at a later stage may cause delays in delivery and higher costs which will not be attributable to us.
2. The delivery period is met if the goods have been dispatched or if we have notified the customer of readiness for dispatch.
3. If we are prevented from full performance of our duties because of unforeseeable and exceptional circumstances, which we could not have prevented by reasonable care regardless of whether these circumstances have occurred in our works or at subcontractor – like force majeure (war and catastrophes) a delay in the supply of raw material, etc. – we are entitled to rescind the contract wholly or in part or prolong the delivery period to the extent of the duration of the obstruction. The same shall apply in case of strike or lock-out in our works or at our supplier's factory. We will inform the customer about these obstructions immediately.

### § 6 Passing of Risk

1. Even if a freight paid delivery has been agreed with the customer, risk shall pass after the goods are ready for dispatch or have been collected. This applies, however, only if no installation or assembly has been agreed. We will arrange for a diligent packaging. Packaging will be made with our best diligence. Shipment will be made according to our best discretion. Upon request of the customer and at his costs the delivery will be insured against damages from breakage, transport and fire.
2. The customer is obliged to accept the goods even if they have minor defects. His claims resulting from defects remain unaffected. Partial deliveries are admissible insofar as they are reasonable for the customer.

### **§ 7 Installation and Assembly**

The following provisions shall apply to any kind of installation and assembly unless otherwise agreed in writing:

- a) Customer shall at its own costs arrange for timely:
  1. handymen and if necessary electricians, metalworkers and any other qualified staff with the requisite tools in the necessary number.
  2. completion of all ancillary works foreign to our trade including the necessary parts.
  3. protective clothing and any other protective measures necessary as a consequence of specific circumstances of the place of assembly which are foreign to our trade.
- b) Preceding installation or assembly all parts required for a start of the works have to be available and the preliminary works must be completed so that our staff can start working upon arrival.
- c) If the installation, assembly or commissioning is delayed by circumstances not attributable to us, the customer has to pay for the costs caused including any travelling expenses of the staff.
- d) The customer is further obliged to give a written certificate to our staff regarding the conclusion of the installation or assembly immediately.
- e) We are not liable for the labour of our assembly personell and any other third persons if the work is not connected with the delivery, the installation or assembly or if it has been carried out upon request of the customer.

If the Installation or assembly is invoiced separately, the following provisions shall apply:

1. Upon placing of the order the customer will pay the agreed amounts for working time and surcharges for additional work, work during nights and Sundays and holidays, for works under aggravating conditions and for the planning and controlling.
2. Furthermore, the following costs will be charged additionally:
  - a) travelling expenses, costs of transport of tools and baggage
  - b) daily allowances for the working hours, for holidays and days of rest.

### **§ 8 Reservation of Title**

1. The delivered goods remain our property until the full payment of the agreed price. This is the case for all claims resulting from the business connection and all future claims and remains the case until cheques have been cashed. If a current account exists between the customer and us the reservation of title provides security for the balance.
2. If the customer pays by cheque and for this we issue him a financing of finance, our reservation of title does not expire until we can no longer bring a claim on the basis of the bill.
3. The resale of goods by the customer is permitted if this occurs in the course of ordinary business dealings. The customer transfers to us his claims arising from the resale of the reserved goods, in particular the claim to payment from the purchase. We accept this assignment. Upon our request the customer has to inform his debtors about the assignment. The customer has to inform us of the claims and identities of his debtors.
4. The customer is entitled to collect claims which result from the resale. On default of payment or as soon as we become aware of circumstances which, according to accepted business practices, would diminish the creditworthiness of customers, we are entitled to withdraw this right.
5. The alteration and use of the reserved goods are carried out for us, being producers under § 950 BGB. If the reserved goods are worked into another product not being ours or mixed with such a product, we will acquire such title to this new product as is in proportion to the net worth of our goods as against the net worth of the charged product at the time of the process or mixing.

6. The chattel mortgaging of goods which remain our property is not permitted. In the case of third party interest in the reserved goods, particularly access as regards seizure, the customer must point out our enduring title to the goods. Such a situation must also be brought to our attention without delay by the transfer of a copy of a record of the seizure.
7. If the customer acts contrary to the terms of the contract we are entitled to rescind and demand return of the delivered goods.
8. If the realizable value of the conceded securities exceeds our claims by more than 20 per cent we are obliged, on the customer's demand, to either reassign or release the securities. We retain a free choice between these options.

#### **§ 9 Customer's Rights in the Event of Faults**

1. We hereby transfer our available claims against the outside suppliers of essential products to the customer. The customer may only hold us liable for the faults of these parties when a court action is brought against the third party without success. If the third party supplier has its headquarters abroad the failure of an out of court action will suffice.  
The customer is obliged to inform us of actions against our suppliers and, on our request, should keep us informed of related matters.
2. The customer must inform us in writing of all defects. This must be done without delay.
3. In the case of the notification of such defects as would entitle the customer to a claim, we have the right, within a reasonable period of at least 14 days, to remedy these defects or to deliver replacement goods. We have a free choice between these options. If this subsequent performance fails the customer is entitled to withdraw from the contract. This right exists only insofar as the defect in contractual performance is not simply trivial. In addition to the right to withdraw the customer is, at the same time, entitled to claim for damages or expenses.  
The customer's right to remedy the defect himself according to s. 637 BGB (German Civil Code) remains unaffected.  
The claim available in the event of the failure of subsequent performance is separately redeemable against each defect.  
A customer's right to reduction of the purchase price does not exist in the case of trivial defects.
4. On the customer's withdrawal from the contract, the delivered goods must be returned and, notwithstanding other claims, the customer must pay an adequate sum for the period of usage.
5. Customer's claims arising from necessary expenditure incurred in the course of subsequent performance are excluded, particularly transport, labour and material costs. This is the case insofar as the expenditure is increased because the place of delivery required by the customer or a third party is subsequently altered, unless the transfer is according to customary usage of the goods or has been agreed contractually.
6. Customer's claims are subject to a limitation period of 12 months. This is not the case insofar as longer periods are legally stipulated in ss. 438 Abs. 1 Nr. 2, 479 Abs. 1 and 634a Abs. 1 Nr. 2 BGB (German Civil Code), namely for buildings, building materials, claims of recourse, and building defects.

#### **§ 10 Limitations of Liability, Damages**

1. We are not liable for the slightly negligent breach of immaterial contractual duties.
2. Our liability for consequential damages is excluded except in cases of intent, gross negligence, or breach of material contractual duties. Insofar as we are liable for consequential damages, this is only the case for foreseeable damage, and is not applicable for extraordinary damages.
3. Customer's claims arising out of product liability laws or physical damage or damage to health attributable to us, as well as the loss of life of customers or of employees, are not affected.
4. The shortening of the limitation period according to VII. 6. above is not applicable when we have committed gross negligence or in the case of physical damage, damage to health, or loss of life of the customer or employees, which is attributable to us.
5. When limiting or excluding liability the burden of proof for establishing relevant facts lies with us.

#### **§ 11 International Business Dealings**

1. If the customer's registered office is not in Germany or if we are supplying a customer's foreign office the CISG of 11.04.1980 is applicable in addition to these terms. Matters not regulated by the CISG will be determined according to German law.
2. The CISG is modified as follows:
  - a) Liability for delivery of replacement goods according to Art. 46 CISG is only accepted when the non-compliance with the conditions of delivery represents a material breach of contract.
  - b) Early deliveries are possible contrary to Art. 52 CISG.
  - c) If interest is to be paid according to Art. 78 CISG, the rate will be in accordance with the prevailing German interest rate. This amounts to 8 per cent above the base rate according to s 247 BGB (German Civil Code).

#### **§ 12 Place of Performance and Jurisdiction**

1. Place of performance for all obligations arising out of this contractual relation is Bielefeld.
2. Jurisdiction for all disputes resulting from this contractual relation is Bielefeld. This is the case when they involved customers are merchants, legal entities of public law or other assets held under public law. We are, however, free to have recourse to the court which has jurisdiction in the place of the customer's registered office.
3. German law is the sole governing law.

#### **§ 13 Data protection**

We are entitled to store, to transmit, to modify, and to delete customer's personal data. The customer is hereby given notice pursuant to s. 26 BDSG (German Statute regarding the Protection of Data).