

Art. 1 General provisions

In regard to any services provided by O.V.E. Plasmatec GmbH in the field of surface refinement, exclusively the following provisions shall apply. We do not acknowledge any terms and conditions of the purchaser which are in conflict with or deviate from our terms and conditions, even if we do not expressly contradict them. Anything to the contrary shall only apply if we expressly agree to it in writing. The following conditions shall not apply if anything to the contrary has been agreed with the customer in writing.

Art. 2 Quotations and pricing, delivery and collection, quantities and weights as specified at the time of delivery

- (1) We shall remain bound to any quotation submitted by us for 90 days. Our quotations shall be limited to the respective specific order in question. General agreements are to be concluded separately, otherwise the agreements on pricing shall not have any impact upon future orders.
- (2) Prices stated are net prices, and the statutory VAT shall be added to them. Subject to any other arrangement, the customer shall bear any freight and transportation charges, packaging, insurance and customs duties.
- (3) Should nothing to the contrary have been agreed, the customer shall be required to deliver the goods to be treated by us to our factory, and collect them from our factory following treatment, at its own expense.
- (4) The goods to be treated by us are to be delivered to us by the customer complete with a delivery note or order. The number of items and total weight is to be specified exactly on said delivery note or order form. The number of items specified and the gross weights shall, however, not be binding upon us; only a plausibility check will be carried out upon receipt of the goods, in accordance with the number of units received. We will notify the customer of any obvious discrepancies.

Art. 3 Delivery times, delivery periods and delivery dates

- (1) The delivery times specified (delivery deadlines and delivery dates) are only approximate, and only serve informational purposes. We shall, in this case, only be behind schedule with delivery if the customer has sent a formal reminder following expiry of the delivery period specified, establishing a reasonable grace period for completion, in text form (cf. Sec. 126b German Civil Code, in particular in writing, by e-mail or via telefax).
- (2) Anything else shall only apply if the delivery period has expressly been agreed in writing as being binding. Also in this case, our obligation to deliver as contractually agreed, subject to any other arrangement expressly agreed in writing, shall be dependent upon the goods being delivered to us by our supplier in a proper manner and in good time, in regard to which we undertake to keep in stock a sufficient quantity of all materials, including raw materials and supplies, necessary for us to carry out our work, in accordance with the anticipated requirement.
- (3) Force majeure and any events which temporarily prevent us from delivering the goods by the agreed date or within the agreed period, without it being our fault, shall entitle us to postpone delivery or carrying out the work by the duration of the impediment plus a reasonable lead time. We shall inform the customer on any delay that occurs within the meaning of this regulation, without delay.
- (4) Binding delivery periods shall begin to run at the earliest upon our receiving the goods.
- (5) Binding delivery dates shall be postponed to the extent to which delivery by the customer is delayed, unless the delay is our fault.

Art. 4 Passing of risk, shipping

- (1) The risk shall pass to the customer no later than upon collection of the goods, and otherwise upon the expiry of 5 working days from the goods having been made available and the customer having been notified thereof.
- (2) Should shipping of the goods to a location desired by the customer be agreed, and should the customer not organise the transport itself, and also fail to provide any details on selecting the courier, in case of doubt we shall be deemed to be authorised to select the courier on behalf of the customer. The courier shall be commissioned (even if in our name) at the customer's expense.

The risk shall, also in such cases, pass to the customer upon the goods being handed over to the courier.

Art. 5 Acceptance

- (1) In so far as the goods have not already previously been accepted, they shall be deemed to have been accepted upon expiry of the fifth working day after collection, as long as no reservation has been asserted in text form (Art. 3 para. 1). Without prejudice to any existing warranty claims, acceptance may not be declined due to insignificant defects.
- (2) The customer shall have the right to check the item purchased at the agreed acceptance location within 5 days of receipt of the notification that it is ready, and shall be obliged to accept the item purchased within this period.
- (3) Should shipping of the goods have been agreed, acceptance shall be deemed to have occurred if the customer accepts the goods from the courier and does not declare a reservation in regard to acceptance in text form by the end of the fifth working day (Art. 3 para. 1). Irrespective of any warranty claims, acceptance may not be declined due to insignificant defects.

Art. 6 Notice of defects

- (1) Complaints about any obvious defects shall require to be notified without delay, however no later than within 12 days of receipt of the items treated by us, in text form (Art. 3 para. 1). Any latent defects shall require to be notified without delay, however no later than within 12 days of becoming apparent, in text form (Art. 3 para. 1). Should complaints not be made within the deadlines set or in the correct form, the goods shall be deemed to have been approved.
- (2) Any substantiated defects shall be reworked by us, free of charge. The transport costs in this connection shall be the purchaser's responsibility.
- (3) No costs will be accepted by us for any scraps produced by the treatment, changes in form, shortfalls, scratches, etc. for up to 3% of the order volume.

Art. 7 Terms of payment, no set-off

- (1) If nothing to the contrary has been agreed, our invoices shall be due for payment immediately upon receipt, without any deduction. The customer shall be deemed to be in default if the amount due is not credited to our account within 14 days of receiving the invoice. In the event of default, default interest will be charged in the amount of 8 percentage points above the current base rate as published by the German Bundesbank under Sec. 288 German Civil Code.
- (2) The customer may only offset any claims of its own against our claims if and to the extent that its counter-claims have been acknowledged by us or have been established with legal validity.

Art. 8 Statutory and contractual chattel mortgage of the manufacturer and assignment by way of security

- (1) By virtue of law, we obtain a chattel mortgage in the customer's processed goods. The provisions of the German Civil Code shall apply.
- (2) In addition, based on our claims arising from the order, we shall be entitled to assert a contractual chattel mortgage in the items which have come into our possession as a result of the order. The contractual chattel mortgage may be asserted based on claims arising from other orders, as well. Until full payment of our claims, we shall be entitled to secure these claims by retaining items handed over to us.
- (3) Already at this point, the purchaser assigns to us all claims, including collaterals and ancillary rights, which have accrued to its benefit from or in connection with the further processing of the items processed by us vis-à-vis the end customer or any third parties. It may not enter into any agreement with its customers which excludes or impairs our rights in any way, or annuls the advance assignment of the claim. In the event of any items processed by us being combined with other items, in so far as the amounts apportioned to the individual goods cannot be established from the invoice the claim vis-à-vis the third party customer shall be deemed to have been assigned to us in the amount of the delivery price agreed between us and the customer.

- (4) The customer shall remain entitled to collect on the claim assigned to us until such time as we may revoke such right, which we shall be entitled to do at any time. It shall be obliged, at our request, to provide us with any information and documentation necessary, and, in so far as we do not do so ourselves, immediately inform its customers about the assignment.
- (5) Should the value of any existing collaterals available to us in accordance with the above provisions exceed the total value of the claims secured by more than 10%, we shall, to that extent, be obliged, at the customer's request, to release collaterals of our choice.

Art. 9 Warranty

- (1) We shall not be liable, in particular not for any claims on the part of the customer for compensation for damage, regardless of on what legal grounds, and especially in the case of infringement of any obligations arising from the contractual relationship and from tort.
- (2) This shall not apply if we are statutorily mandatorily liable, in particular:
 - in the case of fraudulent intent;
 - in regard to our own wilful or grossly negligent breaches of duty and any wilful or grossly negligent breach of duty by any legal representatives or vicarious agents;
 - in the case of impossibility of performance, where we are at fault, as well as in the event of default with fixed deals or any binding delivery dates;
 - if, in the case of infringement of any other obligations within the meaning of Sec. 241(2) German Civil Code (*BGB*), the customer can no longer be expected to take delivery;
 - in the event of injury to life, the body and the health, also in the event that it is caused by legal representatives or vicarious agents;
 - in so far as we have provided a warranty in regard to the quality of our goods, or have committed to successful performance or have taken on a procurement risk, as well as
 - in the case of liability under the Product Liability Act.
- (3) Paragraph 1 shall likewise not apply in the event of infringement of significant contractual obligations. "Significant contractual obligations" within the meaning of this clause shall mean any obligations which substantially contractually protect the purchaser's legal interests that precisely have to be guaranteed to it in accordance with the contents and purpose of the agreement. Any contractual obligations, the fulfilment of which at all first makes it possible to execute the agreement in proper form and adherence to which the purchaser normally trusts and may trust, shall also be deemed significant.
- (4) In the case of infringement of any contractual obligations other than significant ones, we shall be liable for all claims for compensation for damage or reimbursement of expenses directed towards us based on the present contractual relationship due to culpable infringement of an obligation, irrespective of on what legal grounds, but not in the case of slight negligence.
- (5) In the case of the above liability as per Article 4, as well as liability without fault, we shall only be liable for the typical damage which was foreseeable at the time that the agreement was concluded.
- (6) Liability for indirect losses and consequential damage shall be excluded, in so far as we have not infringed a significant contractual obligation, nor have we, our executives or assistants been accused of intentional or grossly negligent infringement of an obligation.

Art. 10 Limitation of the amount of liability

- (1) With the exception of intent, fraudulent intent, injury to the body, limbs, life or health, or taking on a guarantee in regard to the quality of the goods or the procurement risk and any other statutorily mandatory amounts of liability, our total liability shall be limited to the extent of coverage of our public liability insurance.
- (2) The sum insured currently amounts to:
 - for personal injury and damage to property: € 3,000,000.00
 - for pecuniary losses: € 1,000,000.00
- (3) At the customer's request, we shall provide the customer with a copy of our insurance policy in this respect, at any time, free of charge.

- (4) Should the insurer not be obliged to pay out (e.g. due to infringement of obligations on our part, the maximum coverage claimable in a year having been reached, etc.), we undertake to satisfy the customer's claim ourselves, however with the exception of the case of intentional action, fraudulent intent, injury to life and limb or the body, or taking on any guarantee regarding quality or the procurement risk and any statutorily required deviating amounts of liability, only up to the amount of the sum insured.
- (5) Should the customer so wish, we shall conclude supplementary insurance at its own expense, which covers a higher amount of damage.
- (6) Any further liability shall be excluded.

Art. 11 Warranty period

- (1) Any rights of the purchaser in regard to defects shall become statute-barred one year after acceptance. The one-year statute of limitations shall not apply if anything to the contrary has been agreed in writing, if any intentional or fraudulent conduct on our part is involved, if there is any injury to the health, life or body, if the claims in regard to an infringement are based on a quality or procurement guarantee taken on by us, if an infringement of any significant contractual obligations occurs, in cases which fall under Sec. 634a(1) Sentence 2 German Civil Code, and in the case of any claims under the Product Liability Act.
- (2) The foregoing provisions on the statute of limitations shall only apply to competing claims based on tort, as well as any claims arising from consequential damage.

Art. 12 Insurance

The items and goods that have been submitted to us for the purposes of treatment are insured up to a total amount of coverage of €2.5 million per insured year, against fire, burglary, theft, mains water damage and losses caused by natural forces (excluding storm and hail damage). Our liability for any damage or loss which occurs through no fault of ours shall be limited to this amount. Should the customer require a higher sum insured, we shall take out supplementary coverage for the goods, at the customer's own expense.

Art. 13 Applicable law, place of performance and place of jurisdiction

- (1) Should the customer also have its registered office in Germany, German law shall apply.
- (2) In regard to cross-border situations, in its scope of application the UN Convention on Contracts for the International Sale of Goods (*CISG*) shall apply.
- (3) In so far as the *CISG* is not relevant in the case of cross-border situations, German law shall apply, subject to exclusion of the conflict of laws provision.
- (4) The place of performance for deliveries and payments shall be Weil im Schönbuch.
- (5) In so far as the other contracting party is a trader, the courts having jurisdiction for Weil im Schönbuch shall be competent in regard to all disputes arising from or in connection with the contractual relationship.

Art. 14 Clause concerning the written form

Any amendments and additions to this agreement, even if they have already been agreed verbally, shall only take effect once they have been set down in writing and signed by both parties. This shall also apply to waiving the requirement for the written form.

Art. 15 Severability clause

Should one or more of the provisions applying to the contractual relationship be or become invalid, or in the case of a contractual loophole, the remaining provisions shall retain their validity. The parties undertake, within the scope of a trusting collaboration, to replace the invalid provision or close the loophole with a valid provision which comes as close as possible to what was intended by the parties.