

## TERMS AND CONDITIONS OF SALE PLASMA CLEAN LIMITED

### 1. INTERPRETATION

1.1 In these Terms and Conditions the following expressions will have the following meanings unless inconsistent with the context:

<b>“Buyer”</b>	the person(s), firm or company whose order for the Goods and / or Services is accepted by the Company
<b>“Company”</b>	<b>PLASMA CLEAN LIMITED</b> a company registered in England and Wales with registered number 04949576 and having its registered office at Broadstone Mill, Broadstone Road, Stockport. SK5 7DL
<b>“Contract”</b>	any contract between the Company and the Buyer for the sale and purchase of the Goods or supply of the Services formed in accordance with <b>Condition 2</b>
<b>“Goods”</b>	any Goods which the Company supplies to the Buyer (including any of them or any part of them) under a Contract
<b>“Intellectual Property”</b>	means without limitation inventions (whether patentable or not), discoveries, improvements to inventions, design information and designs (whether registrable or not), drawings, works of authorship, know-how, technical data, formulae, experimental results, methodologies, processes, specifications of materials, apparatus, samples, and computer programs in whatever form.
<b>“Intellectual Property Rights”</b>	means without limitation patents and utility models, design rights (whether registered or not), registered trademarks, copyright and semiconductor chip protection, and, where applicable, all applications therefore, and all similar legal rights associated therewith (in any part of the world) arising under common law, trade secret law and competition law.
<b>“Services”</b>	any Services which the Company provides to the Buyer (including any of them or any part of them) under a Contract
<b>“Service Point”</b>	the place at which the Services are to be performed
<b>“Terms and Conditions”</b>	the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Buyer and the Company as specified on acknowledgement of the order.

### 2. FORMATION AND INCORPORATION

2.1 Subject to any variation under **Condition 12.5**, the Contract will be upon these Terms and Conditions, to the exclusion of all other terms and conditions [and all previous oral or written representations] including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.

2.2 Each order or acceptance of a quotation for Goods or Services will be deemed to be an offer by the Buyer to purchase Goods or Services upon these Terms and Conditions. The Contract is formed when the order is accepted by the Company by way of a written acknowledgement of order. No contract will come into existence until a written acknowledgement of order is issued by the Company.

2.3 Any quotation is valid for a period of 60 days only from its date, provided the Company has not previously withdrawn it.

2.4 Subject to **Condition 6.4**, the Buyer may not cancel the Contract. The Company may cancel the Contract at any time prior to delivery.

### 3. DESCRIPTION

3.1 The quantity and description of the Goods or Services will be as set out in the Company’s quotation, acknowledgement of order and or agreed specification. All samples, drawings, descriptive matter, specifications and advertising issued by the Company (or the manufacturer of the Goods) and any descriptions or illustrations contained in the Company’s (or manufacturer’s) catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services represented by or described in them. They will not form part of the Contract and this is not a sale by sample.

3.2 The Company may make any change to the specification, design, materials or finishes of the Goods or provision of the Services which are:

- 3.2.1 required to conform with any applicable safety, statutory or regulatory requirement; or
- 3.2.2 do not materially affect their quality or performance.

### 4. PRICE AND PAYMENT

4.1 The price for the Goods or Services will be the price set out in the Company’s published price list current at the date of acceptance of order and is exclusive of any costs of packaging and carriage, VAT and any other applicable sales tax or duty which will be added to the sum in question.

4.2 All new Buyers or Buyers who have not purchased from the Company within the last 12 calendar months shall pay by proforma invoice before any Goods or Services are dispatched.

4.3 For Buyers holding a valid credit account the Company will invoice the Buyer the total invoice value when the order is placed of which an agreed percentage shall be paid and be registered as cleared funds at the Company’s nominated back account in advance of dispatch of the Goods and Services and payment of the remaining due strictly within 30 days of delivery of any such Goods or Services, or upon termination of contract, whichever occurs first. Full credit terms may be offered subject to acceptance and satisfactory credit check and are due strictly 30 days from date of invoice unless otherwise stated. Late payment may result in credit terms being withdrawn without notice.

4.4 All payments to be made by the Buyer under the Contract will be made in full without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.

4.5 If any sum payable under the Contract is not paid when due then, without prejudice to the Company’s other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgement, at 8.5 per cent per annum over Bank of England base rate pursuant to the Late Payment of Commercial Debts (Interest) Act 1998. In addition the Company shall be entitled to statutory late payment compensation plus additional costs incurred in recovering the debt. The Company will be entitled to suspend deliveries of the Goods or performance of the Services until the outstanding amount has been received.

### 5. INSTALMENTS

5.1 The Company may deliver the Goods by separate instalments or perform the Services in stages. Each instalment or stage will be a separate Contract and no cancellation or termination of any one Contract relating to an instalment or stage will entitle the Buyer to repudiate or cancel any other Contract or instalment or stage. Each separate instalment or stage will be invoiced and paid for in accordance with the provisions of the Contract.

### 6. DELIVERY

6.1 Delivery of the Goods will be made ex-works as defined in INCOTERMS 2010. The Services will be performed at the Service Point.

6.2 Delivery of the Goods will be accepted at any time of day. If the Buyer fails to take delivery, or provide any necessary documents, the Goods will be deemed to have been delivered and the Company, without prejudice to its other rights, may at its option:

- 6.2.1 store or arrange for storage of the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and/or
- 6.2.2 following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price under the Contract.
- 6.2.3 all damages or shortages must be reported to the Company within 24 hours of receipt of goods.

6.3 The Company may deliver Goods or provide Services to the Buyer up to 2% more or less than the quantity ordered without any adjustment in the price and the quantity delivered will be deemed to be the quantity ordered.

6.4 The Company will use reasonable endeavours to deliver or perform each of the Buyer’s orders for the Goods or Services within the time agreed when the Buyer places an order and, if no time is agreed, then within a reasonable time, but the time of delivery of Goods or performance of Service will not be of the essence. If, despite those endeavours, the Company is unable for any reason to fulfil any delivery or performance on the specified date, the Company will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will the Company have any liability to the Buyer for direct, indirect or consequential loss (all three of which terms includes, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) by any delay or failure in delivery or performance except as set out in this condition. Any delay in delivery or performance will not entitle the Buyer to cancel the order unless and until the Buyer has given ninety days’ written notice to the Company requiring the delivery or performance to be made and the Company has not fulfilled the delivery or performance within that period. If the Buyer cancels the order in accordance with this **Condition 6.4** then:

- 6.4.1 the Company will refund to the Buyer any sums which the Buyer has paid to the Company in respect of that order or part of the order which has been cancelled; and
  - 6.4.2 the Buyer will be under no liability to make any further payments under **Condition 4** in respect of that order or part of the order which has been cancelled.
- the Buyer will be under no liability to make any further payments under **Condition 4** in respect of that order or part of the order which has been cancelled.

### 7. RISK/TITLE

7.1.1 All Goods will remain the property of the Company until the price of all such Goods has been paid in full but risk in the Goods will pass to the Buyer from the date of delivery.

7.1.2 The Buyer’s right to possession will terminate immediately upon the occurrence of an event which would allow the Company to terminate the Contract under **Condition 11.1**.

7.1.3 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer’s right to possession has terminated, to recover them.

- 7.1.4 Notwithstanding delivery and the passing of risk, property in and title to the goods shall remain with the Company until the Company has received payment of the full price of (a) all Goods and/or Services the subject of the Contract and (b) all other goods and/or services supplied by the Company to the Buyer under any contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between the Company and the Buyer
8. **REVERSE ENGINEERING**
- 8.1 The Buyer acknowledges that all Intellectual Property and Intellectual Property Rights are and shall remain the property of the Company and the Buyer undertakes to the Company that the Buyer shall not:
- 8.1.1 make any alterations or modifications to the Goods; or
- 8.1.2 disassemble, reverse-engineer, reproduce or copy the Goods or design and/or manufacture any equipment based upon the Goods or any component part thereof or derived from the Goods whether in part or whole nor enable any third party to do the same; or
- 8.1.3 use the Goods in any way or for any purpose other than the intended purpose.
9. **LIABILITY OF COMPANY**
- 9.1 The Company will, free of charge, within a period of 12 months from the date of delivery of Goods which are proved to the reasonable satisfaction of the Company to be damaged or defective or not comply with specification due to defects in material, or workmanship or design (other than a design made, furnished or specified by the Buyer), repair, or at its option replace, such Goods. This obligation will not apply where:
- 9.1.1 the Goods have been improperly altered in any way whatsoever, or have been subject to misuse or unauthorised repair;
- 9.1.2 the Goods have been improperly installed or connected;
- 9.1.3 any maintenance requirements relating to the Goods have not been complied with;
- 9.1.4 any instructions as to storage of the Goods have not been complied with in all respects; or
- 9.1.5 the Buyer has failed to notify the Company of any defect or suspected defect within 14 days of delivery or performance where the defect should be apparent on reasonable inspection, or within 14 days of the same coming to the knowledge of the Buyer where the defect is not one which should be apparent on reasonable inspection, and in any event no later than 12 months from the date of delivery.
- 9.2 The Company will refund to the Buyer the cost of carriage on the return of any such defective or damaged Goods, and will deliver any repaired or replacement Goods to the Buyer at the Company's own expense.
- 9.3 Any Goods which have been replaced in accordance with Condition 9.1 will belong to the Company. Any repaired or replacement Goods will be liable to repair or replacement under the terms specified in **Condition 9.1** for the unexpired portion of the 12 month period from the original date of delivery of the replaced Goods.
- 9.3.1 Any repaired or refurbished Goods not covered under 9.1 will have a 3 month warranty from the date of delivery
- 9.4 In the event of any breach of the Company's express obligations under **Conditions 6.4, 9.1, 9.2 and 9.3** above the remedies of the Buyer will be limited to damages.
- 9.5 The Company does not exclude its liability (if any) to the Buyer:
- 9.5.1 for breach of the Company's obligations arising under section 12 Sale of Goods Act 1979 or section 2 Sale and Supply of Goods and Services Act 1982;
- 9.5.2 for personal injury or death resulting from the Company's negligence;
- 9.5.3 under section 2(3) Consumer Protection Act 1987;
- 9.5.4 for any matter which it would be illegal for the Company to exclude (or to attempt to exclude) its liability; or
- 9.5.5 for fraud.
- 9.6 Except as provided in **Conditions 6.4 and 9.1 to 9.5**, the Company will be under no liability to the Buyer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:
- 9.6.1 any of the Goods, or the manufacture or sale or supply, or failure or delay in supply, of the Goods by the Company or on the part of the Company's employees, agents or sub-contractors;
- 9.6.2 any breach by the Company of any of the express or implied terms of the Contract;
- 9.6.3 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; or
- 9.6.4 any statement made or not made, or advice given or not given, by or on behalf of the Company or otherwise under the Contract.
- 9.7 Except as set out in **Conditions 6.4 and 9.1 to 9.5**, the Company hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Buyer.
- 9.8 Each of the Company's employees, agents and sub-contractors may rely upon and enforce the exclusions and restrictions of liability in **Conditions 6.4 and 9.4 to 9.7** in that person's own name and for that person's own benefit, as if the words "its employees, agents and sub-contractors" followed the word Company wherever it appears in those conditions save each reference in **Condition 9.6.1**.
- 9.9 The Buyer acknowledges that the above provisions of this **Condition 9** are reasonable and reflected in the price which would be higher without those provisions, and the Buyer will accept such risk and/or insure accordingly.
- 9.10 The Buyer agrees to indemnify, keep indemnified and hold harmless the Company from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance by the Buyer of the terms of the Contract.
10. **FORCE MAJEURE**
- The Company will not be liable to the Buyer for any failure or delay or for the consequences of any failure or delay in performance of the Contract, if it is due to any event beyond the reasonable control and contemplation of the Company including, without limitation, acts of God, war, industrial disputes, protests, fire, tempest, explosion, an act of terrorism and national emergencies and the Company will be entitled to a reasonable extension of time for performing such obligations.
11. **TERMINATION**
- 11.1 The Company may by written notice terminate the Contract immediately if the Buyer is in material breach of the Contract or enters into insolvency, bankruptcy, any arrangement with its creditors or any other arrangement or situation which has a like effect. Failure to pay any sums due in accordance with **Condition 4.2** is a material breach of the terms of the Contract which is not capable of remedy.
- 11.2 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liability of either the Buyer or the Company accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.
12. **GENERAL**
- 12.1 Time for performance of all obligations of the Buyer is of the essence. Time for performance of all obligations of the Company is not of the essence.
- 12.2 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 12.3 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective, without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.
- 12.4 No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of any other right, power or remedy.
- 12.5 Save as set out in the Contract, these Terms and Conditions may only be varied or amended in writing and signed by a director of the Company.
- 12.6 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 12.7 The Contract is personal to the Buyer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.
- 12.8 The Contract and the specification contains all the terms which the Company and the Buyer have agreed in relation to the Goods or Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Goods or Services. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract or specification. Nothing in this **Condition 12.8** will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.
- 12.9 Save as set out in **Condition 9.8** the parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 12.10 Any notice in connection with the Contract will be in writing addressed to the other party at its registered office, or principal place of business and will be delivered by hand, or first class or special delivery post. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.
- 12.11 The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by English law as applied in Wales. The English and Welsh courts will have non-exclusive jurisdiction to settle any dispute which may arise out of, or in connection with the Contract. The parties agree to submit to that jurisdiction.