

## PLANTURE INC. GENERAL TERMS AND CONDITIONS OF SALE

Version of December 2023

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### 1. APPLICABILITY

- 1.1. These general terms and conditions of sale (“**Terms and Conditions**”) govern the offering, sale and delivery of all goods and/or services (jointly referred to as “**Goods**”) by or on behalf of Planture Inc. (“**Planture**”) to a purchaser (“**Purchaser**”).
- 1.2. Planture hereby rejects any and all other terms (including Purchaser’s purchase order terms and conditions) offered by Purchaser or upon which Purchaser may condition any purchase order or to which Purchaser may limit Planture’s acceptance.
- 1.3. PLANTURE’S ACCEPTANCE OF A PURCHASE ORDERS AND/OR PLANTURE’S PERFORMANCE IN CONNECTION WITH SUCH PURCHASE ORDERS ARE EXPRESSLY CONDITIONAL ON PURCHASER’S ASSENT TO THESE TERMS AND CONDITIONS. PLANTURE HEREBY REJECTS ANY AND ALL OTHER TERMS REGARDLESS OF WHETHER A PURCHASE ORDER OR SUCH OTHER TERMS ARE CONSTRUED AS AN OFFER, COUNTER-OFFER OR OTHERWISE, OR WHETHER SUCH OTHER TERMS ARE CONSTRUED AS ADDITIONS TO OR DIFFER FROM THESE TERMS AND CONDITIONS. UNLESS PURCHASER’S NOTIFIES PLANTURE IN WRITING THAT PURCHASER DOES NOT ACCEPT THESE TERMS AND CONDITIONS AS SOON AS PRACTICABLE AFTER FIRST RECEIVING THEM, PURCHASER SHALL BE DEEMED TO HAVE ACCEPTED THESE TERMS AND CONDITIONS AND, NOTWITHSTANDING ANYTHING TO THE CONTRARY, PURCHASER’S ACCEPTANCE OR USE OF THE GOODS SHALL BE DEEMED PURCHASER’S ASSENT TO THESE CONDITIONS OF SALE.
- 1.4. These Terms and Conditions are deemed to be a part of, and incorporated into, every sales agreement for Goods between Purchaser and Planture (“**Agreement**”).
- 1.5. Planture reserves the right to amend the Terms and Conditions at any time. Planture will notify Purchaser of any such amendments by sending the amended Terms and Conditions to Purchaser or by posting the amended Terms and Conditions on its website. Purchaser may reject the amended Terms and Conditions within 30 days by notice to Planture. If Purchaser does not reject the amended Terms and Conditions within that period, they will take effect upon its expiry. The amended Terms and Conditions will take effect on the effective date. The amended Conditions shall apply to all transactions concluded between Purchaser and Planture after the date of such notification.

### 2. ORDERING

- 2.1. Unless stated otherwise, quotations made by Planture in whatever form are not binding to Planture and merely constitute an invitation to Purchaser to place a purchase order. All quotations issued by Planture are revocable and subject to change without notice.
- 2.2. Each purchase order will be binding on Planture only once it has been confirmed by Planture in writing in accordance with the notices clause or upon actual performance thereof (“**Order Confirmation**”).
- 2.3. Planture shall be entitled to refuse a purchase order without indicating the reasons.
- 2.4. All purchase orders are confirmed subject to the availability of the Goods at the time of dispatch.
- 2.5. Purchaser is not entitled to cancel or reduce its volume requirement under an issued purchase order (in whole or in part) once it has been confirmed by Planture. If the purchase order contains a fixed or minimum volume of Goods, then the Purchaser shall pay the full price whether or not Purchaser takes delivery of the Goods.

### 3. DELIVERY

- 3.1. The Purchaser shall take delivery of the Goods, in conformity with the agreed specifications, brand and/or markings and fully in accordance with the agreed terms of delivery. The trade term used in the Agreement will be interpreted in accordance with Incoterms 2020.
- 3.2. The Goods will be for the risk and account of the Purchaser during transportation to the agreed place of delivery unless agreed otherwise in the Agreement.
- 3.3. If Planture and Purchaser have agreed that partial shipment is allowed, each delivery can be seen as a separate sales agreement. Planture will have discretion on when the shipments will take place, which will generally take place in equal spread over the term indicated in the Order Confirmation.
- 3.4. Unless agreed otherwise in the Agreement, any times or dates for delivery by Planture are estimates and shall not be of the essence. In no event shall Planture be liable for any damages and/or costs due to delay in delivery. Delay in delivery of any Goods shall not relieve Purchaser of its obligation to accept delivery thereof, unless Purchaser cannot reasonably be expected to accept such late delivery.

**4. INSPECTION, CLAIMS FOR NON-CONFORMING GOODS AND EXCLUSIVE REMEDIES**

4.1. Purchaser shall promptly inspect the Goods to confirm conformity with the specifications. All claims by Purchaser, including, without limitation, claims for breach of warranty or shortage, must be made in writing, precisely describing the nature of the claim and received by Planture within ten (10) business days after Purchaser's receipt of the Goods. Claims not timely made as stated above and all claims made after the Goods have been resold by Purchaser, or have undergone any processing, treatment or combination, comingling or incorporation into or with another product, in any form whatsoever, shall be forever barred, waived, and null and void. Notwithstanding the foregoing, apparent transport damages must be notified to Planture promptly upon delivery of the Goods. In case of duly proven non-conforming Goods, Planture shall, at its choice, either replace or repair at its own cost such non-conforming Goods, or refund Purchaser the price paid therefor, in each case to the extent of such proven non-conformity. Goods may not be returned without Planture's prior written consent.

**5. PRICES, INVOICES AND PAYMENT**

5.1. The price and currency stated in the Order Confirmation shall be considered to be the price and currency agreed between Purchaser and Planture for the sale of Goods. In case of an significant increase in the price for transportation during the term set forth in the Order Confirmation, Planture may revise the prices accordingly. In case of multiple or future deliveries, the price and currency of such deliveries are subject to revision by Planture at any time as set forth in subsequent Order Confirmation(s) relating to such deliveries.

5.2. Unless otherwise agreed in writing, all prices are in cash (i.e. no cryptocurrency or similar digital currencies) and include the costs of standard transport-worthy packing material as set forth in the Order Confirmation, but do not include any applicable tax, duty, excise, levy or charge (including value-added taxes) in any jurisdiction in relation to the Goods or the delivery thereof. Purchaser is responsible for payment of all such taxes (excluding income taxes owed by Planture on account of the sale of the Goods), duties, excises, levies or charges (including value-added taxes) which Planture may be required to pay to any authority (national, state or local) upon the sale, production or transportation of the Goods.

5.3. Planture shall be entitled to invoice Purchaser on or at any time after shipment of the Goods. Purchaser shall pay for the Goods within thirty (30) days after the invoice date, unless otherwise agreed in writing. Planture may charge Purchaser interest on any amounts not paid on-time in accordance with such payment terms, up to the maximum amount of interest permitted by applicable law. Planture is entitled, in so far as the delivery has not yet been made, to suspend the delivery as a whole until it has fully received all amounts outstanding.

5.4. All payments will be made without set-off, deductions or counterclaims. If the Purchaser fails to fulfill one or more of his obligations under an Agreement, all costs, reasonably incurred in collecting the sums due out of court will be for his account, including the costs of collection agencies, bailiffs and attorneys. Planture is entitled to fix these costs at fifteen (15) percent of the amounts outstanding. The provisions of this clause do not affect any other rights to which Planture may be entitled by law or by virtue of these Terms and Conditions. The Purchaser shall also reimburse Planture for all costs reasonably incurred in connection with legal proceedings where judgment is fully or substantially awarded against the Purchaser. These costs shall in any case include the fees of outside experts, bailiffs, and attorneys, even if these costs exceed the amount awarded by the court.

**6. RETENTION OF TITLE**

6.1. Planture will retain title to all Goods delivered or to be delivered to the Purchaser until the Purchaser has fulfilled all its obligations towards Planture under an Agreement, which obligations include, but are not limited to, payment of all amounts outstanding under an Agreement. If the Purchaser fails to properly fulfill any of his obligations vis-à-vis Planture, or if Planture has reasonable doubts that the Purchaser will fail to fulfill those obligations, Planture will be authorized to take back the Goods delivered subject to retention of title without prejudice to any other rights or remedies, such as it right to claim further damages.

6.2. Until payment for the Goods has been completed, Purchaser is entitled to use the Goods solely to the extent required in its ordinary course of business, and, to the extent possible, shall: (a) keep the Goods separate and in a clearly identifiable manner; (b) notify Planture immediately of any claims by third parties which may affect the Goods; and (c) adequately insure the Goods.

**7. SUSPENSION AND TERMINATION**

7.1. If (i) Purchaser is in default of performance of its obligations towards Planture, in particular if any payment due from Purchaser is overdue, and fails to provide adequate assurance of Purchaser's performance before the date of scheduled delivery; or (ii) if Planture has reasonable doubts that the

Purchaser will fail to fulfill those obligations and Purchaser fails to provide to Planture adequate assurance of Purchaser's performance before the date of scheduled delivery and in any case within thirty (30) days of Planture's demand for such assurance; or (iii) if Purchaser becomes insolvent or unable to pay its debts as they mature, or goes into liquidation (other than for the purpose of a reconstruction or amalgamation) or any bankruptcy proceeding shall be instituted by or against Purchaser or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Purchaser or if Purchaser enters into a deed of arrangement or makes any assignment for the benefit of its creditors; or (iv) in case of non-compliance of Purchaser with applicable laws, then Planture may by notice in writing forthwith, without prejudice to any of its other rights:

- (i) demand return and take repossession of any delivered Goods which have not been paid for and all costs relating to the recovery of the Goods shall be for the account of Purchaser; and/or
- (ii) suspend its performance or terminate the Confirmed Order for pending delivery of Goods unless Purchaser makes such payment for Goods on a cash in advance basis or provides adequate assurance of such payment for Goods to Planture.

- 7.2. In any such event of clause 7.1 all outstanding claims of Planture shall become due and payable immediately with respect to the Goods delivered to Purchaser and not repossessed by Planture and Purchaser shall indemnify Planture from any and all losses, liabilities, costs, claims, damages (including consequential or indirect damages from loss or actual or potential profits from resale and any exchange losses) demands and expenses (including legal costs) arising from or in connection with such event of clause 7.1.

## **8. LIMITED WARRANTY**

- 8.1. Planture solely warrants that on the date of delivery the Goods shall conform to the specifications that have been agreed upon by Planture and Purchaser in writing.
- 8.2. Planture will not be in breach of warranty to the extent Goods fail to meet specifications as a result of shipping, handling, storage or use of Goods after Goods leave control of Planture.
- 8.3. PLANTURE HEREBY DISCLAIMS AND REJECTS ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE GOODS, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF FITNESS FOR ANY PURPOSE, OF MERCHANTABILITY OR OF NON-INFRINGEMENT.

## **9. LIMITATION OF LIABILITY**

- 9.1. IN NO EVENT WILL PLANTURE'S AGGREGATE LIABILITY TO PURCHASER FOR ALL DAMAGES ARISING FROM ANY AND ALL CLAIMS RELATED TO ANY BREACH OF THIS AGREEMENT, NON-DELIVERY OF ANY GOODS, OR DELIVERY OF ANY GOODS, REGARDLESS OF WHETHER THE FORM OF ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE, OR OTHERWISE, EXCEED THE TOTAL PRICE PAID BY PURCHASER TO PLANTURE FOR THE SPECIFIC GOODS IN RESPECT OF WHICH DAMAGES ARE CLAIMED. NO CLAIM SHALL BE ALLOWED FOR GOODS THAT IN ANY MANNER HAVE BEEN PROCESSED OR COMINGLED WITH ANY THIRD PARTY PRODUCT. IN ADDITION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PURCHASER WAIVES ANY CLAIM TO INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR MULTIPLIED DAMAGES, OR LOST PROFITS, LOST REVENUES, OR LOSS OF BUSINESS REPUTATION (IN EACH CASE REGARDLESS OF WHETHER CATEGORIZED AS DIRECT OR CONSEQUENTIAL DAMAGES), ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, NON-DELIVERY OF ANY GOODS, OR DELIVERY OF ANY GOODS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, PURCHASER WAIVES AND AGREES NOT TO ASSERT NON-CONTRACTUAL CLAIMS ARISING UNDER STATE LAW RELATING TO ANY BREACH OF THIS AGREEMENT, NON-DELIVERY OF ANY GOODS, OR DELIVERY OF ANY GOODS, AND THESE TERMS AND CONDITIONS SHALL BE DEEMED TO INCLUDE SUCH LANGUAGE AS MAY BE REQUIRED TO EFFECT SUCH WAIVER.

## **10. FORCE MAJEURE**

- 10.1. No liability shall result from delay in performance or non-performance by Planture caused by circumstances beyond its reasonable control (a "**Force Majeure Event**"). A Force Majeure Event shall include, without limitation, acts of God, natural disasters, floating ice, fire, flood, earthquakes, pandemic, epidemics, explosions, riots, wars, terrorism, civil disturbances, perils of the sea, blockades, machinery breakages, inactions or prohibitions, shortages of raw materials or utilities, delay in delivery or defects in goods supplied by Planture's suppliers or subcontractors, import and export obstruction, interference of

- governmental measures (incl. changes in import and export regulations, duties, and levies), shipwreck before or after declaration of shipment, strike at factory and/or railway company and/or seaport, delays caused by the shipping company or seaport congestion, serious disruption of Planture's business, including lockout, excessive sickness absence, defects in equipment, interruption in the supply of energy as well as any impossibility to perform the Agreement due to a failure of any supplier of Planture or of persons or items hired/used by Planture for the performance of the Agreement – these matters to be understood in the widest sense and also when these eventualities could be considered to be foreseeable.
- 10.2. If for any reason, including but not limited to the Force Majeure Events described above, Planture is unable to supply the total demand for Goods, Planture may distribute its available supply among any or all purchasers, as well as departments and divisions of Planture, on such basis as it may deem fair and practical, without liability for any failure of performance which may result therefrom.
  - 10.3. If the Force Majeure Event lasts longer than sixty (60) days, either Party is entitled to terminate affected part of the Agreement with immediate effect by providing written notice to the other Party without any liability to the other Party.

## **11. INFORMATION AND INDEMNIFICATION**

- 11.1. Planture may provide Purchaser with information regarding the use of the Goods in Purchaser's product. With regard to such occurrences, Purchaser acknowledges that Planture is in no way responsible for Purchaser's use of the Goods or Purchaser's marketing or sale of its (finished) products. Purchaser acknowledges that Planture cannot anticipate all conditions under which the Goods may be used, and therefore Purchaser agrees to conduct its own tests to determine the safety and suitability of the Goods for Purchaser's purposes. Information provided by Planture shall not give rise to any additional obligations. Details and information provided with regard to the suitability and use of the Goods shall not be binding and Planture does not assume any liability based on such consultations.
- 11.2. Purchaser shall indemnify and hold Planture harmless from and against any and all damages, losses, costs, expenses, claims, demands and liabilities (including without limitation product liabilities) arising out of or in connection with the Goods and Purchaser's use thereof or application of any information disclosed or provided by or on behalf of Planture.

## **12. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

- 12.1. All intellectual property rights arising out of or in connection with the Goods shall be the exclusive property of Planture.
- 12.2. Planture has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/or delivery of the Goods and Planture shall not be held liable for any loss or damage in that respect.
- 12.3. The sale of Goods shall not, by implication or otherwise, convey any license under any intellectual property right relating to the compositions and/or applications of the Goods, and Purchaser explicitly assumes all risks of any intellectual property infringement by reason of its importation and/or the use of the Goods, whether singly or in combination with other materials or in any processing operation.
- 12.4. The Purchaser will treat as confidential all information provided by Planture and shall not make such information available to any third party or use such information for any purpose other than and in as far as this is necessary in connection with the performance of the Purchaser under the Agreement. This obligation remains in force also after the Agreement has been carried out or dissolved.

## **13. ASSIGNMENT**

- 13.1. The Purchaser is not entitled to assign its rights and obligations under an Agreement to a third party without the prior written consent of Planture.
- 13.2. Planture is entitled to assign its rights and obligations under an Agreement without the prior written consent of the other Party to an affiliate of Planture.

## **14. WAIVER**

- 14.1. Failure, delay or omission by Planture to enforce at any time any provision of the Agreement shall not be construed as a waiver of Planture's right to act or to enforce any such provision. No waiver by Planture of any breach of Purchaser's obligations shall constitute a waiver of any other prior or subsequent breach.

## **15. SEVERABILITY AND CONVERSION**

- 15.1. In the event that any provision of the Terms and Conditions shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever, the validity and enforceability of the remaining provisions between the parties and shall be severed therefrom. The pertaining provisions held to be

invalid or unenforceable shall be reformed to meet the legal and economic intent of the original provisions to the maximum extent permitted by law.

**16. NOTICES CLAUSE**

16.1. All notices required to be served on the parties pursuant to an Agreement shall be communicated rapidly in legible form. Methods of rapid communication for the purpose of this clause are defined and mutually recognized as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or e-mail, or other electronic means. If receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, have to establish that the notice was actually transmitted to the addressee. Any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following.

**17. GOVERNING LAW**

17.1. The Agreement and any disputes or claims arising out of or in connection with the Agreement are governed by and construed in accordance with the laws of the State of New York, without giving effect to conflicts of law principles that would result in the application of the substantive laws of another jurisdiction. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) concluded in Vienna on 11 April 1980 is excluded.

**18. DISPUTES**

18.1. Any disputes arising in relation to an Agreement (including disputes regarding the existence and validity of an Agreement) will be settled in the courts of the State of New York or the courts of the United States located in the Borough of Manhattan, New York City, New York, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding and waives any objection based on improper venue or forum non conveniens.