General Terms and Conditions
PLATH AG
Güterstrasse 5
3072 Ostermundigen
Switzerland

GENERAL TERMS AND CONDITIONS OF PURCHASE FOR PLATH AG – Status March 2024

Section 1: GENERAL

1.1 The contractual relationship between the supplier ("SUPPLIER") and purchaser PLATH AG ("PLATH"), Güterstrasse 5, 3072 Ostermundigen, Switzerland, is exclusively governed by (in the following order of precedence) PLATH's purchase order, the Supplier's written order confirmation, these General Terms and Conditions (hereinafter referred to as "GTC") and the applicable legal provisions, the latter, however, only to the extent that they are not permissibly and expressly changed or excluded in these GTC.

1.2 Individual written agreements made on a case-by-case basis with the SUPPLIER (including ancillary agreements, additions and amendments) shall in any case take precedence over these GTC.

1.3 These GTC apply exclusively. All general terms and conditions of the SUPPLIER are hereby completely rejected and waived. This even applies if PLATH, in the knowledge of the General Terms and Conditions of the SUPPLIER, accepts SUPPLIER's deliveries or services without reservation.

1.4 PLATH's purchase order shall not be binding until it has been placed or confirmed in writing or via E-mail or another electronic document. The SUPPLIER shall notify PLATH of any obvious errors (e.g. typing or calculation errors) and incompleteness of the order, including the order documents, for the purpose of correction or completion prior to acceptance.

1.5 If the SUPPLIER's order confirmation differs from PLATH's purchase order, such order confirmation is considered to be a rejection of and a counter-offer to PLATH's purchase order. Such counter-offer shall only be binding to the parties, if expressly accepted by PLATH in writing. Should the SUPPLIER deliver any goods or render any services thereafter without the prior receipt of PLATH's express acceptance, then such goods and/or services shall be deemed to have been provided in accordance with PLATH's purchase order, notwithstanding the SUPPLIER's prior written order confirmation.

1.6 Declarations and notices by the SUPPLIER relating to the contract (e.g. setting of a time limit, reminder, withdrawal) shall be made in writing, which shall include the written form and any other text form (e.g. letter, e-mail).

Section 2: DEFINITIONS

SUPPLIER: The SUPPLIER is a seller of goods or a provider of services, regardless of whether the SUPPLIER manufactures the goods or renders the services himself or purchases them from suppliers. The SUPPLIER is the contractual partner of PLATH.

Deliverables: Goods and/or services to be supplied by SUPPLIER (including licenses for Software).

Serious Defects: A Serious Defect occurs in the following cases:

Category 1 (1 – Blocker): The defect prevents the execution of one or more essential specified functions. The defect poses a risk to people's lives or health.

Category 2 (2 – Critical): The defect severely impedes the execution of one or more essential specified functions. There is no workaround.

Category 3 (3 – Major): The defect seriously impedes the execution of one or more essential specified functions. But there is a workaround.

Section 3: TERMS OF AND DELAY WITH DELIVERABLES

3.1 The SUPPLIER shall provide the Deliverables with the agreed characteristics (in German: Beschaffenheitsmerkmale). In particular, any specifications and descriptions of services, regardless whether those originate from PLATH or the Contractor, are considered to be agreements on characteristics of the Deliverables. The Deliverables must be state of the art, and comply with applicable law, relevant regulations and guidelines by Swiss and EU public authorities.

3.2 The SUPPLIER is not entitled to have the Deliverables produced or performed by third parties (e.g. subcontractors) without the prior written consent of PLATH. The SUPPLIER bears the procurement risk for the Deliverables. PLATH is entitled to prohibit the SUPPLIER from mandating certain third parties to produce or perform Deliverables for military or secret services.

3.3 Delivery dates are deadlines for performance (in German: Verfalltag) in the sense of article 102 Swiss Code of Obligations (CO). If the delivery date is not specified in the purchase order and not otherwise agreed upon, delivery must be made promptly after the date of order confirmation. In the event of a delay in a deadline or a period, the SUPPLIER shall be obliged to inform PLATH immediately in writing, giving reasons for the delay, the duration thereof and informing about the remedies envisaged. PLATH's rights resulting from such delay remain unaffected.

3.4 If not otherwise agreed, SUPPLIER shall deliver in accordance with INCOTERMS 2020 DAP to the place of performance at PLATH's facility in Ostermundigen, Switzerland ("Place of Performance"). Ownership to the respective Deliverable is transferred to PLATH with the respective receipt at the Place of Performance (in German: Erfüllungsort). The same applies to the risk of accidental loss and accidental deterioration of the Deliverable.

3.5 If the Deliverables have not been fully provided by the SUPPLIER on the agreed date or within the agreed period, the SUPPLIER owes PLATH liquidated damages. The liquidated damages amount to 1% of the net price agreed according to the respective order for the part of the Deliverables in delay, for each full calendar week of delay, but in no event exceeding 5%

of the agreed net price for all Deliverables under this order. PLATH reserves the right to prove that the damage has been larger.

3.6 In addition, PLATH is also entitled to all claims and rights given by the applicable law because of the delay. In particular, PLATH is entitled to claim all direct or indirect damages caused by the delay. Plath may also withdraw from the contract with the SUPPLIER, even without granting a period of grace, or PLATH may insist on the delivery (also if such delivery is not asked immediately after expiry of the time limit in accordance with article 190 section 2 CO).

Section 4: ACCEPTANCE OF THE DELIVERABLES

4.1 If the Deliverables are subject to one or more acceptance tests (e.g. FAT, SAT) and if they are not defect-free in the respective acceptance test, the respective acceptance test must be repeated in full after each attempt by the SUPPLIER to rectify the defect.

However, if the Deliverables are affected only by a defect which is not a Serious Defect, the repeated acceptance test may be limited to the verification of the rectification of such defect, subject to the prior written consent of PLATH.

4.2 If PLATH refuses to accept the Deliverables in whole or in part due to defects, the SUPPLIER must immediately submit a written report to PLATH explaining in detail the causes of the defects, the necessary corrective measures to remedy the defects and the associated delay.

4.3 The partial or complete take-over or use of a Deliverable does not constitute (an implied) acceptance without an express declaration of acceptance by PLATH.

4.4 Even if PLATH has not declared a reservation, the declaration of acceptance shall not exclude PLATH's rights to subsequent performance and Remedy pursuant to sect. 7 of these GTC.

4.4 All costs arising from defects in the Deliverables shall be borne by the SUPPLIER.

Section 5: Default of Acceptance

The statutory provisions shall apply to the occurrence of PLATH's default of acceptance. However, the SUPPLIER must also expressly offer its performance if a specific or determinable calendar time has been agreed for an action or cooperation by PLATH (e.g. provision of material). If PLATH is in default of acceptance, the SUPPLIER may demand compensation for its additional expenses in accordance with the statutory provisions. If the contract relates to a non-fungible Deliverable to be manufactured by the SUPPLIER (individual production), the SUPPLIER shall only be entitled to further rights if PLATH has undertaken to cooperate and is responsible for the failure to cooperate.

Section 6: Prices and terms of payment

6.1 The price stated in the purchase order is binding. All prices are inclusive of statutory value added tax if this is not shown separately.

6.2 Unless otherwise agreed in individual cases, the price shall include all services and ancillary services of the SUPPLIER (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transportation costs including any transport and liability insurance).

6.3 The agreed price shall be due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If PLATH makes payment within 14 calendar days, the SUPPLIER shall grant a 3% discount on the net amount of the invoice. In the case of bank transfer, payment shall be deemed to have been made on time if PLATH's transfer order is received by PLATH's bank before expiry of the payment deadline; PLATH shall not be responsible for delays caused by the banks involved in the payment process.

6.4 PLATH does not owe any interest on arrears. The statutory provisions shall apply to default of payment.

6.5 PLATH shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent permitted by law. In particular, PLATH shall be entitled to withhold due payments as long as PLATH is still entitled to claims against the SUPPLIER arising from incomplete or defective services.

6.6 The SUPPLIER shall only have a right of set-off or retention on the basis of legally established or undisputed counterclaims.

Section 7: WARRANTY

7.1 The statutory provisions shall apply to PLATH's rights in the event of a defect as to quality (in German: Sachmangel) or a defect as to title (in German: Rechtsmangel) in the Deliverables (including incorrect or incomplete Deliverables, as well as improper assembly, or defective assembly or operating instructions) and other breaches of duty by the SUPPLIER, unless otherwise specified below.

7.2 The SUPPLIER is in particular liable for the Deliverables' conformity with the agreed characteristics (in German: Beschaffenheitsmerkmale). In the case of Deliverables with digital elements or other digital content, the SUPPLIER is responsible for providing and updating the digital content to the extent that this results from the agreed characteristics or other product descriptions of the manufacturer or on his behalf, in particular on the Internet, in advertising or on the product label.

7.3 If the Deliverables have defects during the warranty period, i.e. in particular if the Deliverables do not have the agreed characteristics (in German: Beschaffenheitsmerkmale), Contractor is obliged to remedy such defects ("Remedy", in German: Mängelbeseitigung). For this purpose, PLATH, at its sole discretion, has the right to demand from the Contractor to either provide defect-free deliverables ("Replacement Deliverables", in German: Ersatzleistung), to rectify the defects ("Rectification of Defects", in German: Reparatur), a reduction of the purchase price (in German: Minderung) or the recission of the contract (in German: Wandelung). The Remedy shall also include the disassembly of the defective Deliverables and the reinstallation, provided that the Deliverable according to its nature and purpose of use has been incorporated into another object or attached to another; PLATH's statutory right to reimbursement of related expenses remains unaffected. The SUPPLIER shall bear the expenses required for the purpose of verification and Remedy even if it is found that there was in fact no defect. PLATH's liability for damages in the event of an unjustified request for Remedy of defects remains unaffected; in this respect, however, PLATH shall only be liable if PLATH has recognized (or has gross negligently not recognized) that there was no defect. All this also applies to Software without limitations.

7.4 PLATH is neither obliged to examine the Deliverables

nor to make special enquiries about any defects at the time of conclusion of the contract. In derogation of article 200 section 2 CO, PLATH shall be entitled to claims for defects without restriction even if PLATH has remained unaware of the defect at the time of conclusion of the contract as a result of gross negligence.

7.5 The statutory provisions (article 201 CO) in relation to the obligation to inspect and to give notice (in German: Mängelrüge) shall apply with the following proviso: Insofar as acceptance of the Deliverables has been contractually agreed, there is no obligation to inspect. If acceptance of the Deliverables has not been agreed, PLATH's obligation to inspect is limited to defects that are obvious during an incoming goods inspection (in German: Wareneingangskontrolle) or external inspection (in German: äußerliche Begutachtung), including any delivery documents, (e.g. transport damage, incorrect and incomplete supply) or during the random quality control check by PLATH. Moreover, it is decisive to what extent an inspection is appropriate according to the proper course of business, considering the circumstances of the case. The obligation to give notice with regard to defects discovered later remains unaffected. Without prejudice to an obligation to inspect, a complaint (notification of defect) shall in any case be deemed to be immediate and timely if it is sent within 2 weeks from the defect's discovery or, in the case of obvious defects, from the supply of the Deliverables.

7.6 In the event of a Serious Defect, in particular of a Software, the SUPPLIER shall carry out the Remedy chosen by PLATH without delay. If the SUPPLIER has not started the Remedy measures required in this case within a reasonable period to be determined by PLATH in a promising manner, or if, in PLATH's view, the SUPPLIER does not sufficiently and vigorously carry out the Remedy measures, or if the SUPPLIER otherwise fails to fulfil its obligation to remedy within a reasonable period set by PLATH, PLATH shall be entitled to demand a different Remedy or alternatively to carry out the Remedy on its own at the expense of the SUPPLIER or to have it carried out by a third party (Substitute Performance, in German: Ersatzvornahme) and to demand an advance of 130% of the estimated additional costs from the SUPPLIER for the expenses required for this purpose.

7.7 The above also applies to Deliverables used for the Replacement Deliverables (in German: Ersatzleistungen) or for the Rectification of the Defects (in German: Nachbesserung).

7.8 In addition, PLATH is entitled to compensation for damages and expenses in accordance with the statutory provisions.

Section 8: PRODUCER LIABILITY

8.1 If the SUPPLIER is responsible for product damage, he shall indemnify PLATH against third-party claims to the extent that the cause lies within his control and organization and he himself is liable in relation to third parties.

8.2 Within the scope of its indemnification obligation, the SUPPLIER shall reimburse expenses arising from or in connection with claims asserted by third parties, including recall campaigns carried out by PLATH. PLATH shall inform the SUPPLIER of the content and scope of recall measures - as far as possible and reasonable - and give SUPPLIER the opportunity to comment. Further legal claims remain unaffected.

8.3 The SUPPLIER shall take out and maintain product liability insurance with a lump sum cover of at least EUR 10 million per personal injury/property damage.

Section 9: EXPORT REGULATIONS

9.1 Where and to the extent that the Deliverables or part of the Deliverables are subject to national, foreign or international trade and export control laws and regulations applicable at the place of business of PLATH or the SUPPLIER, in particular those of the United States of Amerika (USA) or the European Union (EU) (hereinafter referred to as "Export Regulations"), SUPPLIER shall fully comply with such Export Regulations.

9.2 Where and to the extent that the Deliverables or part of the Deliverables are subject of Export Regulations, the SUPPLIER shall submit timely and free of charge, the necessary classification rules, official authorizations, licenses and other permissions necessary for the export of the Deliverables or part of the Deliverables in accordance with the Export Regulations (hereinafter jointly the "Permission") and remains responsible for obtaining such Permission.

9.3 In the event of a breach of the abovementioned SUPPLIER's obligations, the SUPPLIER shall at its own expense also take the those measures necessary based on such breach in order to obtain from the competent authority a Permission for PLATH to supply to or perform the Deliverables for its final customer.

Section 10: MAINTENANCE, REPAIR, MODIFICATIONS AND TECHNICAL ASSISTANCE

10.1 At PLATH's request, SUPPLIER undertakes to make a binding offer concerning maintenance, repair and modification work with regard to the Deliverables.

10.2 The SUPPLIER further undertakes to make, at PLATH's request, a binding offer concerning technical assistance by secondment of its own personnel to guide and assist PLATH's personnel in the maintenance, repair and modification of the Deliverables.

Section 11: INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, RIGHTS OF USE, SOFTWARE

11.1 Intellectual property rights of third parties

11.1.1 The SUPPLIER warrants to PLATH by means of an independent guarantee pursuant to Section 111 CO (selbständige Garantie), that the Deliverables to be provided by the SUPPLIER are free of any rights of third parties arising out of or in connection with know-how, patents, copyrights, trademarks, designs or other intellectual property rights (hereinafter referred to as "IPR"), also if and to the extent that the Deliverables of the SUPPLIER are connected to or shared with deliverables of other persons or undertakings, unless PLATH has expressly agreed to such a third party right in writing.

11.1.2 The SUPPLIER undertakes to indemnify and hold harmless PLATH from any claims asserted by third parties against PLATH as a result of the infringement of IPR or due to a competition or cartel infringement of the SUPPLIER in connection with the IPR. This includes also reasonable legal defense costs of PLATH.

11.1.3 PLATH is entitled to rescind the contractual relationship with the SUPPLIER by written notification, inter alia, if a third party asserts against PLATH or the (last) customer rights because of the infringement of IPR or if the SUPPLIER has violated competition or cartel laws.

11.2 Usage rights and software

11.2.1 The SUPPLIER grants PLATH a non-exclusive, free of charge, irrevocable, timely and locally unlimited, as well as transferable and sublicensable right of use in respect of the Deliverables, in particular with regard to any and all computer programs (herein referred to as "Software"). PLATH is entitled in particular to integrate all or part of the Deliverables, in particular the Software, into other products, to distribute the Deliverables (whether or not integrated in other products) worldwide and, to the extent necessary to achieve the sales activities pursued by PLATH, to process or otherwise redesign or rework them and to distribute the results thereof as laid out before.

11.2.2 If and to the extent that PLATH uses the Deliverables (irrespective in which way) to fulfil its own performance obligations towards a (direct or indirect) customer, the right of use for PLATH – but not for the (direct or indirect) customers of PLATH – is limited to the purposes of fulfilling these performance obligations.

11.2.3 Notwithstanding any other provision of the contractual relations between PLATH and the SUPPLIER, the rights of use in accordance with this Section 11.2 shall, in particular with regard to Software, also include:

a) The right to exercise or allow the exercise of the rights in the Software, in any way whatsoever, and to improve the Software for any purposes permitted in the present or in the future, in particular defense purposes, provided that this is done in the ordinary business of PLATH.

b) Translate, Loading, displaying, running, transmitting and storing the Software or any customized version thereof, in particular with regard to maintenance, error correction, virus control, introduction of potential improvements, transmission to other devices, interfacing and/or dialoging the Software with other software or other devices.

c) The changes in parameters and the introduction, modification and removal of security measures.

d) The making, storage and modification of copies by PLATH or third parties for backup purposes, (further) development and testing of the Software. In the case of backup copies, the copyright information should not be removed.

11.3 PLATH is hereby entitled by the Contractor to transfer the use in whole or in part to third parties in accordance with Section 11.2, if and to the extent that this is appropriate, so that the Deliverables can be fully utilized for (i) the purposes, in particular the defense purposes, and (ii) for the exercise of the rights of the (last) customer or end customer. The rights of use in accordance with Section 11.2 are not tied to special devices or special locations.

Section 12: CONFIDENTIALITY AND RESERVATION OF TITLE

12.1 Notwithstanding any other provision of the contractual relations between PLATH and the Contractor, the Contractor is obliged to treat the existence of the contractual relationship with PLATH as well as all information about the Deliverables strictly confidential. PLATH reserves ownership rights and copyrights to illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents shall be used exclusively for the contractual performance and shall be returned to PLATH after completion of the contract. The documents must be kept secret from third parties, even after termination of the contract. The confidentiality obligation shall only expire if and insofar as the knowledge contained in the documents provided has become generally known. Special confidentiality agreements and statutory provisions on the protection of secrets shall remain unaffected. The SUPPLIER shall oblige SUPPLIER's legal representatives, as well as vicarious and other agents to maintain appropriate confidentiality within the limits of what is legally permissible, even for the period after such person has left the SUPPLIER. The SUPPLIER shall ensure and bring about that the undertakings and persons consulted by SUPPLIER to fulfil SUPPLIER's performance obligations are obliged to keep confidentiality accordingly.

12.2 The above provision shall apply accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that PLATH provides to the SUPPLIER for production ("Materials"). Such Materials shall - as long as they are not processed - be stored separately at the SUPPLIER's expense, be insured to an appropriate extent against destruction and loss, and may only be used for PLATH.

12.3 Any processing, mixing or combination (further processing) of Materials for Deliverables provided by the SUPPLIER shall be carried out on PLATH's behalf. The same applies in the event of further processing of the Deliverables by PLATH, so that PLATH is deemed to be the manufacturer and acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.

12.4 The transfer of ownership of the Deliverables to PLATH must take place unconditionally and without regard to the payment of the price. If, however, in individual cases PLATH accepts an offer of transfer of ownership from the SUPPLIER conditional on payment of the purchase price (and such retention of ownership is valid under Swiss Law), the SUPPLIER's reservation of title shall expire at the latest upon payment of the purchase price for the Deliverables. In any event, PLATH remains authorized to resell the Deliverables in the ordinary course of business even before payment of the purchase price. All other potential forms of retention of title, as e.g. an extended retention of title, a forwarded retention of title or a retention of title extended to further processing are herewith explicitly excluded.

Section 13: LIABILITY OF THE SUPPLIER

13.1 The SUPPLIER shall be liable to PLATH in accordance with the applicable statutory provisions.

13.2 The SUPPLIER is obliged to indemnify and hold PLATH harmless from all claims and rights of third parties asserted against PLATH for an act or omission of the SUPPLIER, its legal representatives, vicarious and other agents and sub-suppliers.

13.3 If the SUPPLIER is responsible for a product damage, SUPPLIER must indemnify and hold PLATH harmless from all claims and rights of third parties to the extent that the cause is set in SUPPLIER's sphere of domination and organization.

13.4 As part of its indemnification and hold harmless obligations, the SUPPLIER shall reimburse PLATH all expenses arising out of or in connection with claims asserted by third parties, including product recall measures carried out by PLATH. PLATH will inform the Seller of the content and scope of product recall measures, to the extent possible and reasonable.

13.5 Further and other claims of PLATH remain unaffected.

Section 14: STATUTE OF LIMITATIONS

14.1 The reciprocal claims of the PARTIES shall become time-barred in accordance with the statutory provisions, unless otherwise stipulated below.

14.2 The general limitation period for claims for defects is 3 years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance.

14.3 The 3 years limitation periods above shall apply - to the extent permitted by law - to all contractual claims for defects. Insofar as PLATH is also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period shall apply, unless the application of the above mentioned limitation periods leads to a longer limitation period in individual cases.

Section 15: FINAL PROVISIONS

15.1 Changes and amendments to an order or an agreement concluded between the SUPPLIER and PLATH must be made in writing.

15.2 This GTC shall be subject to the laws of Switzerland, to the exclusion of its conflict of law provision as well as to the exclusion of the UN-Convention on Contracts for the International Sale of Goods (CISG).

15.3 The exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship between the SUPPLIER and PLATH is Bern, Switzerland. PLATH is furthermore entitled to bring an action at the place of performance of the Deliverables (in German: Erfüllungsort), at the general place of jurisdiction (in German: allgemeiner Gerichtsstand) of the SUPPLIER or at any competent authority worldwide for interim and injunction measures. Mandatory legal regulations, in particular on exclusive jurisdiction, remain unaffected.