



## GENERAL TERMS AND CONDITIONS

### 1. GENERAL

1.1. The contract is concluded with the receipt of the written confirmation from Platit AG, Eichholzstrasse 9, CH-2545 Selzach / SO, hereinafter referred to as PLATIT or PLATIT AG, that it accepts the order (order acknowledgment). Offers that do not include an acceptance period are non-binding.

1.2. These GENERAL TERMS AND CONDITIONS shall be binding if declared applicable in the tender or in the order acknowledgement. Any conditions stipulated by the customer which are in contradiction to these GENERAL TERMS AND CONDITIONS shall only be valid if expressly acknowledged by PLATIT in writing.

1.3. All agreements and legally relevant declarations of the contracting parties must be in writing in order to be valid. Declarations in text form which are transmitted by or recorded on electronic media will be equated with written declarations when specifically so agreed by the parties.

1.4. If any provision of these terms and conditions proves to be wholly or partially ineffective, the contracting parties shall replace this provision by a new agreement as close as possible to their legal and economic success.

### 2. SCOPE OF SUPPLIES AND SERVICES

The supplies and services are exhaustively specified in the order acknowledgement and in appendices thereto.

### 3. PLANS AND TECHNICAL DOCUMENTS

3.1. Unless otherwise agreed, brochures and catalogues are not binding. Data in technical documents are only binding if they have been expressly stipulated as such.

3.2. Each party retains all rights to plans and technical documents provided to the other. The party receiving such documents recognizes these rights and shall – without previous written consent of the other party – not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

### 4. PRICES

4.1. Unless otherwise agreed, all prices shall be deemed to be net ex works (EXW INCOTERMS® 2010), excluding packaging, in freely available Swiss francs without any deductions whatsoever. Any and all additional charges, such as, but not limited to, freight charges (loading and transport), insurance premiums, fees for export, transit, import and other permits, and notarizations shall be borne by the customer.

4.2. The prices are adjusted appropriately if:

- the delivery period has been extended for reasons for which the customer is responsible, or
- the nature or scope of the agreed deliveries or services has changed, or
- the material or design has been changed, because the information and / or documents provided by the customer did not correspond to the actual conditions or were incomplete.

### 5. TERMS OF PAYMENT

5.1. Payments shall be made by the customer in accordance with the agreed terms of payment at the domicile of PLATIT AG, without any deduction for cash discount, expenses, taxes, levies, fees,

duties, and the like within thirty days.

5.2. For advance payments, no interest shall be refunded.

5.3. If the customer does not adhere to the agreed terms of payment, he shall be liable, without reminder, for interest with effect from the agreed date on which the payment was due at a rate depending on the terms prevailing at the customer's domicile, but not less than 4 per cent over the current 3-month CHF-LIBOR target. The right to claim further damages is reserved.

5.4. The withholding or the deduction of payments due to complaints, disputes or claims of the customer that have not been expressly agreed by Platit is inadmissible. The customer can only set off any counterclaims against payments under this contract if Platit has expressly agreed to them in writing.

### 6. RETENTION OF TITLE

PLATIT shall remain the owner of all supplies until it has received the full payments in accordance with the contract.

The customer is obliged to assist in procedures necessary in order to protect the title of PLATIT AG. Upon entering into the contract, the customer authorizes the PLATIT AG to enter or notify the reservation of title in the required form in public registers or similar records and to fulfil all corresponding formalities in accordance with the relevant national legislation, at the customer's expense.

During the period of the reservation of title, the customer shall, at his own cost, maintain the supplies and insure them for the benefit of PLATIT against theft, breakdown, fire, water and other risks. He shall further take all measures to ensure that PLATIT title is in no way compromised or rescinded.

### 7. DELIVERY TIME

7.1. The delivery time shall start as soon as the contract is entered into, all official formalities have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled. The delivery time shall be deemed to be observed if by that time PLATIT has sent a notice to the customer informing him that the supplies are ready for dispatch.

7.2. The delivery time shall be reasonably extended:

- a) if the information required by PLATIT for the performance of the contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;
- b) if hindrances occur which PLATIT cannot prevent despite exercising the required care, regardless of whether they affect the PLATIT AG, its supplier, the customer or a third party. Such hindrances include, but shall not be limited to, pandemics, epidemics, mobilization, war, civil war, acts of terrorism, riots, political unrest, revolutions, sabotage, serious breakdown in the works, accidents, labor conflicts, late or deficient delivery from suppliers or subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, actions or omissions by any authorities or state or

supranational bodies, embargoes, unforeseeable transport problems, fire, explosion, natural catastrophes;

c) if the customer or a third party is behind schedule with work he has to execute, or with the performance of his contractual obligations, in particular if the customer fails to observe the terms of payment;

d) if the supplier has to interrupt or shorten its production processes due to a lack of or a reduced availability of energy sources (e.g. gas, electricity). The supplier shall inform the customer immediately and in writing of such a situation. Any claim by the customer against the supplier for compensation for delay or for compensation for direct and indirect damages due to such a delay shall be excluded.

7.3. The customer shall be entitled to claim liquidated damages for delayed delivery insofar as it can be proven that the delay has been caused through the fault of the Platit AG and that the customer has suffered a loss as a result of such delay. If substitute material can be supplied to accommodate the customer, the latter is not entitled to any damages for delay.

Damages for delayed delivery shall not exceed 0.5 per cent for every full week's delay and shall in no case whatsoever altogether exceed 5 per cent of the contract price of the part of the supplies in delay. No damages at all shall be due for the first two weeks of delay.

After reaching the maximum liquidated damages for delayed delivery, the customer shall grant PLATIT a reasonable extension of time in writing. If such an extension is not observed for reasons within PLATIT's control, the customer shall have the right to reject the delayed part of the supplies or services. If a partial acceptance is economically not justified on the part of the customer, the latter shall be entitled to terminate the contract and to claim refund of the money already paid against return of the deliveries supplied.

7.4. Any delay of the supplies or services does not entitle the customer to any rights and claims other than those expressly stipulated in this Clause 7. This limitation does, however, not apply to unlawful intent or gross negligence on the part of the PLATIT AG but does apply to persons employed or appointed by PLATIT to perform any of its obligations.

### 8. PACKAGING

The packaging will be specially billed by the supplier and will not be taken back. However, if it has been designated as the property of PLATIT AG, it must be returned by the customer to the place of departure without delay.

### 9. PASSING OF BENEFIT AND RISK

9.1. The benefit and the risk of the supplies shall pass to the customer at the latest upon the departure of the deliveries ex works.

9.2. If dispatch is delayed at the request of the customer or due to reasons beyond PLATIT's control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured for the account and at the risk of the customer.



## 10. SHIPPING, TRANSPORT AND INSURANCE

10.1. Special requests regarding shipping, transport and insurance are to be announced in good time to PLATIT. Transport is at the expense and risk of the customer.

10.2. Obvious defects, including but not limited to e.g. damage to the packaging or "Tilt and Shock watch activated" in connection with shipping or transport must be noted by the customer on receipt of the deliveries or freight documents immediately and handwritten on the freight documents, signed by the customer, documented by appropriate footage and immediately addressed to the last carrier. Freight documents which are labeled with preconceived texts such as "general reservation" are not permitted. At the same time, the customer must immediately submit a copy of the incident to PLATIT, in the absence of an employee of the PLATIT AG.

10.3. The removal of the packaging must be carried out in the presence of an employee of PLATIT, in case the installation of the delivery is carried out by a PLATIT employee. In the event, that the customer removes the packaging without the assistance of an employee of PLATIT, any responsibility shall be transferred to the customer and the supplies and services shall be deemed approved.

10.4. The insurance against damage of any kind is up to the customer.

## 11. INSPECTION AND ACCEPTANCE OF DELIVERIES AND SERVICES

11.1. As far as being normal practice, PLATIT shall inspect the supplies and services before dispatch. If the customer requests further testing, these are to be specially agreed upon and paid for by the customer.

11.2. The customer must check obvious defects immediately upon receipt of the deliveries and services and proceed according to Clause 10.2.

11.3. Hidden defects, including, but not limited to e.g. damaged parts, corroded parts, etc. must be documented immediately by the customer and notified in writing to PLATIT within seven days. Without further disposition of PLATIT, the delivery or service may not be moved.

11.4. In any case of a detected defect, the customer must grant PLATIT employees or auxiliary persons, who have been appointed by PLATIT, free access to the goods and services for inspection purposes.

Furthermore, the packaging must not be disposed of and must be safely stored and freely accessible for further inspection.

11.5. If PLATIT has been notified of deficiencies in accordance with Clause 11.2, it shall remedy them as soon as possible, and the customer shall give PLATIT the possibility to do so.

11.6. The execution of an acceptance test as well as the stipulation of the conditions related thereto require a special agreement.

11.7. Deficiencies of any kind in supplies or services shall not entitle the customer to any rights and claims other than those expressly stipulated in this Clause 11 and Clause 12 (warranty, liability for defects).

## 12. WARRANTY, LIABILITY FOR DEFECTS

12.1. The warranty period is 12 months, except for parts subject to wear and tear. For used equipment, the warranty period is 6 months. It begins with the departure of deliveries ex works or with the possibly agreed acceptance of

deliveries and services or, as far as PLATIT has also taken over the assembly, with their termination. If shipping, acceptance or assembly is delayed for reasons for which PLATIT is not responsible, the warranty period ends at the latest 18 months after arrival at the customer.

12.2. For replaced or repaired parts, the guarantee period starts anew and lasts 6 months from the replacement or completion of the repair or the acceptance, but not longer than the expiry of a period, double the guarantee period stipulated in the preceding paragraph.

12.3. The warranty expires prematurely if the customer or third parties make changes or repairs, seals are damaged or removed, or if the customer, if a defect has occurred, does not immediately take all suitable measures to mitigate the damage and gives PLATIT the opportunity to remedy the defect.

12.4. Upon the written request of the customer, PLATIT may choose to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proven to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become PLATIT's property if it does not explicitly renounce this. Under restriction of proportionality, the PLATIT AG shall bear the costs of remedying the defective parts provided that, they do not exceed the customary costs of transport, personnel, travelling, accommodation, dismantling and reassembly of the defective parts.

12.5. Express warranties are only those which have been expressly specified as such in the order acknowledgment or in the specifications. An express warranty is valid until the expiry of the guarantee period at the latest.

If the express warranties are not or only partially achieved, the customer may first of all require PLATIT to carry out the improvements immediately. The customer shall give the PLATIT AG the necessary time and possibility to do so.

If these improvements fail completely or in part, the customer may claim the agreed compensation for such case or, should no such agreement exist, a reasonable reduction of price. If, however, the defects are of such significance that they cannot be remedied within a reasonable time and provided that the supplies and services cannot be used for their specified purpose, or if such use is considerably impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for him and he communicates this immediately, to terminate the contract. In this case PLATIT can only be held liable for reimbursing the sums which have been paid for the parts affected by the termination.

12.6. All deficiencies which cannot be proven to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear, improper maintenance, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, building or installation work not undertaken by PLATIT, or resulting from other reasons beyond PLATIT's control are excluded from its guarantee and liability for defects.

12.7. With respect to any defective material, design or workmanship as well as to any failure to fulfil express warranties, the customer shall

not be entitled to any rights and claims other than those expressly stipulated in Clauses 12.1 to 12.7.

## 13. EXPORT CONTROL

The customer recognizes that the supplies may be subject to Swiss and/or foreign legal provisions and regulations on export control and are not allowed to be sold, leased or otherwise transferred or used for a purpose other than the agreed without an export or re-export permit of the competent authority. The customer undertakes to comply with such provisions and regulations. He is aware that these may change and that they apply to the contract in the current valid wording.

## 14. EXCLUSION OF FURTHER LIABILITY OF PLATIT

All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, irrespective on what ground they are based, are exhaustively covered by these GENERAL TERMS AND CONDITIONS. In the event, that claims of the customer in relation to or in connection with the contract or the breach thereof should exist, the total amount of such claims is restricted to the price paid by the customer. In particular, any claims not expressly mentioned for damages, reduction of price, termination of or withdrawal from the contract are excluded. In no case whatsoever shall the customer be entitled to claim damages other than compensation for the costs of remedying defects in the supplies themselves. This in particular refers but shall not be limited to loss of production, loss of use, loss of orders, recall costs, loss of profit and other direct or indirect or consequential damage. Liability is also excluded for compensation claims from third parties against the customer for infringements of intellectual property rights.

This exclusion of further liability on the PLATIT's part does not apply to unlawful intent or gross negligence on the part of PLATIT but does apply to persons employed or appointed by the PLATIT AG to perform any of its obligations. This exclusion of liability does not apply as far as it is contrary to compulsory law.

## 15. RECOURSE RIGHT OF PLATIT

If persons are injured or the property of third parties is damaged by acts or omissions of the customer or his assistants, and if PLATIT is claimed for this reason, it is entitled to a right of recourse to the customer.

## 16. TRADEMARKS

The customer is not entitled to use PLATIT trademarks, unless otherwise agreed in writing.

## 17. JURISDICTION AND APPLICABLE LAW

17.1. The place of jurisdiction for both the customer and PLATIT shall be at the registered office of PLATIT. However, PLATIT is entitled to sue the customer at his place of business.

17.2. The legal relationship is subject to substantive Swiss law.

Platit AG

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