

General Terms and Conditions for the Rental of Software

A. General provisions

1. Scope of application

- a. These General Terms and Conditions shall apply to all transactions between PLATO and the customer, pertaining to the rental of software products and other related services of PLATO, provided that the customer is an entrepreneur within the meaning of Section 14 German Civil Code (BGB), a legal entity under public law or a special fund under public law.
- b. These General Terms and Conditions shall apply exclusively, unless otherwise agreed between PLATO and the customer by way of an individual agreement. Any deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if (and to the extent that) PLATO has expressly agreed to their validity. This requirement of consent shall apply in any case, for example, even if PLATO performs the delivery to the customer without reservation in the knowledge of the customer's general terms and conditions.
- c. Regarding the order of precedence within these General Terms and Conditions, the "Special Provisions" as set out in the following Sections shall apply in addition to or – insofar as they are more specific – take precedence over the General Provisions of this Section A.

2. Conclusion of contract

- a. Offers from PLATO shall always be subject to change and understood as non-binding. This shall also apply if PLATO has provided the customer with catalogs, software and user documentation, other product descriptions or documents – including in electronic form.
- b. The order placed by the customer shall be deemed to be a binding contractual offer.
- c. Acceptance may either be declared in writing (e.g. by order confirmation) or by performance of the contractual service vis-a-vis the customer.

3. (Delivery) dates

- a. Deadlines shall only be binding if they result from an agreement between PLATO and the customer, or if they have been assured (or confirmed) by a contact person designated as responsible by executive management, or by executive management itself.
- b. Should the parties agree to changes in performance, any deadlines already agreed or promised shall be extended accordingly.

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4. Force majeure

Force majeure events that render performance significantly more difficult (or impossible) for the contractor shall entitle the contractor to postpone the fulfillment of its obligations for the duration of the hindrance, and for a reasonable start-up period. Force majeure shall include strikes and similar circumstances that directly (or indirectly) affect the contractor.

5. Prices and terms of payment

- a. Prices shall be subject to VAT at the current rate of 19%.
- b. PLATO shall be entitled to demand reasonable advances on the expected order value and payment on account, as well as interim invoicing for partial services rendered.
- c. Unless otherwise agreed, other services shall be invoiced to the customer after the service has been rendered.
- d. If services are rendered on Saturdays, Sundays or public holidays at the customer's request, PLATO shall charge a surcharge on the agreed hourly or daily rates amounting to 75% of the rate to be charged.
- e. The customer may only offset such claims against claims of PLATO that are undisputed or have been legally established.
- f. Should the customer fail to pay an invoice when due, PLATO shall charge default interest at the statutory rate (currently 9 percentage points above the ECB prime rate).

6. Liability

- a. PLATO shall have unlimited liability
 - in the event of intent or gross negligence,
 - for injury to life, limb or health,
 - in accordance with the provisions of the Product Liability Act (ProdHG) and
 - to the extent of a guarantee assumed by the seller.
- b. In the event of a slightly negligent breach of an obligation deemed essential for achieving the purpose of the contract (a so-called "cardinal obligation"), the liability of PLATO shall be limited to the amount of damage that is foreseeable and typical for the type of transaction in question.
- c. There shall be no further liability on the part of PLATO.
- d. The above limitation of liability shall also apply to the personal liability of employees, representatives and executive bodies of PLATO.

7. Obligations of the customer against data loss

The service provided by PLATO may make it necessary for PLATO to access the customer's system. This will only take place with the customer's consent. In addition, the customer is strongly recommended to always back up the data, to be able to restore the original status at any time. This shall also apply to the installation of updates and upgrades.

PLATO recommends using the database system's automatic backup mechanisms. The "Full" recovery model is expressly recommended for productive databases. The customer's database system administrator shall bear responsibility for this.

8. Secrecy

- a. The term "confidential information" denotes all information and documents of the other party that are marked as confidential or are to be regarded as confidential due to prevailing circumstances, in particular, information about operational processes, business relationships and expertise.
- b. The customer and PLATO hereby agree not to disclose confidential information about each other.
- c. Said confidential information shall be exempt from this obligation, if it was
 - demonstrably known to the receiving party when the contract was concluded, or which subsequently became known to the receiving party from a third party without violating a confidentiality agreement, statutory provisions or official orders.
 - publicly known at the time of conclusion of the contract or are made publicly known thereafter, insofar as this is not based on a breach of this contract.
 - disclosed due to legal obligations or by order of a court or authority. As far as permissible and feasible, the receiving party obligated to disclose said information shall inform the other party in advance and give it the opportunity to act against the disclosure.
- d. The customer and PLATO shall only grant access to confidential information to consultants who are subject to professional secrecy, or who have previously been subject to obligations corresponding to the confidentiality obligations of this contract. In addition, thereto, the customer and PLATO shall only disclose the confidential information to those employees who need to know it for the execution of this contract and shall also obligate these employees to maintain confidentiality to the extent permitted by labor law for the period after their departure.

B. Special part: Rental of software

1. Subject matter of the contract

Unless otherwise agreed, the subject matter of the software rental agreement shall be the provision of the PLATO standard software from the PLATO product portfolio (hereinafter: PLATO software) for the term of the agreement, together with the granting of the rights required for its contractual use in accordance with Clause 3 below against payment of the agreed annual remuneration.

2. Scope of delivery

Unless otherwise agreed, customizing services, training and project support – in the context of system implementation at the customer's premises – shall not be owed. These services may be ordered separately.

3. Granting of rights

- a.** In return for payment of the agreed remuneration, the customer shall receive a non-exclusive, non-transferable and non-sublicensable right to use the PLATO software to the extent granted in the license certificate, limited to the term of the rental agreement. Contractual use shall include the installation, loading, display and running of the installed PLATO software. Unless otherwise agreed, the customer shall receive so-called "concurrent licenses". The PLATO software can be installed on a central instance of the customer. The required number of customer licenses shall depend on the number of simultaneous calls (users) of the program in the network. In order to enable general access to the modules/instance, the customer also receives user licenses (named users) in addition to the concurrent licenses for a fee.
- b.** The customer may make a backup copy of the PLATO software in accordance with Section 69d (2) Copyright Act (UrhG). The copy must be marked as such. The backup copy must be deleted at the end of the term.
- c.** Furthermore, the customer shall only be entitled to reproduce, edit or decompile the PLATO software if this is permitted by law, and only if the information required for this is not made available by PLATO at the customer's request.
- d.** The customer shall not be entitled to reproduce the PLATO software beyond the cases mentioned in Clauses a to c. In particular, the customer shall not be permitted to sell, give away or otherwise transfer the PLATO software and the rights granted to it for use to third parties without the prior consent of PLATO. This shall not apply to transfers by way of legal succession in accordance with company reorganization law.
- e.** The PLATO software may only be used if it is activated with a valid PLATO license key. The customer receives the license key from PLATO.
- f.** The customer shall not be entitled to remove or circumvent the existing protection mechanisms of the PLATO software against unauthorized use, unless this is necessary to achieve trouble-free use. Copyright

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notices, serial numbers and other features serving to identify the software may also not be removed or changed. The same shall apply to suppressing the screen display of corresponding features.

- g.** If the customer violates any of the above provisions, all rights of use granted under this contract shall immediately be rendered ineffective and shall automatically revert to PLATO. In such a case, the customer must immediately and completely cease using the PLATO software, delete all copies of the PLATO software installed on its systems and delete any backup copies made or hand them over to PLATO.
- h.** The provisions contained in Clause 3 shall also bind the parties under the law of obligations.

4. Providing access to the software

The PLATO software is available for download. The customer shall receive the access information required to use the PLATO software (in particular, license keys or log-in data). In addition to the PLATO software, PLATO shall provide the customer with installation instructions and documentation in electronic form (user manual). The initial installation of the PLATO software is carried out by the customer or can be carried out remotely by PLATO for a fee. Further installations, installation support and training in the use of the PLATO software may be commissioned by the customer for a separate fee.

5. Fee, due date, price adjustment

The remuneration for the transfer is based on the agreement or, in the absence thereof, on the price list valid at the time. The remuneration shall be paid one year in advance. In the first year of the rental period, the remuneration shall be due in the month following the provision of the PLATO software. PLATO shall be entitled to increase the prices by 5% at the earliest at the beginning of each subsequent contract year.

6. Term and termination

- a.** The contract shall be concluded for an indefinite period. Unless otherwise agreed, the minimum term shall be 24 months. Unless terminated by PLATO or the customer with three months' notice before expiry of the minimum term or the respective extension, it shall be extended by 12 months in each case.
- b.** The customer shall be entitled to partially terminate floating customer licenses and modules. Said partial termination must be declared in writing with a notice period of three months to the end of the minimum term or the respective extension.
- c.** The rental agreement may also be terminated in writing by either party for good cause without observing a notice period. The term "good cause" subsequently entitling PLATO to terminate the contract shall be deemed to apply, in particular, if the customer infringes the rights of use held by PLATO by using the PLATO software beyond the extent permitted under this contract, and failing to remedy said infringement within a reasonable period of time following a warning from PLATO.
- d.** Notice of termination must be issued in writing.
- e.** In the event of termination, the customer must cease using the PLATO software and remove all installed copies of the program from its computers and – at its discretion – immediately return any backup copies

made to PLATO or destroy them. If the minimum rental period of 24 months has been reached by the time the termination takes effect, further use of the licenses beyond the expired rental period is permitted. Upon termination, however, the customer loses the right to unpaid support and updates. If the contract is terminated before the end of the 24-month rental period, the customer is responsible for removing and backing up the data.

7. Monitoring of proper use

Upon request, the customer shall enable PLATO to check the proper use of the PLATO software as to whether the customer is using the program, in qualitative and quantitative terms, within the scope of the rights afforded to him. The customer shall provide PLATO with information on request at any time, grant access to relevant documents and records and enable PLATO or a company appointed by PLATO with the task of inspection, to inspect the hardware and software environment in use. PLATO may perform the inspection on the customer's premises during its regular business hours, or have it carried out by third parties bound to professional secrecy. PLATO shall ensure that the customer's business operations are disturbed as little as possible by its activities on site.

Should the inspection reveal that the number of licenses purchased has exceeded more than 5% (five percent) or that the license has been used in any other way not in accordance with the contract, the customer shall bear the costs of the inspection. Irrespective of the extent of said excess use or use deemed in breach of contract, PLATO may demand subsequent payment of additional remuneration corresponding to the additional use in breach of contract. The right to terminate the contract for a good cause shall remain unaffected.

8. Maintenance

a. Services

(1) Updates and upgrades

PLATO software is the subject of constant further development and is equipped with new or improved functionalities. Changes and improvements are implemented in new releases.

This shall include upgrades (major releases) and updates (minor releases). Maintenance services are only guaranteed for the current major release. The support period for a major release is 30 months from the publication of the major release.

(2) Troubleshooting (debugging, rectification of defects outside the warranty period)

- PLATO shall rectify program-side errors (so-called bugs) which nullify (or greatly reduce) the value or suitability for the use assumed under the contract, insofar as this is not covered by the warranty for defects.
- Troubleshooting shall include isolating the cause of the error, analyzing the error and rectifying the error or, if rectification is not possible with reasonable effort, bypassing the error.
- PLATO shall only be obligated to rectify errors if the error is reproducible.

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- Errors shall be rectified within a period appropriate to the severity of the impact on the customer.
- In the event of incidents (e.g. system failures and similarly serious impairments), the response time shall be a maximum of 12 hours in relation to a working day during working hours.

(3) Software support

- Support shall generally be provided by way of telecommunication, i.e. the services are not provided by a sales force. It shall only include telephone (hotline) and written support for questions relating to the standard installation or handling of one of the supported versions of the PLATO software. However, this support shall only be owed to a reasonable extent.
- Software support shall merely be understood as support for specific individual questions relating to the PLATO software. It shall not be intended for questions pertaining to the content of training courses, manuals or excluded from the scope of services (Clause c below).
- The hotline shall be staffed on weekdays. The hotline shall not be staffed on Saturdays, Sundays and public holidays at the company's registered office. The hotline number and the current hotline times are published on the PLATO homepage peakavenue.de/services/support.
- Written inquiries should be sent to PLATO via our service and support portal, which is accessible via the PLATO homepage peakavenue.de/services/support.
- Software support shall be provided by a key user appointed by the customer who has been trained in the operation of the PLATO software.

(4) Documentation

The documentation is constantly being updated and expanded. It shall be provided via the customer portal.

b. Obligations of the customer

In order to perform proper maintenance, the customer shall be subject to the following obligations:

- (1)** The customer must always keep the PLATO software up to date by downloading and installing updates, service packs or error releases offered by PLATO as soon as they are released.
- (2)** Maintenance can only be guaranteed if the system environment meets the system requirements issued by PLATO for the installed software version.
- (3)** An upgrade to the latest major release must be initiated in good time before the end of the 30-month support period.
- (4)** A key user must be named as the contact person for PLATO. The customer shall ensure that the key user is sufficiently trained in the use and operation of the PLATO software.
- (5)** The customer hereby undertakes to notify PLATO immediately in writing of any errors that may occur in the PLATO software and the documentation. The faults must be described as precisely as possible – including existing documentation that is suitable for illustrating the fault. If necessary, the data deemed to be causing the error must be made available for test trials. If the PLATO employee dials into the customer's instance for the purposes of remote diagnosis, appropriate special agreements must be made if necessary. These are not part of the contract.
- (6)** PLATO may carry out remote diagnostics, to analyze the issue or facilitate its implementation. In this case, PLATO shall use "remote maintenance software" to access the customer environment

exclusively for diagnostic and analysis purposes. Remote access to the customer environment shall take place during business hours and during a period agreed between PLATO and the customer.

- (7) If access to the customer's systems is required, troubleshooting shall be carried out by means of remote maintenance via remote access where possible, whereby PLATO may access the customer's computer via desktop sharing. The customer shall be responsible for closing all confidential documents in advance. The customer must ensure that the system on which he uses the PLATO software can be accessed remotely during troubleshooting. To this end, the customer must provide a suitable Internet connection and allow remote access. During remote access, the customer must monitor access to the affected system.

c. Exclusion of benefits and support in special cases

- a. Unless otherwise agreed, the following services shall not be covered by the scope of maintenance:
- Software development and hardware maintenance.
 - Adaptation of the software to amended hardware or software environment at the customer.
 - Requests concerning the operating system, third-party software or hardware.
 - Adaptation of the PLATO software to legal or other sovereign requirements.
 - Elimination of errors from the customer's area of risk, in particular, errors triggered by improper operation or modification of the PLATO software, by contamination of software components with computer viruses, use of unsuitable data carriers, abnormal operating conditions deemed not in accordance with what was contractually agreed, faulty hardware, failure of the power supply or data-carrying lines, errors due to lack of information security, unsuitable environmental conditions at the location of the software operation and force majeure, as well as the
 - rectification of errors resulting from adaptations of the PLATO software or parts thereof (e.g. reports) by the customer or by third parties at the customer's instigation.
- b. The following services shall not be part of the maintenance services, but can be utilized by the customer for a separate fee in accordance with the applicable price list / agreement:
- Installation of the supplied PLATO software
 - Consultation work that goes beyond the fault rectification owed
 - Instruction and training of software users
 - Customization of forms, reports and screen masks
 - Migration of PLATO software and data transfers
 - Customization and/or extension of PLATO standard solutions according to customer specifications (see Section C)

The rights of the customer based on the liability owed to PLATO under this contract for performance disruptions shall remain unaffected.

d. Data protection for remote access

Should the customer wish to use remote support, a PLATO employee may take note of personal data (e.g. customer data or data about employees). PLATO shall, therefore, offer the customer the conclusion

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of an order processing agreement. For this purpose, PLATO shall hold an agreement on order processing in accordance with the statutory provisions. The customer may request the order processing contract from PLATO, print it out and sign it and send it to PLATO.

9. Export restrictions

PLATO shall not deliver contrary to existing European, German or other export restrictions, insofar as German or European blocking rules do not conflict therewith.

C. Supplementary provisions for the adaptation of the rental software (customizing)

1. The concept of customizing

“Customizing” denotes the adaptation and/or extension of the PLATO software according to customer specifications.

2. Services from PLATO

PLATO customizes the PLATO software according to the customer’s specifications. The services shall be determined in detail in accordance with the specifications drawn up by PLATO for a fee in accordance with the customer’s requirements.

3. Obligations of the customer to cooperate

- a. The customer shall support PLATO in the fulfillment of its contractual obligations. This shall comprise, in particular, the timely provision of information, expert employees, means of communication and connections, as well as hardware and software and making premises accessible, insofar as this is necessary. The customer shall cooperate at his own expense.
- b. The customer shall take reasonable precautions to maintain its business operations if the services to be provided by the contractor are not available at short notice.
- c. The customer and PLATO shall each designate a point of contact and a deputy who shall be responsible for (and ensure the expert management of) the fulfillment of all pertinent contractual obligations of the respective party.

4. Acceptance

- a. PLATO shall inform the customer of the completion of the software. The customer shall then immediately check whether the service has essentially been rendered in accordance with the contract. Should this be the case, the customer must accept the service.
- b. Should the customer not consider the services rendered to be essentially in accordance with the contract, he must notify PLATO of his complaints within two weeks.

Should the customer lodge a complaint about services within the deadline, the contractor shall comment on this without delay. The parties will then try to reach an agreement on how to proceed.

- c. The same shall apply to partial services, insofar as partial services have been agreed.

5. Change of service by the customer

- a. A unilateral change in performance shall not be possible. Should the customer wish to change the quality or quantity of the contractually agreed service, he shall inform PLATO of this in text form.
- b. PLATO and the customer shall coordinate the implementation of the change request after the specialist department responsible has reviewed the change request. If no agreement is reached, the original scope of services shall remain unchanged.
- c. The customer shall bear the costs and expenses incurred because of requests for changes. This shall include checking the change request, preparing the change proposal and any downtimes. If daily rates have been agreed for the order, these shall be used for invoicing. Otherwise, the customer shall owe the usual remuneration.

6. Expertise

Expertise acquired as part of the customization service and software customizations created shall remain the intellectual property of PLATO. PLATO shall be expressly permitted to offer software solutions developed as part of the customization to other customers, provided that the customer's intellectual property rights are not infringed.

7. Updates and upgrades

The compatibility of the customization shall be guaranteed within the support period of the respective major release for which the customization was created. There shall be no entitlement to the software adaptations being continued as part of new major releases. Should the customer also request the customization for a subsequent major release, costs for the customization may be incurred again.

8. Remuneration

The remuneration for customizing shall be based on a separate agreement.

D. Training courses, workshops and other customer-specific services

1. Services

- **Training courses:** PLATO offers its customers software training courses to improve their understanding of the general functionality of the standard software. The service shall include training in the standard software in accordance with the training guide-
- **Workshops:** the handling of individual questions and use cases – or the inclusion of customer data in the training for the software – shall take place within the framework of workshops. The scope of services shall be agreed individually.

In addition, thereto, PLATO shall offer the following by individual agreement:

- Consulting services, e.g. on the operating concept or system optimization of PLATO solutions, as well as support and supervision of implementation and migration projects.
- Technical support, e.g. during installation, setting up system environments, data updates.

The services may be rendered as an online event, at PLATO' headquarters or at the customer's premises if the technical and spatial requirements are met there.

2. Cancellation of an appointment by PLATO

- a. PLATO shall be entitled to cancel events if prevented in its efforts through no fault of its own, in particular, the absence/illness of the employee scheduled to carry out the event, if no replacement can be provided. PLATO shall inform the customer immediately and agree an alternative date. Any claims for damages on the part of the customer vis-a-vis PLATO are hereby excluded in these cases.
- b. PLATO shall be entitled to refuse (or cancel) the execution of an appointment if the necessary conditions for successful execution are not met by the customer. In this case, any entitlement to remuneration for the appointment shall remain in force. Section 326 (2) German Civil Code (BGB) shall apply.

3. Cancellation or postponement of appointments by the customer

- a. The customer may cancel (or postpone) an agreed appointment without stating reasons. Notifications must be issued in writing.
- b. If a date is postponed 4 weeks or more before the start of the event, we shall charge a processing fee of 20% of the costs according to the order, and 50% of the costs from 2 weeks onwards. The receipt of the notification by PLATO shall be decisive for compliance with the deadline.
- c. Should an appointment be canceled, the agreed remuneration shall become due in full.
- d. If the ordered service is not utilized within 6 months of order receipt, the full amount as per the order must also be paid.
- e. The customer shall be entitled to nominate substitute participants for an agreed date/event if they have equivalent prerequisites/qualifications. The appointment must be made at least three days before the date.

4. Conditions of participation for open events

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The following conditions shall apply to events that are intended to be held for several customers and are not tailored to a single customer (open events):

a. Booking and registration

The number of participants shall be limited for technical and didactic reasons. Registrations shall be considered in the order in which they are received. Registrations shall be binding even if the registration confirmation does not arrive or does not arrive in time before the start of the event.

b. Event fees

The participation fee shall be understood as per person and event date and shall be shown in the event description. The participation fee shall become due for payment immediately after invoicing without deductions.

c. Cancellation by the participant

Participants may cancel their participation free of charge up to 2 weeks before the start of the event without stating reasons. Cancellations must be made in writing. The date of receipt by PLATO shall be decisive.

Should the participant cancel later or does not show up, the participation fee shall become due in full.

The participant shall be entitled to nominate a substitute participant for the event. The appointment must be made at least three days before the date.

d. Event changes

PLATO hereby reserves the right to replace speakers that have been previously announced and to slightly modify the content of the event. PLATO shall also be entitled to cancel the event up to one week before the start of the event if the number of participants is too low, to make the event economically viable.

e. Event cancellation

PLATO shall be entitled to cancel an event for reasons for which PLATO is not responsible due to illness of the speaker, force majeure or other unforeseeable events. Participants shall be notified at the address given in the registration form. Participation fees already paid for the event shall be refunded. The participant shall have no right to assert further claims.

f. Documents

Any event documents issued are hereby protected by copyright. Reproduction, distribution or any other use shall only be permitted with the express prior written consent of PLATO.

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E. Final provisions

1. Applicable law

The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

2. Severability clause

Should individually provisions of this contract be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. In such a case, the parties hereby agree that the invalid provision shall be replaced by a valid provision that comes as close as possible to the economic purpose of said invalid provision. The same shall apply to any loopholes.

3. Place of jurisdiction

The place of jurisdiction shall be the registered office of PLATO. PLATO shall also be entitled to bring legal action at the customer's registered office.