

## A. General Terms and Conditions of Purchase

### I. General provisions, scope of application

1. The following terms and conditions are authoritative for all orders and purchase contracts (purchase contracts, work contracts, service contracts) with our suppliers.

2. These General Terms and Conditions of Purchase apply exclusively to our business relationship with suppliers. However, they shall only apply if the customer is an entrepreneur within the meaning of section 14 of the German Civil Code [Bürgerliches Gesetzbuch, BGB], a legal entity under public law or a special fund under public law.

3. Deviating, supplementary or contradictory terms and conditions of business of a supplier shall not become a part of the contract unless we have expressly agreed to such. This shall also apply even if we have not expressly objected to them, or if we accept deliveries and services provided by the supplier, make payments or refer to documents of the supplier without having objected to the supplier's general terms and conditions of business.

4. Any individual agreements, including oral agreements, shall take precedence over these General Terms and Conditions of Purchase. However, a written contract or our written confirmation is authoritative for the proof of contents.

5. The language of the contract is German. If the General Terms and Conditions of Purchase are also provided in English, exclusively the German version of the General Terms and Conditions of Delivery shall be deemed authoritative in the event that there is a deviation in the meaning of individual provisions.

6. The General Terms and Conditions of Purchase shall also apply - in the respective version valid at the time of the conclusion of the contract - to all future business between us and the supplier as well as to pre-contractual negotiations, even if no further express reference is made to the General Terms and Conditions of Delivery.

7. The respectively valid General Terms and Conditions of Purchase as well as any changes can be viewed on the website of [www.primion-group.com](http://www.primion-group.com). They can be saved, downloaded and printed.

8. References to the validity of legal regulations have only clarifying meaning. Therefore, even without such clarification, the statutory regulations shall apply to the extent that they are not directly amended or expressly excluded in these General Terms and Conditions of Purchase.

9. With the exception of our managing directors, authorised signatories [Prokuristen], persons expressly named as contacts for the supplier and all employees/staff in our purchasing department, our employees/staff are not authorised to place orders, to conclude contracts, to make written or oral individual agreements, commitments or other statements for us, or to accept such statements in a binding manner; any such statements or acceptances are irrelevant and do not bind us. Something else shall only apply if one of the persons not indicated as an exception has been expressly granted a power of attorney in an individual case.

### II. Offer / order, prices, payment

1. The supplier's offers shall be free of charge, even if they are prepared at our request.

2. Only our written orders or orders confirmed in writing are binding (fax or email shall be sufficient to satisfy the written form).

3. The supplier must notify us of obvious errors (e.g. typographical or calculation errors) and incompleteness in our order, including all associated documents, for the purpose of correction or completion prior to acceptance of our order.

4. If primion refers to target quantities in the order, such shall be non-binding forecasts of need that do not constitute an obligation that primion accept such.

5. Subcontracts may only be awarded with the written consent of primion. However, consent may only be refused for good cause. If the supplier uses subcontractors without prior consent in writing, primion shall be entitled to withdraw from the contract and/or claim compensation for damages if the supplier does not terminate the subcontractor's engagement despite setting a reasonable deadline. In addition, the statutory regulations shall apply.

6. Delivery shall be made on the basis of previously agreed prices. These prices are fixed prices. They are understood to be DDP Incoterms (2010) plus the statutory value added tax, unless this is already included in the order. The prices include all services, ancillary services and costs, taxes, customs duties, costs for packaging and shipping and other charges, unless agreed otherwise. Insofar as prices are not specified or fixed when the order is placed, they must be indicated to us before the execution of the order. These prices shall only become binding with our express consent.

7. Delivery shall be made DDP Stetten am kalten Markt (Incoterms 2010), unless agreed otherwise in writing in individual cases. The price includes in particular packaging and shipping. Subsequent claims of any kind are excluded.

8. Unless agreed otherwise, we shall make payment with a 3% discount at our discretion within 14 days after delivery and receipt of the invoice, or with a 2% discount within 30 days after delivery and receipt of the invoice, or at the net amount within 90 days. By making payment, we do not waive the right to complain about defects or to assert warranty claims.

9. Our rights to set off and rights of retention cannot be restricted. The supplier shall only be entitled to set off a counterclaim or assert rights of retention if their counterclaim used for this purpose is undisputed, ready for a decision or legally established.

### III. Delivery time, delivery

1. Agreed delivery dates or deadlines are binding.

2. Authoritative for adherence to the delivery date is the receipt of the complete and faultless quantity of goods at the place of receipt or use as specified by us.

3. Shipment shall be made at the expense and risk of the supplier and on the shipping route prescribed by us. A copy of the delivery notes and/or shipping notes with the exact contents must be enclosed with the shipment and contain the order numbers, or such must be sent to us separately and immediately by email.

4. Damage to the goods caused by defective packaging shall be borne by the supplier. The supplier's obligation to take back packaging shall be governed by the statutory regulations. If a special charge for packaging is agreed with the supplier, such shall be credited at full value in the case of freight-free return.

5. The risk shall not pass to us until the delivery has been handed over at the delivery address indicated in our order or, if acceptance has been agreed, at the time of acceptance.

The statutory regulations (sections 377 et seqq. of the German Commercial Code [Handelsgesetzbuch, HGB]) together with the following provisions apply to our commercial duty to inspect and give notice of defects. Our duty to inspect is limited to defects that become apparent during our incoming goods inspection with an examination of the exterior and the delivery documents (e.g. transport damage, wrong delivery or short delivery). If acceptance has been agreed, there is no duty to inspect. Our duty to give notice of defects discovered later shall remain unaffected. In the cases under sentence 2 (apparent defects), our notice (reporting of defect) shall be given without delay if we send it within ten working days after receipt of the goods; in cases under sentence 4 (later discovery) this period shall be ten working days after

their discovery.

6. Delivery more than two weeks prior to the agreed delivery date shall only be permissible after prior agreement. In the event of early delivery without our consent, the goods shall be stored by us at the supplier's expense and risk until the agreed delivery date; payment periods shall only commence from the agreed delivery date. We only accept partial deliveries if we have expressly agreed to such.

7. Short or excess deliveries are generally not permissible unless agreed otherwise.

8. The reservation of self-delivery is excluded.

9. Primion may terminate the contract if the supplier discontinues their payments, if bankruptcy proceedings (section 14 and 15 of the German Insolvency Act [Insolvenzordnung, InsO]) or comparable legal proceedings have been filed by the supplier or, permissibly, by primion or another creditor, or if such proceedings are instituted or refused due to a lack of assets. In this case, primion shall be entitled to withdraw from the part of the contract not yet fulfilled.

#### **IV. Default, force majeure**

1. The supplier must notify us of any delays immediately after they become known, and state the reasons and the expected duration of the delay. If the supplier incurs costs for special measures in order to comply with the agreed delivery dates or deadlines, the supplier shall bear these costs on their own. The supplier shall notify primion of any such special measures without delay.

2. Government measures, uprisings, strikes, lockouts, fire, machine malfunctions, bottlenecks in the supply of materials or energy, transport obstructions and other reasons outside of our control where such delay normal acceptance shall be deemed to be force majeure and entitle us to postpone acceptance by the duration of the event plus an appropriate start-up period without any claims or rights arising for the supplier as a result; we shall be obligated to inform the supplier immediately of such circumstances if we become aware of them. If a delayed provision of services due to the aforementioned events is unreasonable for one of the parties, this party shall be entitled to withdraw from the contract.

#### **V. Quality assurance, quality control, liability for defects**

1. In order to ensure the quality of their deliveries, the supplier must have a quality management system and must be certified accordingly. Parts shall only be delivered to us if they have previously passed through the aforementioned quality assurance system and their dimensions, quality and condition have been determined in accordance with our specifications. All inspection documents shall be stored by the supplier in accordance with the statutory regulations.

2. The supplier warrants the faultlessness of the delivery, the observance of durability and quality guarantees as well as the correspondence of the delivery to the intended use, the latest state of the art technology and the relevant requirements of the authorities and trade associations, and that the delivery does not infringe on the rights of third parties.

3. The statutory regulations and the following General Terms and Conditions of Purchase shall apply without restriction to our rights in the event of material defects and defects in title and other breaches of duty by the supplier.

In the event that the goods are defective, we may, at our discretion, demand post-performance fulfilment in the form of rectification of the defect (repair) or delivery of a defect-free item (substitute delivery). If the supplier fails to comply with this obligation to repair the defect within a reasonable period of time set by us, we shall be entitled to repair the defect ourselves (self-implementation) and to demand that the supplier reimburse us for the necessary expenses and make a corresponding advance payment.

If the post-performance fulfilment by the supplier has failed or is unreasonable for us due to special circumstances (e.g. because of particular urgency, threat to operational safety or imminent occurrence

of disproportionately high damage), no - if necessary, new - time period shall be required; we shall inform the supplier immediately of such circumstances, if possible prior to our self-implementation.

4. All costs incurred in connection with the fulfilment of the liability for defects, e.g. for disassembly, assembly, freight, packaging, insurance, customs duties and other public charges, checks, including expert's fees and technical inspections, shall be borne by the supplier. This shall also apply if additional costs arise as a result of the fact that the item is no longer at the original place of performance.

5. Costs incurred by the supplier for the purpose of inspection and post-performance fulfilment shall be borne by the supplier, even if it turns out that there was actually no defect. Our liability to compensate for damage in the event of unjustified claims for the repair of defects shall remain unaffected. However, we shall only be liable if we have recognised or have not recognised due to gross negligence that there is actually no defect.

6. If, after delivery of the goods, the supplier discovers deviations between the actual condition and the target condition of the products, they shall notify us immediately and inform us about the planned corrective measures.

7. The limitation period for claims of defects is 36 months from the date of transfer of risk, unless agreed otherwise. Such shall not apply if a longer period of time is required by law. The limitation period shall begin anew for parts redelivered or repaired by the supplier in the course of redelivery.

8. The supplier shall indemnify us from all claims asserted against us by third parties – irrespective of the legal basis – due to a material defect, a defect in title or another defect in a product delivered by the supplier and shall reimburse us for the necessary costs of our legal action in this regard. The obligation to indemnify shall not apply if the supplier produced their deliveries and services in accordance with our specifications and the claim asserted by the third party is based exclusively on these specifications.

9. The supplier shall be obligated to inform us immediately in the event of any damage that may be attributed to the delivered goods and to allow our employees, third parties obligated to preserve confidentiality and/or authorities to inspect all product-relevant and process-relevant documents, if such an inspection is suitable for establishing the cause of the damage and for ascertaining any further risks arising from the goods. Furthermore, the supplier undertakes in such cases to grant the aforementioned group of persons unrestricted access to the production facility during normal business hours and after prior notice.

#### **VI. General liability, product liability, property rights**

1. The supplier's liability shall be governed by the statutory regulations. In addition, the following shall apply: If claims are asserted against us due to a violation of official safety regulations or due to domestic or foreign product liability provisions on account of a defect in the product where the supplier's delivery is the cause thereof, the supplier shall be obligated to compensate us for the resulting damage, unless the supplier is not responsible for such.

If we are obligated to carry out a recall because a product from the supplier poses a danger to persons and/or objects, the supplier must also bear all the recall costs. Further legal claims remain unaffected. As far as possible and reasonable, we will inform the supplier about the recall measures as early as possible and give them the opportunity to make a statement. If the supplier has indications that the recall of one of their products that we have ordered may become necessary, the supplier must inform us immediately and provide us with the appropriate documents.

2. Our suppliers are also obligated with respect to us to comply with the regulations of the German Minimum Wage Act [Mindestlohngesetz] if such is applicable. In the event of violations, our suppliers are liable for any disadvantages. The supplier is obligated to indemnify primion from all claims asserted by third parties against primion due to a violation of

the provision of the German Minimum Wage Act by the supplier and to reimburse us for all necessary expenses in connection with this claim.

3. If product defects are due to deliveries or services provided by the supplier's suppliers or subcontractors, such shall also be deemed to be defects in the supplier's product. To this extent, the supplier's suppliers or subcontractors are to be regarded as vicarious agents in accordance with section 278 of the German Civil Code.

4. The supplier shall be liable for the environmental compatibility of the delivered products and packaging materials. The supplier shall be liable for all consequential damage arising from the violation of the supplier's statutory disposal obligations unless the supplier is not responsible for them.

5. Any further or adjacent claims shall not be affected by the provisions of this contractual clause.

6. At our request, the supplier shall issue a certificate of quality for the delivered goods.

7. The supplier must take out adequate insurance against the risks arising from product liability. A corresponding proof of insurance must be provided upon request.

8. The supplier warrants that the goods delivered by the supplier do not infringe on any domestic or foreign property rights. The supplier shall indemnify the purchaser from all claims asserted against the purchaser due to an infringement of a property right and shall bear the costs of safeguarding the rights (including any legal disputes and settlement negotiations) if these claims are based on a culpable breach of duty by the supplier or if the supplier could have recognised the infringement of the property rights at the time of delivery if the supplier had exercised due commercial diligence.

Primion shall inform the supplier immediately in the event of a claim and shall give the supplier the opportunity to participate in the relevant negotiations.

The obligation to indemnify shall not apply if the supplier produced their deliveries and services in accordance with our specifications and the infringement of the property right is solely based on these specifications. If the supplier fears an infringement of property rights, they shall inform us immediately after receiving our corresponding specifications.

## **VII. Processing fees**

In the event of short deliveries, wrong deliveries, defective or damaged goods, billing errors, and similar defective performances in the delivery, primion shall charge processing costs for such. Depending on the expenditure of time, these costs will be invoiced to the supplier at an amount of €30.00 to €130.00 based on our discretion. We reserve the right to claim a higher cost or damage. It is left to the supplier to prove a lower cost or damage.

## **VIII. Retention of title, confidentiality**

We reserve all property rights, copyrights and intellectual property rights to all documents, materials and other objects handed over by us to the supplier (e.g. order documents, plans, drawings, illustrations, calculations, product descriptions, samples, models and other physical and/or electronic documents, information and objects). We shall also be entitled to these rights with respect to objects that the supplier has developed individually for the purpose of providing a service for us; the supplier hereby transfers such rights to primion, however, at least the exclusive, irrevocable right of use, which is not limited in terms of time, territory or content and which is compensated by the remuneration (including in particular the right to complete or partial publication, reproduction, transformation and processing, including further use for follow-up contracts with third parties). Primion accepts this granting of the right of use.

1. Unless agreed otherwise in writing, all models, samples, drawings and standard sheets made available to the supplier for the execution of the order shall be returned in perfect condition without request after

completion of the enquiry or order. All models, samples and drawings must be treated confidentially and may only be used for the execution of enquiries and orders. The supplier expressly undertakes not to duplicate the models, samples and drawings and not to hand them over to other companies or to destroy the produced special arrangements required for production at our request.

The title to the goods is transferred to us unconditionally and irrespective of our payment of the purchase price upon delivery. If a reservation of title by the supplier is nevertheless agreed in individual cases, all forms of expanded reservation of title extended or passed on to the resale, processing or transformation shall be excluded in any case, so that the reservation of title shall only apply until payment of the goods delivered to us in each case and only for these respective goods.

In the event of processing or transformation as well as combination, mixing or blending of the goods delivered to us, we shall be deemed to be the manufacturer and shall acquire co-ownership or, if applicable, full ownership of the end product at the latest through the acts mentioned above in accordance with the statutory regulations.

2. Our consent to drawings, calculations and other technical documents of the supplier shall not affect the supplier's warranty and guarantee obligations with regard to the delivery object. This also applies to suggestions and recommendations that we make.

3. The supplier is obligated to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. Furthermore, the supplier guarantees that they will use these documents exclusively for processing the order from us and will not use them in other projects. The supplier is obligated to take all reasonable and necessary measures to prevent third parties from becoming aware of and exploiting them. The supplier undertakes to exercise at least the same level of diligence in respect of the confidentiality of information shared as it does for the confidentiality of its own confidential information. Employees and staff must be obligated to preserve confidentiality separately during and after the period of employment to the extent that they are not already contractually obligated to do so under their employment contract. Furthermore, the supplier undertakes to provide third parties with confidential information only with our express prior consent in writing.

4. The supplier undertakes not to duplicate any documents that they have received from us for the partnership and to return them to us without being requested to do so after termination of the partnership, including any copies made. Any data and all copies that may have been created will be deleted from all data carriers or destroyed. This does not apply if statutory obligations require storage. At primion's request, the supplier must provide primion with proof of deletion or destruction.

5. The obligation to preserve confidentiality does not apply to generally known knowledge. Furthermore, it does not include the supplier's technical and commercial knowledge since the time when such became public knowledge without the supplier being the cause of such by breaching a contract. Furthermore, it does not apply to developments that are already obvious and therefore no longer secret.

6. This obligation to preserve confidentiality shall also continue to apply even if the intended contract does not materialise or is terminated. The supplier shall bear the burden of proof for generally known knowledge and obviousness. The supplier must also prove that technical and commercial knowledge has become publicly known and that the supplier has not caused such.

7. In each case of a culpable breach of the obligation to preserve confidentiality pursuant to section VIII, clauses 1-6, the supplier must pay a contractual penalty to be determined by us at our reasonable discretion. In the exercising of discretion, particular account must be taken of the importance of the breached obligation, the occurrence and potentially possible disadvantages for us and the degree of fault on the part of the supplier. The discretionary decision can be reviewed in full by the courts. The assertion of a further claim of compensation for damages to which, however, the contractual penalty is credited, remains unaffected.

8. The supplier's services and deliveries must be provided in compliance with Directive 2011/65/EC ("RoHS") on the restriction of the use of certain hazardous substances in electrical and electronic equipment and in compliance with Regulation 2006/1907/EC ("REACH").

#### **IX. Liability of primion**

1. Primion is not liable for simple or slight negligence.
2. In the event of gross negligence, primion's liability shall be limited to the typically foreseeable damage.
3. The aforementioned limitations of liability and exclusions of liability for primion shall not apply if the liability of primion is based on intent, in the event of loss of life, physical injury and damage to health, breach of material contractual obligations (obligations that enable the proper execution of the contract and the fulfilment of which the supplier should be able to rely on) or otherwise where liability is based on mandatory liability by law.
4. The aforesaid provision shall also apply to claims asserted by the supplier against employees and engaged parties of primion. The aforesaid provisions shall also apply if legal representatives or vicarious agents of primion have acted for primion.

#### **X. Place of performance, jurisdiction, applicable law**

1. The place of performance for all obligations arising from this contract is the registered office of primion Technology GmbH.
2. Exclusive place of jurisdiction for disputes with merchants, legal entities under public law or special legal funds and entities or persons that do not have a general place of jurisdiction in Germany is Hechingen. In addition, we shall be entitled, at our own discretion, to sue the supplier at the court of their registered office or branch office or at the place of jurisdiction in the place of performance.
3. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
4. Should provisions in these Terms and Conditions of Purchase be or become invalid or ineffective in whole or in part, such shall not affect the validity of the remaining provisions. Insofar as provisions have not become an integral part of the contract or are ineffective, the content of the contract shall be governed by the statutory provisions. Only if necessary and insofar as no supplementary interpretation of the contract takes precedence or is possible, the parties shall replace the invalid or ineffective provision with an effective provision that comes as close as possible to it in economic terms.

As of: 08/2018

primion Technology GmbH

## **B. Special Terms and Conditions for Work Contracts, Work Delivery Contracts, Purchase Contracts with Assembly Obligation or Service Contracts**

#### **I. Scope of application / deviations**

1. These Special Terms and Conditions shall apply in addition to the General Terms and Conditions of Purchase of the companies in the primion group in the event of a work contract, work delivery contract, purchase contract with assembly obligations or service contract.
2. The receipt of the goods described in the General Terms and Conditions shall be replaced by acceptance of the goods/services in the case of a work contract, work delivery contract, purchase contract with

assembly obligation and by the provision of the services in the case of a service contract.

#### **II. Services**

1. The services are agreed between the parties on an individual contract basis. Insofar as the contractor/supplier (hereinafter referred to as the contractor) charges their services according to daily rates, it is agreed that a working day shall have at least 8 hours. If the contractor works fewer hours per day, primion shall only remunerate the service on a pro rata basis in accordance with the hours worked. Travel times are not regarded as working hours.

2. In addition to the remuneration, no costs, expenses or travel costs shall be reimbursed to the contractor. The contractor shall also not be entitled to additional remuneration for any work done in the evening or at night, nor for work on Saturdays, Sundays or public holidays, unless primion expressly requests that the work be carried out in the evening or at night or work be done on Saturdays, Sundays or public holidays.

#### **III. Change in service**

1. The contractor shall immediately notify primion in writing of any change or extension of the scope of contract. The changes or extensions shall only become legally effective with primion's consent in writing. If the contractor modifies or extends their service or delivery without prior consent in writing, the contractor shall compensate primion for all resulting damages or expenses or withdraw from the contract. In addition to this, the statutory regulations shall apply.

2. The contractor will check primion's requests for changes within 10 working days for possible consequences and will inform primion of the result in writing. In particular, the effects on costs as well as the time plan and schedule must be reported. If primion decides to implement the changes, the contracting parties shall adapt the contract accordingly in writing.

#### **IV. Statutory regulations**

1. The contractor warrants that they will comply with all obligations arising from the German Minimum Wage Act [Mindestlohngesetz]. In particular, the contractor warrants that the employees or subcontractors hired or engaged by the contractor within the framework of the services to be provided for primion shall receive on the due date at least the statutory minimum wage or the amount in the respectively binding regulation, and that no further deductions shall be made in addition to the statutory deductions. If requested by primion, the contractor shall be obligated to provide proof of their payment of the minimum wage and their subcontractor's payment of such.

2. The contractor is obligated to indemnify primion from all claims (including fines) asserted by a third party against primion due to culpable acts or omissions of the contractor on account of a breach of the German Minimum Wage Act, in particular due to a breach of the statutory and/or collectively agreed minimum wage.

3. When placing an order and during the entire business relationship with primion, the contractor shall undertake to check whether they are working for primion for the long term and for the most part. The contractor is also obligated to inform primion if they are working for other customers to a significant extent at the time the order is placed or during the entire business relationship. The contractor is obligated to inform primion if they are working for the long term and for the most part not only for primion at the time the order is placed or during the duration of the business relationship and/or if they are working for other customers to a significant extent.

4. The contractor shall pay its social security contributions to the relevant institutions in accordance with the statutory regulations.

#### **V. Notification of concern**

The contractor is obligated to inform primion without delay in writing of any concerns regarding the intended type of execution or performance by other contractors.

#### **VI. Change in staff**

1. primion is entitled to demand the replacement of an employee (m/f) with another one (m/f) for objective reasons. This applies in particular if there are doubts about the necessary experience and/or qualifications or if occupational safety or environmental protection regulations are not observed. The contractor shall undertake to provide a qualified replacement without delay in this case. The agreed deadlines shall remain unaffected by such.
2. The replacement of staff by the contractor shall require prior consent from primion in writing.
3. The contractor shall bear all costs associated with a change in staff.
4. The contractor will not charge any costs for the employee for a reasonable training period.

#### **VII. Acceptance**

1. In the case of a work contract, work delivery contract, purchase contract with assembly obligation or a service contract, primion shall accept the work or the goods or the service within the agreed period of time; in this respect, acceptance shall be agreed for these contracts. If no acceptance period has been agreed, primion shall accept the work within 10 working days.
2. Tacit acceptance, e.g. by primion's putting the contractual objects into use, is excluded. Partial acceptance is also not permitted.
3. Otherwise, the statutory regulations shall apply.

As of: 08/2018

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