

AGB
Maintenance/Maintenance/Fault clearance
(General maintenance conditions)

1.
Scope

- 1.1 The following General Terms and Conditions for Maintenance apply to all deliveries and services to be provided by primion Technology GmbH (hereinafter referred to as "**primion**") in connection with the maintenance and repair as well as troubleshooting of hardware and software. The General Terms and Conditions of Maintenance only apply to entrepreneurs within the meaning of Section 310 (1) of the German Civil Code (BGB) in conjunction with Section 14 of the German Civil Code (BGB).
- 1.2 The customer's general terms and conditions do not become part of the contract unless primion has expressly agreed to them. This also applies if primion does not expressly object to them or performs services without having objected to the customer's general terms and conditions.
- 1.3 These General Terms and Conditions of Maintenance apply in conjunction with primion's quotation, the customer's order and primion's order confirmation. Subsequent changes to the content of the service require the express consent of primion.

2.
Formation of the contract

- 2.1 Unless otherwise expressly stipulated, "offers" by primion are made without obligation and are merely invitations to the customer to submit offers.

If primion makes a binding offer to the customer and primion does not specify otherwise in the individual case, primion is bound by its offer for 6 weeks from the date of the offer. The contract is concluded if the customer accepts primion's offer within the acceptance period.

- 2.2 The subject matter of the delivery and services of primion are the services designated in the offer of primion and the service contract.

Any advertising brochures or similar information on primion's homepage, etc. and the documents or performance data on which the offer from primion is based, such as illustrations, drawings, dimensional and weight information and information about intended methods of execution for the delivery and services of primion are only to be understood as approximations and are not binding, unless they are expressly designated as binding.

3.
Subject of performance

- 3.1 Maintenance services

The maintenance or servicing services to be provided under a maintenance/servicing contract (maintenance services) include the following:

primion will maintain the contractual equipment, software and hardware at the agreed intervals. The maintenance or servicing includes the provision of the tools, measuring and testing equipment required for this purpose in accordance with the technical maintenance plans, the inspection of the essential function of the equipment, the inspection of the overall function of several

devices and the associated software, the maintenance of system parts, the adjustment, readjustment or calibration of assemblies and devices, in each case on a pro rata basis following the inspection.

The agreed maintenance services also include support for the customer during normal business hours, in particular after error messages by providing advice on troubleshooting and error prevention, remote maintenance, assistance with malfunctions and operating problems. All inquiries and resulting work will be completed as quickly as possible within the scope of the scheduling possibilities. primion can be reached for this purpose Monday to Thursday 07:30 to 17:00, Friday 07:30 to 16:00 under the following contact data:

Tel.: 07573952777

E-mail: support@primion.de

The fault reports are received by primion by telephone or by e-mail. Any additional maintenance service requires a special agreement and is to be paid for separately.

The maintenance services will be carried out according to the method deemed necessary by primion for the respective device. If the customer wishes to use a different method, he must bear the additional costs incurred.

primion does not guarantee uninterrupted operational readiness within the scope of the maintenance services.

The maintenance services of primion will be carried out by trained personnel equipped with the usual testing equipment as far as possible during primion's business hours (see above). The contractor reserves the right to carry out work that has been started outside of its own business hours or those of the client.

The client shall bear disposal costs for system parts that have to be replaced as part of maintenance services. Primion fulfils its obligations as a manufacturer to take back and dispose of old equipment in accordance with the regulations of the ElektroG. Such costs are not covered by the remuneration agreed for the respective services and will be invoiced separately by primion.

The maintenance services owed by primion are specifically described in the corresponding provisions of the service contract. Any additional maintenance readiness or maintenance/maintenance requires a special agreement and is to be paid for separately.

primion is not obligated to inform the customer about the condition of the equipment, in particular, but not conclusively, regarding possible safety risks that may arise from the condition of the equipment.

3.2 Disturbance removal

The elimination of malfunctions and damage caused by improper or faulty handling of the installation by the customer, by the influence of third parties or by force majeure is not part of primion's maintenance services according to clause 3.1 but can be agreed upon in individual cases against separate remuneration. The same applies to damage and malfunctions caused by environmental conditions at the installation site of the equipment, by faults or non-performance of the power supply, faulty hardware or other effects for which primion is not responsible.

primion decides at its own discretion whether it will carry out the fault rectification and/or troubleshooting by telephone support, by remote service or by deploying personnel to the installation itself. primion makes these decisions taking into account the contractually assured service level and the interests of the client in restoring the operational readiness of the installations as quickly as possible. In the case of installations in accordance with DIN VDE standards and/or VdS regulations, the deadlines for fault rectification required by the standard/VdS regulations will be adhered to, insofar as this has been contractually agreed.

3.3. Services against separate charge outside the service contract levels

The following services will be performed by primion according to the possibilities and urgency at the request of the customer after agreement and separate invoicing:

- Rectification of malfunctions and damage that are due to improper use of the equipment or to other influences for which primion is not responsible and that do not have their cause in the functioning of the equipment, in particular malfunctions and damage that are due to force majeure by third parties or external systems, operating errors, non-compliance with user instructions and the generally accepted installation and operating guidelines for EDP equipment or operating materials and supplies neither supplied nor recommended by primion, as well as contamination that has its cause outside of the equipment,
- Use of new Windows and/or database versions, unless these services have been contractually agreed upon.
- If the procurement of spare parts is actually impossible for the contractor or if this is associated with an unreasonable economic expense, primion is entitled to repair the system by means of partial reconstruction at the expense of the customer,
- To diagnose and correct intermittent faults, repeated chargeable services may be required.

4.

Cooperation obligations of the customer

- 4.1. The customer shall provide primion with all information and documents required for the provision of the services without delay at the time of the conclusion of the contract. The customer shall bear any expenses incurred as a result of work having to be repeated or delayed as a result of its incorrect, incomplete or subsequently changed information from primion.
- 4.2. If the customer is in default with its obligation to co-operate, primion is released from its obligation to perform to the extent that the customer's co-operation is necessary for its performance; alternatively, primion is also entitled to withdraw from the contract by setting a grace period of 14 days. The customer shall bear all corresponding disadvantages and additional costs of non-compliance with its obligations to cooperate.
- 4.3. In order to carry out the maintenance and repair work, the troubleshooting work and all activities directly related to this, primion must be provided with unhindered access to the installation without any additional request from the customer. Operations that have to be repeated because there was no unhindered access will be charged separately to the customer by primion.
- 4.4. The customer shall provide the technical facilities/auxiliary equipment required for the performance of the maintenance/servicing work and, if necessary, fault services, as specified by primion (e.g. data transmission lines, power supply, ladders, scaffolding, etc.) and the persons required for reasons of accident prevention, on site, at no cost to primion. If necessary, the

customer is obligated to provide primion with a protected storage facility for materials and spare parts of sufficient size near the installation.

- 4.5. Changes to the operating conditions, e.g. the reallocation of rooms and the installation site, must be communicated by primion in text form without delay, insofar as they may have an effect on the provision of services.
- 4.6. In the event that primion becomes aware of disruptions in operation and damage to the system, primion will point these out. For its part, the customer must do everything reasonable to keep the damage as low as possible. The customer must only allow the malfunction or damage to be rectified by specialists or agents of the contractor.
- 4.7. The customer is obligated to keep the plant free of non-operational objects and contamination.
- 4.8. The customer is obliged to use only data carriers, operating materials and other device-specific accessories that correspond to the state of the art of primion's delivery offer for new parts.
- 4.9. Before replacing a system or parts of a system, the customer is obligated to back up programs, data, data carriers, if applicable, and to remove modifications and installations.
- 4.10. The customer is obliged to carry out a proper data backup at regular intervals in accordance with the state of science and technology and to properly maintain and service the software and hardware environment of the system.
- 4.11. The customer is obligated to back up its data and records stored on data carriers by making copies and, if necessary, to make these available to primion for inspection for the purpose of error diagnosis and error elimination, as well as for the prevention of major damage. The customer is solely responsible for the ongoing control of the data backup. The customer further undertakes to leave its equipment switched on and the server connected to the communication network, as maintenance work and diagnostics are usually carried out remotely.
- 4.12. The client is obligated to immediately report any irregularities in the performance of contractual obligations of primion in text form for the purpose of rectification.

5.

Extension or modification of the plant

- 5.1 During the term of the contract, primion alone is entitled to carry out extensions, relocations, partial renewals and changes to the hardware and software of the installation. Intended changes or extensions to the facility included in the contract by the customer must be expressly communicated by primion in a timely manner.
- 5.2. The services for the extension of the modification of the plant according to clause 5.1. are not included in the maintenance or fault clearance contracts described in clause III. They shall be agreed within the framework of a separate contract to be concluded.

The existing maintenance and servicing contract between primion and the customer shall be appropriately adjusted with regard to the extension or modification of the installation in accordance with the extent of the extension or modification.

- 5.3. In the event that the customer relocates the installation to another location, primion is entitled to terminate the contract without notice. In this case, primion's obligation to provide support ends with the start of the relocation of the installation. If primion does not terminate the contract due to the relocation of the facility, primion is entitled to set a fee for the services to be provided that is appropriate to the new circumstances.

6. Term and termination

- 6.1 The maintenance contract shall commence on the date specified in the order confirmation, at the earliest when the plant is commissioned.

Unless expressly agreed otherwise, the maintenance contract is concluded for a minimum term of 36 months. The contract shall be extended by a further year in each case if it is not terminated in writing with three months' notice to the end of the calendar year. Insofar as the system that is the subject of the contract is a hazard detection system that was set up in accordance with VdS guidelines, the VdS regulations must be complied with.

- 6.2 The right to extraordinary termination of the contract for good cause remains unaffected by the parties.

7. Remuneration

- 7.1. Unless otherwise agreed, a flat-rate maintenance fee shall be charged for the maintenance/maintenance services, irrespective of whether and how often the service is used. The agreed flat-rate maintenance fee shall cover the services described in Section 3.1.

Additional services not included in the maintenance/maintenance contract (e.g. troubleshooting and other service according to Sections 3.2.) shall be charged separately.

- 7.2. The flat-rate maintenance fee shall be invoiced regularly in advance. The services in excess of the maintenance/maintenance flat rate pursuant to item 3.2. shall be due 14 days after receipt of a corresponding invoice.

Complaints about invoices must be made in writing to primion within 14 days of receipt of the invoice.

Additional services will be invoiced according to time and effort at primion's applicable hourly rates. Necessary materials and spare parts will be invoiced to the customer as agreed by primion.

- 7.3. primion is entitled to change the prices agreed between the parties once a year - for the first time one year after the start of the contract term - if the costs on which the agreed remuneration is based have demonstrably increased or decreased compared to the time of the last price change. The calculation of a price change is based on the following cost structure:

80% for services and
20% for material costs

The calculation is based on the producer price indices of the Federal Statistical Office:

Producer price index for services and
Producer price index for data processing equipment, electronic and optical
Products

primion is entitled to increase the prices in proportion to the increase in costs. Conversely, the customer can demand a reduction in the agreed prices once a year - for the first time one year after the start of the contract term - if the costs on which the agreed remuneration is based

have decreased compared to the time of the last change in prices in accordance with the above calculation.

8. Liability for defects

- 8.1. The duration of the liability for defects for the work performed under this contract shall be 1 year from the date of acceptance of the work or, in the absence of acceptance, from the date of recommissioning of the plant.
- 8.2. The statutory provisions shall apply to all rights of the customer in the event of defects, unless otherwise stipulated below.
 - 8.2.1. If the customer asserts defects in the services provided by primion, primion may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). The right to refuse subsequent performance under the statutory conditions remains unaffected.
 - 8.2.2. The customer must give primion the time and opportunity necessary for the owed subsequent performance. In the event of a replacement delivery, the customer shall return the defective item to primion in accordance with the statutory provisions.
 - 8.2.3. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs shall be borne or reimbursed by primion in accordance with the statutory provisions if a defect is actually present. Otherwise, primion can demand reimbursement from the customer for the costs incurred as a result of the unjustified claim for rectification of the defect (in particular testing and transport costs), unless the lack of defectiveness was not apparent to the customer.
 - 8.2.4. If the subsequent performance has failed or if a reasonable period of time to be set by the customer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer can withdraw from the contract or reduce the remuneration. Subsequent performance is deemed to have failed if primion has not succeeded in rectifying the defect despite two attempts to do so.
 - 8.2.5. There shall be no claim for liability for defects if a defect is due to a breach of the customer's duty of care, in particular improper operation or handling of the subject matter of the contract, or due to a modification or reworking of the equipment that has not been approved by primion. Liability for defects is also excluded in the event of natural wear and tear, as well as in the event of damage resulting from incorrect or negligent handling, excessive stress, weather conditions, force majeure, unsuitable operating materials, defective construction work, unsuitable foundation soil and such chemical, physical, electromagnetic or electrical influences that are not assumed under the contract.
 - 8.2.6. The parties are aware, and this is the basis of the present maintenance contract, that an absolutely error-free creation of software, in particular complete software systems, is not possible according to the current state of technology, or is possible with unreasonable expenditure. The object of primion's liability for defects and performance is a software/hardware that is suitable for the usual or contractually assumed use according to the description.

In the case of software products, a defect is therefore only given in the absence of warranted characteristics or a documented function and in the case of detectable program errors that make the execution of the functions impossible. primion therefore only warrants that the program carrier does not have any material or manufacturing defects when it is handed over to the customer.

It should also be noted that software is subject to constant improvement efforts during use and must therefore be updated at certain intervals under certain circumstances. The necessity of an update/upgrade does not represent a defect but is a system-immanent property of software.

- 8.2.7. If software is used for the customer's own hardware, primion's liability for defects only extends to the delivered software and not to its interaction with the hardware and software provided by the customer.
- 8.2.8. If the customer subsequently modifies the hardware or software without the express consent of primion, any liability for defects on the part of primion shall lapse, unless the defect that has occurred is not attributable to the modification by the customer.
- 8.2.9. Liability for defects shall also be excluded if the parts, structural conditions or other facilities that have a direct or indirect influence on the function of the subject matter of the contract or parts thereof are not installed, maintained or used in accordance with the purpose in accordance with the applicable statutory or other provisions and this is the cause of the defect that has occurred.

9. Other liability, compensation

- 9.1. primion is not liable for simple or slight negligence.
- 9.2. In the event of gross negligence, primion's liability is limited to the typically arising foreseeable damage, which should have been prevented by the breached obligation.
- 9.3. Limitations of liability and exclusions of liability do not apply if the liability of primion is based on intent, the absence of a warranted or guaranteed characteristic, a mandatory liability under the Product Liability Act, in the event of injury to life, limb or health, the breach of material contractual obligations (obligations that make the proper performance of the contract possible in the first place and on whose performance the customer could rely) or any other liability under the law.

The provision in clauses 9.1. to 9.3. p.1 also apply to claims of the customer against employees and agents of primion.
- 9.4. The provisions in Clauses 9.1. to 9.3. also apply if authorized representatives and/or vicarious agents of primion have acted on behalf of primion.
- 9.5. All claims of the customer against primion are subject to a limitation period of one year, except in cases of unlimited liability. The limitation period begins at the time specified in § 199 paragraph 2 of the German Civil Code (BGB) and occurs at the latest upon expiry of the periods specified in § 199 paragraph 3 or 4 of the German Civil Code (BGB).
- 9.6. primion shall not be liable for the work of its vicarious agents, insofar as the work is not related to the agreed deliveries and services or the work has been arranged by the customer directly with the vicarious agents.
- 9.7. Consultations by personnel of primion or representatives appointed by primion are non-binding and do not form part of the contract, insofar as they are not related to the subject matter of the contract and the order placed with primion. primion is not liable for such consulting services.
- 9.8. If primion fails to provide a service due to the customer's delay in cooperating or due to a justified suspension of the service, primion is not liable for damages that occur due to the

failure to suspend the service. If the customer does not comply with the regulations set out in the contract and the general conditions, despite a written reminder from primion, primion is not bound by the content of the VdS test or the BHE installation protocol or similar certificates, without this affecting the right to payment of the current remuneration. In the case of installations that are connected to transmission systems of the police or fire department and/or VdS installations, corresponding notification to the responsible authorities is required in each case. The customer shall carry this out himself.

10. Technical messages

The system may - when connected to the transmission systems for hazard alarms (ÜAG) - only be operated in the event of danger. Technical messages to check the operational readiness are only permissible in agreement with the operator of the transmission system and primion. primion is only liable for costs that are charged by the operator of the transmission system for the dispatch of emergency personnel under the conditions of clause IX. Furthermore, the customer shall reimburse all expenses incurred by primion as a result of the alarm being triggered and shall indemnify primion against any other claims, including those of third parties, insofar as primion is not responsible for the alarm being triggered.

11. Other

- 11.1. All agreements between primion and the customer must be made in text form. This formal requirement can only be waived in text form.
- 11.2. Both contracting parties may neither exploit nor disclose to third parties business or trade secrets of the respective other partner which have become known to them during their business relationship without the consent of the party concerned, unless the business or trade secrets are generally accessible. This shall also apply for the time after termination of the contract.
- 11.3. The contract is subject to the law of the Federal Republic of Germany. The provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 are excluded.
- 11.4. The customer agrees that within the framework of the business relationship, personal data may be stored and processed within the framework of the Data Protection Act and the DSGVO, insofar as this appears expedient within the framework of the execution of the contract. For this purpose, the customer signs primion's data processing agreement.
- 11.5. Proof of services rendered shall be provided on forms provided by primion and countersigned by the customer or its vicarious agents.
- 11.6. Rights under the contract may not be transferred without the express consent of primion in text form.
- 11.7. The exclusive place of jurisdiction for all liabilities arising from the contract shall be Stetten am kalten Markt, unless an exclusive statutory place of jurisdiction exists. Place of performance for all deliveries, services and payments is Stetten am kalten Markt.
- 11.8. Should one or more provisions of this contract be or become invalid or void in whole or in part, or should this agreement contain a loophole, the validity of the remaining provisions of this

contract shall remain unaffected. In all such cases, the customer is obliged to agree with primion on a new provision that comes as close as possible to the purpose pursued by the invalid provision.

Status 2023
primion Technology GmbH