

# GTC

## Maintenance/repair/troubleshooting (General maintenance conditions)

### 1.

#### Scope of application

- 1.1 The following General Terms and Conditions of 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 shall only apply to entrepreneurs within the meaning of Section 310 (1) BGB in conjunction with Section 14 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 offer, 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 expressly stated otherwise, Primion's "offers" are subject to change and non-binding and are merely invitations to the customer to submit offers.

If Primion submits a binding offer to the customer and Primion does not determine otherwise in individual cases, Primion is bound to 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 object of Primion's deliveries and services are the services specified in Primion's offer and the service contract.

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

### 3.

#### Subject of performance

- 3.1 Maintenance services

The maintenance and repair services (maintenance services) to be provided as part of a maintenance/servicing contract include the following services:

Primion shall maintain the contractual systems, 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, checking the essential device function, checking the overall function of several devices and associated software, the maintenance of

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

The agreed maintenance services also include support for the client during normal business hours, in particular after error reports by providing information on troubleshooting and error prevention, remote maintenance, assistance in the event of malfunctions and operating problems. All inquiries and the resulting work will be dealt with as quickly as possible within the time limits available. Primion can be contacted Monday to Thursday 07:30 to 17:00, Friday 07:30 to 16:00 using the following contact details:

Phone: 07573952777

E-mail: support@primion.de

Fault reports are received by Primion by telephone or e-mail. Any additional standby service requires a special agreement and must be paid for separately.

The maintenance services are carried out according to the method deemed necessary by Primion for the respective device. If the customer requests a different method, he must bear the additional costs incurred as a result.

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

The maintenance services of Primion are 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 in progress outside its own business hours or those of the client.

The client shall bear the disposal costs of system parts that have to be replaced as part of maintenance services. Primion fulfills its obligations as a manufacturer to take back and dispose of old appliances 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 service readiness or maintenance/servicing requires a special agreement and must be paid for separately.

### 3.2 Troubleshooting

The elimination of faults and damage caused by improper or incorrect handling of the system by the customer, by the actions of third parties or by force majeure is not covered by Primion's maintenance services in accordance with Section 3.1, but can be agreed in individual cases for a separate fee. The same applies to damage and malfunctions caused by environmental conditions at the installation site of the system, by faults or non-performance of the power supply, faulty hardware or other influences for which Primion is not responsible.

Primion decides at its own discretion whether to carry out fault rectification and/or error rectification by telephone support, remote service or by deploying personnel to the system itself. Primion makes these decisions taking into account the contractually agreed service level and the interests of the client in restoring the operational readiness of the systems as quickly as possible. In the case of systems 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 charged separately outside the service contract levels

The following services will be carried out by Primion according to the possibilities and urgency at the request of the customer by agreement and at a separate charge:

- Elimination of faults and damage that are due to improper use of the system or to other influences for which Primion is not responsible and that are not caused by the functioning of the device, in particular faults 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 IT devices or operating resources and materials that are neither supplied nor recommended by Primion, as well as soiling that has its cause outside the devices,
- Use of new Windows and/or database versions, unless these services have been contractually agreed.
- If the procurement of spare parts is actually impossible for the contractor or is associated with unreasonable economic expense, Primion is entitled to repair the system by partial reconstruction at the expense of the client,
- for the diagnosis and elimination of intermittent faults, repeated chargeable services may be necessary.

## 4.

### **Obligations of the customer to cooperate**

- 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 the costs incurred if work has to be repeated or is delayed as a result of incorrect, incomplete or subsequently changed information provided by Primion.
- 4.2. If the customer defaults on its obligation to cooperate, Primion is released from its obligation to perform to the extent that the customer's cooperation is necessary for its performance; 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 maintenance and repair work, troubleshooting work and all directly associated activities, Primion must provide unhindered access to the system without additional request from the customer. The customer will be charged separately by Primion for operations that have to be repeated because unhindered access was not possible.
- 4.4. The customer shall provide the technical facilities/auxiliary equipment required for the performance of maintenance/maintenance work and, if necessary, disruption 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 obliged to provide Primion with a protected storage facility for materials and spare parts of sufficient size in the vicinity of the system.
- 4.5. Changes to the operating conditions, e.g. the reallocation of rooms and the installation site, insofar as they may affect the provision of services, must be communicated by Primion immediately in text form.
- 4.6. If Primion becomes aware of any malfunctions in operation or damage to the system, it shall notify the customer accordingly. For his part, the customer must do everything reasonable to minimize the damage. He must have the malfunction or damage rectified only by specialists or representatives of the contractor.
- 4.7. The customer is obliged to keep the system free of non-operational objects and soiling

- 4.8. The customer is obliged to use only data carriers, equipment and other device-specific accessories that correspond to state of the art of Primion's delivery offer for new parts.
- 4.9. Before replacing a system or system components, the customer is obliged to back up any programs, data and data carriers and to remove any 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 the art and technology and to properly maintain and service the software and hardware environment of the system.
- 4.11. The client is obliged to back up its data and records stored on data carriers by making copies and, if necessary, to make these anonymously available to Primion for inspection for the purpose of error diagnosis and error elimination and to prevent major damage. The ongoing monitoring of the data backup is the sole responsibility of the customer. The customer further undertakes to keep his system 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 obliged to report any irregularities in the fulfillment of Primion's contractual obligations immediately in text form for the purpose of rectification.

## 5.

### Extension or modification of the system

- 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 system. Intended changes or extensions to the system included in the contract by the customer must be expressly notified by Primion in good time
- 5.2. The services for the extension of the modification of the system in accordance with Section 5.1. are not covered by the maintenance or fault rectification contracts described in Section III. They shall be agreed within the framework of a separate contract to be concluded.

The existing service and maintenance contract between Primion and the customer must be adjusted appropriately with regard to the expansion or modification of the system in accordance with the extent of the expansion or modification.

- 5.3. If the customer moves the system 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 system relocation. If Primion does not terminate the contract due to the relocation of the system, Primion is entitled to set an appropriate fee for the services to be provided in accordance with the new circumstances.

## 6.

### Term and termination

- 6.1 The maintenance contract begins on the date specified in the order confirmation, at the earliest when the system 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. If the system covered by the contract is a hazard detection system that was installed 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 covers the services described in Section 3.1.

Additional services not included in the maintenance/maintenance contract (e.g. troubleshooting and other services in accordance with section 3.2.) shall be charged separately.

- 7.2. The flat-rate service/maintenance fee shall be invoiced regularly in advance. The services in excess of the maintenance/repair flat rate in accordance with section 3.2. are 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 are invoiced according to time and effort at Primion's applicable hourly rates. Necessary materials and spare parts will be invoiced to the customer by Primion as agreed.

- 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 change to the prices. 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 cost increase. 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 price change in accordance with the above calculation.

## 8.

### Liability for defects

- 8.1. The period of liability for defects for the work carried out 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 system.
- 8.2. The statutory provisions shall apply to all rights of the customer in the event of defects, unless otherwise specified below.
- 8.2.1. If the customer claims defects in Primion's services, Primion may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). The right to refuse subsequent performance under the statutory conditions remains unaffected.

- 8.2.2. The customer must give Primion the time and opportunity required for the subsequent performance owed. In the event of a replacement delivery, the customer must return the defective item to Primion in accordance with the statutory provisions.
- 8.2.3. The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs as well as any removal and installation costs, shall be borne or reimbursed by Primion in accordance with the statutory provisions if a defect actually exists. Otherwise, Primion can demand reimbursement from the customer for the costs arising from the unjustified request to rectify the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognizable to the customer.
- 8.2.4. If the subsequent performance has failed or a reasonable deadline to be set by the customer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer may withdraw from the contract or reduce the remuneration. Subsequent performance is deemed to have failed if Primion has not succeeded in remedying the defect despite two attempts to do so.
- 8.2.5. There is no claim to liability for defects if a defect is due to a breach of the customer's duty of care, in particular improper operation or improper handling or treatment of the subject matter of the contract or to a modification or reworking of the system not approved by Primion. Liability for defects shall also not apply in the case of natural wear and tear, nor in the case of damage caused by incorrect or negligent handling, excessive use, weather influences, force majeure, unsuitable operating materials, defective construction work, unsuitable building ground and such chemical, physical, electromagnetic or electrical influences that are not provided for in 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 the art or at unreasonable expense. The subject of Primion's liability for defects and performance is software/hardware that is suitable for the usual use or the use assumed in the contract in accordance with 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 it impossible to execute the functions. Primion therefore only guarantees 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 may therefore need to be updated at certain intervals. The necessity of an update/upgrade does not constitute a defect, but is an inherent characteristic of software.

- 8.2.7. If software is used for the customer's own hardware, Primion's liability for defects extends only to the software supplied 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 Primion's express consent, Primion shall not be liable for any defects, 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 directly or indirectly influence the function of the subject matter of the contract or parts thereof are not installed, maintained or used 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 foreseeable damage that was intended to be prevented by the breached obligation.
- 9.3. Limitations and exclusions of liability do not apply if Primion's liability is based on intent, the absence of a warranted or guaranteed characteristic, mandatory liability under the Product Liability Act, injury to life, limb and health, the breach of material contractual obligations (obligations that make the proper execution of the contract possible in the first place and on the fulfillment of which the customer could rely) or other statutory liability.

The provisions in sections 9.1. to 9.3. sentence 1 also apply to claims of the customer against employees and agents of Primion.

- 9.4. The provisions in sections 9.1. to 9.3. also apply if authorized representatives and/or vicarious agents of Primion have acted on behalf of Primion.
- 9.5. A limitation period of one year applies to all claims of the customer against Primion. Excluded from this are claims for damages due to injury to life, body or health and claims for damages due to grossly negligent or intentionally caused damage. In this respect, the statutory limitation periods apply.
- 9.6. Primion is not liable for the work of its vicarious agents if the work is not related to the agreed deliveries and services or if the work is arranged by the customer directly with the vicarious agents.
- 9.7. Consultations by Primion personnel or representatives commissioned by Primion are non-binding and do not form part of the contract unless they are related to the subject matter of the order 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 services, Primion is not liable for damages that occur due to the failure to suspend services. If the customer fails to comply with the regulations set out in the contract and the General Terms and 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 entitlement to payment of the current remuneration. In the case of systems with connection to police or fire department transmission systems and/or VdS systems, the relevant authorities must be notified accordingly. This must be done by the customer himself.

## 10.

### Technical messages

The system may only be activated in the event of danger when connected to the transmission systems for danger messages (ÜAG). Technical messages to check operational readiness are only permitted with the agreement of the operator of the transmission system and Primion. Primion is only liable for costs charged by the operator of the transmission system for the dispatch of emergency personnel under the conditions of Section IX. Furthermore, the customer shall reimburse Primion for 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. Miscellaneous

- 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. Neither contracting party may exploit or disclose to third parties business or trade secrets of the other party that 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 also applies to the period 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 personal data may be stored and processed within the framework of the business relationship in accordance with the Data Protection Act and the GDPR, insofar as this appears expedient in the context of the execution of the contract. For this purpose, the customer signs the Primion order data processing agreement.
- 11.5. Proof of services rendered should be provided on Primion forms and countersigned by the customer or their vicarious agents.
- 11.6. Rights arising from the contract may not be transferred without Primion's express consent 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. The place of performance for all deliveries, services and payments shall be 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 a new provision with Primion that comes closest to the purpose of the invalid provision.