

I. Application

Orders become binding as regards nature and scope of delivery only after having been confirmed in the PRIMUS Acknowledgement of Order. Alterations and amendments are required to be made in writing. The terms apply to regular ongoing business relations as well as to all future transactions. This also applies even where PRIMUS makes no express reference to the said terms in subsequent contracts and services. In the event of certain provisions being or becoming invalid, this has no effect on the remaining terms and conditions; applicable as a substitute in that respect are the statutory provisions. Any terms or conditions running counter to or deviating from PRIMUS General Trading Terms and Conditions, in particular customers' purchase conditions, are not recognised by PRIMUS unless having been consented to in writing by PRIMUS. PRIMUS General Terms and Conditions of Sale specified below also apply even in cases where PRIMUS is aware that its own Terms and Conditions of Sale run counter to or deviate from the terms of the ordering party and nevertheless unconditionally executes deliveries to that party. These terms of delivery only apply to business dealings with entrepreneurs and other legal entities specified in Section § 310, Paragraph 1 BGB (German Civil Code).

II. Quotes/Samples

Quotes submitted by PRIMUS are deemed to be non-binding. Contracts and other agreements are not deemed to binding until having been confirmed in writing by PRIMUS. Samples and illustrations are deemed to be non-binding, especially as regards quality features, weights and dimensions, and remain the sole property of PRIMUS. Verbal subsidiary agreements and assurances of sales staff members require separate confirmation in writing by PRIMUS in order to render them valid.

III. Prices

Unless anything to the contrary is stipulated in writing, all prices are valid ex works excluding packaging, plus freight and value added tax to the statutory amount valid in each case. PRIMUS remains bound by the prices stipulated for an order for a period of 3 months from the conclusion of the relevant contract. On periods of delivery exceeding 3 months, PRIMUS is entitled to amend its prices accordingly if, following conclusion of the contract, cost increases arise, due in particular to collective wage agreements or increases in the prices of materials. PRIMUS will furnish proof thereof to the ordering party on request.

IV. Delivery and Obligation to Accept Delivery

Binding delivery dates cannot be quoted on principle until the order has been placed and until having been specified in the Acknowledgement of Order, and need to be confirmed in writing in all cases. Periods of delivery begin to run after the receipt of all data and documents required for executing the order, the receipt of stipulated down-payments and the provision of all materials in due time. Adherence to the obligation on the part of PRIMUS to effect delivery is subject to the prompt and due fulfilment of all obligations assumed by the ordering party. The plea as to the contract not having been fulfilled remains reserved. In the event of the stipulated period of delivery not being adhered to due to any circumstance for which PRIMUS is responsible, the ordering party – if unsuccessfully having set a reasonable deadline for delivery or subsequent performance – shall be entitled to claim compensation for damages in lieu of performance or reimbursement of expenses and also to withdraw from the contract. PRIMUS only accepts liability for delays in performance if caused by malice aforethought or gross negligence in accordance with the statutory provisions. Any further claims of the ordering party beyond that – even if asserted following expiration of any deadline stipulated for PRIMUS to effect performance – are ruled out. The above limitation does not apply to liability for injury to life or health. PRIMUS accepts no liability for the faults of its suppliers owing to these not being its vicarious agents. However, on demand PRIMUS undertakes to assign any claims against its suppliers to the ordering party to which that party may be entitled. In the event of the ordering party failing to accept delivery or culpably violating any other obligations to cooperate, PRIMUS shall be entitled to claim compensation for the damages thus sustained including additional expenses. This also applies to production calculations. Rights are reserved to assert further claims. The status of drawings of PRIMUS is deemed to be technically binding at the time the order is acknowledged. Unimportant changes to products with respect to construction, shape and design as well as to values specified in the description must be accepted by the ordering party if reasonable or if involving quantity or quality tolerances customary in the trade. Unless any other arrangements are made, reasonable partial deliveries as well as deviations from ordered quantities of at least +/- 10 % shall be allowable. In the case of orders placed on call without any arrangements being made for the period to run, production lot sizes or deadline for taking delivery, PRIMUS shall be entitled to demand a binding decision thereon 3 months at the latest following the acknowledgement of order. In the event of the ordering party failing to meet this demand within 3 weeks, PRIMUS shall, after stipulating a reasonable deadline and this having elapsed without any avail, be entitled to withdraw from the contract and to demand compensation for damages or reimbursement of expenses and/or a reasonable cancellation charge. Incidents of force majeure affecting PRIMUS or its subcontractors will result in reasonable extension of the period of delivery in each case. This is also applicable to official intervention, difficulties encountered in obtaining energy and raw material supplies, industrial disputes and unforeseeable delivery complications for which PRIMUS is not responsible. This likewise applies to the occurrence of the above-mentioned incidents when PRIMUS is in delay of performance.

V. Packaging, Dispatch and Passing of Risk

Unless anything to the contrary is stipulated, PRIMUS opts for packaging and method of dispatch according to its own reasonably exercised discretion. Risk, even in the case of carriage-paid deliveries, is deemed to pass to the ordering party as soon as PRIMUS has surrendered the goods to the forwarder, carrier or any other person appointed to execute dispatch. In the case of delays of dispatch for which the ordering party is answerable, risk is deemed to pass as soon as notification of readiness for dispatch has been given. If the ordering party so desires, PRIMUS will arrange for the consignment to be covered by transport insurance; the costs arising in respect thereof are to be borne by the ordering party. In pursuance of the Packaging Regulation Act, transport packaging or other packing materials will not be taken back with the exception of pallets. The ordering party undertakes to dispose of packaging at its own expense. Pallets supplied on loan remain the property of PRIMUS and must be returned in a faultless state with the next delivery. In the event of their not being returned within one month after dispatch, PRIMUS shall be entitled to invoice the same at cost price.

VI. Reservation of Title

PRIMUS reserves rights of ownership attaching to all goods it has supplied until all claims have been settled, regardless of what legal grounds, this also applying to any future claims that may arise or conditional claims including those resulting from contracts concluded simultaneously or later. This is also deemed to apply if payments are made on any specifically designated claims. In the case of current accounts, the property subject to reserved ownership rights is deemed to act as security for the balance due to PRIMUS. The ordering party undertakes to handle the purchased products with care and in particular, and at its own expense, to provide adequate new-value insurance for the same against damage cause by fire, water and theft. In the event of any maintenance or inspection work being necessary, the ordering party is required to carry out the same in due time and at its own expense. Any elaboration or processing of the merchandise by the ordering party must proceed to the exclusion of acquisition of ownership or title, in pursuance of Section § 950 BGB, on the authority of PRIMUS but without committing PRIMUS in any way. PRIMUS will remain the owner of the product thus materialising, which, as reserved property, will serve as security for the claims of PRIMUS in accordance with No. 1. Where the ordering party processes the merchandise with other goods not belonging to PRIMUS (combining/co-

mingling), the provisions of Sections §§ 947, 948 BGB are deemed to apply to the effect that co-ownership by PRIMUS of the new product now assumes the form of reserved ownership as defined in these terms and conditions in ratio as regards merchandise value (sum total of invoice including VAT) to such other processed/co-mingled objects at the time of processing/co-mingling. Where processing/co-mingling takes place in such a way that the product of the ordering party is regarded as the main product, it is understood that the ordering party has agreed to transfer pro rata co-ownership to PRIMUS. The ordering party agrees to keep the sole or co-owned property thus materialising in safe custody on behalf of PRIMUS. The ordering party is only allowed to resell the property subject to reserved ownership in the ordinary course of business and on the condition that it likewise stipulates reservation of title with its own customers in accordance with No's. 1 to 3. The ordering party is not entitled to adopt any other disposing measures affecting the reserved property, in particular pledging or transfer by way of security. Regarding the event of resale, the ordering party already agrees at this point to assign to PRIMUS its claims resulting from such resale as well as all other claims against its customers, including all ancillary rights, to the extent of the invoice value representing the claim of PRIMUS. On demand made by PRIMUS, the ordering party undertakes to furnish all information and hand out all documents necessary for asserting the rights of PRIMUS against the customers of the ordering party. Where the reserved property is resold by the ordering party in accordance with the stipulation in No. 3 and/or No. 4 together with other merchandise not belonging to PRIMUS, assignment of the purchase price claim in accordance with No. 6 shall only apply to the extent of the invoice value of the reserved property belonging to PRIMUS. If the realisable value of the existing security for PRIMUS exceeds its total claims due to be secured by more than 10%, PRIMUS undertakes, at its option, to release amounts of security on demand made by the ordering party. Seizure or confiscation of the reserved property by third parties must be reported to PRIMUS without delay. Costs of intervention resulting therefrom will in all cases be to the debit of the ordering party. In the event of the ordering party breaching its obligations, especially if defaulting payment, PRIMUS – following the elapse of a reasonable deadline set for performance and this proving of no avail – shall be entitled to withdraw from the contract and to demand return of the reserved property; statutory cases pertaining to dispensability of deadline remain unaffected. PRIMUS is entitled to have the reserved property sold or auctioned privately. Any taking back of the property shall be effected at the proceeds obtained, however at the stipulated delivery prices at the most. Further claims, in particular claims in respect of compensation and reimbursement of expenses remain reserved.

VII. Terms of Payment

All payments must be made solely to PRIMUS and in EUROS. Unless otherwise stipulated, 1/3 of the purchase price for tools is payable on placing the order, a further 1/3 on the supply of samples and 1/3 on release 10 days after submission of the reference samples according to contract, payments to be made net in all cases. In confirming modification orders placed by the ordering party prior to tool completion, all costs that have accrued up to then will be refundable if having exceeded the deposit. Partial deliveries or other forms of performance are due and payable within 30 days of the date of invoice. In the case of prepayments or cash on delivery, PRIMUS grants a discount of 3%, and a 2% discount on payments made within 14 days. A prior condition governing the granting of discounts is that all previous outstanding invoices have been settled. In the event of payment defaults occurring, PRIMUS is entitled to charge interest on arrears amounting to 8% above the basic rate of interest (Section § 247 BGB) commencing from the due date. Interest on arrears will be assessed higher if PRIMUS furnishes proof of having been charged a higher rate of interest. Rights of asserting further claims remain reserved. Cheques are only accepted as conditional payment; all charges connected therewith are to the debit of the ordering party. The ordering party is only entitled to offsetting rights or to the assertion of any retaining rights, if any, resulting from counterclaims of the order party against PRIMUS if such counterclaims have been adjudged as final and absolute, uncontested or recognised by PRIMUS. Failure to adhere to the terms of payment or circumstances likely to impair the credit standing of the ordering party – if accountable for by the ordering party – will result in all claims of PRIMUS falling due immediately, this including any deferred claims. Moreover, PRIMUS shall be entitled to demand prepayments for any deliveries still outstanding as well as to withdraw from the contract – after the elapse of a reasonable deadline set for the ordering party to effect performance – in addition to claiming compensatory damages or reimbursement of expenses due to grave breach of obligation. Moreover, PRIMUS shall be entitled to prohibit the ordering party from reselling unpaid merchandise and to retrieve the same at the expense of the ordering party. Several ordering parties incur liability as joint and several debtors responsible for due collection and payment of the merchandise. PRIMUS renders performance on each one with binding effect on all ordering parties.

VIII. Liability for Defects

Claims of the ordering party based on defects take for granted that that party has duly fulfilled its obligations in accordance with Section § 377 HGB (German Commercial Code) to examine the merchandise and raise complaints in respect of such defects immediately on receipt of the goods. Obvious defects must be reported to PRIMUS in writing within a period of 5 working days after delivery at the latest, and in any case prior to resale, consumption, processing, combining or co-mingling. Notice must be given in writing of non-apparent defects as soon as these are discovered, and in any case prior to the elapse of one year after delivery. Where complaints are not registered in due form and/or in due time, the merchandise is deemed to have been approved. PRIMUS accepts no liability for defects in respect of products where, for example, it has pointed out to the ordering party that a product is unsuitable for a specific purpose or use. Warranty only applies to any feature if expressly designated as such in writing. Quality and workmanship of the products are determined by the reference samples released in writing by the ordering party. In the event of such workmanship or quality deviating from that of the consignment, PRIMUS shall, at its own option, be entitled to effect subsequent performance in the form of fault-remedying action or to supply a new product free from defects. The ordering party is entitled to demand a reduction of the purchase price or to declare withdrawal from the contract in the event of subsequent performance proving a failure or unreasonable to that party. In any case, subsequent performance is only deemed to have failed after a second futile attempt. On demand, replaced parts must be placed at the disposal of PRIMUS for collection. Claims of the ordering party based on defects become statute-barred 12 months after surrender of the products. Any attempts made by the ordering party to remedy defects will result in forfeiture of all claims based on defects unless the ordering party has previously notified PRIMUS and PRIMUS is in delay with subsequent performance or subsequent performance is necessary in order to avert a disproportionately high degree of damage. The provisions of Clause IX apply to claims for compensation.

IX. General Limitation of Liability

Claims asserted by the ordering party for compensation of damages and expenses (hereinafter referred to as claims for compensation), regardless of what legal grounds – in particular due to violation of duties resulting from the relationship under the law of obligations and tort – are ruled out as far as this is permitted by statute. Liability for intentional or negligent injuries afflicted on life, body or health remains unaffected. Moreover, such exclusion of liability does not apply to mandatory liability resulting from the Product Liability Act or to cases involving malice aforethought and gross negligence or to the violation of essential contractual obligations. However, claims for compensation are limited to the foreseeable, contract-typical damage unless involving wilful breach of contract on the part of the seller or violation of any essential contractual obligation.

X. Proprietary Rights, Secrecy

The ordering party is liable towards PRIMUS for the immunity of the deliveries and services specified in the order from all proprietary rights of third parties; moreover it releases PRIMUS from all corresponding claims and undertakes to compensate PRIMUS for resulting damages. Plans, drawings and construction proposals provided by PRIMUS may not be passed on without the approval of PRIMUS. For the duration of the business relations and after their termination, the ordering party undertakes to observe strict secrecy over against third parties with regard to drawing status, construction, shape and design of the goods/products ordered from PRIMUS.

XI. Place of Performance and Legal Venue

The place of performance in respect of all mutual obligations is Bückeberg/Rural District of Schaumburg, irrespective of any other arrangements made concerning terms of delivery and payment. However, PRIMUS is entitled to file action at the ordering party's principal place of business. The Law of the German Federal Republic is deemed to apply exclusively; application of the UN Sales Convention is ruled out.