



PRIMANED GmbH
GENERAL TERMS AND CONDITIONS
FOR IT SERVICES
(valid from 02/2024)

Primaned B.V.
Große Gallusstraße 16-18
60311 Frankfurt am Main
Deutschland

info@primaned.com
T: +49 151-55868169

OVERVIEW

1. SCOPE	2
2. OFFERS AND CONCLUSION OF CUSTOMER CONTRACTS	2
3. SCOPE OF SERVICES	3
4. CHANGES	3
5. GENERAL TERMS OF SERVICE	3
6. GENERAL COOPERATION OBLIGATIONS OF THE CUSTOMER	4
7. SPECIAL TERMS FOR CONSULTING SERVICES	5
8. SPECIAL TERMS FOR IMPLEMENTATION SERVICES	6
9. SPECIAL TERMS FOR TRAINING SERVICES	7
10. REMUNERATION AND PAYMENT TERMS	8
11. MATERIALS, SOFTWARE PROGRAMS, REPORTS AND DOCUMENTATION	8
12. RIGHTS OF USE TO WORK RESULTS	8
13. QUALITY AND WARRANTY TERMS	10
14. WARRANTY OF TITLE, INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES	11
15. LIABILITY FOR DAMAGES	11
16. CONTRACT DURATION AND TERMINATION	12
17. CONFIDENTIALITY, PUBLICATIONS	12
18. NON-SOLICITATION	13
19. DATA PROTECTION	13
20. IMPEDIMENTS TO PERFORMANCE AND FORCE MAJEURE	13
21. DISPUTE SETTLEMENT	14
22. APPLICABLE LAW, JURISDICTION	14
23. FINAL PROVISIONS	14



1. SCOPE

- 1.1 These general terms and conditions for IT services (the "**Terms and Conditions**") shall apply to contracts between Primaned GmbH, with business address at Große Gallusstraße 16-18, 60311 Frankfurt am Main, Germany ("**Primaned**") and its customers (each a "**Customer**") concerning the IT services described in more detail in Section 1.2 below (the "**IT Services**", the contracts for IT Services concluded with the Customer hereinafter: "**Customer Contracts**").
- 1.2 These Terms and Conditions shall apply to the following types of IT Services:
- Conceptual, planning, design and consulting services in connection with the implementation of standard software applications of third-party vendors, in particular project management software applications (e.g., Microsoft Project, Oracle Primavera Cloud, Oracle Primavera P6, Oracle Primavera Risk Analysis, PMWeb, or Safran Risk), including, without limitation, development and assistance in preparation of solution concepts, requirement catalogues, specifications as well as project support and guidance for implementation of such standard software applications (hereinafter collectively referred to as "**Consulting Services**");
 - Realization services in connection with the implementation of standard software applications from third-party vendors, in particular project management software applications, including, without limitation, customization, parameterization and configuration of such standard software for adaptation to the Customer's requirements, integration testing and deployment for productive use of the application after acceptance or release by the Customer (hereinafter jointly referred to as "**Implementation Services**"); and/or
 - Education and training services in the field of project controls and risk management with (i) different skill levels (from introductory courses to advanced specialisms), (ii) different degrees of specialization (from general project management skills - e.g., change control, integral planning management, and claims analysis - to application-specific user skills - e.g., related to the use of Microsoft Project, Oracle Primavera Cloud, Oracle Primavera P6, Oracle Primavera Risk Analysis, PMWeb, or Safran Risk) and (iii) different formats (Primaned classroom, at Customer site, or remote) (hereinafter jointly referred to as "**Training Services**").
- 1.3 These Terms and Conditions shall apply exclusively. Other contractual terms and conditions deviating from these Terms and Conditions shall only be binding on Primaned if they have been expressly accepted by Primaned. General terms and conditions of the Customer shall be excluded as part of the Customer Contract.

2. OFFERS AND CONCLUSION OF CUSTOMER CONTRACTS

- 2.1 Where an offer of Primaned for the provision of IT Services does not contain an express offer period, such offer shall be non-binding for Primaned. If the offer contains an offer period, the receipt of the declaration of acceptance by Primaned before the expiry of the offer period shall be decisive for the timely acceptance of the offer by the Customer.



- 2.2 Where Primaned has issued a non-binding offer, the Customer Contract shall not be concluded until Primaned has confirmed the Customer's order in writing. The same shall apply if the Customer submits to Primaned a contract offer or declaration of acceptance in response to an offer made by Primaned, where the offer period has already expired at the time of receipt of the Customer's declaration.

3. SCOPE OF SERVICES

- 3.1 The scope of the IT Services agreed under the Customer Contract shall be as determined in the respective offer of Primaned, which forms the basis of the Customer Contract.
- 3.2 Insofar as the Customer provides Primaned with documents or information on IT systems, requirements of the Customer and/or other circumstances relevant for the IT Services, for the preparation of the offer or for performance of the Customer Contract, Primaned may assume that the documents and information provided by the Customer are accurate, complete and not misleading. However, to the extent that the Customer's documents or information are manifestly incorrect (without need to conduct investigations), contradictory or incomplete, Primaned shall point this out to the Customer. Otherwise, Primaned shall not be under any further obligation to verify the documents and information provided by the Customer.

4. CHANGES

- 4.1 Until completion or - if agreed - until the acceptance of the IT Services, the Customer may request a change to the agreed scope of the IT Services as well as agreed time lines and dates for the provision of IT Services. Primaned may likewise demand changes at any time up to the aforementioned dates, insofar as such changes are necessary for Primaned for technical or organizational reasons which were not foreseeable at the time of conclusion of the Customer Contract and for which Primaned is not responsible.
- 4.2 If the Customer requests a change, Primaned shall check within a reasonable period whether implementation of the requested change is technically feasible and can be implemented within the time lines and dates agreed in the Customer Contract. If the review requires a longer period, Primaned shall inform the Customer accordingly. If implementation of the change request requires more extensive adjustments to the scope of the IT Services, the remuneration and/or the time schedule agreed in the Customer Contract, Primaned shall submit a corresponding supplementary offer to the Customer within a reasonable period.
- 4.3 Changes to the IT Services shall only become binding upon the signing of a corresponding written agreement between the parties. If the Customer requests the implementation of a change request prior to such agreement and if Primaned implements such change request, Primaned's claim to an appropriate adjustment of the remuneration for the IT Services shall remain unaffected.

5. GENERAL TERMS OF SERVICE

- 5.1 Upon request of Primaned, the Customer shall appoint a central contact person for the coordination of the IT Services. The central contact person shall be exclusively responsible for and authorized by the Customer to make and receive declarations on all matters relating to the performance of the IT Services, in particular on the following:



- (a) Determining the Customer's requirements;
- (b) Handling of change requests, including, without limitation, changes in the scope of agreed IT-Services, and/or cancellation, postponement or modification of agreed dates and deadlines for the completion of IT Services;
- (c) if agreed - acceptance of IT Services.

Any change or departure of the central contact person shall be notified to Primaned in writing without undue delay, whenever possible in advance.

5.2 The parties shall keep each other informed of the status of the IT Services within the framework of the project organization. In particular, the following is agreed for this purpose:

- (a) The Customer shall inform Primaned immediately of any changes to the framework of the IT Services, in particular changes in the relevant IT systems of the Customer or of delays in the sphere of the Customer, which have an effect on the IT Services.
- (b) Primaned shall inform the Customer within a reasonable period of time if
 - agreed deadlines cannot be met - for whatever reason;
 - it turns out that agreed information or requirements of the Customer are incorrect, incomplete, ambiguous or technically impracticable; and/or
 - performance of IT Services is hindered due to lacking or delayed cooperation by the Customer.

5.3 The IT Services shall be provided in accordance with the dates and deadlines agreed in the Customer Contract. Compliance with agreed dates and deadlines shall be subject to the condition that all technical issues outstanding at the respective time have been clarified and the Customer has fulfilled its respective duties to cooperate pursuant to Section 6 below.

5.4 Primaned shall be entitled to use affiliated companies of the Primaned group of companies as well as other subcontractors at Primaned's discretion for the IT Services. Primaned shall be liable for the conduct of subcontractors engaged by it in the same way as for its own conduct.

6. GENERAL COOPERATION OBLIGATIONS OF THE CUSTOMER

6.1 The Customer shall be responsible for providing the technical and organizational framework necessary for the performance of the IT Services that fall into the Customer's sphere of responsibility. This includes in particular the following:

- (a) The Customer shall provide the Customer's IT systems necessary for the provision of the IT Services and maintain their operational readiness and operational safety.
- (b) The Customer shall procure all rights of use to standard software from third-party vendors necessary for the performance of the IT Services, unless it has been agreed in the Customer Contract that such software will be provided by Primaned.



- (c) The Customer shall grant Primaned safe access to the Customer's premises, hardware, and software as well as to telecommunications equipment to the extent agreed or required for performance of the IT Services.

6.2 Furthermore, the Customer shall be responsible for providing all cooperation necessary for the performance of the IT Services. This includes in particular the following:

- (a) The Customer shall ensure that the central contact person designated by the Customer as well as qualified employees of the Customer in sufficient number are available to Primaned during the term of the Customer Contract to be able to clarify any necessary technical and organizational matters.
- (b) The Customer shall ensure that all documents, materials, and information falling into the Customer's sphere of responsibility, all approvals requested by Primaned in connection with the performance of the IT Services as well as all decisions on the progress of the project, which may become necessary under the Customer Contract are determined, issued and transmitted to Primaned immediately.
- (c) The Customer shall provide Primaned with information on the Customer's IT systems, if recognizable on its own initiative, otherwise upon Primaned's request, in order to enable Primaned to provide the IT Services.

7. SPECIAL TERMS FOR CONSULTING SERVICES

7.1 Unless provided otherwise in the Customer Contract, the following shall apply with respect to Consulting Services to be rendered by Primaned:

- (a) Primaned will provide the Consulting Services during normal business hours of Primaned at the place of performance determined in Primaned's reasonable discretion.
- (b) If the Customer finds that customer facing key personnel of Primaned assigned to perform Consulting Services is not suitable for supporting the Customer project for substantive reasons (e.g., failure to communicate, personal differences with Customer team, insufficient qualification etc.), the Customer may request that such key personnel will be replaced by other employees of Primaned's choice. Primaned will make reasonable efforts within its operational capabilities to accommodate to the Customer's request for replacement.

7.2 Primaned will provide the Consulting Services taking into account (i) the project goals, project requirements and other interests of the Customer agreed in the Customer Contract or communicated to Primaned during the term of the Customer Contract and (ii) standard practice in the IT sector. Within such framework, the Consulting Services may include general or specific advice or recommendations by Primaned on technical, business or process-oriented options available to the Customer to implement the Customer's project.

Without prejudice to Primaned's responsibility for the quality of Consulting Services pursuant to Section 13.1 below, the parties agree that, unless expressly provided otherwise in the Customer Contract:

- (a) Primaned does not guarantee that the consulting services will enable the customer to achieve specific project goals or project requirements; and



- (b) The Customer will by itself be responsible for evaluating Primaned's advice and recommendations for suitability for the Customer's project goals and project requirements and for deciding on how the Customer's project will be carried forward.

8. SPECIAL TERMS FOR IMPLEMENTATION SERVICES

8.1 Unless provided otherwise in the Customer Contract, the following shall apply with respect to Implementation Services to be rendered by Primaned:

- (a) Primaned provides the customer with licenses to use the standard software from third-party vendors that is listed in the Customer Contract and that is to be implemented as part of the Customer Contract. If the Customer Contract does not provide for the procurement of licenses for the use of standard software from third-party vendors, the Customer shall acquire the necessary licenses directly from the third-party vendor.
- (b) Primaned will provide the Implementation Services during normal business hours of Primaned at the place of performance determined in Primaned's reasonable discretion, unless the Customer Contract expressly provides that such services shall be provided on the Customer's IT-systems or premises controlled by the Customer.
- (c) If the Customer finds that customer facing key personnel of Primaned assigned to perform Implementation Services is not suitable for supporting the Customer project for substantive reasons (e.g., failure to communicate, personal differences with Customer team, insufficient qualification etc.), the Customer may request that such key personnel will be replaced by other employees of Primaned's choice. Primaned will make reasonable efforts within its operational capabilities to accommodate to the Customer's request for replacement.
- (d) Insofar as Implementation Services include installation of software programs on the Customer's IT systems in productive use, Primaned shall inform the Customer thereof and coordinate the installation procedure with the Customer.

8.2 Implementation Services shall only require acceptance if this has been expressly agreed in the respective Customer Contract. If the Customer Contract provides that Implementation Services shall be subject to acceptance by the Customer without further detail on the acceptance procedure, the following shall apply:

- (a) Primaned shall notify the Customer in writing or electronically of the completion of the work results awaiting acceptance.
- (b) The procedure of acceptance shall be mutually agreed by the parties.
- (c) The Customer shall carry out the acceptance procedure immediately after receipt of the completion notice from Primaned; if necessary, Primaned shall provide appropriate support, in particular by instructing the Customer in the use of the work results subject to acceptance.
- (d) The parties shall jointly carry out the acceptance test and shall draw up and sign minutes of acceptance after the acceptance procedure has been carried out. Any defects identified during the acceptance test shall be documented in such minutes in a comprehensible manner. If the parties cannot agree on the existence of a defect or its severity, this shall be noted in the minutes.



- (e) The Customer shall declare acceptance immediately, if the acceptance procedure has been carried out successfully and if the agreed requirements have been met. Otherwise, the Customer may refuse acceptance in the minutes of acceptance. The Customer may declare partial acceptance but is not obliged to do so. The Customer shall not refuse acceptance, if only insignificant defects have been detected.

8.3 Primaned shall remedy any defects detected during the acceptance procedure, if any, in accordance with the warranty provisions of Section 13 below.

9. SPECIAL TERMS FOR TRAINING SERVICES

9.1 Unless provided otherwise in the Customer Contract, the following shall apply with respect to Training Services to be rendered by Primaned:

- (a) Primaned will provide the Training Services (i) tailored to the skill levels and the degrees of specialization, (ii) in the formats and locations (face-to-face in Primaned classroom, face-to-face at Customer site, or remote by virtual classroom), (iii) with the maximum number of participants and (iv) at the dates and time windows agreed in the Customer Contract.
- (b) Within the parameters provided in the foregoing subparagraph (a) and so far as reasonably acceptable for the Customer, Primaned may vary the content of the courses and training to be provided as part of the Training Services in order to take account of preferences and numbers of participants, areas of interest, or operational resources available to Primaned.
- (c) Where Training Services are agreed to be provided exclusively to the Customer (as face-to-face courses or training in Primaned's classrooms, as face-to-face courses or training at a Customer site, or as virtual classrooms), only employees of the Customer in the agreed number of participants shall be permitted to attend the respective courses or training.
- (d) Training Services may only be canceled by the Customer as follows:
 - If Primaned receives the Customer's cancellation notice more than 45 full calendar days before the scheduled date of the relevant course or training, free of charge and without any further obligation on the part of the Customer.
 - If Primaned receives the Customer's cancellation notice 45 calendar days or less prior to the scheduled date of the relevant course or training, the relevant Training Services can only be canceled against rescheduling, i.e. the Customer must agree to reschedule the relevant course or training within twelve (12) months of the originally agreed date. In this case, Primaned will submit a proposal to the Customer for two (2) alternative catch-up dates within the 12-month period. The Customer is obliged to reimburse Primaned for any costs that Primaned has already incurred or will incur with regard to the originally planned event (course or training) up to receipt of the cancellation notice and which can no longer be reversed (e.g. booking costs, hotel conference fee). In addition, the Customer is obliged to pay the full price for the rescheduled course or training. This also applies if the Customer does not accept any of the catch-up dates proposed by Primaned.

9.2 Other changes to agreed Training Services shall only be permitted with the prior written consent of Primaned, such consent not be unreasonably withheld.



10. REMUNERATION AND PAYMENT TERMS

- 10.1 The remuneration for the IT Services shall be as set forth in contract offers of Primaned, which form the basis of the Customer Contract. The prices shall in each case be exclusive of the applicable value added tax.
- 10.2 The due dates for payment of the agreed remuneration shall be as set forth in the Customer Contract.
- 10.3 Invoices from Primaned shall be paid within 30 days of receipt of the invoice without discount. Payments shall be made exclusively to the account stated in the respective invoice.
- 10.4 If the Customer is in default with payment of a not only insignificant amount, Primaned shall be entitled, without prejudice to any further rights, to withhold IT Services not yet performed under the Customer Contract and/or other contracts agreed with the Customer, if any.

11. MATERIALS, SOFTWARE PROGRAMS, REPORTS AND DOCUMENTATION

- 11.1 If the Customer provides Primaned with documents, in particular service descriptions, concepts, sketches, specifications and/or lists of requirements in connection with the Customer Contract (collectively referred to as "**Customer Materials**"), these shall remain the property of the Customer. The Customer Materials and the information contained therein shall be kept confidential by Primaned in accordance with Section 17 below and shall be used exclusively for performing the IT Services.
- 11.2 Software programs or program modules developed by Primaned under the Customer Contract, if any, shall be delivered to the Customer exclusively in object code form on a common data carrier or online; there shall be no claim to delivery of the source code.
- 11.3 Reports and documentation to be provided by Primaned shall be delivered in printed form or in a common electronic format of Primaned's choice; user documentation for software may also be provided as help functions integrated into the software.

12. RIGHTS OF USE TO WORK RESULTS

- 12.1 Primaned and its licensors (if any) retain ownership to all copyright and other intellectual property rights incorporated into the deliverables made available to the Customer as part of the IT Services (the "**Primaned Work Results**").
- 12.2 Unless otherwise agreed in the Customer Contract, Primaned shall grant the Customer rights of use to the Primaned Work Results in accordance with the following provisions:



(a) Standard third-party software provided by Primaned:

If Primaned has to provide the Customer with standard software from third party vendors within the scope of the Customer Contract, Primaned shall ensure that the Customer is granted a non-exclusive, simple right to use the standard software in question for the Customer's own purposes. The right of use shall be limited or unlimited in space and/or time in accordance with the license terms of the third party vendor and as set forth in the Customer Contract. The granting of sublicenses may be permitted, limited, or excluded in accordance with the license terms of the third party vendor and as set forth in the Customer Contract.

(b) Primaned Work Results from Consulting Services:

With respect to Primaned Work Results from Consulting Services, Primaned grants the Customer an exclusive right to use the relevant work results in connection with the relevant Customer project for the Customer's own internal purposes, subject to the restrictions in Section 12.3 and the rights reserved pursuant to Section 12.4 below.

(c) Primaned Work Results from Implementation Services:

With respect to Primaned Work Results from Implementation Services for standard software from third party vendors, Primaned grants the Customer an exclusive right to use the relevant work results in connection with the relevant standard software for the Customer's own internal purposes, subject to the restrictions in Section 12.3 and the rights reserved pursuant to Section 12.4 below. The right of use shall be limited or unlimited in space and/or time in accordance with the license conditions of the third-party vendor for the relevant standard software. The Customer may transfer the work result to third parties only together with the relevant standard software. The granting of sublicenses to third parties is excluded.

(d) Primaned Work Results from Training Services:

With respect to Primaned Work Results from Training Services (including, without limitation, training documents and training or course content), Primaned grants the Customer a non-exclusive right to use the relevant work results solely for training and education of those Customer employees that were nominated to participate in the respective course or training. The rights of use are subject to the restrictions in Section 12.3 and the rights reserved pursuant to Section 12.4 below.

12.3 Restrictions of use by the Customer:

Unless otherwise agreed in the Customer Contract, the Customer's rights of use if Primaned Work Results are restricted as follows (and the Customer shall desist from any use in breach of such restrictions):

- (a) Except pursuant to the foregoing Section 12.2 (c), the Customer may not sublicense, sell, resell, transfer, assign, distribute, share, lease, rent, or make any commercial use of the Primaned Work Results the benefit of third parties, or outsource, use on a timeshare or service bureau, or use in an application service provider or managed service provider environment, or otherwise generate income from licensing the Primaned Work Results to third parties;
- (b) the Customer may not modify, adapt, translate or create derivative works, or allow any of those actions to occur, based on all or any part of the Primaned Work Results;



- (c) the Customer may not use any Primaned Work Results to develop any works which provide substantially the same functionality as software provided as part of Primaned Work Results or which enables building other programs, assets or services which could compete with the respective Primaned Work Results; and
- (d) the Customer may not cause or permit the decompiling, disassembly, or reverse engineering of any software or any portion thereof, or attempt to discover or permit the discovery of any source code or other operational mechanisms of software made available to the Customer as part of Primaned Work Results.

12.4 Residual rights of Primaned:

Even where Primaned shall have granted the Customer exclusive rights to use Primaned Work Results, Primaned reserves the right, to continue using without any restriction (for its own purposes as well as for purposes of third parties), all work results already created prior to the conclusion of the Customer Contract, in particular templates, development tools developed or used by Primaned as well as pre-existing technical know-how. Likewise, Primaned reserves the right to integrate the experience gained within the scope of the Customer's Contract without restriction as well as parts of the Primaned Work Results provided to the Customer for exclusive use in templates, development tools, and to use these for its own purposes as well as for purposes of third parties. However, Primaned's obligation to maintain confidentiality pursuant to Section 17 below shall remain unaffected.

13. QUALITY AND WARRANTY TERMS

- 13.1 Primaned shall provide the Consulting Services and Training Services with the diligence of a prudent businessperson, taking into account generally accepted practices in the field of information technology.
- 13.2 To the extent that Implementation Services relate to the delivery of work, Primaned shall assume liability for defects to the effect that the deliverables meet the requirements agreed in the Customer Contract and are not afflicted with defects, which nullify or reduce their suitability for the purposes agreed under the Customer Contract.
- 13.3 The Customer shall inspect all deliverables provided by Primaned for the existence of defects within the scope of the acceptance agreed in the Customer Contract, otherwise immediately after handover by Primaned. Defects discovered or ascertainable in this context must be reported in the acceptance report, otherwise within five working days after handover. Hidden material defects, which were not detected or could not reasonably be detected during the acceptance procedure, or upon incoming inspection must be notified within five working days of discovery.
- 13.4 Insofar as deliverables pursuant to Section 13.2 show a defect and the defect was notified in due time, Primaned shall be obliged and entitled to remedy the defect at Primaned's discretion by rectification or new delivery. If the subsequent work fails, the Customer shall be entitled to reduce the remuneration for the object of work or to withdraw from the contract. Claims for damages may only be asserted in accordance with Section 15 below.
- 13.5 The limitation period for defect claims of the Customer shall be 12 months from the beginning of the statutory limitation period.



14. WARRANTY OF TITLE, INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES

- 14.1 Primaned warrants to the Customer that Primaned is entitled to grant the Customer the rights of use pursuant to Section 12 above, and that no rights of third parties, in particular property rights and/or copyrights, are infringed by Customer's use of the work results of Primaned in accordance with the terms of use agreed under the Customer Contract.
- 14.2 The Customer shall immediately inform Primaned in writing if third parties claim that use of work results of Primaned in accordance with the terms of use agreed under the Customer Contract infringes the rights of third parties as set forth in aforementioned Section 14.1. Primaned shall defend itself against such claims of third parties, shall support the Customer in defending itself against such claims to the best of its ability and shall indemnify the Customer against any liability arising from the aforementioned claims of third parties.
- 14.3 If claims have been asserted against the Customer by third parties pursuant to Section 14.1, Primaned shall be entitled to
- modify the relevant work result in such a way that an infringement of third party property rights is excluded or
 - acquire from the owner of the property rights, at its own expense, a license to use the property rights, including the right to grant sublicenses to the Customer for the scope of use agreed with the Customer.

The obligation to indemnify pursuant to Section 14.2 shall remain unaffected. Further claims for damages due to defects of title may only be asserted by the Customer in accordance with Section 15 below.

15. LIABILITY FOR DAMAGES

- 15.1 Unless otherwise agreed in the Customer Contract, Primaned accepts unlimited liability for damages in accordance with the stator provisions of the law applicable to the Customer Contract in the following cases:
- (a) in the event of intentional or grossly negligent conduct on the part of Primaned and its vicarious agents;
 - (b) in case of death or injury to the body and/or health of a natural person;
 - (c) insofar as Primaned shall have guaranteed a certain quality of a deliverable to be handed over by Primaned and
 - (d) to the extent that Primaned is liable for personal injury or damage to private property in accordance with the applicable product liability law.



15.2 Unless otherwise agreed in the Customer Contract, Primaned shall furthermore be liable to the Customer for (slightly) negligent breach of essential contractual obligations by Primaned and its vicarious agents. In these cases, however, Primaned's liability shall be limited to the amount of damages foreseeable and typical to the contract. For purposes of this Section 15.2, all contractual obligations, the fulfillment of which is essential for the proper execution of the Customer Contract and the observance of which the Customer relies on and may also rely on, shall be deemed to be essential contract obligations. The liability of Primaned pursuant to Section 13.1 shall remain unaffected.

15.3 In all other respects, however, Primaned's liability for damages shall be excluded.

16. CONTRACT DURATION AND TERMINATION

16.1 The term of the Customer Contract shall be as set forth in such contract. If no term is stipulated therein and if the IT Services are subject to acceptance by the Customer, the Customer Contract shall end upon successful acceptance of the IT Services by the Customer.

16.2 The statutory rights of termination under applicable law on work contracts and the right to extraordinary termination for important cause shall remain unaffected. Important cause for extraordinary termination shall be deemed to exist for either party in particular if

- (a) insolvency proceedings are opened against the assets of the other party or, if insolvency proceedings are rejected for lack of assets, or if the other party ceases its payments;
- (b) the control and/or participation relationships of the other party changes in a manner that is unreasonable for the other party, in particular in case of a transfer of participations and/or control to a competitor of the party entitled to termination;
- (c) the other party is material breach of any provision of the Customer Contract and such breach persists despite receipt of a written warning notice requesting the curing of the breach.

16.3 Termination notices must be submitted in writing.

17. CONFIDENTIALITY, PUBLICATIONS

17.1 The parties mutually undertake to keep confidential all technical, commercial, and financial documents, programs and other information to which they have access in connection with the Customer Contract, all documents and information designated as confidential by the other party, or which are recognizable as business or trade secrets according to other circumstances, even after termination or expiry of the Customer Contract.

17.2 The obligation of confidentiality shall not apply to ideas, concepts, know-how and techniques or other information which the recipient party demonstrably already knew at the time of receipt of such information, or which demonstrably becomes known to the recipient party outside of the cooperation in accordance with the provisions of the Customer Contract without any breach of confidentiality obligations.

17.3 The obligation to maintain confidentiality pursuant to Section 17.1 shall survive termination of the Customer Contract as long as and to the extent that none of the conditions set forth in Section 17.2 is met with respect to the respective information.



17.4 Publications of a party concerning details of the cooperation of the parties shall require the prior consent of the other party. However, Primaned shall be entitled to list the Customer as a reference Customer on websites of the Primaned Group of Companies or vis-à-vis current or potential interested parties.

18. NON-SOLICITATION

18.1 The Customer undertakes not to entice away employees of Primaned during the term of the Customer Contract and for a period of one year from its termination or expiry.

18.2 In the event of a culpable violation of the foregoing non-solicitation undertaking pursuant to Section 18.1, the Customer undertakes to pay to Primaned a contractual penalty in the amount of 1.5 times the gross annual salary of the relevant employee at the time of his/her departure from Primaned. The right of Primaned to claim further damages shall remain unaffected.

19. DATA PROTECTION

19.1 The parties shall each ensure on their own responsibility that the statutory provisions of data protection legislation relevant to them are complied with in connection with the Customer Contract.

19.2 If the Customer Contract involves the processing of personal data by Primaned on behalf of the Customer, the parties shall separately conclude an agreement on commissioned processing which complies with the provisions of applicable data protection legislation. The same shall apply if, within the framework of the contractual relationship, the processing of personal data is carried out under the joint responsibility of Primaned and the Customer pursuant to Art. 26 GDPR.

20. IMPEDIMENTS TO PERFORMANCE AND FORCE MAJEURE

20.1 Primaned shall not be liable for non-performance or delay of IT Services to the extent that the non-performance or delay is due to circumstances beyond Primaned's control, and which could not have been prevented by Primaned with reasonable measures. These include, without limitation, fire damage, floods, labor disputes, operational disruptions caused by third parties, official decrees as well as travel and contact restrictions caused by the COVID-19 pandemic for which Primaned is not responsible.

20.2 Primaned shall immediately inform the Customer of the occurrence of an event of force majeure and shall coordinate with the Customer on the further course of action. The right of each party to terminate the Customer Contract for important cause in the event of a prolonged event of force majeure shall remain unaffected.



21. DISPUTE SETTLEMENT

- 21.1 Disagreements between the parties in connection with the Customer Contract shall be resolved at the level of the central contact persons of the parties whenever possible. If the dispute cannot be resolved at this level within a reasonable period, an agreement shall be sought at the level of the management of the parties.
- 21.2 If the parties cannot agree on settling the dispute pursuant to Section 21.1, either party may submit the dispute to the conciliation body of the German Association for Law and Information Technology e.V. (DGRI) for a non-binding mediation proposal in accordance with the then applicable mediation rules. The costs of the involvement of the conciliation board shall be borne by the parties in equal parts. If the parties do not declare their agreement with the proposal of the conciliation board within three weeks after announcement, each party shall be entitled to take legal action in accordance with Section 22 below.

22. APPLICABLE LAW, JURISDICTION

- 22.1 The Customer Contract and these Terms and Conditions shall be governed by the laws of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- 22.2 The place of jurisdiction for all disputes arising from and in connection with the Customer Contract shall be the courts in Frankfurt am Main, Germany. Alternatively, each party shall be entitled to bring an action against the other party at its registered place of business. Except for interim injunctions, the above choices of forum shall be exclusive.

23. FINAL PROVISIONS

- 23.1 The Customer shall not be entitled to assign claims against Primaned arising from the Customer Contract to third parties. This shall not apply insofar as monetary claims are concerned.
- 23.2 Deviations from these Terms and Conditions must be made in writing. This shall also apply to any amendment of this written form clause.
- 23.3 Should one or more provisions of these Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions.