

**PRIONICS AG**  
**TERMS AND CONDITIONS OF SALE**  
(effective as of April 1, 2011)

Unless otherwise agreed in writing by Prionics AG ("Prionics"), the following are the Terms and Conditions of Sale of Prionics which, together with any other terms and conditions agreed upon in writing between Prionics and the customer ("the Buyer") shall apply to all sales of goods, services and support by Prionics to the Buyer to the exclusion of all other terms and conditions. Prionics reserves the right to change or modify these terms and conditions of sale from time to time without notice.

**1. ORDERS**

- a) Orders of the Buyer shall not bind Prionics until confirmed by Prionics in writing or by electronic means.
- b) Orders must be submitted in writing, stating shipment address, delivery dates, quantities and complete description of Products being purchased. Telefax, e-mail or other means of communications assuring written prove shall be sufficient.

**2. PRICES**

- a) The price indicated on the order confirmation shall be considered to be the price agreed between the Buyer and Prionics.
- b) In case of multiple of future deliveries, prices are subject to revision by Prionics at anytime.
- c) Prionics reserves the right to correct pricing errors prior to shipment subject to Buyer's right to cancel such order.
- d) All prices are exclusive of transportation, insurance costs, value added tax or any other applicable tax, duty, levy or charge in any jurisdiction and the amount of any taxes which Prionics may be required to pay or collect shall be for Buyer's account and shall be added to each invoice issued by Prionics as separate items.
- e) Prionics shall be entitled to levy an additional service and/or handling charge of EUR 25.- or the equivalent amount in other currencies per order.

**3. TERMS OF PAYMENT**

- a) The Buyer shall pay on the terms stated on the order confirmation, or, failing such indications, net without discount 30 days from date of invoice.
- b) Prionics reserves the right to suspend further deliveries, or require any satisfactory securities, in the event Buyer fails to pay in full for anyone shipment when same becomes due.
- c) In case of payment, Prionics will charge Buyer an interest rate of 6% per year on all overdue amounts.
- d) All payments shall be made without set-off or counterclaims.

**4. DELIVERY TERMS**

- a) Prionics shall deliver the goods at the place of delivery in accordance with the terms stated on the order confirmation. Failing such indication, the goods shall be delivered Ex Works (Incoterms 2010).
- b) Prionics shall deliver the goods at the date stated on the order confirmation. Failing such indication, the goods shall be delivered at the time Prionics deems appropriate.
- c) Any delivery dates indicated by Prionics are non-binding and based on the conditions prevailing at the time the order is placed and under the assumption of normal supply and manufacturing conditions. In no event Prionics shall be liable for any damages of Buyer or other Persons due to delay in delivery or non-delivery. Delay in delivery shall not relieve Buyer of its obligation to accept delivery thereof.
- d) In case of advance payments for an obligation to deliver, Prionics shall be liable in maximum up to the received amount per annum for a proven damage due to delay in delivery and only in case of default of Prionics. Clause 9 and 10 remain provided.
- e) All transportation shall be at the expense of the Buyer. Prionics reserves the right to ship products freight collect and to select the means of transportation and routing.
- f) Prionics may insure to full value of the products or declare full value thereof to the transportation company at the time of shipment and all freight and insurance costs shall be for Buyer's account.

**5. TRANSFER OF RISK AND PROPERTY**

- a) Risk of loss and damage shall pass to Buyer upon delivery. Confiscation or destruction of, or damage to products shall not release, reduce or in any way affect the liability of Buyer therefore.
- b) Title shall remain with Prionics until Buyer has made payment in full in accordance with the terms thereof. Prionics has the right to have title to the products delivered to Buyer registered in such register as Prionics may deem appropriate.

**6. ACCEPTANCE/RETURNS**

- a) Goods delivered by Prionics shall be deemed accepted by Buyer unless notice of defect or nonconformity is received by Prionics within 10 working days of upon receipt.
- b) Claims concerning defects that could not be discovered by delivery despite accurate inspection of the goods must be made in writing and received by Prionics within 10 working days from discovery of the defects but in no event later than 10 working days from the expiration of the shelf life date indicated on the goods.
- c) In case of duly proven defective goods, Prionics shall, at its choice, either replace or repair at its own costs such defective goods, or refund the Buyer the price paid. Costs or the price paid by Buyer for such defective goods shall be reimbursed to Buyer.

- d) Before any products are returned for repair and/or adjustment, written authorisation must be obtained from Prionics or its authorised representative for the return and instructions as to how and where these products should be shipped.
- e) Prionics reserves the right to reject any warranty claim not promptly reported and any warranty claim on any item that has been altered or has been shipped by non-acceptable means of transportation.
- f) When any product is returned for examination and inspection, or for any other reason, Buyer shall be responsible for all damage resulting from improper packing or handling, and for loss in transit, notwithstanding any defect or nonconformity in the product.
- g) In all cases, Prionics has sole responsibility for determining the cause and nature of failure, and Prionics' determination with regard thereto shall be final.
- h) If it is found that Prionics product has been returned without cause and is still serviceable, Buyer will be notified and the Product returned at its expense, in addition, a charge for testing and examination may be made, in sole discretion of Prionics, on any Product so returned.

**7. STORAGE OF GOODS**

- a) Storage of Prionics goods, both before and after title passes to the Buyer, must be in accordance with the requirements stated on each pack, e.g. refrigerated and cool storage facilities for specified goods must be provided.

**8. LIMITED WARRANTY**

- a) Prionics warrants that the goods shall conform to standard specifications of Prionics in effect on the date of shipment, or to the specifications agreed with Buyer, if any.
- b) Prionics warrants that, to its best knowledge, the goods do not infringe any third party's patents.
- c) All other warranties, expressed or implied, with respect to the goods are disclaimed.

**9. LIMITED LIABILITY**

- a) Any liability of Prionics out of this contract by any reason shall be expressly limited to the purchase price effectively paid by the Buyer to Prionics for the quantity of goods in respect of which any claim is made.
- b) Furthermore under no circumstances shall Prionics be liable for special, incidental, indirect or consequential damages (including but not limited to loss of profits, revenues, etc.) incurred by Buyer or any third party.

**10. FORCE MAJEURE**

- a) No liability shall result from delay in performance or non-performance by Prionics caused by circumstances beyond its control, including, without limitation, acts of God, fire, flood, explosions, riots, wars, perils of the sea, labor troubles, machinery breakages, government actions or prohibitions, shortage of raw materials or energy at reasonable costs, and/or traffic stoppages.

**11. COMPLIANCE WITH LAWS**

- a) Buyer agrees that it shall be its responsibility to comply with all applicable laws and regulations relating to the products of Prionics, once they have been purchased.

**12. MISCELLANEOUS**

- a) Failure by Prionics or Buyer to enforce any right which it may have in any instance shall not be deemed to be a waiver of any right it may have in any instances.
- b) Whenever possible, each provision of these Terms and Conditions of Sales shall be interpreted in such a manner as to be effective and valid under applicable law. The determination by any court of competent jurisdiction that one or more of the sections or provisions of these Terms and Conditions of Sales are unenforceable shall not invalidate the Terms and Conditions of Sales, and the decision of such court shall be given effect so as to limit to the extent possible the sections or provisions which are deemed unenforceable.
- c) Buyer shall not assign its rights or delegate its performance hereunder without the prior written consent of Prionics.

**13. APPLICABLE LAW**

- a) All contracts shall be construed under and governed by Swiss Law. The United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980, is excluded.
- b) All disputes under any contract not otherwise resolved between Prionics and Buyer shall be resolved in the ordinary courts of Zurich, Switzerland, subject to appeal to the Swiss Federal Court in Lausanne.
- c) However, Prionics shall have the right to bring an action against Buyer at Prionics' domicile or before any other competent court.