

KOMSA GROUP GENERAL TERMS AND CONDITIONS FOR PERFORMANCE OF REPAIR SERVICES

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§ 1 Scope, definitions

- (1) These general terms and conditions (hereinafter referred to as Service GTC) apply in their respective current version to any contracts with the KOMSA Group (hereinafter "Group") for the performance of the repair services described below. The KOMSA Group refers to KOMSA Kommunikation Sachsen AG, Noritel Mobile Kommunikation GmbH, KOMSA Data & Solutions GmbH, aetka Communication Center AG, KOMSA Advancing Distribution GmbH and KOMSA Business Process Services Europe GmbH. The customer is aware that the respective current version is available to view and retrieve from the website www.komsa.com. This shall constitute notice having been given. On request, KOMSA Kommunikation Sachsen AG will forward the respective current version to the customer. The Customer accepts these terms and conditions upon entering into the business relationship. The Company is the company of the KOMSA Group that is the contracting party in the particular instance.
- (2) Entrepreneurs in the sense of the GTC are natural or legal persons or partnerships with whom a business relationship is entered into, and who are acting in the exercise of a commercial or independent professional activity. Business customers are all entrepreneurs as well as legal persons under public law and special funds under public law in the sense of § 310 section 1 BGB (German Civil Code).
- (3) Customers in the sense of the GTC are business customers only.
- (4) Deviating, conflicting or supplementary general terms and conditions of the Customer are not part of the contract, even if acknowledged, and not recognized, even in part, unless their validity is expressly agreed to.

§ 2 Conclusion of contract

- (1) All GROUP offers are non-binding and subject to change. Technical changes as well as changes in shape, colour and/or weight are reserved within reason.
- (2) After posting of the offer to contract, the Customer will receive an automatically generated confirmation of receipt by e-mail, which confirms the receipt of the equipment and which the Customer can print. The automatic confirmation of receipt still does not represent an acceptance of the offer for the repair services, but merely documents that the order has been received.
- (3) Subsequently, the GROUP may send the Customer an offer to prepare a cost estimate, for a fee, regarding the remediation of the fault referred to in the service report, unless the fault is covered by a guarantee or warranty. The offer to prepare a cost estimate, for a fee, shall be sent to the Customer and is to be confirmed by the Customer in writing by fax or e-mail if the Customer wishes to proceed with the order and have the equipment repaired. If the GROUP does not accept the order to prepare a cost estimate, the GROUP will promptly so inform the Customer.
- (4) If the Customer has already approved the repair service in the service report, no cost estimate will be prepared. The acceptance of the order then takes place through a separate e-mail, or is made tacitly through performance of the contracted services.

§ 3 Scope of services

- (1) The GROUP shall provide maintenance or repair services in the context of the concluded service contract. Services such as data backup and recovery shall be provided under the service contract. Accordingly, only the performance of a service is due, and not its success.
- (2) Due to the quality guidelines from the manufacturers, the GROUP is obligated to fully recondition the incoming equipment, which is to be repaired in accordance with the technical description.
- (3) In the event of damage resulting from improper use by the Customer (e.g. damage due to falling or breaking, or from being subjected to excessive voltage), the defective equipment or accessories are outside the scope of the warranty and guarantee. If the GROUP determines that this is not a case that falls under the guarantee or warranty, but that the equipment can nevertheless be repaired, it may prepare a cost estimate and send it to the customer.
The Customer may accept this offer within 7 days (receipt by the GROUP). If the Customer does not accept the offer or there is irreparable damage (total loss), the Customer shall receive the equipment back without repairs having been undertaken.
- (4) Insofar as the Customer does not explicitly request a repair at its own expense, or if repair is not possible, the GROUP reserves the right to charge the Customer for the costs of examining equipment incorrectly submitted as being covered by a warranty or guarantee, in the amount of 50 €. The Customer has the right to demonstrate that the actual costs incurred are lower.
- (5) The acceptance of equipment sent to the GROUP without prepayment may be declined by the GROUP. If accepted, the GROUP reserves the right to charge the Customer for the costs of shipment which have not been prepaid.

- (6) Exchanged parts shall become the property of the GROUP without compensation.
- (7) Only the defective equipment or defective parts themselves are to be sent, in particular, original packaging, manuals and non-defective accessories are not to be submitted, even if these were used for protection or as an accessory (e.g. batteries, cards, protective foil, covers and other loose parts from the housing, toner). The GROUP assumes no liability for loss of or damage to non-defective equipment that has nevertheless been sent in. The GROUP also assumes no liability for any damage to equipment or accessories caused by sending parts unnecessarily or in a manner that is not secure or in accordance with manufacturer's recommendations.
- (8) Equipment or accessories will be reset to factory settings during repair.
- (9) The GROUP is entitled to make use of third parties in the provision of the (repair) services as well as for delivery of the repaired equipment.
- (10) The GROUP points out that it might be necessary to open or perform work on the equipment for the purpose of examination whether a service is covered by the warranty or manufacturer's guarantees. In the event that warranty service cannot be offered and subsequent discovery of irreparable damages or refusal of the amended cost estimate the original state of the device will not be restored.

§ 4 Cost estimate

- (11) Insofar as the Customer accepts the offer to issue a cost estimate for a fee, the cost estimate is to be paid according to the applicable price list for the GROUP.
- (12) The cost estimate represents only a professional calculation of estimated costs. The GROUP assumes no liability for the accuracy of the cost estimate. If, in the course of repair, it is established that the repair cannot be undertaken without significantly exceeding the cost estimate, the Customer may for this reason cancel the contract. In the event of cancellation, the GROUP may require payment of a portion of the remuneration corresponding to the work actually performed and reimbursement of the expenses not included in the remuneration. If it is expected that the cost estimate will be significantly exceeded, the GROUP shall inform the Customer before carrying out the work.
- (13) The cost estimate is carried out on the basis of error description given by the customer and visual inspection of the device. The device will be opened only after acceptance of cost estimate as non-destructive examination is not always possible due to the design. Irreparable damages such as entry of moisture and further damages might not be discovered until opening of the device. In the event of subsequent discovery of irreparable damages or refusal of the amended cost estimate the device will not be dismantled to the original state.

§ 5 Data backup and data recovery

- (1) The customer is obliged to ensure, prior to relinquishment or submission of the equipment or accessories, that all saved data are deleted or otherwise stored. The GROUP expressly indicates that any stored data may be lost during the repair or service.
- (2) The GROUP will attempt at the express request of the Customer without intervention in the software or on the device to preserve the existing data on the equipment (data backup) if conditions allow (depending on the type of equipment and the type of data to be backed up, etc.). The data backup is not covered by the warranty or manufacturer's guarantees. The GROUP expressly points out that in the event of a failed attempt at preserving the data, the existing data may be wholly or partially lost. Costs for data backup will be charged if the backup is successful.
This offer does not apply to accessories. If the Customer wishes the backup to be performed by the GROUP, this must be indicated on the service report.
- (3) If a data backup is not possible, the GROUP shall, at the explicit request of the Customer, by alterations in the software or by physical intervention on the device (data recovery) attempt to transfer the data stored on the device to an external data carrier if conditions allow (depending on the device type and the type of data to be backed up, etc.). Data recovery is also not covered by the warranty or manufacturer's guarantees. The GROUP expressly points out that in the event of a failed attempt at recovery of the data, any data present may be wholly or partially lost. Even in case of success it might be the case, the intervention necessary for the data recovery may result in loss of manufacturer's guarantee. In this case repairs may no longer be possible or only carried out at the expense of the customer. Prior to commissioning of the data recovery it has to be excepted that the concerned data is stored on removable media (memory card). Costs for data recovery will be charged only if the recovery was successful. Data recovery is deemed to be successful if data of the category ordered by the customer can be extracted from the internal memory and saved on an external data carrier. The size of the recovered data does not matter. Data recovery is not carried out if the category ordered by the customer does not contain any data. Therefore the customer does not have

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to pay for the data recovery in this category.

- (4) The Customer agrees that the GROUP may disassemble the device and carry out the necessary interventions for the purposes of successfully recovering data. If the data recovery was successful, the Customer shall receive its equipment back along with an external data carrier.

§ 6 Remuneration

- (1) The remuneration is calculated according to the time required for the performance of the repair or service plus the necessary expenses, particularly the price of the required spare parts. The price list in effect at the time a cost estimate is prepared forms the basis for such estimate; this applies also to data backup or data recovery carried out at the Customer's request. For replacement parts, the applicable prices for replacement parts at the time the cost estimate is generated shall apply.
- (2) Payment is due upon receipt of the invoice, unless the Customer has not validly disputed acceptance of the service. At its option, the Customer may make advance payment to the GROUP of the repair costs listed in the cost estimate or previously approved by the Customer. In this event, any excess payment will be returned to the Customer within 10 days of the invoice being issued by the GROUP. The same shall apply if it is determined during the course of performance of repairs that the Customer's equipment cannot be repaired, or if the Customer does not send the equipment for repair after having been twice requested to do so by the GROUP. In this case, the GROUP reserves the right to cancel the order and issue a refund to the Customer.
- (3) The prices include the statutory VAT plus additional shipping costs. The prices listed for data recovery refer to standard data recovery. If no data can be read from the equipment because the file system is badly damaged or there are multiple defective sectors, etc., the GROUP will prepare a separate offer.

§ 7 Place of performance, shipping, assumption of risk

- (1) Return shipment is charged for customers, usually from the registered office of the GROUP. All shipments are provided with standard packaging. The choice of shipping method is left to the reasonable discretion of the GROUP, unless other special arrangements are made.
- (2) The place of performance for all services and repairs is the registered office of the GROUP. Shipment by the Customer to the GROUP and shipment by the GROUP to the Customer shall occur at the Contractor's risk, unless otherwise agreed in individual cases.
- (3) The Customer bears the risk of loss of data and data carriers during transport. Upon request, special shipping insurance (e.g. registered letters, packages, insured items) can be purchased according to the current price list.
- (4) We are not liable for the loss of data carriers (even if the device has shipping insurance). The client undertakes to ensure the secure transport of its data carriers. If we receive a shipment, and the data-storage device is no longer included, the GROUP cannot be held liable. Please do not send any new memory cards, USB sticks or other data carriers for the purposes of data backup. This can easily lead to confusion.

§ 8 Terms of payment

- (1) Payments can be made in cash on delivery, by credit card or on presentation of an invoice if the GROUP so chooses. In the case of a SEPA direct debit, the creditor must inform the debtor about the debit via a pre-notification before submitting the debit request to the bank. The pre-notification must be sent by the GROUP at least 1 day prior to the due date.
- (2) While in default of payment, a Customer shall pay interest on the amount due of 9 percentage points above the current base interest rate. The GROUP also reserves the right to demonstrate and assert higher default damages.
- (3) If the Customer finds itself in default of payment on an invoice due to general liquidity problems, or if its financial situation has significantly worsened after conclusion of the contract, all obligations to the GROUP shall be due immediately. The GROUP shall then be entitled to perform pending repair and services, generate cost estimates, and deliver items only against a guarantee or advance payment, or may withdraw from the contract.

§ 9 GROUP right of lien, failure to retrieve

- (1) The GROUP is entitled to a vendor's lien with regard to services provided in accordance with the contract and any other claims arising from the business relationship between the GROUP and the Customer. This lien applies to equipment that has come into the GROUP's possession in the context of the order. If the Customer does not pay for the equipment sent carriage forward, does not accept it, or it cannot be delivered to the Customer, the GROUP shall urge the Customer in writing to pick up the equipment within one month or, upon the Customer's request, have the equipment resent to the Customer for a fee. If the Customer does not collect the equipment within a month following this request, or if a second attempt at delivery does not succeed, the GROUP shall announce to the Customer the sale of the

equipment and indicate the amount of the debt which the sale is intended to satisfy.

- (2) After one month has passed from this announcement, the GROUP is entitled to liquidate the equipment. The GROUP is also entitled to dispose of the equipment via private sale.
- (3) The right to private sale applies also if the communication to be made by the GROUP in accordance with Para. 1 cannot be delivered to the Customer at the address listed in the contract or the Customer has not informed the GROUP of the change in address.

§ 10 Warranty

- (1) If a repair service performed by the GROUP is defective, the Customer may request supplementary performance within a reasonable period of time. Supplementary performance for a Customer shall be undertaken at the GROUP's option through remediation of the defect or manufacture of a new item. Exchanged parts shall become the property of the GROUP without compensation.
- (2) Damage resulting from improper operation, use, or storage, or from interference by third parties, is not covered by the warranty.
- (3) Warranty claims on the part of the Customer presuppose that the Contractor has appropriately fulfilled the obligatory inspection and notification requirements in accordance with § 377 of the Commercial Code [Handelsgesetzbuch]. The warranty period is 1 year. Excepted from this 1-year period are claims by the Customer arising from product liability, claims in tort, claims arising from bodily injury, injury to health, or loss of life attributable to the Group, claims arising from a failure to honour independent guarantees, and if the GROUP acts in bad faith.
- (4) Notifications of defects are to be sent in writing to the GROUP with a clear description of the problems found.
- (5) If the Customer is responsible for the defect or the problem, or the defect reported by the Customer does not exist, the GROUP is entitled to request compensation for the costs incurred through the remediation or attempted remediation of the defect.
- (6) The warranty offered by the GROUP does not cover defects resulting from external influences or by a failure to comply with the terms of use provided by the GROUP for the use of the object to be repaired or serviced. The warranty also does not apply if the Customer or a third party alters the object of the repair or service without the consent of the GROUP, unless the Customer proves that the defect did not result from such alterations or that the remediation of the defect is not unreasonably complicated by the alteration.
- (7) The GROUP may refuse supplementary performance until the Customer has paid the agreed upon remuneration to the GROUP minus a portion corresponding to the financial impact of the defect or the guaranteed quality or characteristic.
- (8) Once the Customer has set a reasonable period for supplementary performance and such supplementary performance has failed or been refused, the Customer may withdraw from the contract or demand a reduction in the agreed remuneration. Any claim to damages by the Customer is excluded. Failure to make supplementary performance shall be found only after at least two failed attempts at remediation of the defect. The subsequent limitations of liability in accordance with § 14 also apply.

§ 11 Contractual right of withdrawal

- (1) The GROUP has the right to withdraw from the contract in any of the following cases:
 - (a) Cases of force majeure, labour disputes, natural disasters and similar incidents, inasmuch as they more than temporarily substantially impede or make it impossible for the GROUP to provide its services;
 - (b) if the financial situation or the creditworthiness of the Customer has considerably worsened after conclusion of the contract, in particular if an application for the commencement of insolvency proceedings has been made;
 - (c) in case of false claims made by the Customer regarding its financial circumstances or creditworthiness which threaten the intended purpose of the contract;
 - (d) in the event of actions by the Customer violating its contractual obligations, or business transactions contra bonos mores or constituting unfair acts.
- (2) In the event of a partial inability to perform or inability to perform in an agreed time frame, the contract may be adapted to the changed conditions by the mutual agreement of the parties.
- (3) In case of inability to perform or withdrawal from the contract on the basis of a statutory or contractual right to withdrawal, the GROUP is entitled to a lump-sum compensation amounting to 25% of the respective contractual remuneration unless the Customer proves lower damages. The GROUP also retains the right to prove higher damages.

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§ 12 Assignment, set-off, right of retention

- (1) The GROUP is entitled to assign the claims and obligations arising from the business relationship with the Customer to third parties insofar as the purpose of the contract is not thereby threatened.
- (2) The Customer may assign its rightful claims to third parties only with the prior written consent of the GROUP, insofar as the claim is of a non-pecuniary nature.
- (3) The Customer may set off the claims of the GROUP only against undisputed or legally enforceable counterclaims.
- (4) The Customer has the right to assert a right of retention only on the basis of counterclaims arising directly from the relevant contractual relationship. In addition, the Customer may exercise a right of retention on the basis counterclaims against the GROUP only if these counterclaims are undisputed or are legally enforceable.

§ 13 Clause regarding intercompany offsetting

- (1) The term "KOMSA company" refers to all affiliated companies of KOMSA Kommunikation Sachsen AG in accordance with §§ 15 ff. of the German Stock Corporation Act [Aktengesetz].
- (2) The Company is entitled to offset any claims against the Customer accruing to it against all claims that may be asserted by the Customer against other companies associated with KOMSA Kommunikation Sachsen AG according to §§ 15 ff. of the German Stock Corporation Act, regardless of their legal basis.
- (3) In the event of several co-existing obligations, the Customer waives the right to dispute our determination of the obligations to be settled (see §396 Para.1 sent. 2 German Civil Code [BGB]).
- (4) A list of all companies affiliated with KOMSA Kommunikation Sachsen AG according to §§ 15 ff. of the German Stock Corporation Act may be found in the current annual report which is published according to the statutory regulations, or shall be sent to the Customer by the Company upon request.

§ 14 Liability

- (1) The liability of the GROUP is limited to tortuous acts and cases of gross negligence. Liability for failure to fulfil the obligations of a guarantee, due to bad faith, according to the Product Liability Act [Produkthaftungsgesetz], and for loss of life, physical injury, or injury to health remains unaffected.
- (2) Also unaffected is liability for breach of duties the fulfilment of which is required for the fulfilment of the contract, and compliance with which the customer may regularly rely upon. However, this liability is limited in amount to those losses typical and foreseeable for the contract in question at the time of its conclusion.
- (3) The same applies to breaches of duty by our agents.
- (4) The Customer is obligated to create and store its own backup copies of data which the Customer has saved or processed on its equipment or accessories, in accordance with the Customer's own security needs. The GROUP shall not be liable for loss of data insofar as the damage has resulted from the Customer's failure to backup data and thereby ensure that the lost data could be recovered at a reasonable cost.
- (5) Claims by Customers shall lapse one year after the delivery of the goods or acceptance of the work.
- (6) Insofar as the GROUP enables access to other websites through hyperlinks, the GROUP is not responsible for the contents of such external sites. The GROUP also does not endorse any third-party content. The provider of a linked site shall be liable for its content and any resulting losses, and not the party who refers to such publication through the link. If we should become aware that unlawful content is found on these sites, we will immediately block access.

§ 15 Data protection, credit assessment

- (1) The GROUP collects, processes, stores, and uses the personal data of customers in automated procedures insofar as necessary for performance of the contract, particularly inventory data, in accordance with § 28 of the German Federal Data Protection Act [Bundesdatenschutzgesetz (BDSG)], § 95 Telecommunication Act [Telekommunikationsgesetz (TKG)] § 14 Telemedia Act [Telemediengesetz (TMG)], and usage and billing data, in accordance with § 15 TMG, §§ 96, 97 TKG, if applicable. Furthermore in case of guarantee handling personal data of the Customer (title, name, address, e-mail address, telephone number, fax number) as well as order data (device data, IMEI, error description) are forwarded to the manufacturer of the sent in device.
- (2) The Customer is entitled at any time to obtain information about the data stored regarding his or her person and if necessary have the information corrected, locked or deleted (§§ 34, 35 BDSG).

- (3) The GROUP is also entitled, with the Customer's consent, to use the Customer's personal data for its own informational and marketing purposes as well as for evaluation of customer behaviour, or to provide the data to affiliated companies for such purposes. The use of personal data by the GROUP or transmission of such data to affiliates is permissible only for the purposes mentioned. The Customer is entitled to refuse the collection, storage, use and transmission of personal data for informational and marketing purposes as well as for evaluation of customer behaviour by the GROUP or third parties at any time with effect for the future. The revocation of this right may be made by e-mail to info@komsa.de or by mail to KOMSA Kommunikation Sachsen AG, Niederfrohaer Weg 1, 09232 Hartmannsdorf.
- (4) The GROUP reserves the right in individual cases to verify the Customer's credit and identity. The submission of the Customer's identity card and/or credit card information for the specified credit card may be required in this context.
- (5) Contract data (name, first name, date of birth, street address, zip code/city) shall be used if needed to carry out a credit check with a company that provides credit information. This notification is made in accordance with the provisions of § 33 Para. 1 BDSG. All personal data shall be treated confidentially. The Customer may consult the GROUP about the outcome of the request.
- (6) The Customer and the GROUP mutually undertake to either destroy or otherwise handle in accordance with the relevant data protection laws all data collected in connection with the relevant business relationship or company-specific information acquired in the course of such relationship.
- (7) The Customer agrees upon placement of the order that it is entitled to dispose of the delivered device and the data stored therein.

§ 16 Concluding provisions

- (1) Cases of force majeure significantly impeding or frustrating a contractual partner's performance or obligation entitle the affected contractual partner to delay the fulfilment of this obligation for the duration of the hindrance, plus a reasonable period of time required to respond to such events. Equivalent to cases of force majeure are labour disputes at the premises of the contracting partner or at third-party companies, as well as similar circumstances affecting the contracting parties directly or indirectly. This applies especially for delays in the delivery of services by the GROUP if these result from a failure of performance on the part of its suppliers or agents.
- (2) The GROUP may use third parties, especially affiliated companies, as agents in the performance of its commitments. This shall not affect the contractual obligations of the GROUP.
- (3) The Customer is obligated to notify the GROUP immediately of all changes in its personal circumstances relevant to the contract.
- (4) All legal relations between the GROUP and the Customer shall be governed by the laws of the Federal Republic of Germany, with the exception of the United Nations Convention on Contracts for the International Sale of Goods of 11/04/1980 (UN CISG).
- (5) These GTC are made in English and in German language. In case of contradictions between the two versions or in case of ambiguity about the content or meaning of clauses, the German version shall be leading.
- (6) The parties agree that the exclusive place of jurisdiction for disputes arising from this contract shall be the registered office of KOMSA Kommunikation Sachsen AG in 09232 Hartmannsdorf, insofar as the Customer is a merchant or legal entity or special asset under public law [öffentlich-rechtliches Sondervermögen]. The same applies if, when filing suit, the Customer has no general place of jurisdiction, domicile, or habitual place of residence in the Federal Republic of Germany, or if none is known.