GENERAL TERMS AND CONDITIONS

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I. Introductory conditions

§1 Scope of application, definitions

(1) The General Terms and Conditions (hereinafter called: GTC) apply in their respectively current version for all business relationships with the customers of KOMSA Group (hereinafter called "Group"). "Group" refers to KOMSA Kommunikation Sachsen AG, KOMSA Advancing Distribution Europe GmbH, KOMSA Enterprise Services GmbH, Noritel Mobile Kommunikation GmbH, aetka Communication Center AG, KOMSA Data & Solutions GmbH and mercum Logistik GmbH. For orders, which concern Unify products, the "Additional conditions for the sale of Unify products (AC GTC)" apply additionally. It is known to the customer that the current version can be viewed and called up on the homepage www.komsa.com. Thus it is considered as notified. Upon request, KOMSA Kommunikation Sachsen AG sends to the customer the respectively current version.
When establishing the business relationship, the customer acknowledges these GTC.
A company is the respectively acting, contracting enterprise of the KOMSA Group.

(2) Entrepreneurs in the sense of GTC are natural or legal persons or legally responsible business partnerships, with which business relationships are established, and which act in the exercise of a commercial or self-employed 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).
Customers in the sense of the GTC are business customers only.

(3) Deviating, opposing or supplementary General Terms and Conditions of the customer, even on knowledge, will not become a part of the contract and will not be acknowledged, unless their validity is expressly agreed in writing.

§2 Conclusion of a contract

(1) All offers of the Group are non-binding and subject to change. Technical modifications as well modifications in form, colour and/or weight are reserved within reasonable limits.

(2) By placing an order of goods and/or services, the customer bindingly declares himself willing to purchase the ordered goods and/or services and to accept the GTC. Orders of the customer are offers to conclude a corresponding contract. The Group reserves the right to accept or to reject the offer within two weeks after receipt. The acceptance can be declared either expressly in writing or by starting to process the order and/or delivery of the goods to the customer.

(3) If the customer orders the goods and/or services by electronic means, the Group will instantly confirm the receipt of the order. The confirmation of receipt does not represent a binding acceptance of the order. The confirmation of receipt can be connected with the declaration of acceptance.

(4) The conclusion of a contract is carried out under the reservation of the correct and timely self-supply by the suppliers of the Group. This only applies in case that the non-delivery is not attributable to the Group, in particular when concluding a congruent hedging transaction with a supplier. The customer will instantly be informed about the non-availability of the performance. A possibly already rendered counter-performance will be instantly reimbursed.

(5) In case that the customer orders the goods and/or services by electronic means, the text of the contract will be saved by the Group and be sent to the customer per e-mail upon request, along with the present GTC.

(6) Modifications and amendments of the contractual relationship require the written form. If they do not meet this requirement, then they are void. This also applies for modifications of this clause relating to the written form. If a contract was concluded by electronic means, modifications or amendments of the contract can at first be carried out in the same manner. But the modification or amendment is not effective, before it has been confirmed by the respective other contractual partner per fax or e-mail, or before the Group fulfils the contract according to the modified or amended conditions.

§3 Scope of delivery and services

The services to be rendered by the Group towards the customer are defined in the declaration of acceptance. At this, a selection of the following delivery and service variants is made. The following special conditions concerning the different delivery and service variants (number II to V) shall only apply in so far as the respective delivery and service variants are subject matter of the contractual relationship.

§ 4 Use of our B2B online shop KARLO

(1) Once a customer account has been created, the Customer will receive login data for our B2B online shop KARLO. The Customer can assign a separate KARLO login to each of its employees and select itself which employees may view purchase prices on KARLO, who may add items to a shopping basket and who may submit the shopping basket (individual user rights).

(2) The Customer shall ensure that the login data issued is not passed on to unauthorised third parties. It shall regularly verify the rights assigned to the individual employee logins. All orders placed using the Customer's login data shall be deemed to have been initiated by the Customer.

(3) The KARLO eLogistik function also enables drop shipments directly to customers of the Customer. In this case, a neutral delivery note is enclosed with the delivery stating that the delivery is made on behalf of the Customer. The Customer invoices its customers itself for the item ordered. In the event of any complaints or service cases, these will also be handled by the Customer. If an end customer sends in any items directly, the Company will return these items to the end customer with a corresponding note.

(4) The Company will invoice the Customer separately for the service. The payment terms as agreed with the Customer will apply in this respect.

(5) Responsibility for the correct entry of data, for example the delivery address of the end customer concerned, lies solely with the Customer.

(6) For articles currently not held in stock will be displayed a nonbinding indicative date for delivery. We do our best, however, cannot guarantee that the articles will be available in stock on that date.

(7) Express delivery means handing over to the transport carrier via express delivery. We do not take responsibility for receipt of the good in due time.

II. Special conditions for the delivery of hardware of information technology and telecommunications

§5 Delivery item

(1) The hardware to be delivered by the Group is described comprehensively in the performance description of the declaration of acceptance.

(2) The agreed delivery dates are only valid under the condition of timely fulfilment of all obligations of the customer which are required for the timely delivery.

(3) If services of third parties are needed at the installation of the delivery item, they are considered as advance performances.

§6 Reservation of title

(1) The Group reserves the title to the goods, until all claims arising from the current business relationship with the customer are satisfied. A transfer of ownership of the goods subject to reservation of title to third parties is only permitted, as long as it takes place in the ordinary course of business of the customer and if the latter reserves the title to the goods subject to reservation of title until the full payment of all his claims from the business relationship with third party. The customer is not entitled to pledge the goods subject to reservation of title or to give them as security. The customer must handle with care the goods subject to reservation of title. The Group must be notified instantly, if the goods subject to reservation of title are pledged or damaged or get lost, as well as in case of a relocation of the residential or business premises of the customer. If the customer violates the obligations given here, then the Group can declare its withdrawal from the contract and demand the surrender of the goods. In case of a default of payment of the customer, the Group is entitled to take back the goods subject to reservation of title, and for this purpose, it is entitled to enter the factory of the customers. The taking back of the goods subject to reservation of title is no withdrawal from the contract. The Group will realise the goods subject to reservation of title by sale in the best possible way, and offset to existing claims the proceeds obtained by the realisation less the costs of the realisation.

(2) The customer is entitled to sell the goods in the ordinary course of business. He hereby already assigns to the Group his claims in the amount of the of the invoice amount, which accrue to him from the resale against a third party. The Group hereby accepts this assignment. Until revocation, the customer is entitled to collect the assigned claims. The revocation is only permitted, if the customer is in default of payment.

(3) The treatment and processing of the goods by the customer is always done in the name of and on behalf of the Group. If the goods subject to reservation of title are joined with other items that do not belong to the Group so that they become an essential component of a new item, then the Group acquires co-ownership of the new item in relation to the value of the goods delivered by the Group to the other processed objects. The same applies, if the goods are joined with other items that do not belong to the Group. In both case, the customer will store the item free of charge for the Group. The share of the joint ownership of the Group is determined in both cases by the ratio of the invoice value of the goods subject to reservation of title to the selling value of the new item. For the sale of the new item, section (1) applies accordingly, whereby the part of the claims that corresponds to the share of the joint ownership of the Group is assigned.

(4) If the value of the goods subject to reservation of title that are available at the customer, plus the value of the claims assigned to the Group, exceeds the amount of the claims that the Group has against the customer by more than 50%, the Group must release a corresponding part of the securities.

(5) Until the complete payment of the agreed compensation the Group is entitled to ensure sufficiently the goods subject to reservation of title at the expense of the customer against theft, destruction and damage, unless, the customer provides proof to the Group that he has effected such an sufficient insurance on his own expense.

§7 Transfer of risks

(1) The risk of accidental loss and accidental deterioration of the goods passes with the with the handover, in case of sale by dispatch with the delivery of the goods to the forwarding agent, the freight carrier or other person or institution

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designated with the for performance of dispatch to the customer. This also applies if the Group has taken over the Installation. If the goods are to be picked up by the customer from the Group, the risk of accidental loss and accidental deterioration of the goods passes to the customer with the notification of the readiness for dispatch.

(2) If the customer does not accept the goods or services, although they are offered to him by the Group according to contract, then he is in default of acceptance. Default of acceptance is equivalent to the handover.

(3) The Group is not obligated to the conclusion of a transport insurance.

III. Special conditions for the delivery and creation of software

§8 Rights of use

(1) Unless otherwise stipulated in individual case, the Group provides to the customer software in machine-readable object code along with a user documentation according to the respective agreement with the customer pursuant to the declaration of acceptance ("subject of the licence").

(2) The Group grants to the customer the non-exclusive right to use the subject of the licence. The right of use includes the right

- to use the provided software on each hardware that is available to him. If the customer changes the hardware, he must delete the software from the hardware used up to now;
- If the customer wants to use the software on several hardware configurations at the same time, he must purchase a corresponding number of software packages.
- The use of the software within a network or another multi-station computer system is permitted, if the customer either prevents the simultaneous multiple use by means of access protection mechanisms, or if he pays to the Group a special network fee, whose amount is determined by the number of the users that are connected to the computer system. The usage is only permitted after complete payment of the network fee.
- to use the documentation, in order to support the customer in the use of the provided software, as well as
- to have installed, integrated and implemented the provided software by third-party companies (e.g. system integrators) for the customer.

(3) The customer may reproduce the subject of the licence only insofar as the respective reproduction is indispensable for reaching the purpose of use arising from the contract. The right of reproduction includes the right,

- to install the software form the original data carrier on the mass storage device of the employed hardware, as well as to load the program into the random access memory;
- to create copies of the provided software, which run on server systems, in an adequate number, in order to support the maximum number of the agreed users,
- to create copies of the provided software, which run on personal computers offer users, for the maximum number of appointed users on condition that each of these users uses only one copy of these programs at the same time,
- to create copies of the subject of the licence exclusively for backup proposes. In principle, only a single backup copy may be created and kept, which must be marked as backup copy of the provided software, as well as
- to create copies of the online help of the documentation in an adequate number, in order to support the users.

The customer is obligated to prevent the unauthorised access of third parties to the software as well as to the documentation. The delivered original data carrier as well as backup copies must be stored at a place that is secured against unauthorised access of third parties.

(4) A right of the customer to translate, process or otherwise convert the subject of the licence always requires an express written agreement. The customer is not entitled to generate the source code of the provided software by decompiling, disassembling, reverse engineering or in another way, unless this is separately agreed in writing. This does not apply, if the generation of the source codes serves for the error recovery by the customer, and if the customer cannot eliminate the error in another way, in particular by assignment of the Group. On demand, the Group will provide to the customer, against reimbursement of the incurring expenses, the information that is available to the Group and that is necessary in order to achieve the interoperability between the provided software and other programs.

(5) Furthermore, the customer is not entitled outside the areas referred to in (2) and (3), to duplicate or to distribute the subject of the licence. However, he is entitled to sell or to give away the acquired reproduction of the software in total, including the related documentation permanently to third parties, provided that the third party agrees in writing, also towards the customer, with the validity of the present provision about rights of use. In case of transfer, the customer must hand over to the recipient all software copies including any existing backup copies, or must destroy the copies not handed over. By the transfer, the right of the customer to use the software expires. A temporary transfer of the subject of the licence to third parties is generally permitted, insofar as this is not made within the framework of renting or leasing for commercial purposes, and insofar as the third party agrees to the continued application of these contractual provisions also towards the customer, and if the providing customer hands over all program copies including existing backup copies, or destroys the copies not handed over. For the duration of the provision of the software to the third party, the customer has no own right for use. The customer will notify in writing the Group about the intended transfer of the acquired reproduction of the software to a third party 60 days in advance.

(6) Insofar as the customer, due to deviating written regulation in the declaration of acceptance, has acquired an exclusive right to use the software to be created by the Group in accordance with the respective contract and other working results, the Group is entitled to use related own knowledge or the own knowledge of the customer's employees for the creation of the software and other working results, as well as used tools and procedures, which are intended or suitable for the re-use in other performance relationships, for the purposes of his business operations. This does not apply for such knowledge that refers exclusively to particularities of the business operations of the customer.

(7) The customer is entitled to demand the surrender of the source codes of that software, for which he has acquired an exclusive right of use from the Group, if and to the extent that this source code is in possession and in the power of disposition of the Group, and if the surrender has been agreed in the declaration of acceptance. The customer is obligated to use this source code only for the purposes of his own business operations and of the business operations of affiliated companies in the sense of §15 AktG (German Stock Corporation Act). The customer may only disclose or otherwise make available the source code to third parties, in order to ensure the future use of the respective software for the aforementioned purposes independently from the Group by maintenance, advancement or other processing. Apart from that, the customer is obligated to treat the source code as confidential. Likewise, he must obligate to confidentiality the third party to whom he wants to disclose the source code.

(8) In addition to these terms of use, the terms of use of the manufacturers of the software delivered by the Group apply, insofar as they do not contradict to these terms of use, and insofar as they are attached to these terms.

§9 Installation

(1) Basically, the installation of delivered software is made by the customer. The installation must be done on the basis of the supplied documents and the program documentation.

(2) The Group carries out the installation of the software based upon a separate written agreement against an allowance for expenses on the basis of the respective current price list of the Group.

§10 Notification about the users and the employed hardware

(1) On demand, but not more frequently than once a year, the customer will transfer to the Group a written list with the number of the users of the subject of the licence and with information about the usage sites and models of the hardware, on which the software is used.

(2) The Group is entitled to examine the usage according to contract of the subject of the licence by the customer once a year at its own expenses and to have consulted the respective software manufacturer for this purpose. The Group will give notice of such an examination at least three weeks in advance. The examination will be carried out at the customer during normal business hours and must not unreasonably his course of business.

(3) The customer must take suitable organisational measures in order to ensure the compliance with obligations to provide information incumbent to him in accordance with the previous paragraphs of this provision. The Group is entitled to pass the information received from the customer or obtained by the examination according to section (2) in whole or in part to the necessary extend to the respective software manufacturer.

(4) If an examination carried out according to section (2) shows that the customer has paid a licensing remuneration that is too low, then the Group has against the customer a claim to immediate subsequent payment of the licensing remuneration on the basis of the prices that had been originally agreed for the subject of the licence. Further claims remain unaffected.

(5) If the customer makes copies of the subject of the licence contrary to the contract then the Group is entitled, without prejudice to other claims, to demand the licensing remuneration usual for this purpose.

§11 Liability, viruses

(1) The usage of the software including the downloading or other receipt of information and data by the customer takes place in the within the sole responsibly of the customer, unless in case of mandatory liability because of wilful intent or gross negligence. The liability of the Group for any damages resulting from the usage of the software, in particular business interruption, loss of profit, loss or manipulation of information and data by third parties or consequential damages is excluded. The liability according to the German Product Liability Act as well as in cases of wilful intent, gross negligence, the absence of guaranteed properties, in case of injury to life, body or health, or due to violation of essential contractual obligations remains unaffected by this. However, the compensation for damages due to violation of essential contractual obligations is limited to the foreseeable damage typical for the contract.

(2) Although the Group always endeavours to keep the software free from viruses, the Group cannot guarantee freedom from viruses and thus it assumes no corresponding liability. Therefore, the customer is recommended to take care himself for appropriate safeguard measures and to make sure that appropriate

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suitable safety equipment is available, before downloading information from the software. Likewise, the customer will use all reasonable safety measures and protective devices, in order to not transfer any viruses to the software.

IV. Special conditions for IT services

§12 Subject matter of the IT services

(1) The Group renders services for the customer in the areas of information processing, organisational support and telecommunications. The content, scope and special conditions of these services are defined in the declaration of acceptance.
(2) For these IT services, the following conditions apply.

§13 Project organisation

For the performance of more extensive IT services, which require services of the Group from more than 20 man-days or which extend over a period of more of one month, the following regulation for the project organisation applies:
(1) A project team is formed, which consist of qualified employees of the Group which are only subject to the instructions of the project leader.
(2) The customer provides competent employees, which are the contact persons of the project team employees of the Group.
(3) The Group is entitled to replace its project leader as well as its employees against equally qualified employees. Such a personnel change is announced in writing to the customer.
(4) The customer also provides a project leader, whose name is mentioned in the contract. Modifications require the written form. The project leader of the customer has the sole authority to give directions to the project employees of the customer and supports the project employees of the Group in all organisational, system-technical and specialised questions that concern the project. Furthermore, at any time, he grants access to the project employees of the Group to the information necessary for their task or instantly provides them with all required information. He decides on specialised questions that are presented to him by the Group.

V. Special conditions for Internet services

§14 Internet addresses (domain name)

(1) The Group supports the customer in the obtaining of an own domain name. Here, the Group merely becomes active as an intermediary towards the usual domain assignment organisations. By means of contracts with domain assignment organisations, the customer is directly entitled and obligated. These contracts are based on the General Terms and Conditions of the domain assignment organisations. A contractual relationship between the domain assignment organisations and the Group is not entered. A termination of the contractual relationship with the Group does not affect the contractual relationship between the customer and the domain assignment organisations.
(2) During the duration of the contract for the domain name concluded between the Group and the customer, the fees for the registration benefits of the domain assignment organisations are included in the prices invoiced by the Group and are paid over by the Group to the domain assignment organisations.
(3) The customer is informed that the domain assignment organisations can reject the assignment of the domain name in accordance with their assignment guidelines and legal provisions. An obligation to effect the assignment of the domain name as desired by the customer, is not taken over by the Group. Furthermore, the Group assumes no warranty that the domain name desired by the customer is available or free from the rights of third parties. An examination of the legal permissibility of the desired domain name is not owed by the Group.
(4) If the customer is demanded from a third party to release a domain name, because it supposedly infringes third-party rights, in particular trademark laws, the customer will instantly notify the Group about this fact in writing. In such a case, the Group is entitled to prevent the use of the domain name in the context of its real possibilities, unless, the customer proves to the Group, that the use of the domain name is not illegal.
(5) The customer indemnifies the Group against claims of third parties, which are based on the illegality of the domain name of the customer.

§15 E-mail addresses, newsgroups

(1) For the creation and maintenance of E-mail addresses by the Group for the customer, the provisions of the aforementioned §13 apply accordingly. The Group reserves the right to delete personnel messages that have arrived for the customer, if they have not been retrieved within four weeks after receipt on the Internet server of the Group by the customer.
(2) Public messages that arrive on the Internet server of the Group in the context of the granting of the access to public discussion forums (newsgroups) are stored and deleted pursuant to the company requirements of the Group.

§16 Hosting / Housing

(1) The Group provides to the customer the storage space, whose size is described in megabytes in the declaration of acceptance, onto a server operated by the Group and connected to the Internet for the use in the context of the following provisions. This is done by the Group providing to the customer either a separate server or a so-called virtual server, that means a storage space on a server that is or can also be used by other customers, which however gets an own IP address and so appears for third parties as an independent server.
(2) The customer is himself responsible that the hard disk capacity agreed with the Group is sufficient for his needs. The Group is not obligated to make him aware of the exceeding or imminent exceeding of the hard disk capacity. If nevertheless an exceeding of the contractually agreed hard disk capacity should occur and should the Group provide the hard disk capacity that the customer needs additionally, then the customer owes the compensation of this additional service in accordance with the price list of the Group valid at that time.
(3) The customer is strongly advised to constantly make and store backup copies outside of the Internet server for all data, which are stored for him on the Internet server.
(4) Usually, the Internet services of the Group are available 24 hours per day, 7 days per week. The Group ensures an availability of the server by 99% per annum. Therefore, the Group does not assume any warranty for the uninterrupted availability of data and can use the rest of the time for technical work. A liability of the Group for data losses caused by technical failures, interrupted data transfers or other problems in this context is excluded.
(5) In order to create statistics for the customer, so-called log files are stored on the server of the customer. The Group only evaluates the log files with the purpose to provide to the customer centrally prepared and condensed statistics according to customer information. Any further storage and use by the Group is excluded.
(6) Insofar as not expressly agreed in writing with the customer, the Group is not obligated to the following services:
    (a) procuring and making available hardware and business software for entering and retrieving information and data via the Internet;
    (b) making available and maintaining telecommunications connecting lines between the customer terminal and the server of the Group;
    (c) examination of the content or update of the website or of entered data and information by personal initiative;
    (d) setting up protective measures, with which the website of the customer is protected against unauthorised access or other impairments from the Internet.

    The preconditions under a) and b) have to be created by the customer himself at its own expenses and risk. The customer is informed that, due to the structure of the Internet, the Group does not have any influence, whether offers (and if so, which ones) are available in the Internet, that data, which are transferred unencrypted via the Internet can become aware to third parties, which transfer rates are possible in the Internet, which concrete transmission routes the data, information and news of the Group take to other offerors and whether the transmission routes, servers, routers etc. operated by other offerors are fully operational at any time.

§17 Website creation

(1) The customer will hand over to the Group the material required for the creation of the website at the latest to the dates mentioned in the website concept. The website concept will be attached as an annex to the declaration of acceptance and contains mandatory requirements for the formats and contents of the material to be provided by the customer.
(2) On the basis of the material and the website concept, the Group will compile the functional specifications for the creation of the website against payment. In the functional specifications, the arrangement and the design of the system elements for the website are described and explained. It is also specified, with which hardware and software the website will work. The customer will hand over the functional specifications together with a time schedule for the execution of the creating work.
(3) The functional specifications and the time schedule have to be approved by the customer within seven days after receipt pursuant to § 20.
(4) On the basis of the functional specifications and time schedule approved by the customer, the Group will create the website.
(5) The website has to be approved by the customer within seven days after it is made for approval pursuant to § 20. If the customer does not make the approval within this period, although he is obligated to do so, the approval is deemed to have taken place.
(6) If the customer is in default with payments towards the Group, then the Group can interrupt its work until the due payments have been settled up. The periods for completion are extended accordingly. Other rights of the Group remain unaffected.

§18 Provision of material by the customer

(1) The customer warrants that he is entitled to make available to the Group the material for the creation or modification of the website for the purpose of the performance of this contractual relationship. In particular, the customer warrants that he is entitled to digitise the images, photographs, films, logos, symbols or other presentations, designs and information made available, to integrate them into the website and to use them as part thereof and to grant these powers to the Group for the performance of this contractual relationship.
(2) If third parties claim against the Group that the use of the materials made available by the customer in the context of the performance of this contractual

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relationship infringes copyrights, trademark rights or other property rights of third parties, then the Group will inform the customer in writing about this. The customer is obligated to indemnify the Group insofar from any liability towards third parties, to support the Group in the legal defence and to take over the responsibility for all damages, including the costs for an appropriate legal defence.

§19 Usage rules

When using the website, the customer is obligated,

(a) to observe the program-technical instructions for the usage of the website given by the Group,
(b) to take the required precautionary measures for the regular backup of the data transmitted to him via the website and to maintain them, and
(c) to instantly notify the Group about identifiable defects, damage or faults.

§20 Compliance with legal regulations, property rights of third parties, indemnification, blocking

(1) The customer obligates towards the Group not to violate any laws by means of the website, in particular to violate any criminal, copyright, trademark and other trademark-related and person-related provisions. The customer is also responsible for the content of websites to which he offers an access possibility by means of a hyperlink from his website.
(2) The Group will instantly inform the customer to the extent permissible under law, when third parties or authorities claim against him that there is a violation against legal or official regulations attributable to the customer according to the preceding paragraph, or a violation of rights of third parties.
(3) The customer will support the Group to the best of his ability in the legal defence. If the infringement of rights that is imputed to the Group is based on the fact that data, designs or other information made available to the Group by the customer or at the instance of the customer infringe copyrights, trademark rights or other property rights of third parties, then the customer will indemnity the Group from claims for damages of third parties, from the costs of a reasonable legal defence as well as from a liability towards authorities.
(4) The Group is entitled to temporarily interrupt the connection of the website to the Internet (blocking of the website), if there is a reasonable suspicion of illegal contents of the website, in particular because of investigation government authorities or because of a warning by someone whose rights have supposedly been infringed, unless, this warning is manifestly unfounded. The blocking has to be limited to the supposedly illegal contents, insofar as technically possible. The customer has to be notified instantly about the blocking, indicating the reasons, and must be demanded to remove the supposedly illegal contents or to demonstrate and to prove the legality. The blocking must be cancelled as soon as the suspicion is refuted or the supposedly illegal contents have been removed.

VI. General conditions

§21 Acceptance of work performances

Insofar as the IT services of the Group are work performances, they require an acceptance pursuant to this provision. This does not apply for services to be rendered by the Group, in particular consulting and other support services, unless, the need for acceptance is expressly determined in the declaration of acceptance.

(1) The Group will notify the customer in writing about the readiness for acceptance of the delivery or service.
(2) Instantly, at the latest within a period of 14 days after receipt of the notification, the customer and the Group carry out an acceptance test for a period of at least 14 days. If a test plan is part of the contract, the acceptance test has to be carried out in accordance with this test plan.
(3) The customer makes available the preconditions that are required to carry out the acceptance test and possibly described in the test plan, in particular data, working places, devices, test cases and others. The customer will render to the Group the test cases, with which the proper performance of services shall be tested, indicating purpose, inputs and expected system reactions for the quality assurance in written form. At the same time, the customer will render to the Group the test data required for this acceptance tests required in a suitable form.
(4) Errors of the performance to be approved that have been detected at the acceptance must be distinguished to the following error classes:
    (a) error class 1
    The error has the result that the performance to be approved or important parts of this performance cannot be used.
    (b) error class 2
    The error causes at important functions considerable usage restrictions, which cannot be bypassed for a period of time reasonable for the customer by suitable measures.
    (c) error class 3
    Other errors.
(5) The customer is entitled to refuse the acceptance only due to the errors of the error classes 1 and 2 entitled. Errors of the error class 3 do not hinder the acceptability of the performance, but must be rectified in the context of the warranty.
(6) The Group will make a written protocol about the acceptance test, and the employees charged by the customer with the acceptance have to confirm the correctness of this protocol by signing it. In the protocol, all detected errors are described, sub-divided by error classes, and the reasons of a possible refusal of acceptance is listed exhaustively. If the protocol does not reveal any errors, which hinder the acceptance, then the tested performances are also deemed as approved, if the customer within 14 days after presentation of the protocol has neither signed the protocol, nor refused the acceptance in writing.
(7) If acceptance is excluded due to the quality of the performance, then the acceptance will be replaced by the completion of the performance.
(8) The Group can submit partial performances for the acceptance (partial acceptances). A partial acceptance can be made for example:
    › after the end of a self-contained phase of the work preparation, or
    › after the delivery of self-contained, inherently functional parts of the performance.

    For partial acceptances, the provisions relating to the acceptance apply accordingly. Insofar as partial acceptances are scheduled, the Group is entitled to hold back further partial deliveries or partial performances, as long as the customer is in default with the acceptance of partial deliveries or partial performances or with the payment of accepted partial deliveries or partial performances.

§22 Warranty at work performances

(1) Insofar as the Group renders work performances in the context of this contractual relationship, the Group warrants within a period of one year.
(2) If a work performance of the Group has a defect, then the customer can demand supplementary performance within a reasonable period. The supplementary performance is carried out at the choice of the Group by remedying the defect or by producing a new work. Software, which has not the contractually prescribed quality or which is not suitable for the ordinary use, is at the choice of the Group, depending on the importance of the error, either replaced by the delivery of an improved software version, or remedied with the aid of the instructions for the rectification or for the circumvention the effects of the error.
(3) The customer is obligated to instantly notify the Group about discernible faults or defects. A liability for delayed fault elimination or removal of defects is only applicable, insofar as the customer has promptly reported the discernible fault or the discernible defect. Notices of defects must be transmitted to the Group in writing with a comprehensible description of the error symptoms and, insofar as possible, including written records, hard copies or other documents that illustrate the defects instantly after they have become discernible.
(4) If the customer is responsible for the fault or the defect, or if a fault or a defect reported by the customer does not exist, the Group is entitled to demand the reimbursement of the costs incurred by its removal of defects or attempted removal of defects by the customer.
(5) The warranty of the Group does not cover defects, which are caused by external influences or by a non-compliance with the usage conditions prescribed by the Group for the usage of the performance object. the warranty does not apply, insofar as the customer modifies himself the performance object without consent of the Group or has it modified by third parties, unless, the customer proves that the defects have not been cause by such modifications and the removal of defects is not made unreasonably complicated by the modification.
(6) The Group can refuse the supplementary performance, until the customer has paid to it the agreed compensation, less such an amount that corresponds to the economic value of the defect or to the guaranteed property.
(7) The customer has the right, after the setting of an appropriate period for supplementary performance and after refusal or failure of the supplementary performance, to withdraw from the contract or to demand a reduction of the compensation or compensation for damages. A failure of the supplementary performance exists at the earliest after two unsuccessful attempts to remedy the defect. Apart from that, the following liability provision pursuant to § 22 applies.

§23 Warranty as well as obligations to examination and notification of defects during the purchase

(1) The Group warrants for defects der goods at first at the Group's option by removing the defect or replacement delivery.
(2) If the supplementary performance fails, the customer can demand in principle at his option the decrease of the compensation (reduction) or rescission of the contract (withdrawal). A subsequent improvement is considered as having failed at the earliest after the second attempt. However, in case of an only insignificant contractual violation, in particular in case of only insignificant defects, the customer is not entitled to withdraw.
(3) Customers have to notify the Group in writing of obvious defects instantly, but at the latest within a period of five days upon receipt of the goods; otherwise the assertion of the warranty claim is excluded. For observing the period, the timely dispatch is sufficient. The customer has the full burden of proof for all prerequisites for claims, in particular for the defect itself, for the date of the detection of the defect and for the timeliness of the notice of defects.
(4) If the customer choses to withdraw from the contract because of a defect of title or a defect as to quality after failed supplementary performance, then he is not entitled to further claims for damages because of the defect.

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If the customer chooses compensation for damages after failed supplementary performance, the goods remain with the customer, if this would be reasonable to him. The compensation for damages is limited to the difference between purchase price and value of the defective item. This does not apply, if the Group has fraudulently caused the violation of contract.

(5) The warranty period is one year. For used goods the warranty is excluded. A shortening of the warranty period does not apply in case of claims according to the German Product Liability Act, in case of wilful intent and gross negligence as well as injury to life, body or health attributable to the company, in case of non-fulfilment of independent warranties and if the company can be accused of fraudulent intent.

(6) In principle only the product description of the manufacturer and the additional information of the Group in the declaration of acceptance are deemed to be binding on the quality of the goods. Public statements, promotion or advertising of the manufacturer do not represent any contractual indication of the quality of the goods.

(7) If the customer receives a defective assembly instruction, the Group is only obligated to deliver an assembly instruction free of defects and that only if the defect of the assembly instruction is in contradiction with a proper assembly.

(8) In principle, the customer does not receive from the Group any guarantee in the legal meaning.

(9) The respective current return conditions as well as the delivery guideline of the KOMSA Group apply. These can be viewed in the respective current version in the Internet at www.komsa.com or at www.karlo.de in the login area. On demand, the current version is sent to the customer.

§24 Obligations of the customer to cooperate

(1) The customer makes sure that all required cooperations of the customer or of his vicarious agent are made timely and, insofar as not expressly otherwise stipulated in the declaration of acceptance, that they are made free of charge for the Group.

(2) The customer will instantly provide the Group will all information, which the Group needs for the rendering of the agreed performances. Moreover, the customer will inform the Group during the term of this contractual relationship about any significant change. This includes in particular the change of a managing director or other legal representatives of the customer.

(3) The customer grants to the persons working for the Group any required support for their work in the premises of the customer and instantly has to grant the required access to them to the necessary objects.

(4) The customer designates a contact person for the Group, who is available for all questions to the employees of the Group during the performance of the contract and who is authorised to release necessary declarations about the provision of services and to take decisions. § 12 gives precedence over this provision.

(5) Data carriers, that the customer makes available, must be flawless from the technical point of view and in respect of the content and be free from harmful software (e.g. viruses). If this is not the case, then the customer compensates the Group for damages arising thereof and indemnifies the Group from all claims of third parties.

(6) The customer retains copies of all documents and data carriers handed over to the Group, and which the Group can access at any time free of charge.

(7) The customer must grant to the Group the right to use and rework of systems of third parties, insofar as this is necessary in order to render the performances owed according to the respective contract.

(8) The customer is personally responsible for a regular (e.g.: daily) data backup. The Group is not liable for loss of data and damages that would have been avoided by means of a proper data backup by the customer.

(9) Not prepaid deliveries will not be accepted and thus will be returned by the delivering service company.

§25 Change request

(1) Modifications and amendments of the content or of the scope of the performances owed to the Group according to the contract can be proposed by both contractual partners to the respective other contractual partner. The proposition must contain at least the following information:
   (a) concrete specification of the modification or amendment,
   (b) justification from the technical point of view and from the IT point of view,
   (c) effects on the time schedule to be expected, and
   (d) estimation of the expenses, including the incurred expenses and those which will still incur for the examination of the request for modifications and amendments, as well as the implementation of the change request procedure.

(2) The respective other contractual partner must examine the proposal and must give his view hereto towards the proposing contractual partner. The decision on the implementation of the modification or amendment proposition is made by the customer. However, the Group is entitled to refuse the implementation of the modification or amendment, if it is either not technically feasible or if it is linked with a disproportionate effort that is not reasonable to the Group.

(3) For the additional expenses, which incur to the Group by the realisation of the request for modifications and amendments, as well as by the implementation of the modification and amendment procedure, the Group is entitled to an additional expense-related compensation on the basis of the respective current price lists of the Group.

§26 Data protection

(1) The Customer and the Group mutually undertake to observe the legal provisions on data protection in the performance of the contractual relationship and to impose on their employees the obligation to comply with such provisions. The contracting parties mutually agree to demonstrate compliance with this obligation in the form required under the statutory provisions, upon the request of the other party.

(2) The acting Group company reserves the right in individual cases to verify the Customer's credit and identity. If we are required to deliver prior to payment (e.g. invoice upon delivery), we reserve the right to conduct a credit assessment on the basis of mathematical and statistical methods in order to safeguard our legitimate interest in determining the solvency of our customers. Pursuant to Article 6(1)(f) GDPR, we will transmit the personal data required for a credit assessment to the following service provider:
CRIF Credit Solutions GmbH, Gasstraße 18, 22761 Hamburg, Germany.
The credit report can include probability values (score values). Where score values are included in the result of the credit report, these are based on a scientifically recognised mathematical and statistical method. The calculation of the score values includes, but is not limited to, address information. We use the result of the credit assessment in respect of the statistical probability of default for the purposes of deciding whether to establish, continue or terminate a contractual relationship.

(3) Other partners:
- CRIF Bürgel-Chemnitz Richter GmbH & Co. KG, Zwickauer Str. 74, 09112 Chemnitz, Germany
- Creditsafe Deutschland GmbH, Schreiberhauerstr. 30, 10317 Berlin, Germany
- BISNODE D&B Deutschland GmbH, Robert-Bosch-Str. 11, 64293 Darmstadt, Germany
- Euler Hermes Deutschland, a subsidiary of Euler Hermes SA, Friedensallee 254, 22763 Hamburg, Germany

The Customer can object to this data processing at any time by contacting the person responsible for the data processing or the credit reference agency specified above. However, the Group shall, where appropriate, remain entitled to process the personal data insofar as this is necessary for the contractual processing of payments.

(4) The acting Group company reserves the right to rate customers. In order to be able to grant our customers an appropriate credit facility and credit terms corresponding to their credit worthiness, we internally rate our customers in relation to their payment behaviour. By means of this rating, we examine whether a company satisfies the requirements of commercial payment transactions. The result of the credit analysis is summarised in a rating classification. Each rating class corresponds to a particular anticipated probability of default. This results from evaluating the data on monthly turnover, the solvency index of rating agencies, liabilities from open items, payments due, deviations from payment due dates, time taken to pay as well as average values of this data and trends including dunning levels and returned debits by applying statistical methods and a qualitative expert analysis. Where customers provide us with their annual financial statements, this information is also included when calculating the rating class. The rating result is updated with each of the Customer's payment transactions.
Scope and implications of the rating for the data subject
In keeping with the following principle: the better the creditworthiness and the payment behaviour of the Customer, the higher the credit limit and the more favourable the terms of payment that can be granted to the Customer. Depending on the rating result, we set a purchase limit for the Customer, i.e. a supplier credit and enable the purchase with particular payment terms, i.e. payment by SEPA direct debit or payable by invoice with a specified due date. The information on the rating is accessible only to the KOMSA Group companies with which the respective Customer has an active business relationship and where a legitimate interest in the credit rating of the Customer exists. Insofar as the Customer objects to its data being processed pursuant to Article 21 GDPR, the data of the Customer will no longer be processed for rating purposes. This will result in it not being possible to assess the risk in relation to the Customer's payment behaviour. In accordance with the principle of commercial prudence, deliveries to the Customer can then only be made on secure payment terms (advance payment or cash on delivery).

(5) The Customer and the acting Group company mutually undertake to either destroy or continue to handle in accordance with the relevant data protection legislation all data collected in connection with the respective business relationship or company-specific information that comes to their knowledge in the course of such relationship once this relationship is terminated.

(6) Liability under Article 82 GDPR is limited to intentional and grossly negligent violations of the applicable data protection legislation, except in the case of sensitive data within the meaning of Article 9 GDPR or

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where data protection is a fundamental objective of the contract in accordance with the intentions of both parties.

§27 Electronic invoicing

(1) The Customer shall receive invoices from the Group electronically to the e-mail address provided by the Customer. The Customer waives receipt of the invoice by post.
(2) The customer must ensure on the recipient's side that all electronic invoice deliveries by e-mail can be duly delivered by the Group to the e-mail address provided by the customer and technical equipment such as filter programs or firewalls are to be adapted accordingly. Any automated electronic replies to the group (e.g. absence notes) cannot be taken into account and do not preclude valid delivery.
(3) The customer must immediately notify the Group in writing and legally valid of any change to the e-mail address to which the invoice is to be sent. Invoices sent to the last e-mail address provided by the customer shall be deemed to have been received if the customer has not notified the Group of a change in his e-mail address.
(4) The Group shall not be liable for any damages resulting from any increased risk of electronic delivery of the invoice by e-mail compared to postal delivery. The customer bears the increased risk of access by unauthorized third parties due to storage of the electronic invoice. The Customer undertakes to set up transport encryption between his end device and his email provider. If the customer requests a higher degree of protection for the data transmission, the Customer can indicate a request at the following service point: Kundenneuanlage@komsa.de
(5) The customer may revoke participation in the electronic invoicing by e-mail at any time. After receipt and processing of the written notice of termination by the Group, the Customer shall in future receive invoices by post at the last known postal address. In this case, the Group reserves the right to charge a fee of up to €5.00 per invoice for the preparation and sending of the postal invoice.
(6) In addition, the Group reserves the right in case of important reasons and in its sole discretion to change the electronic invoicing to postal invoice at the last known postal address.

§ 28 Compensation

(1) The customer is obligated to pay the invoice amounts, as they result from the respective contract. All compensations must be invoiced and paid plus the respectively valid statutory value-added tax.
(2) Beyond the agreed compensation, the Group is entitled to reimbursement of necessary expenses required for the rendering of the performances according to contract required, in particular travel costs and allowance. These are shown separately in the respective contract.
(3) The supply of the customers is made on condition that the delivery is insurable by a commercial credit insurance to commercially available conditions. If this precondition is not fulfilled in the individual case, the Group is entitled to demand an adequate security or advance payment for the delivery.
(4) The Group will invoice the compensation for services preferably on a monthly basis. Insofar as it is invoiced expense-related, the invoices contain information about the number of the employees that have rendered the performances invoiced for the Group, about the number of work days, the daily rate of the employees, whose performances are invoiced, as well as a description of the invoiced expenses that are to be reimbursed. For the type of invoicing of all other performances, the modalities mentioned in the respective contract apply.
(5) The compensation for supplies and performances becomes due in every case upon receipt of the invoice.
(6) In case of SEPA Direct Debit Scheme, the creditor must inform the debtor about the debit by means of a pre-notification before the dispatch of the debit advice to the credit institution of the debtor. The pre-notification must by the Group at least 1 day before the due date.
(7) The customer names to the Group a valid VAT ID number when establishing the business relationship. This number is also valid for all future individual orders of the customer, until the customer informs in writing about a change.

§29 Set-off, assignment, right of retention

(1) The customer is only entitled to set-off rights, if his counter-claims have been legally recognised or are undisputable and acknowledged by the Group, or are in a close synallagmatic relationship to the claim of the Group.
(2) The customer can assign the claims he is entitled to only with prior written consent of the Group to third parties, insofar as these claims are no monetary claims.
(3) The customer is only entitled to assert a right of retention because of counter-claims arising directly from the respective contractual relationship. Apart from that, the customer can only exercise a right of retention because of counter-claims against the Group, if these counter-claims are undisputed or have been legally recognised.

§ 30 Group invoicing clause

(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 [Aktiengesetz].
(2) The acting 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 upon request.

§31 default, deterioration of the customer's financial situation

(1) In any case, the compensation for deliveries and performances becomes due upon receipt of the invoice. In case of non-payment, the customer will be in default of payment after 10 days after receipt of the goods. A customer, who is in default, must pay interest on the monetary debt at 9% above the respective basic rate of interest during the default. The company reserves the right to prove and to assert a higher damage due to default.
(2) If the customer is in default with the payment of an invoice because of general liquidity difficulties, or if his financial situation has significantly deteriorated after conclusion of the contract, all his payables towards the company become payable immediately. Then the company is entitled to execute outstanding deliveries only against provision of security or cash in advance, or to withdraw from the contract pursuant to § 30.
(3) If, in case of a continuing obligation, the customer is in default of payment of a substantial part of the owed compensation for two successive months, and if a period for remedial action set by the company has elapsed, then this constitutes an important reason for termination pursuant to § 314 BGB and entitles the company to terminate the contract without notice. The right of the company for compensation for damage which has already occurred remains unaffected thereof.

§32 Contractual right of withdrawal

(1) In each of the following cases, the company has the right to withdraw from the contract:
   (a) in case of missing self-supply by a pre-supplier of the company, which is not attributable to the company;
   (b) in the event of force majeure, labour disputes, natural catastrophes and comparable incidents, insofar as these make it substantially more difficult or impossible for the company, not only temporarily, to render its performances;
   (c) if circumstances pursuant to § 29 (2) become known about the financial situation or the creditworthiness of the customer after conclusion of the contract;
   (d) if the customer gives incorrect information about his financial situation or creditworthiness that essentially jeopardise the contract purpose;
   (e) in case of behaviour contrary to the contract on the part of the customer and business transactions of the customer, which offend against good manners or constitute unfair practices.
(2) in case of claims for damages of the company because of impossibility attributable to the customer or due to withdrawal from the contract for legal or contractual rights of withdrawal, the company is entitled to liquidated damages in the amount of 25% of the respective contractual compensation, unless, the customer proves a lower damage. The company is free to prove a higher damage.

§33 Limitation of liability

(1) The liability of the Group is limited to wilful intent and gross negligence. The liability for the absence of an assumed guarantee, because of fraudulent intend, according to the German Product Liability Act and for injury to life, body or health remains unaffected thereof.
(2) Excluded from this provision is liability for data protection breaches pursuant to Article 82 GDPR. The provisions on data protection in § 26 shall apply in this case.
(3) Furthermore, the liability for the breach of duties, whose fulfilment only enables the proper performance of the contract and on whose fulfilment the customer may regularly rely. However, this liability is limited to the amount of the damage that is foreseeable and contract-typical upon conclusion of the contract (foreseeable damage typical for the contract).
(4) The same applies for breaches of duties of our vicarious agent.
(5) Claims of the customer become time-barred after one year from delivery of the goods and/or acceptance of the work. This does not apply for claims according to the German Product Liability Act, in the case of wilful intend and gross negligence as well as injury to life, body or health attributable to the company, in case of non-fulfilment of independent warranties and if the company can be accused of fraudulent intent.

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(6) Insofar as the company enables the access to other websites by means of links, then the Group is not responsible for the external contents contained therein. Furthermore, the Group does not adopt the external contents as its own. It is the provider of the respectively linked page who is liable for the contents of the external websites and the damages resulting thereof, and not the one who refers by links to this publication. Should we acquire knowledge that illegal contents are contained on these sites, we will instantly block the access.

§34 Export

(1) The delivered products may contain technologies and software, which are subject to the respectively applicable export control regulations of the Federal Republic of Germany as well as the export control regulations of the United States of America or of the countries, to which the products are delivered or in which they are used. The customer obligates himself to observe the relevant provisions in their respective current version. Without prior official permit, the customer is not permitted to deliver contractual products direct or indirectly to countries, which are subject to an embargo, or to natural or legal persons of these countries as well as to natural or legal persons, who are included on international or national blacklists. Furthermore it is prohibited to deliver contractual products to natural or legal persons, who are in any way connected with the support, development, production or usage of any weapons of mass destruction.

(2) The customer obligates himself to export or re-export products and related technology not in contradiction to the export control regulations of the United States of America, of the European Community and of Germany, and in particular to obtain the required export licences at the Federal Export Office (BAFA). The Group can refuse the fulfilment of its obligations under the contractual agreements, provided that and for so long as this fulfilment infringes German, European and US-American export control right.

(3) In case of foreign shipments the customer undertakes to fulfil any and all duties resulting from the transfer of the goods to the destination country, especially reporting obligations and waste disposal of packaging waste, electrical waste and batteries, regardless of who is deemed to be producer or first distributor/importer according to the legal requirements/ statutory provisions of the destination country. The customer will indemnify the Group against any and all charges, claims, damages and penalties resulting from any failure to comply with the aforemetioned obligations.

§35 Disposal obligation

(1) The customer must contractually obligate commercial third parties, to which he passes the goods delivered by the Group, that they dispose of these goods properly after termination of the use at their costs in accordance with the legal regulations and for the case of passing on the goods anew, to impose the same obligation to any further party.

(2) If the customer fails to obligate the third parties, to whom he passes the delivered goods, contractually to assume the disposal obligation and to obligate any additional party, then the customer has to take back at his expense the delivered goods after termination of the use and to dispose of them properly in accordance with the legal regulations. The customer obligates himself to indemnify the Group from all claims of third parties, which are asserted against the Group due to the statutory disposal obligation, and to reimburse to the Group the resulting expenses upon first demand.

(3) The claim of the Group for assumption/exemption by the customer does not become time-barred before the expiration of three years after the final termination of the use of the device. The three-year period begins at the earliest with the receipt of a written notice of the customer to the Group about the termination of the use.

§36 Final provisions

(1) Events of force majeure, which make it substantially more difficult or impossible for a contractual partner to fulfil a service or obligation, entitle the concerned contractual partner to postpone the fulfilment of this service or obligation by the duration of the obstruction and by a reasonable start-up period. The force majeure is equated with labour disputes in the facilities of the contractual partners or labour disputes in the facilities of the third parties and similar circumstances, by which the contractual partners are directly or indirectly affected.

(2) The company may engage third parties, in particular affiliated companies, as vicarious agent for the fulfilment of his delivery and performance obligations. The contractual obligations of the company remain unaffected hereof.

(3) For all legal relationships between companies of the Group and the customer, the law of the Federal Republic of Germany applies, with the exclusion of the UN sales convention (CISG United Nations Convention on Contracts for International Sale of Goods from 11.04.1980).

(4) 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.

(5) As exclusive court of jurisdiction for disputes arising from this contract, the registered office of the KOMSA Kommunikaton Sachsen AG in 09232 Hartmannsdorf is agreed, provided that the customer is a merchant, legal person under public law or special fund under public law. The same applies, if at the time of filing the legal action the customer has no general place of jurisdiction, place of residence or habitual residence in the Federal Republic of Germany and/or such residence is not known.