

# General terms and conditions for performance of repair services

Of the KOMSA Group 12/2020 (page 1)

## § 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 for the performance of the repair services described below. The KOMSA Group refers to KOMSA AG, aetka AG and KOMSA Services GmbH. The customer is aware that the respective current version is available to view and retrieve from the website [www.komsa.com](http://www.komsa.com). This shall constitute notice having been given. On request, KOMSA AG will forward the respective current version to the customer. The Customer accepts these terms and conditions upon entering into the business relationship. The contracting party is the company of the KOMSA Group that is the contracting party in the particular instance (hereinafter "Group").
- (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). Customers in the sense of the GTC are business customers only.
- (3) 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.
- (4) The following provisions of Part A. or Part B., depending on which type of repair the Customer has contracted, and the General Provisions of this Part C., shall otherwise apply for all orders.

### A. Repair using high-quality, tested parts

## § 2 Conclusion of contract

- (1) All Group offers are non-binding and subject to change. The right to make technical changes, as well as changes in shape, colour and/or weight, is reserved within reason.
- (2) After posting the offer of contract, the Customer shall receive an automatically generated confirmation of receipt by email, which confirms the receipt of the equipment and which the Customer can print. The automatic confirmation of receipt does not constitute acceptance of the offer for the service or repair work, but merely documents that the order has been received.
- (3) The order is then accepted by way of a separate email, or tacitly through performance of the contracted services.
- (4) If the Group does not accept the order, we shall immediately inform the Customer of this and submit a supplementary offer or counteroffer. The Customer can accept this counteroffer electronically / by e-mail within a period of 7 days. Where the Customer rejects a supplementary offer, the Group shall perform the repair on the basis of the order originally placed. If the Customer rejects a counteroffer or if the damage is irreparable (write off), the unrepaired device shall be returned to the Customer free of charge.

## § 3 Scope of services

- (1) The Customer shall determine the scope of the contracted work on the basis of its assessment of the damage to its device. The Group shall not be obliged to check if the device is actually damaged in the manner presumed by the Customer.
- (2) In the context of the concluded service contract, the Group shall therefore not be required to restore the functionality of the device as a whole, but merely to carry out the repair work expressly specified in the order and the repair service approval.
- (3) Should it become apparent during the repair that this work is inadequate to restore the full functionality of the device due to other previously existing damage, the Group can advise the Customer accordingly and prepare an offer for additional services not included in the Customer's order.
- (4) The Group shall only use parts that are in perfect working condition for the repair, whereby these do not have to be either new or as good as new, nor do they have to be original parts from the manufacturer of the device.
- (5) The possibility cannot be ruled out that some functions of the device may be restricted as a result of the operating-system software being updated by the manufacturer due to the use of spare parts that are not originals from the manufacturer. The Group shall therefore only perform software updates where this is technically necessary to restore the functionality of the device.
- (6) The Group may refuse to accept devices sent to the Group without prepayment of shipping. If accepted, the Group reserves the right to charge the Customer for the costs of shipment that have not been prepaid.
- (7) Replaced parts shall become the property of the Group without compensation.
- (8) Only the defective device or defective parts should be sent in, particularly without the original packaging, manuals and non-defective accessories, even if these were used for protection or as an accessory (e.g. non-integrated

batteries, cards, protective foils, covers and other loose housing parts, toner). The Group shall assume no liability for loss of or damage to non-defective devices that have nevertheless been sent in. Nor shall the Group assume any liability for any damage to devices or accessories caused by sending in parts unnecessarily or in a manner that is not secure. Any locks installed on the device must be removed by the Customer before the device is sent in.

- (9) In particular, swollen or damaged lithium-ion batteries present a safety hazard and, under applicable law, are no longer allowed to be sent by post. In order to eliminate any hazards during storage or transportation, such batteries shall be removed and disposed of properly by the Group, where necessary. These can only be replaced if the Customer approves a corresponding cost estimate. Otherwise the device shall be returned to the Customer without the battery.
- (10) The device or its accessories can be reset to factory settings during the repair. In this case, the data stored on the device may be lost. The Customer is therefore advised to save this data on an external storage medium before sending in the device.
- (11) A guarantee given by the manufacturer (manufacturer's warranty) may be voided as a result of the repair. As such, the Group cannot guarantee that other third-party assurances or warranties (e.g., from the manufacturer) shall not be compromised as a result of the contracted repair work.
- (12) We cannot guarantee that devices labelled by the manufacturer as waterproof and dustproof will still have these qualities after the device has been opened. Nor can we assume any liability for any consequential damage as a result of water damage.
- (13) The Group is entitled to enlist the services of third parties for the provision of the contracted (repair) services as well as for delivery of the repaired device.
- (14) The Group advises that it may be necessary to open or perform work on the device prior to repair to determine if and how it can be repaired. The device shall not be restored to the condition it was in before it was opened if it is subsequently found to be irreparably damaged or if a supplementary offer has been rejected.

## § 4 Remuneration

- (1) Payment of the remuneration shall be agreed in the repair contract in the form of a lump-sum including statutory VAT.
- (2) Payment shall be due upon receipt of the invoice, unless the Customer has presented valid reasons for refusing to accept the service. The Customer shall, however, be at liberty to pay the repair costs to the Group in advance. In this case, any excess payment shall be refunded to the Customer within 10 working days of the invoice being issued by the Group. The same shall apply if, during the repair, the Customer's device is found to be irreparable, or if the Customer fails to send in the device for repair after being requested to do so twice by the Group. In this case, the Group reserves the right to cancel the order and issue a refund to the Customer.

### B. Repair using original parts

## § 5 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.

## § 6 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.

# General terms and conditions for performance of repair services

Of the KOMSA Group 12/2020 (page 2)

- (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) In particular, swollen or damaged lithium-ion batteries present a safety hazard and, under applicable law, must not be further dispatched. In order to eliminate the risks of storage or transportation, such batteries will be removed and disposed of properly by the Group. They can only be replaced if the device is still under guarantee, or if the Customer approves the associated cost estimate. Otherwise, the device will be returned to the Customer without a battery.
- (9) Equipment or accessories will be reset to factory settings during repair.
- (10) 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.
- (11) 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.

## § 7 Cost estimate

- (1) 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.
- (2) 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.
- (3) 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.

## § 8 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 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.

## § 9 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.

## C. General Rules

### § 10 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.

# General terms and conditions for performance of repair services

Of the KOMSA Group 12/2020 (page 3)

- (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.

## § 11 Terms of payment

- (1) 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.

## §12 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 sent 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.

## § 13 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 § 17 also apply.

## § 14 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.

## § 15 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 of counterclaims against the GROUP only if these counterclaims are undisputed or are legally enforceable.

## § 16 Clause regarding intercompany offsetting

- (1) The term "KOMSA company" refers to all affiliated companies of KOMSA AG in accordance with §§ 15 ff. of the German Stock Corporation Act [Aktiengesetz].
- (2) The Group 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 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 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.

## § 17 Liability

- (1) The liability of the GROUP is limited to tortious 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) Excluded from this provision is liability for data protection breaches pursuant to Article 82 GDPR. The provisions on data protection in § 18 shall apply in this case.
- (3) 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

# General terms and conditions for performance of repair services

Of the KOMSA Group 12/2020 (page 4)

to those losses typical and foreseeable for the contract in question at the time of its conclusion.

- (4) The same applies to breaches of duty by our agents.
- (5) 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.
- (6) Claims by Customers shall lapse one year after the delivery of the goods or acceptance of the work.
- (7) 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.

## §18 Data protection, credit assessment

- (1) Insofar as the content data on the device has not been deleted and it is required to carry out the work, (in particular, to reproduce a fault or for data protection purposes), personal data will have to be processed by the Group in the course of the work being carried out. If the Customer has given consent, specific categories of personal data (such as medical data) on the device will also be processed.
- (2) 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.
- (3) The Customer agrees upon placement of the order that it is entitled to dispose of the delivered device and the data stored therein.
- (4) The Contractor 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.
- (5) The Group 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.
- (6) 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.
- (7) The Group 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).

- (8) The Customer and the Group 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.
- (9) 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 where data protection is a fundamental objective of the contract in accordance with the intentions of both parties.

## §19 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 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.