

Terms of service

The parties to this agreement are hereinafter referred to as “seller” (Cossis AG) and “customer”, even insofar as this concerns legal contracts of sale or service.

1. General

- 1.1 The following terms of service (hereinafter TOS) apply exclusively. Other conditions are an integral part of the contract only when the consignee has agreed to them in writing. This also applies when the consignee implicitly renders services in awareness of conditions to the contrary.
- 1.2 The following TOS are made for legal transactions between the seller and the customer as a company or entity. If the customer is a consumer according to § 13 BGB, the paragraphs 3.6, 8.1, 10 do not apply. Therefore the legal requirements apply.
- 1.3 In the case of continuing business relations, these TOS form the basis for all future transactions.
- 1.4 All agreements between the parties are to be made in writing.
- 1.5 In principle subject-matter of the contract between the parties is a sales contract. In individual cases the parties may stipulate a service contract.

2. Proposal and conclusion of contract

- 2.1 Proposals are binding for a period of 1 month from the date of the quote, unless otherwise agreed.
- 2.2 Documents, such as illustrations, drawings, and specifications of weight and size, pertaining to the proposal are only approximate, unless expressly marked as binding. Technical changes to shape, colour of materials and/or weight are reserved within the bounds of technological progress, as far as they are reasonable.
- 2.3 No proprietary or copy to the proposal or any documents may be circulated, published, duplicated or used for any other purpose than that agreed without the permission of the bidder.
- 2.4 The conclusion of a contract depends on the written confirmation of the seller. This also applies for contracts imparted by a proxy or salesperson. Differing confirmations of the seller apply as new proposals. All amendments, subsidiary agreements and warranties concerning already existing contracts need to be confirmed in writing by the seller.

3. Pricing and terms of payment

- 3.1. All prices are net prices. Value added tax is not included in the prices quoted; it will be itemised separately at the legal rate applicable on the date of invoice.
- 3.2 As far as the seller is obligated in individual cases to execute work and installation in addition to deliver goods, this work has to be paid accessorially. Should there be no agreement in advance for the remuneration of services rendered by the seller, the seller's current remuneration or hourly charges apply. This is particularly so for additional services agreed on during the execution of the contract as well as services which may additionally be necessary to ensure the proper fulfilment of the contract.

- 3.3 **In the case of continuing obligations, the seller reserves the right to request the prices he renegotiated when changes occur to any of the following:**
- **prices of materials required or**
 - **wage costs or ancillary wage costs due to wage rises or legal changes,**
 - **or changes to value added tax.**
- If no agreement can be reached on changes to the conditions of the contract, the parties reserve the right to terminate the contract at the end of the next quarter, giving at least three months' notice. Termination must be made in writing.**
- 3.4 **If the concerted delivery period exceeds a period of 4 months since the conclusion of the contract or if the consignment delays over a period of 4 months since the conclusion of the contract by reasons which risk the customer has to take, the seller has the right to charge the retail price that is valid at the day of delivery. If the price increase is more than 3 % of the respective retail price, the customer has the right to terminate the contract. The right to terminate the contract drops if the customer doesn't exercise it in written form within 2 weeks, beginning with the impartation of the new retail price.**
- 3.5 All payments are due on receipt of invoice without deduction, unless otherwise agreed.
- 3.6 The customer defaults without reminder of the seller, when he doesn't pay the retail price within 30 days after the due date and receipt of invoice or an equivalent payment plan. When the customer is in default, the seller is authorised to request interest in the amount of 8 percentage points above the current ECB base rate. The right of the seller to prove a higher damage caused by default is reserved.
- 3.7 The customer has set-off rights only in cases where counterclaims are legally ascertained, recognised by the seller or undisputed. The customer has the right of retention if his title depends on the same contractual relationship.

4. Time limits and deadlines

- 4.1 Dates set by the seller for delivery and completion are non-binding, unless otherwise agreed in writing. The customer retains the right to give the consignee formal written notice of default four weeks after exceedance of a non-binding date.
- 4.2 Terms of delivery begin with the date that is named in the order confirmation. All terms of delivery are losing validity by later amendments of the contract.
- 4.3 The validity of agreed dates for delivery and completion is dependent on the customer fulfilling all obligations to cooperate in a timely manner and in proper form. This includes in particular:
- choosing in good time the type and properties of materials to be processed, insofar as such a choice has not already been made on signing the contract,
 - the timely surrender of materials necessary for the rendering of services, in such cases where this is undertaken by the customer.
- 4.4 In case of force majeure or unforeseen and extraordinary events, the seller cannot be held responsible for any delay, including exceedance of any binding time limits and deadlines. This includes in particular intervention by authorities, disruption of operations, bad weather conditions and measures taken in the context of industrial disputes. As seller will inform the customer soon as he has knowledge of such circumstances.

- 4.5 Should the customer be in default of acceptance or in breach of any other obligation to cooperate, the seller reserves the right to demand a flat rate payment for damages of 1 % of the gross value of the entire contract for every month or part thereof, unless the customer is able to prove lower damages. The ascertainment of further claims for damages is grounds for terminating the contract.
- 4.6 **Should the seller fall behind schedule for reasons for which the seller cannot be held responsible, no liability for damages arising out of simple negligence can be accepted. This does not apply in cases of injuries of life, body and health.**
- 4.7 Should the seller fall behind schedule only on parts of the contract, or the seller be responsible for the impossibility of rendering all services agreed, the customer is not entitled to claim damages due to non-completion of the entire contract, nor to terminate the entire contract, unless the customer's interests in all other services would no longer apply.

5. Passing of risk at consignment of goods

- 5.1 With handing over the goods the risk of accidental perishing is passed to the customer.
- 5.2 Delivery occurs at the customer's risk, even when carriage-free delivery has been agreed. For any damage occurring during delivery, the seller can be held responsible only when the seller has expressly undertaken delivery at the seller's own risk. Insurance against damage will be procured only at the request of the customer and at the customer's expense. Any credit for damage will be paid only when the seller has received payment from the insurance company. The seller assumes no further responsibilities. Unless otherwise expressly agreed, goods are delivered without insurance.

6. Acceptance and passing of risks at service contracts

- 6.1 Work performed by the seller is to be accepted on completion. This applies also to partial performances which have been completed.
- 6.2 On acceptance, the risk is passed to the customer.
- 6.3 Should acceptance by the customer be delayed, the risk is passed to the customer at the moment of default. The same applies when the performance of services is interrupted for reasons that are the customer's responsibility and the seller has amicably surrendered the work thus far performed into the care of the customer.
- 6.4 Paragraph 5.2 does apply accordingly.

7. Retention of title

- 7.1 All goods delivered remain the property of the seller until settlement of all demands entitled to by the seller arising from the contract.
- 7.2 Subject to paragraph 7.4, the customer is not permitted to sell, give away, pledge or transfer for the purposes of securing a debt any goods delivered for as long as retention of title still applies.
- 7.3 Should any objects subject to retention of title be impounded, the seller is to be informed immediately in writing. This also applies to any other interference by third parties to such objects.

- 7.4. If delivery is made for the purposes of reselling for a business concern supported by the customer, the customer's demands of the purchasers arising from the sale will be transferred to the seller immediately. The seller is required to reserve the property to himself from the purchases on resale. The rights and entitlements arising from the retention of title are surrendered by the customer to the seller.

8. Warranty and liability

- 8.1 The customer is required to inspect received goods immediately for any defects. After a period of two weeks following acceptance no claims can be made unless the defect was not objectively recognisable upon reasonable inspection.
- 8.2 Insignificant variations in dimensions and design which do not objectively affect the good's fitness for purpose, especially in the context of repeat orders or additional requests for alteration made by the customer, are treated as according to contract.
- 8.3 Claims beyond the aforementioned, especially for compensation for damage, contractual damages or loss of earnings, are excluded unless arising from deliberate or gross negligence on the part of the seller or vicarious agents. This disclaimer does not apply in cases of injuries of life, body and health. In cases involving gross negligence the seller is liable for damage which can typically be expected, but not exceeding 2.5 % of the retail price, unless higher damages can be proved in individual cases.
- 8.4 The seller is not liable for material defects in deliveries from third parties and delivered unchanged to the orderer. He seller retains the right to terminate the contract if he does not receive the goods despite the prior agreement of a contract of sale. This does not affect accountability in case of deliberate fault or negligence. The seller shall inform the customer immediately of the delayed availability of the goods and, if the seller intends to terminate the contract, will do so without delay; any payment received will be reimbursed immediately.

9. Place of fulfilment / Place of jurisdiction

- 9.1. The place of fulfilment of all duties arising from the contractual relationship is the seller's business address. Should a different place of fulfilment be agreed, the customer will be charged any costs thus arising.
- 9.2. In the case of contracts with merchants entered in the commercial register, the place of jurisdiction for any disputes arising from the contractual relationship is that of the seller's place of business.

10. Disposal agreement

- 10.1 The customer is responsible for disposing all delivered goods when no longer in use according to legal regulations and at his own cost.
- 10.2 The customer exempts the seller from § 10 paragraph 2 of the Electronic and Electrical Equipment Act (ElektroG) (the requirement of the manufacturer to take back used goods) and thus also any demands of third parties in this regard.
- 10.3 The customer must require by contract commercial third parties, to whom he transfers the goods, to dispose of the goods when no longer in use according to legal regulations and at his own cost; and to require the same requirement be made to any subsequent owners should the goods be transferred again.

- 10.4 Should the customer fail to pass on these requirements and require the further passing on of the requirements, the customer is required to take back the goods when no longer in use at his own cost, and to dispose of them according to the legal regulations.
- 10.5 The sellers's right to acceptance/exemption by the customer does not become time-barred until 2 years have elapsed after final decommissioning of the equipment. This two-year period commences at the earliest on receipt of written notice from the customer of decommissioning.

11. Written form

These TOS can only be amended or annulled on written individual agreements. This also applies to this requirement for the written form.

12. Applicable law

The relationship between the parties is regulated exclusively by the law of the Federal Republic of Germany. The application of universal law on the international sale of moveable objects and the law on the signing of international purchase agreements for moveable objects is excluded. In addition, in both parties are merchants, the UN convention (CISG) is excluded.

13. Severability clause

Should any individual regulations of these TOS become invalid, the validity of all other regulations will not be affected