

## General Terms and Conditions of Cortado Mobile Solutions GmbH for contracts with companies or consumers who order software products by using the Cortado Online Shop (hereinafter referred to as "Customer")

Before placing an order via the Cortado Online Shop, please carefully read the following General Terms and Conditions of Use (hereinafter referred to as "GTC"). Cortado Mobile Solutions GmbH (hereinafter referred to as "CMS"), represented by its Managing Directors Sven Huschke, Benjamin Schüler, Alt-Moabit 91 a, 10559 Berlin, Germany, provides the services according to these GTC. Any use of the Cortado Online Shop provided by CMS implies your consent to these GTC. If you do not agree to these GTC, you may not place an order via the Cortado Online Shop.

### 1. Scope of the GTC

- (1) The GTC apply to all orders of products and services via the Online Shop website, future orders, contracts, offers, deliveries, and other services (hereinafter jointly referred to as "Software") from CMS insofar as no deviant individual agreements have been agreed between the Parties. CMS reserves the right to change or supplement the Online Shop itself, its contents, the elements presented there, including these GTC, at any time without prior notice.
- (2) Any terms of trade of the Customer or other contrary or additional terms and conditional terms and conditions submitted by anyone other than CMS are expressly rejected and shall be deemed to be of no effect, even if they have been sent to CMS in a purchase order or by other means. Verbal agreements do not apply in addition to these GTC.
- (3) Changes and additions in individual contractual agreements must be made in writing and are effective only with the signature of all persons involved in the conclusion of the contract.
- (4) The terms of the End User License Agreement (hereinafter referred to as "EULA") are included with the Software which Customer downloads and which have to be read, accepted and confirmed during the installation routine of the Software remain effective in addition to these GTC and Customer has to adhere to them.
- (5) These GTC in conjunction with the applicable General Terms and Conditions of Use and the EULA of the respective product, constitute the entire agreement between the parties relating to the ordering of Software products and Update Services obtained through the Cortado Online Shop. They supersede all prior agreements, purchase orders, acknowledgements and conditions of sale. Customer may not rely on statements, warranties or explanations that are not contained in the GTC or in the relevant EULA.

### 2. Use of the Online Shop

- (1) In the interest of security of business dealings, purchase of the Software via the Online Shop is only available to registered Customers. CMS is entitled to revoke access authorization and purchase of the Software by barring access without giving reasons if Customer
  - (a) has provided false information during registration or
  - (b) has breached these GTC or
  - (c) failed to exercise the necessary care in handling his/her access data.
- (2) Customer may request the deletion of his/her registration/data in writing at all times. Any existing payment obligations shall not be affected thereby, but remain existent.

### 3. Purchasing, Prices and Download

- (1) All prices of the offered software are quoted in the specified currency. The amount to be paid by Customer results from the respective valid price list and such terms of payment, which are agreed between CMS and Customer.
- (2) Any tax or other charge of any nature imposed by federal, state, local or governmental authorities on the sale, use, or delivery of the Software shall be paid by Customer in addition to the prices quoted or invoiced. If Customer is exempt from any such tax or charge, Customer shall provide CMS with certificates or other documentation acceptable to the applicable taxing authority at the time the order is submitted.

- (3) If license keys are required for the use of purchased products, such license keys will be made available to Customer on the Cortado Enterprise Portal or any other suitable platform previously communicated to Customer. If an individual payment term has been agreed in the terms of payment, Customer will already be granted access to a license key within this period.
- (4) CMS grants Customer access to an invoice for his records. After payment has been made, Customer will also receive a payment confirmation unless an individual payment term has been agreed on.
- (5) The purchased products are only available in electronic form. CMS will not deliver the software in any other way.
- (6) If a download is necessary for the use of purchased products, Customer can download the software from the CMS website (Cortado Resources or Cortado Enterprise Portal). Customer must activate the software within 30 days after installation by using the activation key, received from CMS after indicating its registration number and the number of the license key to CMS.
- (7) Should events and circumstances occur which prevent CMS from making the Software available to Customer (for example technical problems, war, strike or natural disaster) and which are beyond the control of CMS as determined by the general principals of law, the date of making the Software available will be extended according to the duration of such circumstances and their consequences. If CMS is unable to fulfill the contract due to the aforementioned reasons, CMS is released from its obligation of delivery.

#### 4. Conditions of Payment and Default

- (1) Customer can choose to pay for the ordered Software from different payment providers. Customer will be forwarded to such payment provider's website to complete the payment transaction by providing his/her required data for the payment procedure. Only terms and conditions of the payment provider apply to payment and default of payment.
- (2) If Customer is in default, CMS will be informed hereof by the payment provider and reserves the right to withhold further deliveries and services and to demand interests for defaults of Customer. CMS is also entitled to claim compensation for any amounts exceeding the damage of interests. This also applies if Customer has decided to buy on account and does not pay the invoice amount within the payment period stated on the invoice.
- (3) If CMS receives notification from the payment provider that Customer caused reverse booking of the payment for the Software after it has been activated, Customer shall receive a reminder with the request of immediate payment of the outstanding amount. If Customer does not balance the overdue amount immediately, CMS reserves the right to initiate further legal proceedings without prior notice.

#### 5. Retention of Title

- (1) Customer and any users he/she may have set up, receive the non-exclusive right to access the software functionalities. Such right is limited to the period of use or the contract term. Customer does not receive any further rights.
- (2) Customer is not entitled to use the Software beyond the permitted use given under the terms of this contract, or to allow any third party to use the Software or to provide access to the Software to third parties. In particular, Customer is permitted to reproduce or sell the Software or any part thereof.
- (3) Upon request, Customer must provide CMS with all information required to assert its claims against third parties, including but not limited to the name and address of such third parties as well as the nature and extent of claims arising from the unauthorized release of the program.

#### 6. Term, Termination, Sanctions

- (1) In general, a contractual agreement comes into effect on the day the service is provided by CMS. The term of the contractual agreement depends on the purchased product.
- (2) The Parties' right to terminate this agreement for good cause with immediate effect remains unaffected.
- (3) In the event of termination by either Party in accordance with any of the provisions of this agreement, neither Party shall be liable to the other because of such termination for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated sales or on account of expenditures, inventory, investments, leases

or commitments in connection with the business or goodwill of CMS or Customer. Termination shall not, however, relieve either party of obligations incurred prior to the termination.

## 7. Warranty

- (1) Customer is entitled to a warranty claim for any defects arising from the Software for a warranty period of twelve (12) months, if Customer is an entrepreneur as defined in § 14 German Civil Code (BGB), and for a warranty period of twenty four (24) month, if Customer is a consumer as defined in § 13 German Civil Code (BGB).
- (2) The delivered Software is considered error-free, if it does not deviate considerably from the features described in the accompanying technical documentation. A deviation is considerable, only if it affects the normal use of Software as described in the technical documentation. Statements made by CMS in brochures, websites or sales pitches grant contractual warranty only if agreed on in a separate contract between Customer and CMS. Information in product manuals and documentations and/or advertising material referring to a product's possible expansions or available accessories are not binding upon CMS, for they are subject to constant adaptation and future developments. CMS is entitled to perform modifications to programs, even after delivery, to improve the program's performance without reducing the efficiency of the remaining Software.
- (3) If Customer is an entrepreneur as defined in § 14 German Civil Code (BGB), Customer is obliged to notify CMS immediately in writing of any obvious defects within two (2) weeks after receiving the Software and the license key. Customer is obliged to describe the effects of the defect, its appearance and the conditions under which it occurs. If the period of two weeks is exceeded, claims for damages based on this defect are excluded.
- (4) After CMS received such written notification and description of defects (if Customer is an entrepreneur), CMS shall immediately verify and analyze the defect and provide redress within a reasonable and required period of time of at least four (4) weeks. CMS reserves the right to choose whether to provide redress by supplying an altered version of the Software to Customer or by remedy defects. CMS also reserves the right to make two (2) attempts of rectification of defects. If CMS does not provide redress or rectification of defects within a reasonable period of time, Customer is entitled to demand reduction of the price of the Software or, if a defect of the Software is significant and fundamental and cannot be corrected by using other options of the software, rescind from the order of the defect Software. CMS will carry all costs of rectification of defects or supply of an altered version as long as the delivered software product has not been taken to a different location than the place of fulfillment by Customer.
- (5) Customer is explicitly not entitled to a warranty claim, if the reported defects result from usual wear and tear, outside influences, operator's error or a usage of or a change to the Software by Customer or a third party without the previous written consent of CMS and not in accordance with the regulations of this GTC or the technical documentation. CMS's obligation to provide redress also lapses if Customer uses the Software with hardware or in a software environment different from those intended by CMS as indicated in the technical documentation. In such cases, CMS may provide redress and Customer will reimburse CMS for the expended time and costs. Customer does not have to reimburse CMS, if Customer can prove that the changes to the Software or its usage are not related to the defect and do not substantially obstruct the analysis and repair of the defect.
- (6) Customer is obliged to assist CMS in determining and removing the defects, in particular by providing necessary information and documentations about the defect and its appearance and by supporting analysis of errors and correction of defects.
- (7) CMS is entitled to disregard a possible defect, if it could only be rectified by excessive effort or if the function or responsiveness of the Software is inhibited to a less than negligible extent.

## 8. Liability

- (1) CMS is liable to Customer for all damages caused by gross negligence or intent of CMS, its vicarious agents, employees or their representatives and only if the damage was contract-typical and foreseeable in the use of the Software. In such cases the liability for damages is limited to the amount of the original sales price. In the case of a breach of cardinal obligations, in which the liability is on the merits, the liability of CMS shall also be limited to the contractually foreseeable damage.
- (2) CMS SHALL NOT BE LIABLE FOR ANY MATERIAL OR IMMATERIAL DAMAGES OR CONSEQUENTIAL DAMAGES CAUSED BY THE USE OF THE PROVIDED SERVICES AND WEB PAGES AND THE INFORMATION CONTAINED THEREIN, REGARDLESS OF HOW AND BY WHAT THEY WERE CAUSED. CMS shall not be liable for any material or immaterial damages or consequential damages caused by the use of the provided services and web pages and the information contained therein, regardless of how and by what they were caused. This shall not apply in cases in which the customer can prove that the damage has been caused by gross negligence or willful misconduct by CMS, its employees and vicarious agents.

- (3) CMS IS NOT LIABLE FOR LOSS OF PROFIT, UNRECOVERED INVESTMENTS, FOR ATYPICAL, UNFORESEEABLE DAMAGE OR ANY SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. THE LIMITATION WILL APPLY EVEN IF CMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. FURTHERMORE, CMS IS NOT LIABLE FOR RE-ESTABLISHMENT OF LOST OR DESTROYED DATA UNLESS SAID LOSS OR DESTRUCTION OF DATA CAN BE PROVEN TO ARISE FROM GROSS NEGLIGENCE OR INTENT OF CMS. IN FACT, CUSTOMER IS RESPONSIBLE FOR ASCERTAINING THAT HIS/HER DATA IS RESTORABLE AT JUSTIFIABLE EXPENDITURE BY USING APPROPRIATE AND UP-TO-DATE SAFETY PRECAUTIONS. IF CUSTOMER DOES NOT COMPLY WITH THIS OBLIGATION, CUSTOMER MUST ACCEPT CONTRIBUTORY NEGLIGENCE.
- (4) EXCEPT AS STATED IN THESE GTC AND THE EULA, TO THE EXTENT PERMITTED BY LAW, CMS DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF CONDITION OR QUALITY, AVAILABILITY, RELIABILITY, SECURITY, LACK OF VIRUSES, BUGS, OR ERRORS, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.
- (5) CMS is not liable for any damages, which arise from computer viruses, if the Software has been free of computer viruses at the moment it left the electronic system of CMS.
- (6) IN NO EVENT SHALL THE LIABILITY OF CMS EXCEED THE AMOUNT PAID IN THE PRECEDING TWELVE (12) MONTHS FOR THE SOFTWARE AT ISSUE. The maximum liability of CMS is limited up to an amount of 1,000,000 Euro per claim.
- (7) The liability for damages resulting from injury to life, body or health as well as the product liability of CMS remains unaffected.

## 9. Liability of Customer

- (1) Customer is liable for any unauthorized use of his/her user account made possible by his/her fault. In particular, in case of misuse of the user account, Customer is obliged to indemnify CMS against all claims asserted by third parties due to the misuse. Additionally, Customer is obliged to inform CMS promptly in the event of reasonable suspicion of misuse of his/her account.
- (2) CMS assumes no responsibility and/or liability for computer or other technical equipment of Customer remaining harmless and virus-free. It is Customer's responsibility to take all necessary measures to protect his/her own data and/or software from possible contamination with any viruses circulating on the Internet.

## 10. Information on Revocation/Legal Consequences

If Customer is a consumer as defined in § 13 German Civil Code (BGB), Customer is entitled to revoke the contract within two (2) weeks in writing (e.g. by letter, fax, or email). The revocation must be addressed in writing to CMS GmbH, Alt-Moabit 91 a, 10559 Berlin, Germany or to [order@cortado.com](mailto:order@cortado.com). In order to safeguard the revocation period, it is sufficient, that Customer sends the notification of exercising the right of revocation before the expiry of the revocation period. If Customer revokes the contractual agreement, CMS grants Customer all payments CMS has received from Customer immediately and at the latest within 14 days from receipt of the revocation declaration. For repayment, CMS will use the same means of payment as the customer used in the original transaction, unless otherwise expressly agreed. CMS will not charge the customer for the repayment. Customer must return the software to CMS and delete any activated license keys after exercising the right of revocation.

## 11. Data Security

CMS refers to its Data Privacy Statement.

## 12. Set off

Customer is only entitled to set of a claim against any counterclaims of CMS or to assert a right of retention, if its counterclaims are uncontested or ascertained legally valid by a competent judge and if said counterclaims arise from the same contractual relationship.

### 13. Individual Agreements and Alteration of the GTC

These GTC or any part of it may only be amended or modified by written individual agreement signed by each of the Parties. Oral agreements are invalid in addition to these GTC. CMS reserves the right to modify these GTC at any time without Customer's consent.

### 14. Intellectual Property

- (1) All contents of any registered CMS website, in particular data, information, logos, brands, logotypes, texts, and illustrations as well as their arrangement on CMS websites are subject to copyright law and other laws regarding intellectual property. In particular, all rights regarding the content and design of the websites are strictly reserved by CMS. Information and images offered on the website are protected by copyright.
- (2) Any and all complete or partial copy, reproduction, modification, replay, display, transfer (in electronic or any other form), any type of access to Third Parties as well as any and all adaptation, distribution, or any other use of any and all content of the CMS websites (including but not limited to all texts, images, graphics, audio and video files) for public or commercial purposes, regardless of the methods used, is prohibited without previous express written permission from CMS. Any modifications of said content as well as its use for other purpose constitute a breach of property rights. The use of said content on another website or within a computer network is prohibited.
- (3) Any infringement or violation of User's obligations or rights of CMS entitles CMS to claim for damages.
- (4) Links to CMS websites are at all times possible and welcome as long as CMS has been informed in advance about these links and gave permission.

### 15. Place of Performance

Place of performance is the domicile of CMS GmbH, Alt-Moabit 91 a, 10559 Berlin, Germany.

### 16. Place of Jurisdiction/Applicable Law

These GTC and their application shall be subject to and construed and interpreted in accordance with the law of Germany to the exclusive jurisdiction of the Courts of Berlin, Germany, if the Customer is a merchant. This applies to all disputes arising directly or indirectly from or based on the contractual relationship between CMS and Customer, including such claims arising from tort. Any places of jurisdiction legally provided remain unaffected. Any terms of the CISG (United Nations Convention on Contracts for the International Sale of Goods) are applicable, if they include compelling law.

### 17. Severability Clause

Should these GTC contain an omission or should a term be, become or be held by a court of competent jurisdiction partly or entirely void the remainder of these GTC remains unaffected. Instead of the missing or void term, a stipulation is considered as agreed upon which best fits the Parties' originally intended economic purpose. A regulatory gap can only be replaced by a regulation, which the Parties would have taken if they had known and considered this regulatory gap in advance.

Cortado Mobile Solutions GmbH  
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V2.0