



Optical Internet

## NETWORK SERVICES COUNTRY RIDER AUSTRIA

This rider (Rider) amends the CSA entered into between Customer and COGENT for the Services specified therein. Unless otherwise defined herein, capitalized or defined terms in the CSA have the same meaning in this Rider. In the event of a conflict between forms, the following will be the order of priority: First, the Order Form; Second, this Rider; Third, the Terms; Fourth, the Product Rider; and Fifth, the SLA.

Terms Sec.2.2	<p>Section 2.2, fifth sentence of the Terms is amended to read as follows:</p> <p>"COGENT may change the specifications, Terms or charges for the Service for any upcoming Renewal in accordance with Art. 25 TKG (Austrian Telecommunication Act, <i>Telekommunikationsgesetz</i>). Objections to an invoice can be made in writing within three (3) months from receipt of the invoice, otherwise the invoice is considered accepted."</p>
Terms Sec. 3.2	<p>Section 3.2 of the Terms is amended to read as follows:</p> <p>"Except as otherwise provided for in Section 5.2 of this CSA for cases of negligent or intentional misconduct, COGENT's obligations and Customer's exclusive remedies for failure of COGENT's Network or of any Service are stated in the COGENT SLA."</p>
Terms Sec. 4.1	<p>Section 4.1 of the Terms is amended to read as follows:</p> <p>"Prior to the Service Date, COGENT may terminate the CSA if not approved by COGENT corporate management (including credit check). COGENT also may restrict, suspend or terminate the CSA, Customer's use of or access to any Service, or both, at any time if</p> <ul style="list-style-type: none"><li>(a) Customer is in material breach of the CSA (including but not limited to the AUP) and, in COGENT's sole judgment, an immediate restriction or suspension is necessary to protect the COGENT Network or COGENT's ability to provide services to other customers; or</li><li>(b) Customer fails to pay any invoice within thirty (30) days of its due date and within fourteen (14) days after receiving an admonition from COGENT; or</li><li>(c) COGENT's facilities at Customer's location are unavailable, due to a reason within Customer's sphere of responsibility or force majeure (i.e. no connectivity within Customer's location or no building access)."</li></ul>
Terms Sec. 4.3	<p>Section 4.3 of the Terms is amended to read as follows:</p> <p>"Should COGENT terminate the Agreement due to Customer's breach of its contractual obligations, the Customer will be obligated to reimburse COGENT for the damages resulting from said extraordinary termination, including Termination Charges (less any recovery on Termination Charges achieved by Cogent through other means). Any reconnections of the Service after a termination may be conditioned upon the payment of additional reconnection charges by Customer."</p>
Terms Sec. 4.4	<p>Section 4.4 of the Terms is amended to read as follows:</p> <p>"If Customer defaults in any of its payment obligations under the CSA, Customer agrees to pay COGENT's reasonable expenses, including but not limited to legal and collection agency fees, incurred by COGENT in enforcing its rights. All termination notices (including terminating one Service location after a Service is switched to a new Service location) by Customer shall be sent to COGENT in writing via email to: termseu@cogento.com."</p>
Terms Sec. 5.2	<p>Section 5.2 of the Terms is amended by adding the following as the last sentence:</p> <p>"Notwithstanding the foregoing, COGENT shall be liable to the extent provided by mandatory Austrian law for damages caused by COGENT intentionally or with extraordinary gross negligence."</p>
Terms Sec. 7.9	<p>A new Section 7.9 of the Terms is added as follows:</p> <p>"This CSA is made pursuant to and shall be construed and enforced in accordance with the laws of Austria without regard to its choice of law principles. Vienna shall be the exclusive legal venue."</p>

Terms Sec.7.10	<p>A new Section 7.10 of the Terms is added as follows:</p> <p>"§122 TKG 2003 provides that Customer, without prejudice to the jurisdiction of the ordinary courts, may submit any dispute or complaint cases (concerning the quality of the Service, payment disputes that have not been satisfactorily resolved, or an alleged violation of the Telecommunications Act 2003) to the regulator authority. COGENT is hereby required to participate in such a process and to provide all information necessary to assess the situation, and to submit the required documents. The regulatory authority shall negotiate an amicable solution or communicate its opinion on the case to the parties. The procedure for dispute settlement procedures is contained in the procedural guidelines of the regulatory authority (available at <a href="http://www.rtr.at">www.rtr.at</a>)."</p>
Terms Sec. 7.11	<p>A new Section 7.11 of the Terms is added as follows:</p> <p>"The existence of the European Emergency Number 112 should be noticed."</p>
Definitions	<p>The definition of "Customer" is amended amended by adding the following as the last sentence:</p> <p>"Customers of COGENT are only persons in accordance with Art. 1 para.1 no1 KSchG (Austrian Consumer Protection Act, Konsumentenschutzgesetz) and Art. 1 UGB (Austrian Commercial Code, Unternehmensgesetzbuch)."</p> <p>The definition of "Force Majeure" is amended to read as follows:</p> <p>"Causes beyond a Party's control, which could not possibly have been prevented even where the utmost diligence had been applied which could have been fairly expected."</p>

Austrian Branch of C.C.D. Cogent Communications Deutschland GmbH

Cogent Communications [www.cogentco.com](http://www.cogentco.com)  
See Order Form or web site for full contact details.