

DIGITRANS GMBH
TERMS AND CONDITIONS

1. VALIDITY

- 1.1 These Terms and Conditions (hereinafter in short: '**T&Cs**') shall apply for all contracts and other legal transactions between DigiTrans GmbH, a company with limited liability with its registered office in Linz and business address 4020 Linz, Hamerlingstraße 42, entered in Linz Company Register under FN 487738 m (hereinafter in short: '**DigiTrans**') of the one part and all customers on the other, regardless of whether the customer is a natural person or legal entity.
- 1.2 DigiTrans's General Terms and Conditions of Procurement ([LINK]), and not these Terms and Conditions, shall be used for contractual relationships between DigiTrans and its suppliers/subcontractors/service providers or other third parties from whom DigiTrans obtains services. Within the scope of these General Terms and Conditions of Procurement, a reference to these T&Cs shall be regarded as a reference to the General Terms and Conditions of Procurement.
- 1.3 These T&Cs shall also apply exclusively to contractual relationships between DigiTrans and its partners or its affiliate enterprises (Section 189a (6) Austrian Commercial Code). Where DigiTrans nevertheless acts in such contractual relationships as a procurer of supplies and/or services (DigiTrans customer), the General Terms and Conditions of Procurement stated in Clause 1.2 shall apply to these contractual relationships.
- 1.4 These T&Cs shall also apply to customers regarded as having entrepreneurial status ('*Unternehmereigenschaft*') in the sense of the Austrian Commercial Code (hereinafter in short: '**Business Customers**') for all future business, even in individual cases, in particular for future additional or follow-up orders or jobs not expressly referred to as such.
- 1.5 The version of these T&Cs downloadable on the DigiTrans website ([LINK]) at the time of the relevant contract being entered into shall apply with respect to business customers.
- 1.6 DigiTrans shall provide supplies and other services based exclusively on these T&Cs. The customer's T&Cs or procurement terms and conditions shall only apply if expressly confirmed by DigiTrans in writing. A reference to the customer's terms and conditions or terms and conditions of procurement attached or ones downloadable obtainable in a specific place shall not be regarded as express written confirmation. **The customer's Terms and Conditions or General Terms and Conditions of Procurement shall be regarded as excluded, and these shall be expressly countered by reference to these T&Cs.** This Clause 1.6 shall only apply to business customers.
- 1.7 The following provisions regarding the delivery of goods shall apply accordingly to services.
 - 2.1 All '*offers*', '*quotes*' or similarly described documents from DigiTrans shall be initially non-binding and subject to change. They shall be regarded as an invitation to submit an offer by the customer and are only made binding by DigiTrans by means of a written order confirmation (acceptance of the customer's offer). '*Orders*' are regarded as binding offers by the customer to DigiTrans.
 - 2.2 Commitments, assurances and guarantees by DigiTrans or agreements deviating from these T&Cs in connection with the contract being entered into shall only be binding on business customers in the event of written confirmation.

- 2.3 DigiTrans shall highlight to the customer information about DigiTrans products and services not attributable to DigiTrans in catalogues, price lists, prospectuses, advertisements at exhibition stands, circulars, promotional flyers or other media (information material), where the customer bases its decision to commission thereon. This allows DigiTrans to comment on its accuracy. Where the customer breaches this obligation, such details are non-binding unless pointed out expressly in writing to the customer in the contents of the contract.
- 2.4 All quotes prepared by DigiTrans shall be for payment. This payment obligation shall be pointed out to consumers in the sense of the Austrian Consumer Protection Act before the quote is prepared.
- 2.5 The language for the contract and executing the contact is German. DigiTrans is entitled to have all non-German records and documents handed to DigiTrans by the customer (or on behalf of the customer) during formulation and/or execution of the contract translated into German. The customer shall compensate for appropriate translation costs. All deadlines for supply and performance set by DigiTrans shall be deferred for the duration of the translation.
- 2.6 The business customer itself shall ensure that products ordered with DigiTrans meet the purpose of the customer or are suitable for the use intended by the customer. In particular, the customer shall ensure (and check) that products ordered by the customer correspond to and are suitable structurally and with regard to compliance with legal standards (e.g. construction regulations, trading regulations etc.) and/or technical standards (ÖNORM, DIN, etc.) for the use intended by the customer. To this end, unless a specific suitability or characteristic is assured, DigiTrans has no duty of inspection, warning or information. Stating and describing the product designation or, as may apply, use changes nothing in the aforementioned obligation on the business customer.
- 2.7 Only the customer is responsible for complying with any duties of disclosure or approval under public law.

3. PRICES

- 3.1 All prices are EXW Linz according to INCOTERMS 2020, as well as excluding VAT or similar taxes and also excluding packaging.
- 3.2 **All prices are** excluding sampling costs **and** excluding all costs for inspection and processing equipment **and changes brought about by the customer**. There is an entitlement to the appropriate consideration for performance brought about by the customer not expressly covered in the original order or representing changes to the original order. Changes in quantity by the customer shall entitle DigiTrans, at its discretion, to potentially adjust the unit price or cancel the contract (order).
- 3.3 Where the price is agreed as depending on the weight of the parts, the definitive price shall result from the weight of the approved proof sample.
- 3.4 **DigiTrans is entitled of its own accord with regard to business customers to adjust the contractually agreed consideration** if changes arise to the extent of at least 5% with regard to (a) wage costs due to legislation, regulations, collective agreement, company agreements or (b) other cost factors necessary for performance such as material costs due to recommendations of the Equality Commissions or changes to national or, as may apply, global market prices for raw materials, changes to relevant exchange rates etc. since the contract was entered into. The adjustment is made to the extent in which the actual manufacturing costs change at the moment of the contract being entered into compared to those at the moment of actual performance, provided that DigiTrans is not in arrears.

3.5 Consideration in the event of long-term commitments shall be agreed as indexed in accordance with the 2010 consumer price index and shall occur by adjusting consideration. The month in which the contract was entered into is set as the starting basis.

4. DELIVERY AND ACCEPTANCE OBLIGATIONS

4.1 With business customers, delivery and completion deadlines shall only be binding if their content is assured as a 'binding delivery deadline'. All other details of delivery deadlines are merely non-binding estimates.

4.2 Where the start of performance or performance itself is delayed or interrupted for circumstances for which the customer is responsible, in particular due to a breach of duties to cooperate in accordance with Clause 13 of these T&Cs, or agreed advance payments have not been made or agreed material orders have not occurred in good time, performance deadlines shall be correspondingly extended and agreed completion deadlines put back accordingly.

4.3 Deadlines and periods shall be put back in the event of force majeure, strikes, or unforeseen delays by DigiTrans suppliers beyond the control of DigiTrans or other comparable events for which DigiTrans is not responsible for the duration of the corresponding event. The right of both parties to terminate the contract in the event of delays making commitment to the contract unreasonable shall remain unaffected by this.

4.4 In the event of delayed performance by DigiTrans, the customer shall be entitled to terminate the contract once an appropriate grace period has been set. Grace periods shall be set in writing (by business customers by means of registered letter) with the simultaneous threat of termination.

4.5 Minor changes to performance reasonably and objectively justified for the customer by DigiTrans shall be regarded as approved in advance. With consumers in the sense of the Austrian Consumer Protection Act, this right shall only apply if negotiated on a case-by-case basis.

4.6 Objectively justified partial deliveries and performance shall be permitted and may be invoiced separately.

4.7 Deviations from the ordered quantity up to +/- 10% shall be permitted.

4.8 DigiTrans is not obliged to accept follow-up orders. This is also expressly not the case if moulds, tools and equipment of the customer are still in the possession of DigiTrans or DigiTrans is still holding them.

5. TRANSFER OF RISK, PACKAGING AND SHIPMENT

5.1 Risk itself is transferred in the event of carriage-paid delivery when leaving the plant for the customer. In the event of delays for which the customer is responsible (even if not absolutely to blame), risk is transferred on notification of readiness for shipment.

5.2 Unless otherwise agreed, DigiTrans shall select packaging and the type of shipment at its discretion. Only on written request by the customer and at the costs of the customer shall the goods be insured for breakage, transport and fire damage.

5.3 The risk for materials and equipment delivered by DigiTrans or stored and assembled at the place of performance shall be borne by the customer.

6. ARREARS IN ACCEPTANCE AND ADVANCE PAYMENT

- 6.1 Where the customer falls behind in accepting or making advance payments for more than seven (7) days (refusing to accept, delaying advance payments or other) and, despite an appropriate grace period being set, the customer fails to ensure remedy of the circumstance delaying or hindering performance, attributable to it, with a valid contract DigiTrans may otherwise dispose of the equipment or materials specific for performance provided that, in the event of performance being continued, DigiTrans is able to acquire them again within a period appropriate for the respective circumstances.
- 6.2 In the event of delayed acceptance or advance payment, DigiTrans is also entitled, in the event of performance existing, to store the goods at DigiTrans or a nearby warehouse, for which DigiTrans shall charge a weekly storage fee to the amount of costs incurred by DigiTrans, however to the amount of 10% of the order value.
- 6.3 The right of DigiTrans to charge consideration for services provided and terminate the contract after a reasonable grace period remains unaffected hereby.
- 6.4 In the event of **DigiTrans being justified in terminating the contract or performance of work remaining undone for reasons for which the customer is responsible, DigiTrans may demand from the business customer liquidated damages of 95% of the order value plus VAT without evidence of the actual damage from the customer.** The obligation of a business customer to pay liquidated damages is independent of fault. Asserting a higher amount of damage is permitted.

7. RESERVATION OF TITLE

- 7.1 Goods delivered, assembled or otherwise provided by DigiTrans shall remain the property of DigiTrans until payment in full.
- 7.2 Onward disposal shall only be permitted if the customer has announced this in good time in advance stating the name and address of the purchaser and DigiTrans has consented to the disposal.
- 7.3 In the event of consent by DigiTrans, the purchase price claim shall be regarded as assigned to DigiTrans as of this moment. Any legal transaction fees incurred for such assignment shall be borne by the customer, which shall hold DigiTrans fully harmless in this respect.
- 7.4 Where the customer falls behind with payment, DigiTrans shall be entitled to demand the retention goods back setting an appropriate grace period. DigiTrans shall only be entitled to exercise this right against consumers in the sense of the Austrian Consumer Protection Act as customers if at least one outstanding payment by the consumer is owed for at least six weeks and DigiTrans, under threat of these legal consequences and setting a grace period of at least six weeks, has reminded it without success.
- 7.5 The customer shall inform DigiTrans without delay of the opening of insolvency proceedings regarding its assets or the attachment of the retention goods of DigiTrans.
- 7.6 In order to assert its right of title, DigiTrans is entitled to enter the site of the retention goods where reasonable for the customer, and after appropriate prior notice.
- 7.7 Necessary costs appropriate for prosecution shall be borne by the customer.

- 7.8 When enforcing retention of title, the contract may only be terminated if this is expressly declared.
- 7.9 DigiTrans may realise retention goods taken back with regard to business customers at its discretion and in an optimum way.

8. PRICES, FEES AND PAYMENT

- 8.1 Where DigiTrans is commissioned with consultancy and advice services, it shall receive a fee in accordance with the agreement made following completion of the work agreed. Where no agreement has been made, DigiTrans shall be entitled to an appropriate fee. Nevertheless, according to progress DigiTrans shall also be entitled to issue interim invoices and demand them on account according to the respective progress. Fees shall become due by the contractor when the invoice is issued. Cash expenditure, expenses, travel costs etc. incurred shall be reimbursed by the customer on submission of receipts by DigiTrans.
- 8.2 All payments shall be made exclusively in Euros.
- 8.3 Unless otherwise agreed, the purchase price shall be paid within 30 days after the date of invoice. Any discount allowed requires in any event all previous invoices due to be settled.
- 8.4 Statutory arrears interest shall apply to payment arrears regardless of a reminder or blame of the customer.
- 8.5 The assertion of further arrears damages remains reserved against consumers in the sense of the Austrian Consumer Protection Act as customers, however only if negotiated on a case-by-case basis.
- 8.6 Where a business customer falls behind with payments as part of other contractual relationships existing with DigiTrans, DigiTrans shall be entitled to cease compliance with obligations of DigiTrans under this contract until compliance by the customer. DigiTrans shall then also be entitled to make due all claims for services already provided under the current business relationship with the customer. DigiTrans shall only be entitled to exercise this right against consumers in the sense of the Austrian Consumer Protection Act as customers if at least one outstanding payment by the consumer is owed for at least six weeks and DigiTrans, under threat of these legal consequences and setting a grace period of at least six weeks, has reminded it without success.
- 8.7 The client is only entitled to offset to the extent that counterclaims are legally established or recognised by DigiTrans. Consumers in the sense of the Austrian Consumer Protection Act shall also be entitled to offset where counterclaims are legally connected with the customer's payment liability, and DigiTrans's inability to pay.

9. SUPPLIES OF MATERIAL

- 9.1 In the event of material being provided by the customer as agreed, it shall be delivered at its risk and costs with an appropriate quantity surcharge, however at least 5%, in good time and in accordance with the agreement and for the purpose of supplying material. In the event of failure to comply with this prerequisite, the delivery period shall be extended appropriately, however at least up to the next capacity window at the DigiTrans plant, and the customer shall make good losses incurred by DigiTrans, including losses due to production interruptions, except in the case of force majeure.
- 9.2 DigiTrans accepts no liability or offers no guarantee whatsoever for equipment or material

provided by the customer and such defects or inadequate performance caused by such equipment or materials.

10. RIGHT OF DIRECT DELIVERY IN THE EVENT OF A BREACH BY THE CUSTOMER

- 10.1 Where services or deliveries, which must be provided for a specific customer in accordance with contract, are intended to be forwarded to or performed for a third party by the customer (this third party hereinafter in short **'End Customer'**) and the customer commits a breach of contract in respect of DigiTrans (such as in particular delayed payment or acceptance), DigiTrans, irrespective of the rights under Clause 6 of this contract and regardless of other claims of DigiTrans (in particular claims for damages), is entitled to deliver to and service the end customer directly circumventing the customer of DigiTrans due to such a breach of contract.
- 10.2 In this event, the delivery or service shall be regarded as performed for the customer if performed for the end customer.

11. WARRANTY

- 11.1 Unless expressly agreed, DigiTrans offers no guarantee of products delivered by DigiTrans meeting the customer's purpose or being suitable for use intended by the customer. Naming an example of use shall not expressly mean that a specific product is suitable for this application. Reference is made to Clause 2.6 .
- 11.2 Unless agreed expressly, DigiTrans offers no guarantee of products delivered meeting the requirements or provisions of a specific technical standard such as ÖNORMEN or DIN, or corresponding to a specific legal standard (e.g.construction regulations, trading regulations). The provisions of this Clause shall only apply to business customers.
- 11.3 In general, only those features agreed expressly in writing shall be regarded as expressly required in the sense of Article 922 (1) of the Austrian Civil Code. Compliance of other features shall be excluded as far as legally possible. The provisions of this Clause 11.3 shall only apply to business customers.
- 11.4 Any guarantee for features usually required in the sense of Article 922 (1) Austrian Civil Code shall, where legally possible, be excluded. The provisions of this Clause 11.4 shall only apply to business customers.
- 11.5 Unless expressly agreed, DigiTrans shall accept no liability or offer a guarantee whatsoever for a specific life of products delivered. The provisions of this Clause 11.5 shall only apply to business customers.
- 11.6 Unless otherwise agreed, materials of average quality are sufficient for processing. Specifying better materials and processing methods as well as tolerances for parts with particular loads, if this seems necessary, is a matter for the customer.
- 11.7 With regard to business customers, the warranty generally requires compliance with contractual obligations of the customer towards DigiTrans from related and other contracts.
- 11.8 The warranty period for business customers shall be six months as of handover.
- 11.9 In the absence of an agreement to the contrary (e.g. in the event of agreeing formal acceptance), the handover time shall be the completion time, and by no later than when the customer has accepted the service into its authority to dispose, or refused handover without stating reasons.

- 11.10 Corrections to a defect claimed by the customer shall represent no acknowledgement of this defect claimed by the customer.
- 11.11 DigiTrans shall be granted by the business customer at least two attempts to correct defects.
- 11.12 Where claims of defect by the customer are unjustified, the customer shall compensate DigiTrans for expenses incurred in determining the absence of defect or troubleshooting.
- 11.13 The business customer shall at all time prove that the defect was already in existence at the time of handover.
- 11.14 The business customer shall carefully examine all services and deliveries performed by DigiTrans without delay after the moment of handover, and in any event on acceptance or handover to the customer. DigiTrans shall be notified without delay, and by no later than two days after handover of defects with the item delivered or service identified by the business customer in the ordinary course of business on acceptance or handover by examination. Hidden defects must also be reported within an appropriate period after discovery. Where a complaint of defect is not made in good time, the goods or service shall be regarded as approved.
- 11.15 Any use or processing of the defective performance likely to cause further damage, or render difficult or hinder investigation of the cause shall be ceased by the customer without delay unless this is unreasonable.
- 11.16 The defective delivery or samples thereof shall, where economically feasible, be returned by the business customer to DigiTrans. Costs for return transport of the defective item to DigiTrans shall be borne in whole by the business customer.
- 11.17 The customer shall enable the defect to be determined without delay by DigiTrans.
- 11.18 The warranty shall be excluded if the customer's technical facilities such as supply lines, cabling etc. are not free of technical faults, not in an operational condition, or incompatible with the items delivered, where these circumstances are cause for the defect.

12. LIABILITY

- 12.1 In the event of financial losses, DigiTrans shall only be liable in cases of wilful intent or gross negligence due to a breach of contractual or pre-contractual obligations, in particular due to impossibility, delay etc.
- 12.2 On the other hand, the limitation periods under Article 1489 of the Austrian Civil Code are curtailed in such a way that claims for damages against DigiTrans are to be asserted in the courts after six months of knowledge of the damage and the tortfeasor, however no later than after three years of the contract being entered into with other limitation.
- 12.3 Where permitted by law, liability with business customers (contract, offence, strict liability or other legal grounds) is restricted, independently of the legal grounds, to the lessor of the following amounts: (a) actual amount of cover of any liability insurance taken out by DigiTrans or (b) order value for the contract breached by DigiTrans. This restriction shall also apply with regard to damage to an item taken over by DigiTrans for processing.
- 12.4 Subject to different provisions in these T&Cs, any liability of DigiTrans towards the customer for production stoppage, lost profit, downtime, contractual losses or any other consequential damage is excluded.

- 12.5 The exclusion of liability also covers claims against employees of DigiTrans, representatives and vicarious agents due to injuries inflicted by them on the customer without reference to a contract they have with the customer.
- 12.6 DigiTrans's liability shall be excluded for damage due to improper handling or storage, excessive use, failure to follow operating and installation requirements, incorrect assembly, commissioning, maintenance and servicing by the customer or third parties not authorised by DigiTrans, or natural wear and tear where this event was a cause of the damage. In the same way, the exclusion of liability exists for omitting necessary maintenance where DigiTrans has not taken on the duty of maintenance under contract.
- 12.7 If and insofar the customer is able to make use of insurance services via a damage insurance policy taken out by itself or in its favour (e.g.: liability insurance, fully comprehensive, transport, fire, service interruption and other) for damage, for which DigiTrans is liable, the customer undertakes to make use of the insurance services and DigiTrans is restricted to liability to the extent of the disadvantages incurred by the customer for using this insurance (e.g. higher insurance premiums).

13. DUTY OF THE CUSTOMER TO COOPERATE

- 13.1 DigiTrans's duty to perform shall commence at the earliest as soon as the customer has created construction, technical and legal requirements for performance, set out in the contract or in information provided to the customer before entering into the contract or that the customer should know based on relevant specialist knowledge or experience.
- 13.2 Where the customer fails to comply with this duty to cooperate, DigiTrans's performance, solely with regard to incomplete performance as a result of incorrect customer information, is not defective.
- 13.3 The customer shall arrange at its costs for the required third-party permits as well as notifications and permits by authorities.
- 13.4 In the event of consultancy orders, the customer shall ensure that the organisational framework conditions when complying with the consultancy order at its business head office allow work as undisturbed as possible required for expeditious progress of the consultancy process.

The customer shall inform DigiTrans about previously performed and/or ongoing consultancy work, including in other specialist areas. The customer shall ensure that DigiTrans, even without its specific request, is provided in good time with all documents necessary for complying with and performing the consultancy order and made aware of circumstances of significance for performing the consultancy order. This shall also apply for documents, procedures and circumstances that only become known during DigiTrans's activity.

14. DIGITRANS INTELLECTUAL PROPERTY

- 14.1 Copyright to works created by DigiTrans, its employees and commissioned third parties (in particular offers, reports, analysis, expert reports, organisational plans, programmes, service descriptions, drafts, calculations, drawings, data carriers etc.) remains with DigiTrans. They may be used by customers during and after termination of the contractual relationship exclusively for purposes covered by the contract. In this respect, the contracting entity shall not be entitled to reproduce and/or disseminate the work(s) without the express consent of DigiTrans. Under no circumstances does the unauthorised reproduction/dissemination of the work make DigiTrans

liable towards third parties, in particular for the accuracy of the work.

- 14.2 The use of such documents for use other than as intended, in particular the disclosure, reproduction, publication and provision, including also copies only as extracts, shall require the express consent of DigiTrans.
- 14.3 Furthermore, the customer undertakes to keep confidential third-party knowledge obtained as part of the business relationship.

15. PROTECTIVE RIGHTS OF THIRD PARTIES

- 15.1 The customer shall be liable to DigiTrans for the freedom of deliveries and services ordered from protective rights of third parties. Where the customer produces intellectual creations or documents, and protective rights of third parties are asserted with regard to such creations, DigiTrans shall be entitled shall to cease manufacture of the item to be delivered at the risk of the customer until the rights of third parties are cleared and claim compensation of necessary and appropriate costs incurred by DigiTrans unless it is clear that the claims are unjustified.
- 15.2 The customer shall hold DigiTrans harmless in this respect.
- 15.3 DigiTrans shall be entitled to demand appropriate advances on costs for any proceedings.

16. CLOSING PROVISIONS

- 16.1 In the event of import and export licences or foreign-currency or similar permits being required for performing the contract with the customer, the customer must make every reasonable effort to obtain the required licence or permits in good time.
- 16.2 Individual parts of these T&Cs being invalid does not affect the validity of the remaining provisions. DigiTrans and the business customer undertake now, based on the good faith of the contracting parties, to find a replacement provision coming as close as possible to the commercial outcome of the invalid provision.
- 16.3 Austrian Law shall apply to the exclusion of rules regarding renvoi and conflict of laws of international private law and CISG. The place of performance is the registered office of DigiTrans.
- 16.4 Sole jurisdiction for all disputes resulting from (or in connection with) the contractual relationship or future contracts between DigiTrans and the business customer lies with the court competent for Linz.