



# General Terms and Conditions for Purchasing (GTC) of A1 Digital International GmbH

## Scope of application

(1) These GTC shall apply to the purchase of products and services in accordance with the applicable Appendix. These GTC together with the Appendix shall apply exclusively. Conflicting or deviating terms and conditions of the contractor shall not apply, even if the service is accepted unconditionally in the knowledge of conflicting or deviating terms and conditions of the contractor.

(2) The customer is - per designation in the order - a company of the Telekom Austria Group, hereinafter referred to as the "Customer".

(3) Contractors are all those companies that conclude an agreement with the principal based on the present conditions, hereinafter referred to as "Contractor".

(4) Only orders, call-offs, contracts, etc. placed in writing by the purchasing department of A1 Digital International GmbH (hereinafter referred to as "A1 Digital") or one of its affiliated companies (hereinafter referred to as "Customer") are legally effective (hereinafter referred to as "Order"). The written form in the above sense shall also be sufficient on an electronic basis via special electronic communication procedures such as web-based applications provided by Customer for the processing of purchasing transactions. An electronic declaration of intent is received on the day on which it is available to the recipient at his electronic address during normal business hours, otherwise on the next business day. In the event of the use of a special electronic communication procedure provided by Customer for the processing of purchasing transactions, the terms of use for electronic communication procedures.

## 1. Contractual Documents

The mutual rights and obligations are based on the following documents and shall apply with the following order of precedence:

- a. the order,
- b. the agreed offer or the underlying (framework) agreement,

- c. these GTC together with the respective applicable Annex(es)

## 2. Code of Conduct

(1) The Contractor is committed to conducting business honestly, fairly and transparently. As a matter of course the Contractor complies with all applicable laws and principles of business ethics. The Contractor also expects such compliance from its sub-suppliers if he uses them to provide services to the Customer. Moreover, social commitment and climate and environmental protection are of great importance to the Contractor.

(2) The Contractor behaves with legal compliance and integrity in accordance with the A1 Group Code of Conduct (<https://a1.group/compliance/clear-rules/>)

(3) The Contractor shall ensure that in connection with the performance of this contract all regulations of the International Labour Organization (ILO) regarding the rights of workers and their working environment (such as compliance with human rights, prohibition of child labour and forced labour, minimum standards in the area of job safety and health protection, guaranteeing appropriate remuneration, etc.) are adhered to. The Contractor shall ensure that these obligations are binding upon its suppliers.

(4) The Contractor confirms that no intermediaries gain a personal advantage and/or pecuniary benefit from concluding an agreement with the Customer.

(5) Contractor shall avoid any situations that suggest conflict of interest towards TAG Company and further commits to refrain from any actions which could cause any harm to TAG Company, in particular any actions which could cause harm to its reputation.

(6) The Contractor ensures its compliance to all legal stipulations.

(7) Customer does not accept any corruption and bribery. In particular,



Contractor must not demand, offer, or grant any undue advantages – if against moral standards -or other benefits.

(8) A violation against the provisions of this Code of Conduct is an important reason that would entitle the Customer to terminate the contract with immediate effect.

(9) In this case the Contractor loses any claims on the agreed reimbursement, unless services/deliveries already provided are of use to the Customer. This is without prejudice to the Customer's right to claim damages. The Contractor shall be liable to the Customer for any disadvantages and shall bear all additional costs that may be incurred in connection with a violation against the terms of this Code of Conduct and/or termination due to the default of the Contractor.

### **3. Requirements, Service Provision**

All deliveries and services must have the characteristics specified in the order or in the contract or promised by the contractor, in case of doubt according to the state of the art.

### **4. Permits**

(1) Contractor declares to have all necessary permits at his disposal and to comply with all legal regulations as well as professional regulations. In the event that claims are asserted against the Customer by third parties due to a violation of statutory provisions by the Contractor, the Contractor shall indemnify and hold the Customer harmless in full. In all other respects, any statutory recourse and liability provisions shall apply.

(2) Should import/export or other official permits as well as permits or consents of third parties be required for the fulfilment of the order, the Contractor shall be obliged to procure these at his own expense and risk.

### **5. Delay**

(1) The mutually agreed offers shall specify the date of completion or the period of performance, which shall be guaranteed by the Contractor. A delay exists if the service / delivery is not rendered at the appropriate

time, at the appropriate place or in the agreed manner.

(2) In the event of default, the statutory provisions shall apply unless otherwise specified below

(3) In case a delivery/service is delayed for reasons for which the Customer is not responsible, the Customer shall be entitled either to insist on the fulfillment of the contract and demand a contractual penalty or - without prejudice to the right to assert a penalty - to withdraw from the contract at any time without setting a grace period.

(4) Payment of a penalty of 3% of the order sum per commenced week of delay shall be agreed. The Contractor shall owe the agreed penalty even if the subject matter of the contract is accepted without reservation. The assertion of further claims for damages remains unaffected.

### **6. Place of Performance, Period of Performance, Deliveries**

(1) It is agreed that the place of delivery/service is also the place of performance. Unless otherwise agreed, the place of performance shall be the place of destination specified by the customer in the order or in the contract, whereby the delivery/service shall be provided at the expense and risk of the contractor. If no place of destination is specified in the order, the Contractor shall request the Client to name such a place and the Client shall have the choice of naming any place in the country in which the Client is registered. Deliveries must be notified by telephone or email.

(2) For deliveries of goods to an A1 central warehouse, the guidelines in the A1 Logistics Guide as amended shall also be observed. This Guide can be found on the A1 homepage (<http://einkauf.a1telekom.at>).

(3) All deliveries must be made with a delivery note, which must contain the customer, the item number, the order number, the material number, if stated on the order the exact designation, as well as the exact quantity. In addition, work performance or assembly work shall require a confirmed time pass countersigned by the customer. Each delivery note/time sheet may only contain items from one order. If



delivery note forms have already been enclosed with the order, the contractor is obliged to use these forms, unless otherwise agreed. Deliveries/services shall only be deemed to be in conformity with the contract if all necessary papers have been attached, otherwise the Customer shall be entitled to return the delivered item or to store it at the expense and risk of the Contractor.

(4) All periods that are linked to the performance/delivery in conformity with the contract shall commence on the working day following them.

## **7. Acceptance of Deliveries /Services**

(1) Acceptance of the agreed services or partial services shall be effected by the Customer only if the Contractor has rendered its services in accordance with the requirements of the Customer.

(2) In the event of a refusal of acceptance by the Customer, the Contractor shall, within a reasonable period of time, make good or improve the outstanding services or successes in such a way that they meet the agreed acceptance criteria. If the contractor does not comply with this obligation, he shall be in default.

(3) If special results are to be provided, acceptance of the services shall only take place if the submitted work results meet the agreed requirements.

(4) Minor defects shall be remedied immediately, unless new performance is required.

## **8. Remuneration, Accounting, Terms of Payment, Taxes**

(1) The prices shall always be quoted in Euro. Value added tax shall be shown separately.

(2) Taxation of the remuneration and the payment of any social security contributions shall be effected exclusively by the Contractor in accordance with the statutory provisions. If the statutory provisions provide for the assumption of tax or social burdens by the Customer, the remuneration shall be reduced to the extent of these amounts. The Customer shall be entitled to withhold any withholding taxes from the

price to be paid and to pay them to the tax authorities for the account of the Contractor.

(3) The Contractor undertakes to provide the Customer with the information required by tax regulations. Any taxes, levies, etc. incurred shall be borne by the contractor without compensation. If in this connection claims are raised against the Customer, the Customer undertakes to indemnify and hold harmless the Customer.

(4) With regard to the delivery/service owed under the contract, the prices are to be understood as guaranteed fixed prices and - if requested by the customer - are to be indicated in two variants for purchase and leasing. The Contractor shall not be entitled to contest the contract on the grounds of error or reduction by more than half.

(5) The prices shall be broken down by delivery item and service. In addition, each individual part and each alternative shall be priced separately (unit price). If the Contractor performs a service without prior written agreement of the remuneration, the free payment of this service shall be deemed to have been agreed.

(6) The contractor shall offer its services to the customer and its affiliated companies at the most favorable conditions, which it shall grant worldwide to the customer itself and/or an affiliated company of Telekom Austria AG for comparable services in terms of quantity, quality and market conditions. A corresponding exchange of information between the customer and its affiliated companies is possible at any time.

(7) Invoicing and payment of the remuneration shall be made exclusively after complete provision of the service confirmed by the customer, unless the parties have expressly agreed otherwise. Premature provision of services or other services not agreed is not permitted and does not constitute a claim for payment.

(8) However, general price reductions between the date of conclusion of the contract and the date of delivery/service shall be passed on to the Customer; this shall also apply mutatis mutandis to any rental or leasing charges.



(9) Any costs associated with the establishment of the contract and its execution, such as in particular transport costs (e.g. freight charges, customs, insurance, commission), expenses of the Contractor's employees and any subcontractors (e.g. travel and overnight expenses, daily diets, flat-rates for travel expenses, travel time), such for the procurement of permits, any fees or other levies and taxes shall be borne by the Contractor and shall indemnify and hold the Principal harmless in this respect. The Contractor undertakes to provide the Client with the information required by tax regulations.

(10) The period for payment of the remuneration shall commence after proper and unobjectionable invoicing, but at the earliest upon performance of the service in accordance with the contract and not before the agreed delivery/service date following working days. All invoices shall be payable within 30 days of the commencement of the payment period less 3% discount, within 45 days less 2% discount or within 60 days net. The timeliness of payments shall be determined by the time of the transfer order or, if an otherwise customary method of payment is selected, the time of payment. Interest on arrears may be charged at a maximum rate of 4% per annum. For delays in the payment of monetary claims, the client will not pay any compensation for any collection costs.

(11) Invoices are only legally effective and can only be processed if they contain the respective acceptance protocol or the service documentation, the order number, order date, invoice number and service recipient and have been correctly addressed. Invoices shall be sent as a PDF document to the E-mail address "invoices@a1.digital". If, for whatever reason, acceptance is not planned for the provision of services, the respective documentation of the final presentation shall be regarded as the acceptance protocol in this case.

(12) Invoices that show factual or mathematical defects or errors shall not become due until the agreed correction and can be returned by the client at any time. On invoices exceeding a total net amount of EUR 10,000.00, the customer's sales tax

identification number (UID number) must be stated.

(13) Changes and additions to the scope of services owed under the contract shall only be remunerated if the customer has made a written change to the order prior to performance of this service. A one-sided increase in prices - for whatever reason - is expressly excluded.

(14) The unconditional payment of the invoice amount by the Customer shall not constitute recognition of the Contractor's performance as in accordance with the contract. In particular, this shall not constitute a waiver by the Customer of any claims.

(15) In the case of rental/leasing, the following shall apply in deviation from or in addition to the provisions of this clause:

(16) The first rental/leasing fee shall be due for payment on the first day of the month following the performance of the service in accordance with the contract, not before the agreed delivery/service date. In addition, the first rental/leasing fee shall be invoiced - as a further condition of maturity - and all others shall be due for payment on the first day of each subsequent calendar month. All within a 4-week *respiro*.

## 9. Warranty

(1) The warranty period shall be at least 36 months and shall commence from the date on which the services are rendered in conformity with the contract. In the event of replacement and rectification of any defects, the warranty period for the components affected shall start to run again.

(2) The contractor warrants that his services comply with the contractual agreements, are performed with the usual professional care and based on the current state of science and technology and comply with the relevant legal and contractual specifications and agreed guidelines.

(3) In particular, the contractor is obliged to bear all costs and expenses incurred in connection with defects and their elimination. Further legal claims of the Customer shall remain unaffected.



(4) In case of doubt, the warranty obligation shall also include the costs of remedying the defect on site.

(5) In any case, defects must be remedied immediately. Should this not be carried out immediately, the Customer shall have the right, without prejudice to the possibility of asserting a price reduction, to arrange for a replacement to be carried out at the expense of the Contractor or to withdraw from the contract without setting a further period of grace.

(6) Except in the case of minor defects, the Contractor shall be obliged to pay the Customer a penalty of 5% of the order sum to cover the administrative costs of any defective delivery/service; this shall be without prejudice to existing warranty and other compensation claims of the Customer.

(7) The burden of proof for the non-existence of defects and the mere insignificance of a defect shall be borne by the contractor. He shall also bear the costs and expenses incurred in this connection. However, the Customer shall not be obliged to give notice of defects pursuant to § 377 Commercial Code.

(8) In addition, in the case of deliveries of goods to an A1 central warehouse, the provision for reimbursement of expenses in accordance with A1 Logistics Guide as amended (available at <http://einkauf.a1telekom.at>) shall apply. The amount defined in this guideline for expenses incurred by A1 (e.g. repackaging, re-labelling, etc.) is merely compensation for expenses, but in no case compensation for defective deliveries.

(9) Even after the warranty period has expired, secret or hidden defects can be claimed within 6 months of the defect becoming known. In the case of delivery items/services that usually remain in their original packaging until they are used or resold, defects that only become visible upon removal from the packaging shall be deemed to be secret defects.

(10) The Contractor undertakes to reimburse the Customer in any case for all costs and expenses incurred by the Customer vis-à-vis its customers under the

title of warranty. Such claims are to be asserted by the Customer in writing against the Contractor within 3 months of fulfilment of his own warranty obligation, no judicial assertion is required.

(11) If the Contractor is not also a manufacturer, he shall disclose the extent to which the manufacturer additionally assumes the warranty vis-à-vis the Customer.

(12) In the case of rental/leasing, the present warranty conditions shall apply mutatis mutandis.

## **10. Liability**

(1) The statutory liability regulations shall apply.

(2) If claims are asserted against the Customer due to an alleged defect in the delivery item/service in accordance with the provisions of the Product Liability Act or other statutory provisions, the Contractor shall indemnify and hold the Customer harmless from and against all claims - irrespective of fault or causality.

(3) The Contractor declares to have all necessary permits at his disposal and to comply with all legal regulations as well as professional regulations. If claims are asserted against the Customer by third parties due to the Contractor's violation of statutory provisions, the Contractor shall indemnify and hold the Customer harmless in full. In all other respects, the statutory liability provisions shall apply.

## **11. Third party rights, Indemnification**

(1) The contractor guarantees that the services to be rendered by him are free of rights of third parties, in particular free of industrial property rights of third parties, which can restrict or exclude the contractual use.

(2) The Contractor shall indemnify and hold harmless the Customer from and against any and all patent, trademark, design, semiconductor and/or copyright disputes arising in connection with the contractual use



and shall guarantee the intended use of the delivery item/service without restriction.

(3) The parties shall inform each other immediately of any claims raised or threatened with claims relating to the rights of third parties and/or inform the other party immediately if they become aware of any infringements or alleged infringements of the rights of third parties in connection with the contractual services.

(4) Upon first written request, the Contractor shall indemnify the Client without limitation against all actions, claims, costs, encumbrances, losses, claims, damages and expenses arising from the infringement or alleged infringement of the industrial property rights of third parties. In addition to these obligations, the contractor may, at his own discretion and expense, either:

- a. modify or replace the Services in such a way as to avoid infringement or alleged infringement of any third party rights, but the Services shall continue to comply in all respects with the contractually agreed requirements; or
- b. to obtain for the client the right to (further) use the services in accordance with the contractual agreement.

(5) If the Contractor does not remedy the infringement of third-party rights within a reasonable period of time, the Customer shall be entitled, at its own discretion, to withdraw from the order in question and to claim damages or a corresponding reduction in the purchase price and/or the license fee.

## 12. Term

The contractual relationship shall end upon expiry of the delivery period or term specified in the order, without the need for a separate notice of termination.

## 13. Termination

(1) The Customer has the right to terminate the contract ("Individual contract") in whole or in part at any time without stating reasons by giving 30 calendar days' notice.

(2) In the event of termination, the remuneration shall be calculated based on the ratio of the result achieved up to the time of termination to the desired final result, but at the most based on the scope of services actually rendered, proven and usable for the client up to the time of termination.

(3) The right to extraordinary termination remains unaffected. Irrespective of the other provisions of this Agreement, the Customer shall be entitled to terminate this Agreement immediately and without notice (unless otherwise stipulated below) as well as all orders placed, in particular if

- circumstances exist which obviously make timely fulfilment of the order impossible, unless the client is responsible for this himself,
- the Contractor violates confidentiality obligations or other essential contractual conditions;
- the Contractor violates the Code of Conduct,
- the Contractor - if there are several of them, even only one of them - dies or loses his own authority or a change of ownership is carried out in respect of the contractor, a parent company or a holding company, with effect from the date specified in the written notice of termination of the principal;
- the Contractor enters into a subcontracting agreement without the necessary consent of the contracting authority;
- if there are other extraordinary reasons for termination stated in these GTC or in their annexes.

(4) If the Customer rightfully withdraws from the contract, the Contractor shall forfeit any claim to remuneration unless it has already provided partial services that can be utilized by the Customer. If the Contractor is at fault for the occurrence of the reason which entitles it to terminate the contractual relationship without notice, it shall reimburse the Customer not only for any further claims but also for any additional costs incurred as a result of any transfer of the order to a third party.



(5) The Contractor shall be entitled to terminate the contractual relationship if the Customer does not fulfil its payment obligations according to the present agreement for no reason (e.g. there is no breach of contractual obligations) and if this delay in payment is not remedied sustainably within 30 days of the corresponding written reminder.

(6) Any termination must be made in writing.

(7) In the event of insolvency, the statutory provisions shall apply.

#### **14. Confidentiality/Data Protection**

(1) The Contractor is obliged to keep confidential all information and data which become known to him in the execution of his order, unless he has been released from this obligation in writing by the Customer in individual cases.

(2) The Contractor shall be obliged to use any data made known to him exclusively for the purpose of fulfilling the contract.

(3) The Contractor agrees that his data and information in connection with the performance of services shall be transmitted to companies affiliated with the Customer.

(4) In addition, the Contractor undertakes to comply with the Customer's applicable Information Security requirements for Suppliers (<https://www.a1.digital/uploads/PDFs/Legal-Docs/Suppliers/Informationssicherheit/A1-Digital-International-GmbH-Information-Security-Requirements-for-Suppliers-EN.pdf>) and also to observe all other statutory data protection provisions, in particular those pursuant to the Telecommunication Act.

(5) In case that any personnel data is processed by Contractor, Contractor is obliged to conduct the A1 Digital Standard Data Processing Agreement (<https://www.a1.digital/uploads/PDFs/Legal-Docs/Suppliers/AVV/DPA-EN.pdf>) resp. for Contractors with company address outside of the EU: [\[Docs/Suppliers/AVV/DPA-EN-Non-EU.pdf\]\(https://www.a1.digital/uploads/PDFs/Legal-Docs/Suppliers/AVV/DPA-EN-Non-EU.pdf\)\), so that the Customer can comply with its legal obligations.](https://www.a1.digital/uploads/PDFs/Legal-</a></p></div><div data-bbox=)

(6) All plans, models, sketches, materials and information of any kind made available to the contractor shall be returned to the Customer at the latest upon termination of the contract, at the Customer's option, or - should they so wish - destroyed under their supervision. The Contractor shall have no right of retention, for whatever legal reason.

(7) The Contractor shall be responsible for obliging in writing all persons involved in the performance of the services. This obligation to maintain secrecy shall satisfy the requirements of data protection legislation.

(8) The naming of the Customer as a reference, as well as the use of his logos, requires the prior express and written consent of the Customer. A granted approval is valid until revoked. The revocation by the Customer is possible at any time without observance of a certain period and without indication of reasons.

(9) The Privacy Policy for Suppliers is available under <https://www.a1.digital/privacy-policy/>.

(10) The above obligations shall also apply beyond the term of the contract.

(11) In the event of a breach of statutory data protection provisions or other agreed confidentiality obligations by the Contractor, payment of a penalty amounting to 20% of the order amount per breach shall be agreed. Irrespective of the payment of the penalty, the Customer shall be entitled to assert a claim for damages in excess thereof.

#### **15. Force Majeure**

(1) In cases of force majeure, such as natural disasters, strikes, public unrest, epidemic diseases, public terror, none of the contracting parties shall be liable.

(2) The party that has been affected by the event of force majeure is obliged to notify the other contracting party immediately. In the event of a complete interruption of the provision of services, the client shall not be



obliged to pay the agreed fee for the duration of the complete interruption.

(3) In the event that the interruption of performance lasts longer than one month, each of the contracting parties shall be entitled to withdraw from the contract.

#### **16. Performance of the Contract by third parties, subcontractors, consortium**

(1)The Contractor shall only be entitled to commission subcontractors with the prior written consent of the Customer if those subcontractors can prove the required suitability. However, the complete passing on of the order is prohibited.

(2)Should the order be placed with a bidder/working group, its individual members shall be liable for the fulfilment of the order to the Customer in undivided hands.

(3)If the Customer gives his consent, the Contractor shall ensure that all subcontracts issued within the framework of the relevant order are designed in such a way that the Contractor can fulfil its obligations towards the Customer without restriction.

(4)The liability of the Contractor shall neither be affected by the subcontracting nor by the information about the structure of the subcontracting relationship nor by the consent to this by the Customer.

#### **17. Assignment of Claims**

(1)Assignment shall be prohibited with respect to all claims to which the Contractor is entitled against the Customer in connection with a contract based on these GTC, including its initiation.

(2)The Customer shall be entitled to assign the rights and obligations arising from the contract in its entirety or individually to any company affiliated with it. The Contractor's consent to this shall not be required.

#### **18. Retention, Settlement**

(1)The Contractor shall not be entitled to retain and/or cease services in case of a dispute.

(2)The Contractor shall have the right to set off claims against claims by the Customer only if such claims have been recognised by court or by the Customer.

#### **19. Foreign Trade, Export**

(1)The Contractor undertakes, in the case of cross-border provision of services, to obtain all permits required under export law on his own responsibility and at his own expense and to comply with all relevant laws and regulations.

(2)Insofar as the Contractor has obtained the services in whole or in part from third parties, he guarantees to have obtained them from secure sources that have been exported, imported or rendered in compliance with and compliance with export and other relevant legal regulations of the country of manufacture / dispatch.

#### **20. Miscellaneous**

(1)All amendments or supplements to an agreement must be made in writing in order to be effective. This shall also apply to any waiver of the written form.

(2)In addition, orders, delivery call-offs as well as changes and amendments thereto - with corresponding approval by the Customer, which is printed on the document as information - may also be transmitted electronically (e.g. by e-mail). Such transmission shall be deemed to be a legally effective declaration according to the will of the parties.

(3)The language of the contract shall be exclusively German or English; this shall also apply to communications concerning the contract.

(4)Declarations shall be deemed to have been received by the other party if they have arrived at the address last notified by the latter or could not be delivered because the other party is no longer established there. The date of receipt within the meaning of this provision shall be decisive for the timeliness and effectiveness of declarations.

(5)Unless otherwise agreed, the Contractor shall not be entitled to transfer rights and obligations arising from the contractual relationship, including claims for payment (in particular through the sale of receivables)





and any claims for damages, to third parties without the consent of the Customer. The only exception to this is the transfer of rights and obligations by way of universal succession. If rights and obligations are transferred to any successors in total or in part to the Customer as well as to affiliated companies of the Customer, the Contractor's consent shall in any case be deemed to have been granted.

(6) Should individual provisions of this contract be invalid or impossible in whole or in part, the validity of the remaining provisions of this contract shall not be affected thereby. In this case, the parties undertake to replace the invalid or impossible provision in whole or in part with a valid or possible provision that comes closest to the purpose of the provision to be replaced - in view of the overall contract - and comes closest to the intention of the parties at the time of conclusion of the contract. This shall not apply if adherence to the contract would represent an unreasonable hardship for one of the parties.

(7) The agreement, the obligation established herewith and all contractual and non-contractual claims in connection therewith shall be governed by Austrian law to the exclusion of the mandatory standards of international private law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods. This also applies to the conclusion of the agreement. The exclusive jurisdiction of the competent court for 1010 Vienna shall be agreed for all disputes in connection with the contractual obligation.