

# GENERAL TERMS AND CONDITIONS – UP Engineering

## 1. General

1.1. Up Engineering Tervező Iroda ("UP Engineering") performs engineering services in accordance with the following terms and conditions. Any terms and conditions stipulated by Customer and divergent from or supplementary to these terms and conditions shall not be binding unless confirmed by UP ENGINEERING in writing.

1.2. The offer and its acceptance as well as changes and supplements thereto must be in writing. Verbal subsidiary agreements or subsequent contract amendments shall not be binding unless confirmed by UP ENGINEERING in writing.

1.3. If engineering service is to be provided by UP ENGINEERING without the scope of work being specified in detail, "engineering service" shall mean the development of reasonable solution from a technical point of view for a certain technical problem, e.g. by generating technical concepts, drawings and constructions. Services to be provided in addition to engineering services will be invoiced separately.

1.4. UP ENGINEERING is entitled to carry out over and above work necessary to maintain and/or restore airworthiness without Customer's specific consent provided no obvious disparity exists between over and above work and value of the order.

## 2. Prices and Payments

2.1. The firm fixed prices and hourly rates set forth in UP ENGINEERING's quotation current upon conclusion of the contract shall apply. Foreign currencies will be converted to Euro at an exchange rate valid upon conclusion of the contract. All prices are net prices plus VAT, if applicable, in force at the time. If supplies or services are to be provided later than 3 (three) months after conclusion of the contract, the prices prevailing at that time shall apply.

2.2. UP ENGINEERING may demand an advance payment upon placement of the order.

2.3. Place of performance for payments of Customer shall be UP ENGINEERING's place of business. Payments shall be made in cash and in Euro, or in US Dollars in accordance with provided quotation, immediately after acceptance and prior to taking delivery without discount or other deductions.

2.4. Offsetting of amounts with counterclaims is only permitted with such claims arising from the same contractual relationship that have been stated or are imminent to be stated by a non-appealable court decision, or which are undisputed by UP ENGINEERING.

2.5. Default interest will be charged towards entrepreneurs at 8 (eight) percentage points and towards consumers at 5 (five) percentage points above the then valid base interest rate published by the Deutsche Bundesbank. UP ENGINEERING's right to claim a higher damage caused by the default is not limited thereby.

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### **3. Partial Deliveries, Terms, Delay in Performance**

3.1. Partial deliveries and partial services are permitted provided Customer will not be unreasonably burdened thereby.

3.2. Delivery times and dates shall be binding only if agreed upon in writing and provided that the extent of the supplies and services is adequately and clearly defined in writing.

3.3. If UP ENGINEERING for reasons beyond its control does not receive correct or timely service or cooperation from subcontractors or suppliers, UP ENGINEERING shall be entitled to withdraw from the contract, provided that UP ENGINEERING has informed the Customer about the non-availability of the services without undue delay. Customer shall be entitled to withdraw from the contract, provided that he has given to UP ENGINEERING a reasonable period for fulfilling the contract. Any consideration, already made by the Customer, will be refunded, if the contract is withdrawn by either party. This Article 3.3 shall not apply towards consumers.

3.4. In the event of delay in delivery UP ENGINEERING shall be liable - provided Customer is entrepreneur and furnishes proof of relevant damage - to pay not more than 0.05 % (zero point zero five percent) for each day of such delay, but only up to a maximum of 5 (five) % of the value of that portion of the order which as a result of such delay could not be used in due time or in the proper way. Such limitation of liability shall apply only to the extent that the delay does not result from willful intent or gross negligence.

### **4. Acceptance**

If acceptance of the work provided by UP ENGINEERING is required, the Customer shall perform such acceptance promptly upon receipt of a notification of completion. Acceptance shall automatically be deemed to have taken place not later than one month after receipt of the notification of completion. If the Customer proves that receipt took place later than 2 (two) weeks after dispatch, the period of one month will be extended automatically for the time exceeding 2 (two) weeks. This does not affect the risk for Customer to get in default already prior to expiry of the aforementioned period of one month.

### **5. Defects in quality or title**

5.1. The statutory claims of Customer in case of defects in quality or title shall be restricted or modified as follows: 5.1.1. In case the Customer is entitled to elimination of a defect, UP ENGINEERING may choose - considering Customer's justified interest - to fulfill its obligation by replacement or rework.

5.1.2. In case Customer is an entrepreneur claims based on defects shall be subject to a limitation period of 6 (six) months after the statutory commencement of the limitation period.

5.1.3. In case of services to be provided, Customer is not allowed to eliminate the defect by himself and to claim reimbursement of expenses.

5.1.4. Damage claims are governed by Section 6 herein below.

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5.2 Damages claims are excluded:

5.2.1. for spare parts or materials not manufactured by UP ENGINEERING, if the Customer is an entrepreneur. UP ENGINEERING's warranty claims, if any, against designed or suppliers will be assigned to Customer.

### **6. Liability**

6.1. Claims for damages or expenses of the Customer (“damages”), independently from their legal foundation, in particular arising from a violation of contractual obligations and from tort, are excluded.

6.2. This does not apply to the extent UP ENGINEERING's liability is mandatory by law, e.g. according to product liability laws, in the case of willful intent or gross negligence of its legal representatives, in the case of death, personal injury, damage of health or a violation of essential contractual

obligations. Unless damage has been caused by willful intent or gross negligence by UP ENGINEERING's legal representatives or managerial personnel, UP ENGINEERING shall be liable in the case of violation of essential contractual obligations not resulting in personal injury or damage to health limited to a typical direct average damage foreseeable upon conclusion of the contract. The above Chapters do not imply any modification to burden of proof to the detriment of the Customer.

6.3. To the extent the Customer is entitled to claims for damages according to this Article, the claims become timebarred upon expiry of the time period according to Article.

5.1.2. This does not apply to claims for damages resulting from willful intent, gross negligence or damages according to product liability law, for which cases the legal regulations shall apply.

6.4. The Customer is obliged to give UP ENGINEERING notice without any delay of any damages and losses, for which UP ENGINEERING may be responsible and allow UP ENGINEERING to take records.

6.5 Claims for delay in delivery are finally laid down in Article 3.4 hereinabove.

### **7. Licenses, Confidentiality, Penalty**

7.1. All rights in relation with the engineering service provided to the Customer remain with UP ENGINEERING, except for rights of third parties. UP ENGINEERING will grant to Customer a restricted non-assignable right of use to be determined by individual agreement, provided UP ENGINEERING is holder of the respective right (“License”). The License is restricted to Customer's internal use, as far as necessary to achieve the agreed purpose. In the case a certain purpose is not agreed, the License is restricted to the aircraft explicitly specified by the Customer, otherwise to all aircraft of the same model which are owned or operated by the Customer and registered in the country of the Customer's principal place of business.

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7.2. The License expires automatically, if the Customer is in delay, wholly or in part, with payments due for engineering services. The License will come into force again, after the Customer has settled the amounts in delay and UP ENGINEERING has confirmed complete receipt in writing.

7.3. The Customer shall treat confidential any and all information and documents received by UP ENGINEERING and not disclose such to third parties unless approved by UP ENGINEERING in writing. This obligation shall not be affected by the termination, by notice or otherwise, of the agreement between the parties.

7.4. The Customer shall make sure by means of appropriate technical / organizational measures and agreements to be imposed, that confidential information will be disclosed only to those employees, in relation to whom disclosure is necessary, and that unauthorized persons cannot have access to such information.

7.5. In the case of unauthorized transmission or use the Customer shall be obliged to pay to UP ENGINEERING a penalty of 5.000 (five thousand) Euro per occurrence, each singular act being deemed as individual infringement, the penalty not being subject to set-off with claims of damages in favor of UP ENGINEERING.

### **8. Retention of Title, Pledge and Right of Retention**

8.1. Until UP ENGINEERING's supplies and services are fully paid - including compensation for default, if any - UP ENGINEERING shall retain title to all goods delivered under the relevant contract. If Customer is an entrepreneur, retention of title is extended to all claims resulting from the business relationship whereby UP ENGINEERING commits itself, upon Customer's request, to release collaterals to the extent that its value exceeds any claims to be secured but not yet settled by more than 20 %.

8.2. Customer shall not be allowed to sell, pledge and transfer as a security or otherwise dispose of the goods subjected to UP ENGINEERING's retention of title until UP ENGINEERING's prior written approval is obtained.

8.3. If the goods subjected to UP ENGINEERING's retention of title are drawn upon by third parties (e.g. by seizure), Customer shall advise third party about such retention of title and immediately inform UP ENGINEERING of such event.

### **9. Applicable law and Jurisdiction**

9.1. The law of the Hungary to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods shall apply.

9.2. If Customer is a merchant, a public law entity or a special fund under public law or has no general place of jurisdiction in the Federal Republic of Hungary, the exclusive place of jurisdiction shall be UP ENGINEERING's place of business in UP ENGINEERING shall also be entitled to institute legal proceedings at Customer's place of business or before any other court of competent jurisdiction under domestic or foreign law.