

Airborne Technologies GmbH - General Terms and Conditions for Data Services

1. General

- 1.1 The General Terms and Conditions of Data Services set out below apply to all contracts concluded between Airborne Technologies and the customer concerning the provision of data services. The General Terms and Conditions of Data Services are an additional and integral part of the contract(s) concluded between Airborne Technologies and its customers.
- 1.2 In addition, they apply to all future business conducted between Airborne Technologies and the customer, even if they are not expressly agreed upon again.
- 1.3 The customer's terms and conditions are herewith expressly excluded.
- 1.4 Airborne Technologies reserves the right to make changes to the subject of the contract within the limits permitted by the law. If contractual services are agreed upon which can only be carried out subject to approval from public authorities, then changes may be made in order to receive approval from the authorities. All changes to a contract after that contract has been signed can only be considered if any resulting additional costs are accepted by the customer and the customer allows Airborne Technologies sufficient time to incorporate them.
- 1.5 In addition to these General Terms and Conditions of Data Services, the technical conditions and specifications as well as any technical documentation supplied to the customer, shall expressly apply.

2. Scope of services provided

- 2.1 The subject of the contract is the service(s) stated in the order confirmation or in the contract. Where these have not been settled in the written agreements between the contractual parties, the terms of reference, the approach to be taken and the nature of the deliverables are defined by the proposal supplied by Airborne Technologies.
- 2.2 Changes, additions or extensions to the terms of reference, the approach to be taken or to the nature of the deliverables made by the customer must be especially agreed in writing to be valid.
- 2.3 If an order confirmation supplied by Airborne Technologies contains changes compared to the order placed, these changes are deemed to have been accepted by the customer if the customer does not reject them in writing within 14 days.

3. Obligations of the customer

- 3.1 The customer undertakes to support the activities of Airborne Technologies. In particular, the customer must, at his cost, fulfil all conditions necessary for the service to be supplied that are within his sphere of control.
- 3.2 The customer must ensure that all documentation necessary for the execution of the order is made available in good time to Airborne Technologies, without the latter having to make a specific request for it, and that Airborne Technologies is informed of all matters and circumstances which could be of relevance for the execution of the order. This applies also to all documentation, matters and circumstances which only become known once Airborne Technologies has commenced its activities.
- 3.3 If the customer fails to fulfil the necessary conditions, he will be required to remunerate Airborne Technologies separately for any ensuing periods of idle time (which shall be documented).

4. Pricing and payment

- 4.1 If the customer supplies a written specification (project or tender documentation), in which in particular the exact scope and timing of the order is described, Airborne Technologies will submit a binding quotation.
- 4.2 Preparatory work requested by the customer, such as service specifications, project documentation, plans, drawings etc., is, unless otherwise agreed, chargeable.
- 4.3 In the case of late payment Airborne Technologies reserves the right to charge interest of 12% p.a. of the total outstanding amount.

5. Alterations to the order

- 5.1 Airborne Technologies will perform additional services at the request of the customer if these become necessary for the execution of the services agreed in the contract. The cost of these additional services will be based on the pricing for the contractually agreed services, while taking into account any particular costs for the services requested.
- 5.2 Airborne Technologies will give notice to the customer of an additional right to remuneration prior to carrying out the services. Agreement must be reached on the charges for the changed or additional services prior to them being carried out.

6. Duties of the customer

The customer undertakes to carry out the following duties:

- obtaining the necessary approvals and permits from public authorities, the costs of which must also be borne by the customer;
- checking all documentation that has been given to him or will be given to him or must be obtained by him in the future, to ensure it is complete and technically correct and fit for purpose;
- supporting all the activities necessary to execute the order – in particular, the customer must, at his cost, fulfil all conditions necessary for the order to be carried out that are within his sphere of control.
- providing, in good time and at his own cost, all the data and other information necessary for the order to be carried out, to Airborne Technologies.

7. Assignment and transfer

- 7.1 The assignment of claims to Airborne Technologies requires the written agreement of Airborne Technologies to be effective.
- 7.2 Airborne Technologies is entitled to assign claims arising from this contract to third parties. Furthermore, Airborne Technologies is entitled to transfer all rights and duties arising out of the contract to a third party, provided the third party takes on the rights and duties arising out of the contract in their entirety.

8. Warranty

- 8.1 Any defects must be notified in writing and sent by registered post at the latest within 14 days of the service(s) being provided and accompanied by a detailed description of the defect characteristics; otherwise all liability is excluded. If notification of a defect is not made, or not made in time, the services or goods supplied are deemed to have been accepted. The enforcement of warranty claims or claims for damages in such cases is precluded.
- 8.2 Claims for a change to the contract or for a reduction in price are precluded. Claims for corrective or follow-up work on incomplete services will be met by Airborne Technologies within a reasonable period of time. No claim can be enforced for damages arising from late delivery of services within this period.
- 8.3 All rights on the part of the customer because of defective services lapse within 6 months of the service being provided by Airborne Technologies, or six months after completion by Airborne Technologies of the activity objected to.
- 8.4 Airborne Technologies may refuse to carry out the corrective work if the customer has not fulfilled his payment obligations on those parts of the services provided that are free of defects.
- 8.5 Airborne Technologies does not offer any warranty on defects caused in particular by inappropriate installation, use or adaptation by the customer or by third parties; as well as for any attempts to repair equipment which were not authorised in writing by Airborne Technologies; or for any improper or abnormal operating conditions, as well as for atmospheric, static or electric discharge or natural wear-and-tear.
- 8.6 Furthermore, Airborne Technologies does not warrant for faults, breakdowns or damages resulting from inappropriate operation, changes to operating system components, interfaces and parameters, use of inappropriate organisational material or data carriers where these have been specified, or for transport damages.

9. Liability

- 9.1 Airborne Technologies is only liable for damages caused by intentional or gross negligence of the type that is typical for such contracts and which could have been foreseen – the customer must demonstrate that there is/was evidence of such negligence. Liability for slight negligence is precluded.
- 9.2 Airborne Technologies' liability is in general limited to the sum of the insurance existing for each individual instance of damages. In the case of gross negligence, additionally, Airborne Technologies' obligation to pay damages is limited to the value of the order.
- 9.3 No liability is accepted for loss of profit, consequential damages or damages to assets, or for damages claimed by third parties against the customer.
- 9.4 Under no circumstances is Airborne Technologies liable for damages, which the customer could have avoided by taking reasonable measures – in particular, through backing up programs and data or providing sufficient training.
- 9.5 If a third party is used for an activity – e.g. a data processing company – and the customer is informed of this, in accordance with the law and with the terms and conditions of the third party, any warranty and/or damages claims arising against that third party are deemed to have been assigned to the customer. Airborne Technologies is at fault only for the selection of the third party.

10. Force majeure

- 10.1 All events and circumstances beyond the control of Airborne Technologies and which make it impossible or unreasonable for Airborne Technologies to meet its contractual obligations, in particular incidences of force majeure such as the weather and bad weather conditions, in particular snow(fall), wind, fog, rain and bad light conditions, entitle Airborne Technologies to postpone fulfilment of its contractual obligations for the length of time that the impediment exists and a reasonable preparation time beyond that. On a par with incidences of force majeure are strikes, lock-outs, bans or restrictions on flying and similar circumstances which make it significantly harder or impossible for Airborne Technologies to carry out the service.

11. Right of termination by Airborne Technologies

- 11.1 If the customer fails to comply with one of the conditions in point 3 or to make another contribution incumbent upon him, Airborne Technologies is entitled, after issuing an appropriate final deadline which must not be shorter than 14 days, to terminate the contract.
- 11.2 Airborne Technologies reserves the right to claim payment in such a case. The right of Airborne Technologies to claim compensation for the extra cost as well as the damage caused by the contravention of contractual obligations remains. Airborne Technologies has the right to make these claims even if it does not exercise its aforementioned right to terminate the contract.

12. Intellectual property rights

- 12.1 Rights of use – the customer does not become the owner of analog or digital data transferred to him, but rather, acquires a non-exclusive right to use that data. Airborne Technologies continues to be entitled to use the transferred analog and digital data itself, and to grant third parties rights of use thereof. The intellectual property rights to documentation and data drawn up, processed and transferred by Airborne Technologies are retained by the company.
- 12.2 Licence agreement - the customer is obliged to ensure that the documentation drawn up and data captured/processed by Airborne Technologies in the course of carrying out an order is only used for the purpose specified in the order. Use of data supplied by Airborne Technologies for a purpose over and above this (in particular, for processing, presenting, copying, circulating, making public or making generally available) requires a special licence agreement to be concluded between the customer and Airborne Technologies. In accordance with the customer's needs, the duration and scope of the licensed activities will be set out in this contract.
- 12.3 Documentation and the data captured – or extracts thereof - may not be made available to third parties without the express written permission of Airborne Technologies. In the event of use of documentation/data in contravention of the contract, the customer will be liable in full for any damages caused to Airborne Technologies. The customer is also liable for contraventions of use by his contractual partners (employees, subcontractors and other third parties). Airborne Technologies is entitled to use technical measures to prevent misuse of data.
- 12.4 In the event of these provisions for the protection of documentation and data being contravened, Airborne Technologies is entitled to claim a contractual penalty with a value twice that of reasonable remuneration for the unauthorised use, although the right still remains to enforce a claim for damages over and beyond this. The onus of proof lies with the customer to prove that he did not use documentation belonging to Airborne Technologies.

13. Particular duties of the contractual parties

13.1 The contractual parties are mutually obliged to keep information on operational and business secrets confidential.

13.2 The customer gives his permission for personal data to be captured, processed and transmitted by Airborne Technologies provided, and to the extent, that this is necessary for the execution of the services offered by Airborne Technologies.

14. Retention of title

Airborne Technologies shall retain title to all services, data, information and other goods supplied by Airborne Technologies until such time as all payments have been made in full, regardless of the cause in law.

15. Applicable law, place of performance and place of jurisdiction

Austrian law shall apply exclusively to the order, its execution and any claims arising from it. The place of performance is: 2700 Wiener Neustadt, Austria. The place of jurisdiction shall be the relevant court for this company in Austria.