

# General Terms & Conditions for RoBird®

RoBird® is a registered trade name of Clear Flight Solutions B.V.

## 1. Applicability

- a. These general terms and conditions apply to all offers, quotations and agreements to which Clear Flight Solutions B.V. (CoC number 56049862) (hereinafter referred to as: "Clear Flight Solutions") is a party, including the provision of consultancy services or the engagement of third parties.
- b. Any deviations from these general terms and conditions must be agreed in writing.
- c. In the event of any discrepancy between a provision of these general terms and conditions and a provision of an agreement concluded with Clear Flight Solutions, the contents of the agreement concluded with Clear Flight Solutions will prevail.
- d. If it becomes apparent that one or more of the provisions in these general terms and conditions are invalid or will become invalid, or otherwise become legally ineffective, the other provisions will, wherever possible, remain in force.
- e. Clear Flight Solutions reserves the right to amend these general terms and conditions with immediate effect. Any such amendments apply only to future offers, quotations and agreements, and will be communicated to the customer in writing.
- f. Conditions that deviate from the agreements made in these general terms and conditions, such as the purchasing conditions or other general terms and conditions of the customer, do not apply to the relationship between the parties, unless such conditions have been agreed in consultation with Clear Flight Solutions and have been explicitly accepted in writing by Clear Flight Solutions.
- g. If the customer has previously entered into an agreement with Clear Flight Solutions, and these general terms and conditions were applicable to any such agreement, the customer is deemed to have tacitly accepted the applicability of these general terms and conditions to subsequent agreements with Clear Flight Solutions.

## 2. Quotations and conclusion of agreement

- a. Offers and quotations from Clear Flight Solutions are provided on a no-obligation basis and are non-binding, unless expressly stated otherwise in writing.
- b. An agreement is concluded only when the customer's order is confirmed in writing by Clear Flight Solutions, or when Clear Flight Solutions has commenced fulfilment of the order.
- c. Agreements are concluded subject to the condition that Clear Flight Solutions receives complete and correct deliveries on time from its suppliers. The customer will be informed immediately if Clear Flight Solutions is unable to fulfil the order as a result of failure to deliver the correct goods, or failure to deliver on time, on the part of its suppliers.
- d. Services provided by Clear Flight Solutions in advance at the customer's request (including cost estimates) during the quotation process may be invoiced to the customer even if no agreement is subsequently concluded.
- e. Items provided by Clear Flight Solutions to the customer prior to the conclusion of an agreement are and remain the property of Clear Flight Solutions, irrespective of whether or not an agreement is subsequently concluded. Such items must not be duplicated or reproduced in any way, nor made available to third parties. Such items must be returned immediately at the request of Clear Flight Solutions, irrespective of whether or not an agreement is subsequently concluded.

## 3. Delivery periods

- a. Any delivery periods stated by Clear Flight Solutions are provided as an indication only and are non-binding. Clear Flight Solutions will strive to deliver within the stated period wherever possible. However,

if delivery is not made within the stated period, Clear Flight Solutions will not be considered in default of its obligations. If a delivery period has been agreed, the period commences on the day on which Clear Flight Solutions confirms the order.

- b. Delivery is made ex-works from Clear Flight Solutions. The customer is obliged to accept the goods as soon as they are made available. If the customer refuses to accept the goods or neglects to provide information or instructions required for delivery to take place, Clear Flight Solutions may store the goods at the customer's cost and risk. The risk of loss, damage or loss of value is transferred to the customer at the time the goods are made available to the customer.
- c. Clear Flight Solutions reserves the right to fulfil the agreement in phases and to invoice for each phase separately. If the agreement is fulfilled in phases, Clear Flight Solutions may suspend subsequent phases of fulfilment until the customer has approved the outcome of the previous phase in writing.

#### **4. Fulfilment of the agreement**

- a. Clear Flight Solutions will fulfil the agreement to the best of its knowledge and ability and in line with the standards of good professional practice, based on the latest technology available at the time. Clear Flight Solutions is obliged to make its best efforts in the fulfilment of the contract, but provides no guarantee that a specific result will be achieved.
- b. Clear Flight Solutions reserves the right to subcontract certain tasks to third parties. The provisions of articles 7:404, 7:407 para. 2 and 7:409 of the Dutch Civil Code do not apply.
- c. If Clear Flight Solutions or a third party instructed by Clear Flight Solutions performs work at the customer's site or a location nominated by the customer as part of the agreement, the customer will arrange the provision of all facilities that may reasonably be expected by the employees at no cost to Clear Flight Solutions.
- d. The customer will ensure that all information that Clear Flight Solutions indicates is essential to the fulfilment of the agreement, and that the customer may reasonably be expected to recognise as essential to the fulfilment of the agreement, is provided to Clear Flight Solutions in a timely manner. If the information required for the fulfilment of the agreement is not provided to Clear Flight Solutions in a timely manner, Clear Flight Solutions reserves the right to suspend fulfilment of the agreement and/or to invoice the additional costs incurred as a result of the delay to the customer, at the rates applicable at the time. Clear Flight Solutions is not liable for damage of any type resulting from its adherence to incorrect and/or incomplete information provided by the customer.

#### **5. Prices, additional work and reductions in scope of work**

- a. The price agreed with the customer includes the costs of the goods and services and the costs of any packaging. The price excludes VAT and other charges levied by the government.
- b. Clear Flight Solutions reserves the right to amend the price charged to the customer to reflect increases in the cost price that take effect more than three months after conclusion of the agreement.
- c. If, during fulfilment of the agreement, it becomes evident that the agreement must be amended or supplemented to ensure its proper fulfilment, the parties will agree on such amendments by mutual consultation and in a timely manner. If the nature, scope or content of the agreement is changed, whether at the request of the customer or a competent authority, and such changes affect the qualitative and/or quantitative aspects of the agreement, the original agreement may be affected. The originally agreed price may increase as a result of such changes. Wherever possible, Clear Flight Solutions will endeavour to announce such price increases in advance. Changes to the agreement may also result in a change to the originally indicated fulfilment period. The customer accepts that changes may be made to the agreement, including changes to price and fulfilment period.
- d. Clear Flight Solutions may reject a request to change the agreement, without being considered in default, if the requested change could have a qualitative and/or quantitative impact on, for example, the work to be completed or the goods to be delivered under the agreement.

#### **6. Payment and default**

- a. The customer must pay invoices from Clear Flight Solutions by the deadline stated on the invoice. If the invoice does not state a payment deadline, the invoice must be paid within 30 days of the invoice date. The customer is not entitled to withhold and/or offset payments.
- b. If the customer fails to pay the invoice on time, the customer will be considered in default, without (further) notice being provided. From this point, and without prejudice to the other rights of Clear Flight

Solutions, the customer is liable to pay statutory interest as set out in article 6:119a of the Dutch Civil Code.

- c. All costs incurred by Clear Flight Solutions in connection with the customer's failure to pay its invoices on time, whether judicial or extra-judicial in nature, will be charged in full to the customer.
- d. If the customer seeks to reach a debt repayment agreement with its creditors, files for bankruptcy, applies for a suspension of payments or personal bankruptcy, or if the company is seized and/or liquidated, or if the customer dies or is placed under legal guardianship and/or the credit limit provided to the customer by the credit insurer of Clear Flight Solutions is withdrawn and/or reduced, Clear Flight Solutions is entitled to terminate the agreement with immediate effect; in such cases, all sums owed to Clear Flight Solutions by the customer become payable immediately. Clear Flight Solutions reserves the right to claim damages in excess of this amount.

## **7. Retention of property rights**

- a. Even after the actual delivery has taken place, ownership of the goods delivered by Clear Flight Solutions is transferred to the customer only once it has made all payments that are or will become due to Clear Flight Solutions under the agreement, including, but not limited to, full payment of the purchase price, costs and any other sums owed under these general terms and conditions. The customer is required to store the goods delivered that are subject to retention of property rights with the required level of care and clearly labelled as the property of Clear Flight Solutions.
- b. If the customer fails to meet its payment obligations towards Clear Flight Solutions, and/or if Clear Flight Solutions has good reason to believe that the customer will fail to meet its obligations, Clear Flight Solutions is entitled to reclaim the goods delivered subject to retention of property rights, without any third-party involvement including, but not limited to, the involvement of a court. The customer hereby grants permission for Clear Flight Solutions to repossess the affected goods and to access the areas where the affected goods are located, as well as any other areas that provide access to the storage location.
- c. The customer is obliged to inform Clear Flight Solutions in writing if third parties assert any claim to the goods that are subject to retention of property rights of Clear Flight
- d. The customer is obliged to insure the goods against fire, explosion and water damage, as well as theft, for the duration of the retention period and to present these insurance policies to Clear Flight Solutions for inspection immediately at its request.
- e. Until ownership of the goods has been transferred to the customer, the customer is not permitted to transfer ownership of the delivered goods to third parties, to pledge or otherwise encumber the goods or to sell or make the goods available for use by any other party in any way, unless otherwise agreed in writing.
- f. If Clear Flight Solutions repossesses goods under this article, it will issue a credit note. The customer will then be credited for the market value of the goods at the time of repossession.
- g. If the customer sells the goods to a third party and the purchase price for the goods has not yet been received, or received in full, the customer must assign its claim on the third party to Clear Flight Solutions.

## **8. Force majeure**

- a. Any situation of force majeure affecting Clear Flight Solutions or a third party appointed by Clear Flight Solutions will result in the suspension of the affected party's obligations under this agreement for the duration of the force majeure situation, without Clear Flight Solutions being liable to pay any compensation for damages. Force majeure is defined as any situation which, against the will of Clear Flight Solutions or a third party appointed by Clear Flight Solutions, temporarily or permanently hinders its ability to fulfil its obligations under the agreement, where the costs and risk connected with the situation cannot be legally or reasonably deemed to be the responsibility of Clear Flight Solutions, including, but not limited to, strikes, war, extreme weather conditions, shortcomings on the part of suppliers and/or sickness of Clear Flight Solutions employees.
- b. In the event of a sustained situation of force majeure, Clear Flight Solutions reserves the right to dissolve the agreement, either fully or in part, without legal intervention, without being liable to pay any compensation for damages.

## 9. Liability of Clear Flight Solutions

- a. The liability of Clear Flight Solutions for all damage and costs arising either as a direct or indirect result of a shortcoming in the fulfilment of the agreement attributable to Clear Flight Solutions, and/or an illegal action on the part of Clear Flight Solutions, is in all cases limited to the repair or replacement of the defective products and/or the repeat performance of the service.
- b. Clear Flight Solutions cannot be held liable under any circumstances for indirect damage and costs including, but not limited to, production damage, lost profit and other indirect financial damage, transport costs, delay damages, costs, third-party damages, operational losses, lost production time and missed opportunities.
- c. Clear Flight Solutions cannot be held liable for damage caused by its staff or by Clear Flight Solutions during the delivery of products and/or services by contracted suppliers or other third parties. 4. Clear Flight Solutions cannot be held liable for damage arising as a result of incorrect information provided by the customer. Clear Flight Solutions cannot be held liable for printing or typing errors in or on diagrams, brochures or websites.
- d. Clear Flight Solutions cannot be held liable if the customer fails to follow the instructions provided for the product including, but not limited to, the safety instructions.
- e. The customer is required to indemnify Clear Flight Solutions against all claims by third parties for compensation for damages for which Clear Flight Solutions cannot be held liable under these conditions in its relationship with the customer.
- f. In all cases, the liability of Clear Flight Solutions is limited to the net invoice amount of the agreement in question.

## 10. IP/expertise

- a. All intellectual property rights, including patent rights, trademarks, design rights and copyrights, relating to the delivered goods and/or services, designs, expertise and information, are held solely by Clear Flight Solutions. The customer is granted only the rights of use and authority outlined in the agreement or in these general terms and conditions. If the customer requires Clear Flight Solutions to replicate or reproduce an item protected by intellectual property rights, the customer hereby declares that such action does not in any way infringe the said rights of any person aside from those of the parties. The customer indemnifies Clear Flight Solutions, both judicially and extra-judicially, against all consequences, including claims from any person other than the parties, of a financial or other nature, arising as a result of such replication or reproduction.
- b. The customer is aware that the expertise shared by Clear Flight Solutions will include confidential information and operating secrets of Clear Flight Solutions. Notwithstanding the provisions of article 11 of these general terms and conditions, the customer undertakes to keep such expertise confidential, and not to pass it on to nor make it available for the use of any person other than the parties, and to apply the expertise for the purpose for which it was intended. The phrase "other than the parties" in this context includes all persons working in the customer's organisation who are not required to apply the expertise. The customer is not permitted to remove or to amend any reference to intellectual property – in the broadest definition – from the delivered products and/or services or the expertise, including any references to the confidential nature of and secrecy surrounding the expertise.
- c. If the customer fails to comply with the provisions of clauses 1 and 2 of this article, the customer will immediately become liable to pay a fine of at least five thousand euros (€5000) per breach and per day that the breach continues, without prejudice to any further rights of Clear Flight Solutions, including the right to full compensation for damages and/or performance of the obligations under the agreement.
- d. If the customer is confronted with complaints or legal claims based on the accusation that expertise developed by Clear Flight Solutions infringes the intellectual property rights of a third party, the customer is obliged to inform Clear Flight Solutions immediately and in writing that a complaint has been received, providing a detailed statement on the content of the complaint; if this is not done, Clear Flight Solutions will be absolved of all of its liability towards the customer. Clear Flight Solutions alone will determine whether it wishes to take over the handling of the case, including the potential agreement of a settlement with the complainant, or whether the case will be handled by the customer. In the latter case, Clear Flight Solutions will support the customer as necessary in its defence against the complaint or legal claim. All reasonable costs incurred in the course of reaching a satisfactory resolution to the dispute will be paid by Clear Flight Solutions if it opts to handle the case itself. If the customer handles the case, the costs incurred must be paid by the customer. If Clear Flight Solutions decides to handle the

complaint or legal claim itself, the customer will grant Clear Flight Solutions the required mandates to act on its behalf, provide all required information, and cooperate with proceedings to enable Clear Flight Solutions to defend itself, on behalf of the customer where necessary, against the complaint and/or legal claim.

- e. If the final judgement of the court is that the expertise developed by Clear Flight Solutions infringes the intellectual property rights of a third party or if, in the opinion of Clear Flight Solutions, there is a reasonable chance that such an infringement has occurred, Clear Flight Solutions will take back the goods from the customer and credit the customer for the purchase costs, deducting a reasonable amount for use of the goods to that point, or will ensure that the customer can continue to use the delivered goods or a functionally equivalent alternative, at the discretion of Clear Flight Solutions. Consequently, the customer is required to relinquish the delivered goods without Clear Flight Solutions being obliged to reimburse the customer for any damages incurred.
- f. The arrangements in clauses 3 and 4 of this article do not apply if the infringement in question relates to changes that the customer applied or allowed other parties to apply to the expertise.
- g. Clear Flight Solutions cannot be held liable for the infringement of any intellectual property rights of any person other than the parties, except in the cases described above.

## **11. Confidentiality**

- a. The parties each agree to maintain confidentiality with respect to confidential information exchanged in the course of (the conclusion of) the agreement, specifically with regard to designs, expertise, documentation, photographs, drawings and sound and film recordings, etc. Information as defined in the previous sentence of this clause is always classed as confidential if marked as such by either of the parties.
- b. Without the prior written permission of Clear Flight Solutions, the customer is not permitted to show or make available to any person other than the parties, nor to copy, duplicate, distribute, assist in the publication of or otherwise use in any way, any text and/or images including, but not limited to, designs, expertise, documentation, photographs, drawings and sound and film recordings as described in the provisions of clause 1 of this article, in any manner or via any medium. This rule also applies to the customer's employees or third parties appointed by the customer.
- c. If the customer fails to comply with the provisions in clauses 1 and 2 of this article, the customer will immediately become liable to pay to Clear Flight Solutions a fine of ten thousand euros (€10,000) per breach and five thousand euros (€5000) per day that the breach continues, without prejudice to any further rights of Clear Flight Solutions including, but not limited to, the right to demand full compensation for damages and/or fulfilment of all obligations under the agreement.

## **12. Termination**

- a. The customer is legally considered to be in default of its obligations, without formal notice being required, if:
  - i. the customer fails to meet any obligation arising from the agreement and/or these general terms and conditions; or
  - ii. the customer is declared bankrupt, is granted a suspension of payments, becomes subject to personal bankruptcy, is placed under legal guardianship or if its assets or part thereof are seized, or if an application for any of the aforementioned measures is submitted; or
  - iii. the customer assigns the operational management or control of its business or a part thereof to another party, loses its status as a legal entity, is dissolved or placed into liquidation or if any other situation arises in which the customer's business ceases to operate; or • a pre-judgement attachment or executory attachment is placed on the customer's goods.
- b. In the situation referred to in clause 1, Clear Flight Solutions has the right to independently dissolve the agreement, either fully or in part, without issuing notice of default and without legal intervention, and without being liable to pay any compensation for damages to the customer, notwithstanding any other rights of Clear Flight Solutions including, but not limited to, the right to full compensation for damages. The agreement must be dissolved in writing.
- c. Sums invoiced by Clear Flight Solutions prior to dissolution for services already provided or goods already delivered in fulfilment of the agreement must still be paid by the customer and become due immediately upon dissolution of the agreement.

### **13. Applicable law and competent court**

- a. The agreement between the parties and these general terms and conditions are governed exclusively by Dutch law.
- b. Any disputes arising between the parties from the agreement, or from any further agreements in existence as a result of the initial agreement, will be settled by the competent court in the district of Overijssel. Clear Flight Solutions reserves the right, in spite of the provisions of this article, to file a complaint with any legally competent court.

### **14. Translation**

- a. If the customer receives a translation of these general terms and conditions, the Dutch text takes precedence.

**If employees are provided by or to Clear Flight Solutions, the provisions below apply in addition to articles 1 to 14:**

### **15. Provision of employees**

- a. Clear Flight Solutions may deploy employees to the customer, or the customer may deploy employees to Clear Flight Solutions, for the duration of a project. The period of deployment begins when the employee commences work. The employee will remain employed by the party deploying the employee. When the project ends, the employee's deployment with the other party will also end.
- b. Clear Flight Solutions may also terminate the project and the deployment on the grounds of any shortcoming on the part of the customer. The period of deployment will also end if the employee is declared unable to work.
- c. The period of deployment will be terminated by law if the party providing the employee is no longer in a position to deploy the employee because the employment contract in place between the deploying party and the employee has ended.
- d. Clear Flight Solutions will not be considered in default of its obligations to the customer and will not be required to pay any damages or costs to the customer if Clear Flight Solutions, for whatever reason, is no longer able to deploy the employee, or cannot deploy the employee in a timely manner.
- e. If one or more deployed employees are unable to execute the assigned work due to illness and/or inability to work, and the deploying party does not replace the affected employee(s), the party hosting the deployed employees is not liable to pay any compensation for the affected employee(s) for the period in question.

### **16. Tasks**

- a. The deployed employee works under the supervision and management of the hosting party. The hosting party will only assign to the employee such tasks that the employee may reasonably be expected to be capable of based on his or her role, experience and skills, within the scope of the agreements reached between the hosting party and the deploying party in relation to the activities involved in the execution of the project.
- b. The deploying party reserves the right, but is not obliged to, replace employees with other employees who possess the knowledge and skills required for the project.
- c. The parties agree that the working hours and rest periods for the employee, and all other conditions of employment for the deployed employee, will be the same as those applied by the hosting party, unless the conditions of the deploying party are more favourable. In such cases, the conditions of the deploying party apply. The customer will ensure that its working conditions satisfy all applicable legislation, including any applicable collective bargaining agreements.
- d. Prior to commencing the work, the customer undertakes to inform the employee of all applicable safety regulations.

### **17. Direct employment relationship**

- a. During the term of the agreement concluded between the parties and for a period of 12 months thereafter, the customer is prohibited from entering into any employment agreement with one or multiple employees of Clear Flight Solutions, or to employ any such person in any way, either directly or indirectly, or via a (legal) entity affiliated with the customer and/or company, and to involve such persons directly or

indirectly in any such company or entity, whether or not in return for payment, unless with the involvement of Clear Flight Solutions.

- b. In the event of any breach of clause 1 of this article, the customer will become liable to pay Clear Flight Solutions a fine of €40,000 (in words: forty thousand euros), payable immediately, for each breach, plus a fine of €5000 (in words: five thousand euros) for each day that the breach continues, without prejudice to the right of Clear Flight Solutions to demand fulfilment of the other party's obligations or compensation for damages.

#### **18. Liability and indemnification**

- a. The liability of Clear Flight Solutions for damage and/or costs incurred by the customer as a result of and/or in connection with the deployment and the fulfilment thereof by Clear Flight Solutions is limited to the amount that the liability insurer of Clear Flight Solutions will pay to Clear Flight Solutions or directly to the customer in the relevant case, subject to the understanding that no liability will be accepted for consequential damage.
- b. The customer indemnifies Clear Flight Solutions against all claims by the deployed employee based on article 7:658, 7:611 or 6:248 of the Dutch Civil Code or otherwise connected to or resulting from the project activity. The customer also indemnifies Clear Flight Solutions against all claims by third parties connected to or resulting from the project activity. The customer will take out adequate insurance to cover its liability under this agreement and will immediately present a copy of this insurance policy to Clear Flight Solutions at its request.