

Uplinx SLU (UPLINX) Terms and Conditions

- 1. Supply of Services, Support and Products.** UPLINX SLU ("UPLINX", "we" or "us" or "our") means the business entity legally registered with the Andorran government with company registration number 925983 and tax registration L-711298-N with its offices at Av. Sant Antoni 26, 1-1, AD400 La Massana, Andorra.

UPLINX SLU has acquired the software formerly produced by Uplinx Software Pty Ltd (ABN 64 135 679 551) the business entity legally registered with the Australian Government Business registrar <https://abr.gov.au/> with Australian Business Number (ABN) 64 135 679 551. Uplinx Software, UPLINX and its logo are registered and protected trademarks of Uplinx Software Pty Ltd in TM Number 1475850, 1475856, 1475857.

UPLINX agrees to supply goods ("Products"), professional services and support ("Support") and/or services ("Services") to the Customer on these standard Terms and Conditions of Trade. In the absence of an End User License Agreement (EULA) only these Terms and Conditions of Trade will apply to any relationship between UPLINX and the Customer. Where UPLINX and the Customer agree to enter into an End User License Agreement, these Terms and Conditions shall be applied together with the End User License Agreement.

- 2. Quotations.** UPLINX will provide a quotation for the supply of all Products, Support and Services. These quotations are valid for acceptance for 60 days from their issue date, unless otherwise stated on the quote. Any order should reference a quotation. Orders without referencing a quotation are not accepted.
- 3. Online Sales** – Software products which are purchased in our online shop at <https://www.uplinx.com/online-shop/> include software maintenance and support, as advertised on the relevant product pages on the UPLINX website. Once a license has been issued for any software product purchased online, no refund shall be provided. We encourage anyone to test thoroughly with the trial version before any purchase to check that it fully meets any expectations. The online shop is fully automated and enables customers to generate quotes. Upon purchase, an invoice and receipt will be rendered and the purchased contracts and licenses will be automatically delivered.
- 4. Payment.** The Customer agrees to pay all license fees, taxes and relevant charges. Our payment terms are strictly 30 days from the date of invoice, unless otherwise agreed in writing. Products will be invoiced upon receipt of a purchase order, or upon delivery of the product. In the case of software products, delivery of license contracts is typically within one business day after we have received an acceptable purchase order. Our invoice will state the due date, amount, currency and payment method. We offer credit card or bank transfer as payment method. UPLINX does not accept check.

The Customer's obligation to pay full license fees to UPLINX will be unconditional and not subject to abatement, setoff or defense of any kind. Once UPLINX has issued and delivered a license key for a purchase, the order is regarded as delivered and payment is due and the order is no longer cancellable.

Payment must not be withheld pending the settlement of any claims or disputes. In the event of an overdue amount owed by the Customer which is not paid following ten (10) working days written notice from UPLINX, UPLINX may impose a late payment charge of USD/EUR 200 for administrative costs.

UPLINX is also entitled to recover from the Customer any debt collection costs incurred by UPLINX as a result of any overdue payment owed by the Customer. Any invoices or written notices issued by UPLINX to you, whether delivered by email, fax or registered post shall assist the interpretation of this part of the Agreement.

- 5. Signed Contract.** Unless quotation or a purchase order issued in respect of this quotation specifies that it is subject to a separate contract signed by the parties, then these terms and conditions apply to this quotation and any purchase order issued in respect of it.
- 6. Purchase Orders.** Purchase orders for Products or Services constitute an offer by the Customer and may only be accepted by UPLINX in writing. Any amendments to purchase orders for Products or Services must be approved by UPLINX in writing to be effective. Only these Terms (no other terms and conditions which may be attached to or incorporated in a purchase order) form part of the agreement between the parties. Acceptance of a purchase order does not mean acceptance of any such terms or conditions.

Any order should reference a quotation and should be in the amount and currency of the quotation. Orders without referencing a quotation are not accepted. Quotes for the tools category of products can be obtained at our online shop at <https://www.uplinx.com/online-shop/>. Please note that to process purchase orders for tools, UPLINX charges an administrative surcharge of USD/EUR 75 that is printed on the quotation. To avoid this surcharge, please consider purchasing online with credit card in which case we do not require a purchase order.

- 7. Warranty.** UPLINX makes no warranty in relation to the Products or Services other than as contained in these Terms or as prescribed by a law which cannot be excluded or in the case of Products, as provided by the Products' respective manufacturers as made known to the Customer in the documents supplied by UPLINX or the manufacturer or as otherwise published or made known to the Customer. Defects in Services reported to UPLINX within 14 days of delivery of the Service will be rectified by UPLINX at no charge to the Customer. UPLINX will not provide claimed warranty services for defects or deficiencies in Products or Services which are caused by:
 - (a) external causes including natural disaster, fire, accident, neglect, misuse, vandalism, water, lightning, power surge or spike;
 - (b) the use of a Product for other than its intended purpose;
 - (c) the use with or connection of a Product to items not approved by UPLINX;
 - (d) the performance of maintenance or attempted repair by persons other than UPLINX or as authorised by UPLINX;
 - (e) changes made to the deliverables created by performance of the Services or to the operating environment;

(f) any configuration or reconfiguration by the Customer of the Products or other equipment with which the Products interface.

- 8. Late Payments.** In the event of an overdue amount owed by the Customer which is not paid following ten (10) working days written notice from UPLINX, UPLINX may impose a late payment charge of USD/EUR 200 for administrative costs.
- 9. Delivery.** UPLINX will use its reasonable endeavours to deliver Products or Services to the Customer by the date agreed but will not be liable for any delays in delivery caused by matters beyond its control. Freight charges incurred by UPLINX in delivering Products to the Customer will be invoiced to the Customer at cost unless quoted otherwise.

In cases where delivery of services and software licenses is not possible partially or in full within 6 months upon receipt of purchase order because Customer does not provide access, availability of staff or any other reason from the Customer's side which prevents UPLINX from delivering the order, the ordered items will be regarded as delivered and the purchase as completed..

- 10. Acceptance.** Unless the Customer gives UPLINX written notice of any aspect of a deliverable which is alleged by the Customer to be otherwise than in accordance with these Terms or any applicable specifications, within 14 days of the date of delivery of that deliverable, the Customer is deemed to have accepted that deliverable on delivery. Where the Customer puts a deliverable to commercial use, it is deemed to have accepted that deliverable on the first day of such use, whether or not a notice of the kind contemplated by this clause is given to UPLINX as required.
- 11. Refunds.** Once Customer has applied a license key for a Product, the order is regarded as delivered and payment is due and the Product cannot be returned.

Refunds for Product will be provided only if UPLINX has reproduced a reported issue and identified a defect in its software and is unable to provide fixed software within fifteen (15) working days.

The following circumstances do not entitle a Customer for a refund:

- (a) software defect cannot be reproduced by UPLINX;
- (b) functionality or feature is not usable due to missing functionality or software defects in 3rd party software;
- (c) is a minor defect with limited impact ie. software defect affects a sub set of all features of the software;
- (d) is outside the feature specification, does not meet requirements or used on not supported products;
- (e) missing or negligent preparation, evaluation or testing on Customer site;
- (f) installation, networking, performance or licensing issues.

- 12. Risk.** Risk of loss, theft, damage, deterioration or destruction of Products passes to the Customer upon the earlier of:
(a) delivery to the Customer;
(b) the taking of possession by the Customer; and
(c) the delivery to any carrier contracted to the Customer for delivery to the Customer.
- 13. Title.** The Products shall remain the full and sole property of UPLINX, whether modified or in its original form. The granting of a license confers no title or ownership in the Product and should not be construed as a sale of any right in the Product. Only after full payment has been received shall the Product be licensed to the Customer on the terms of the relevant license agreement provided with the Product. Any damage or loss of Products by the Customer prior to full payment, the Customer shall pay the amount in full.
- 14. Intellectual Property.** The Customer acknowledges that all intellectual property rights attaching to UPLINX's Products or arising out of the provision of Services are and will remain the full, exclusive and sole property of UPLINX.
- 15. Confidentiality.** UPLINX and the Customer agree that they will keep at all times as strictly confidential any confidential information that is disclosed or provided by one party to the other. In this clause, "confidential information" means information in any form but does not include information that is already in the public domain at the time that it is disclosed or becomes part of the public domain otherwise than as a result of an unauthorised disclosure by UPLINX or the Customer.
- 16. Termination.** Where Either Party
(a) makes default in any payment or breaches any of these terms; or
(b) commits an act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary or compounds with its creditors generally or has a receiver manager or administrator appointed over all or parts of its assets or passes a resolution for winding-up or a petition is presented for its winding-up, the other party may without prejudice to any of its rights or remedies under these terms or otherwise by notice to the defaulting party:
(a) terminate all or any purchase orders for Products or Services
(b) terminate these terms and conditions
Unless a license has been issued and a license key has been delivered, the customer may at any time by 30 days written notice to UPLINX terminate these terms and conditions and any or all purchase orders for Products or Services for its convenience. UPLINX shall thereupon, as directed, cease work and the Customer shall pay UPLINX as follows:
(a) the contract price for all products and services which have been delivered prior to termination; (b) the cancellation charges to cover UPLINX expenses related to cancellation of purchase orders which have been placed to external suppliers prior to termination

Once UPLINX has issued and delivered a license key for a purchase, the order is regarded as delivered and payment is due and the order cannot be terminated.

- 17. No Representations.** The Customer acknowledges that UPLINX has not made any warranty or representation, express or implied, in relation to the Products or the Services, including whether they are suitable for a particular purpose (whether such purpose was made known to UPLINX or not), unless provided in writing.

- 18. Disclaimer of Warranties and Limitation of Liability.** Neither party will be liable to the other for loss of profit, revenue, savings, goodwill or business opportunities and/or data or any damage to reputation or for any indirect, special or consequential loss or damage which may be suffered and/or incurred by either of them in connection with this agreement.

We offer our Products “as is” and are not making any warranties, conditions, representations or guarantees of any kind, whether express, implied, statutory or otherwise, including all express or implied warranties of design, merchantability, fitness for a particular purpose, title, quality and non-infringement, that our Products will meet your requirements or that our Products will always be available, accessible, uninterrupted, timely, secure, accurate, complete or error-free. Use our Products at your own risk. You hereby release us and our affiliates and the directors, officers, employees, agents, licensors and service providers from any claims, known or unknown, you have against them.

We will not be liable for indirect, punitive, incidental, special, consequential or exemplary damages, or for loss of profits, goodwill or data or other intangible losses, that result from the use of, or inability to use, our Products or any other aspect of this Agreement. Under no circumstances will we be liable for any Third-Party Products or Services, or activities of third parties, any connection to or transmission from the Internet, or for any damage, loss or injury resulting from hacking, tampering, theft or other unauthorized access.

Our aggregate liability to you for all losses or damages arising out of this Agreement or your use of our Products, even if we have been advised of the possibility of such losses, will not exceed the greater of the fees we received from you for our Products that are subject to the claim during the three-month period immediately preceding the date on which the damages arose and USD/EUR 100. The limitations of liability in this section also apply to claims brought based on any cause of action, including breach of contract, tort (including negligence), statute or other legal or equitable theory. If there is a law that limits how the limitation of liability in this section applies to you, our liability will be limited to the fullest extent permitted by law.

No advice or information, whether oral or written, obtained from us or elsewhere will create any warranty or condition not expressly stated in this Agreement.

If you are dissatisfied with our Products or believe that you’ve been harmed by your use of our Products or this Agreement, you may terminate your use of our Products (as set out above). That termination is your sole and exclusive remedy (and our sole and exclusive liability) under this Agreement.

- 19. No Implied Terms.** To the fullest extent permitted by law, the parties agree to exclude any terms which would otherwise be implied into these Terms by any statute. The liability of UPLINX for a breach of a condition or warranty is limited at the option of UPLINX:

(a) if the breach relates to goods, to the replacement of the goods or the supply of equivalent goods, or the repair of the goods, or the payment of the cost of replacing the goods or of acquiring equivalent goods or the payment of the cost of having the goods repaired; and

(b) if the breach relates to services, the supplying of the services again or the payment of the cost of having the services supplied again.

- 20. Variation.** Any variation to these Terms must be in writing. Variations to any of the Services agreed to be supplied will be charged by UPLINX at its then current rates for those additional services, unless otherwise agreed in writing.

- 21. General.** Notices must be in writing and sent by registered mail, hand delivery or transmitted by facsimile to the address or facsimile number of the receiving party and are deemed delivered, in the case of:

(a) hand delivery, on delivery;

(b) posting, three days after dispatch; and (c) facsimile, on completion of complete and legible transmission.

No leniency, indulgence or extension of time granted by UPLINX to the Customer will prejudice any of UPLINX’s rights in any way or constitute a waiver of any of UPLINX’s rights. If any of these Terms are for any reason declared to be or become unenforceable, invalid or illegal, the remaining Terms will remain in full force and effect. These Terms are governed by the laws of Andorra, and the parties agree to submit to the nonexclusive jurisdiction of the courts of Andorra.

- 22. Taxes.** The amount payable to UPLINX (“the Price”) is inclusive of existing taxes, duties and government charges imposed or levied in Andorra in connection with the supply of the Products and Services. The Customer is liable for any new or varied taxes, duties or charges imposed subsequent to UPLINX quotation or proposal or to this agreement in respect of the supply of the Products and Services.

- 23. Taxes within EU.** Our invoice or quote or quote does not contain VAT as export from Andorra to EU according to EU regulations. Please refer to: http://europa.eu/youreurope/business/vat-customs/cross-border/index_en.htm

- 24. Data Protection & the GDPR.** Please review our Privacy Notice (published at <https://www.uplinx.com/privacy-policy/>) for more information on how we collect and use data relating to the use and performance of our Products and Services.