

## General Terms and Conditions

### 1 General information

- 1.1 These General Terms and Conditions apply to all contractual arrangements entered into with Hawa Sliding Solutions AG, Mettmenstetten, Switzerland (Hawa), and they constitute an integral element of these contractual arrangements. **Hawa does not recognize contractual partners' contrary or alternative terms and conditions.**
- 1.2 In order to be valid, all agreements made between the contractual parties must be made in writing, especially in the case of any deviations from these General Terms and Conditions.
- 1.3 Third parties not party to the contract shall have no entitlement to the assertion of any provisions whatsoever of these General Terms and Conditions.
- 1.4 If any individual provisions contained in these General Terms and Conditions are deemed by a competent authority to be wholly or partially invalid or unenforceable, this shall not affect the remaining provisions or the remainder of the questionable provisions of these General Terms and Conditions.

### 2 Deliveries

- 2.1 Purchase orders shall only be binding on Hawa, if it has confirmed these in writing. If no specific time or date has been agreed for the delivery of supplies and services, Hawa shall deliver these in accordance with its standard business operations.
- 2.2 In the event of any ambiguities or disagreements concerning the content of a purchase order, Hawa's written order confirmation shall be authoritative, unless the contractual partner has raised an objection to the order confirmation within 24 hours (Monday – Friday), (this time limit shall be correspondingly extended if it expires on a weekend).
- 2.3 Hawa shall only be bound by dates and time limits for the delivery of supplies and services, if these have been defined in writing and confirmed by Hawa in a binding manner. Hawa's fulfilment of dates and time limits is conditional on the timely receipt of all the documents and releases required from the contractual partner and the fulfilment of all its other obligations. Dates and time limits shall otherwise be appropriately extended.
- 2.4 In the event that Hawa fails to meet confirmed dates and time limits, the contractual partner must afford it a reasonable additional period of time to deliver performance. If Hawa also fails to render delivery within this additional period of time, the contractual partner shall be entitled to rescind the agreement and demand the repayment of all payments already made. **The contractual partner shall have no farther-reaching rights or claims, especially not to any compensation for delayed performance, or for indirect or third-party damage.**
- 2.5 Hawa is entitled to make partial deliveries. In the event that the contractual partner is in default of payment, Hawa shall be entitled to withhold other agreed supplies and services, until all outstanding payments have been settled, and adequate collateral has been provided in respect of future supplies and services. The contractual partner has no right of rescission in the event that a delivery is withheld due to a default of payment.
- 2.6 Subject to any alternative agreement concluded between the contractual parties, deliveries shall be made ex Hawa's warehouse at the cost and risk of the contractual partner (see too No. 3.2). Return consignments of goods require the explicit, prior consent of Hawa. The contractual partner shall bear the costs of shipment and processing of return consignments (incoming goods inspection, including packaging, etc.). Custom-made products may not be returned.
- 2.7 Unless agreed otherwise with the contracting partner, the delivery terms shall be interpreted in accordance with Incoterms 2010 (International Commercial Terms), of the International Chamber of Commerce (ICC).

### **3 Prices and conditions of payment**

- 3.1 Agreements concerning prices, cash discounts and rebates, etc. shall only be binding on Hawa if agreed in writing. Otherwise the prices contained in Hawa's current price list or order confirmations shall apply. Hawa may amend these price lists at any time. The current price lists shall apply. Prices are listed in Swiss Francs (excluding VAT), unless otherwise explicitly agreed in writing.
- 3.2 Hawa reserves the right to pass on freight charges. The full freight or postage charge will be invoiced for express, postal or direct consignments. All taxes and charges will be passed on. Hawa reserves the right to charge packaging at cost price. Any requests for special packaging shall be charged separately.
- 3.3 Payment is deemed made, once the relevant amount is credited to Hawa's account. In the event of a default of payment, Hawa shall be entitled, without having to issue a reminder, to charge interest from the 31<sup>st</sup> day following the invoice date, at the rate charged by commercial banks on current account overdrafts, but no less than 5% in any case.
- 3.4 The contractual partner's payments will firstly be applied against the oldest outstanding payments. If costs and interest have already accrued, payments shall first be credited against the costs, then the interest, and finally against the principle debt.
- 3.5 Payments due to Hawa may only be offset against the contractual partner's counter-claims, if Hawa has consented to this or if a res judicata decision has been issued to this effect.

### **4 Retention of title**

- 4.1 The delivered goods shall remain the property of Hawa, until the payment of all of Hawa's claims against the contracting partner (including the settlement of all outstanding current account balances). In the event that various goods are combined, the retention of title shall endure in the relevant proportion of the value of the new goods. Hawa is entitled, without any involvement on the part of the contractual partner, to register the retention of title in the retention of title register ("Eigentumsvorbehaltsregister") of the competent debt enforcement office, and the contractual partner authorizes Hawa to undertake the actions necessary for this purpose.
- 4.2 If the contractual partner resells the goods prior to the fulfilment of all of Hawa's claims, **it here and now, by way of precaution, assigns to Hawa** (irrespective of any legally valid retention of title) **the corresponding claims established by way of the resale or arising through any other legal basis.**
- 4.3 In the event of any third-party interference with the goods subject to a retention of title arrangement, the contracting partner shall be duty bound to indicate Hawa's ownership of said goods, and notify Hawa accordingly.
- 4.4 In the event of default of payment on the part of the contractual partner, Hawa shall be entitled to repossess the goods delivered. Hawa's repossession of goods shall not constitute any termination of the agreement, and will not release the contractual partner from its contractual duties.

### **5 Product performance, obligations to provide information and instructions**

- 5.1 Unless the product performance is described in Hawa's current catalogues, brochures or service descriptions etc., the specifications of the specific products must be agreed with Hawa in writing. Unless an agreement has been made to the contrary, the technical specifications may be changed at any time.
- 5.2 The contractual partner acknowledges that the fitness for purpose of the products is dependent on a wide range of factors, and it undertakes to read the relevant design and assembly instructions.
- 5.3 In order to fulfil its obligations to provide information and instructions, Hawa provides contracting partners (usually specialist dealers, architects, designers, consultants, workshops/tradesmen, etc.) with

catalogues, brochures, design and installation manuals, maintenance manuals, operational advice and training.

- 5.4 Contractual partners are duty bound to observe Hawa's product information. All requisite instructions are available on Hawa's website, or can also be requested from Hawa. They must be passed on to workshops/tradesmen and users as necessary.

## **6 Drawings and tools**

- 6.1 Hawa reserves ownership to construction drawings prepared and issued by it specifically for a particular job. Unless Hawa has issued its consent, these may not be passed on to any other parties, or copied or otherwise reproduced.
- 6.2 Tools produced for special orders shall remain the property of Hawa. The contractual partner will not be able to demand them, even if it has contributed to the tool costs. Special agreements reserved.
- 6.3 Hawa shall not be liable for any and all consequences resulting from patent or other property right infringements resulting from deliveries made in accordance with the contractual partner's instructions. The contractual partner undertakes to indemnify Hawa fully and unreservedly in such cases.

## **7 Warranty of title, product warranty, liability**

- 7.1 Hawa guarantees that the products do not violate the intellectual rights of any third parties.
- 7.2 The contracting partner must inspect supplies and services for defects immediately upon receipt. Hawa must be promptly notified of any complaints; otherwise the purchased goods are deemed accepted.
- 7.3 With the exception of parts subject to wear and tear, Hawa warrants the flawless functioning of the products delivered by it, as well as the durability of all parts, for a period of 2 years commencing from the transfer of risk. This product warranty does not include damage due to natural wear and tear, improper use, failure to observe installation and maintenance instructions, changes to the goods as delivered or to spare parts that do not correspond to Hawa's original specifications.
- 7.4 Hawa may demand that the contracting partner return parts about which a complaint has been justifiably made; this shall be performed at the partner's **cost** and risk. Defects affecting parts of a delivery do not entitle the contractual partner to reject or return the entire delivery.
- 7.5 In the case of justified complaints, the contracting partner is entitled to subsequent improvement (repair) or replacement of the defective part (the decision resting with Hawa). Subsequent improvements or substitute deliveries performed by Hawa are covered by the same product warranty that Hawa extended to the original delivery, except this shall be limited in time to 6 months following the acceptance of the subsequent improvement or the receipt of the substitute delivery.
- 7.6 **All other liability**, irrespective of the legal basis, **is explicitly repudiated**, insofar as this is legally permissible. This applies particularly to indirect and third-party damage.

## **8 Applicable law, legal venue**

- 8.1 All contractual agreements concluded with Hawa shall **be exclusively governed by Swiss law** to the exclusion of the rules on the conflict of laws, and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 8.2 **The exclusive legal venue** for all disputes arising from or in connection with the contractual agreements between Hawa and the contractual partner **shall be that court with jurisdiction for the place at which Hawa has its registered address. Hawa is also entitled to pursue legal actions against the contractual partner before that court with jurisdiction for the place at which the latter has its registered address.**