

1. The Contract

The following terms, together with (i) such terms as are set forth on the face of Hawa AG's ("Hawa") Bid Form or Confirmation of Order, (ii) such plans, specifications or other documents as are incorporated by reference on the face of Hawa's Bid Form or Confirmation of Order and (iii) such additional terms as are approved in writing by Hawa, shall constitute the entire contract between Hawa and Buyer. THE CONDITIONS CONTAINED HEREIN SHALL TAKE PRECEDENCE OVER ANY OTHER CONDITIONS AND NO CONTRARY, ADDITIONAL OR DIFFERENT PROVISIONS OR CONDITIONS SHALL BE BINDING ON HAWA UNLESS EXPRESSLY ACCEPTED BY HAWA IN WRITING. In the case of sales outside of Switzerland, Buyer and Hawa expressly agree that the provisions of the U. N. Convention on the Sale of Goods (C.I.S.G.) are herewith excluded. A quotation furnished by Hawa does not constitute a firm offer and may be changed or revoked at any time. Such quotation, including calculations, descriptions, patterns, etc., made or supplied by Hawa ("Quotation") shall remain Hawa's property and Buyer agrees that such information contained in the Quotation is confidential and shall not be disclosed or otherwise used without Hawa's express prior written consent. Buyer agrees and acknowledges that the Products delivered under these terms shall be for Buyer's use only, and unless agreed to in a writing signed by Hawa shall not be for resale to any third party.

2. Price

Except as may be specifically provided on the face of Hawa's Bid Form or Confirmation of Order or as may be otherwise agreed upon in writing by Hawa and Buyer, the price stated on the face of Hawa's Bid Form or Confirmation of Order is net without any deductions whatsoever. All additional costs, including (but not limited to) charges for freight, packing, carriage, insurance, customs duties, fees for export, transit, import and such other permits and certificates as may be necessary, shall be borne by Buyer. If charges for packing, freight, carriage, insurance, customs duties or other additional costs are separately stated on the face of Hawa's Bid Form or Confirmation of Order and included in the price stated thereon, Hawa reserves the right to adjust its price should the costs on which such additional charges are based be modified. In addition, an appropriate price adjustment shall apply in case the delivery time has been substantially extended only due to any reasons stated in Section 5.

3. Taxes

Unless otherwise agreed in writing, Hawa's prices are exclusive of any federal, state or local property, license, privilege, sales, use, excise, gross receipts or other like taxes which may now or hereafter be applicable to, measured by or imposed upon or with respect to the transaction, the Products, its sale, its value or its use, or any services performed in connection therewith, and Buyer agrees to pay or reimburse any such taxes which Hawa or Hawa's sub-contractors or suppliers are required to pay.

4. Terms of Payment/Reservation of Title

Except as otherwise provided on the face of Hawa's Bid Form or Confirmation of Order, payment shall be due to Hawa thirty (30) days after Buyer's receipt of invoice. If Buyer does not observe the agreed dates of payment, Buyer shall, without any requirement of a formal notice from Hawa, pay interest to Hawa on overdue amounts from the date(s) due, at the rate of eight (8) percent per annum. Payment of such interest does not release Buyer from its obligation to make payments when due. Buyer shall not be entitled to any setoff claims or retention rights ("Counterclaims"), unless such Counterclaims are based on claims or rights against Hawa that are either: (a) undisputed or (b) legally binding with final force and effect and non-appealable. If, in the judgment of Hawa, the financial condition of Buyer, at any time during the manufacturing period or at the time the Products are ready for shipment, does not justify the continuance of the work to be performed by Hawa hereunder or the terms of payment specified. Hawa may require full or partial payment in advance. In the event of Buyer's bankruptcy or insolvency or in the event any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws. Hawa shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its proper cancellation charges and expenses. Hawa's rights under this paragraph are in addition to all rights available to it at law or in equity.

Terms of payment shall remain as specified, if the transportation, delivery, installation, commissioning or taking possession of the supplies or services is/are delayed or prevented due to reasons beyond Hawa's control, or if nonessential parts are missing, but to be supplied within a reasonable period of time. In the event that any payment or payments are not made by Buyer in accordance with the terms of the Bid Form or Confirmation of Order or as may be otherwise agreed upon, Hawa, at its option, may terminate the underlying contract, and be entitled to claim damages.

Buyer shall furthermore be responsible for the import of the Products into the country of delivery, if delivered outside of Switzerland. The Products shall be identified to the specific contract and risk of loss shall pass to Buyer when the Products are placed in the hands of a carrier. Title to the Products shall not pass to Buyer until all the amounts due to Hawa in respect of the delivery, including any interest and costs, have been paid. In addition, Buyer hereby grants to Hawa a continuing security interest in and a lien upon the Products and any additions or accessions thereof and all cash and non-cash proceeds (including but not limited to accounts receivable) and products thereof ("Collateral"). Upon Buyer's reasonable request, particularly in the event of any default in payment by Buyer, Buyer shall promptly notify Buyer's debtor(s) of Hawa's rights in the accounts receivable or other Collateral. Goods can only be returned with the express prior approval of Hawa. The cost of transporting and processing returned goods (incoming goods inspection including packaging, storage, etc.) will be borne by the contract partner.

5. Deliveries/Delivery Time

The date(s) specified for delivery on Hawa's Bid Form or Confirmation of Order are approximate and shall be reasonably extended if: (a) information required by Hawa from Buyer to execute the order is not received in a timely manner or if changes which delay delivery are agreed upon by Hawa and Buyer (b) Hawa is not able to make timely delivery by reason of hindrances which, despite due care, Hawa cannot avoid (inclusive of those occurring in the works of its major suppliers or third parties), such as epidemics, pandemics, act of civil or military authority, mobilization of armed services, war, riots, strikes, boycotts, picketing, lock-outs or other disturbances, serious breakdowns, accidents, labor conflicts, delayed or deficient delivery of necessary raw materials or semi-manufactured and manufactured products, the need to scrap important components due to defective casting, official or other measures of whatever kind, transport difficulties, natural catastrophes, and any acts of God; or (c) if Buyer or a third party is behind schedule with work which it has to carry out, or late in fulfilling its contractual obligations (including, but not limited to failure by Buyer to observe the terms of payment).

Hawa shall not be liable for any loss or damage to Buyer resulting from any delay in delivery, except as noted below.

Buyer shall be entitled to claim liquidated damages for delay in delivery, out only in such case as it can prove that said delay has been caused by direct fault of Hawa and that Buyer has suffered a loss as a result of such delay. Notwithstanding anything to the contrary, damages for delayed delivery shall in no cases exceed one-half (1/2) of one percent (1%) for every full week of delay and shall in no case whatsoever exceed a total of five percent (5%) of the sales price ex works (excluding packing) of that portion of the supplies which have been delayed. In no event shall any damages be due Buyer for the first two weeks of any delay.

The delivery terms are interpreted in accordance with Incoterms 2010 (International Commercial Terms), of the International Chamber of Commerce (ICC), unless agreed otherwise with the contracting partner.

6. Termination/Cancellation

Buyer shall have the right to terminate this contract in whole or in part, upon fifteen (15) business days prior written or telegraphic notice to Hawa, whenever it deems such action to be in its best interest, and Hawa shall thereupon stop all performance under this contract except as otherwise directed by Buyer. In the event Buyer so cancels this contract, Buyer shall pay to Hawa (a) the agreed unit prices for Products (or components or units of components) delivered and work completed; (b) the costs and expenses incurred by Hawa directly connected with work in addition to (a) above under this contract prior to the date of cancellation; (c) ten percent (10%) of the costs and expenses referred to in (b) above in lieu of profit; and (d) such other costs and expenses, including cancellation charges under subcontracts, as Hawa may incur in connection with such cancellation: provided, however, that under no circumstances shall the total of such payments exceed the total contract price.

7. Risk of Loss

Risk of loss of or damage to the Products shall pass from Hawa to Buyer upon delivery of the Products 'ex works' Hawa's facility, regardless of whether title has passed to Buyer, transport is arranged or supervised by Hawa, or installation or start-up is carried out under the direction or supervision of Hawa.

8. Technical Documents/Duty to Cooperate

Technical documents, furnished by Hawa to Buyer, such as drawings, descriptions, illustrations, designs and the like, shall be deemed provided to Buyer on a confidential basis, shall remain Hawa's exclusive property and shall be neither copied nor reproduced nor communicated to a third party in any way whatever nor used by Buyer for any purpose other than operation and maintenance. Technical documents submitted in connection with a Bid Form which does not result in an order shall be returned to Hawa upon request. Information in technical documents shall serve as an approximate indicator only unless otherwise agreed in writing. Buyer shall have a duty to fully cooperate with Hawa by requesting all necessary product and maintenance information from Hawa, and to submit such material to the processing staff's, principal's or user's complete disposal.

9. Warranty

Hawa warrants that the Products will adhere to Hawa's description and specifications will be the kind and quality described in the contract and will be free of defects in workmanship or material. Should any failure to conform to this warranty appear within two (2) years from the date of delivery, Hawa shall, in complete fulfillment of its liabilities under this warranty, if given prompt written notice by Buyer, latest within five (5) days of Buyer's detection of the alleged defect, correct by repair or replacement. Buyer shall be obliged to inspect the Products within fourteen (14) days after delivery. Except for any latent defects, any failure to inspect the Products within this period shall be deemed as an acceptance of the Products. This warranty shall only apply for any nonconformity which shall appear under Buyer's proper storage, installation, maintenance and use of the Products. Date of delivery starts when the Products leave Hawa's facility on an ex works basis. Buyer shall fully cooperate with Hawa and make the Products available for correction. In no event will Hawa be responsible for providing access to the defective part or parts or for the disassembly, removal, or reinstallation of the Products or components thereof.

For Products leased, replaced or repaired under this warranty, the warranty period will commence again and shall apply for a period not to exceed six (6) months after replacement or completion of the repair or replacement.

The warranty contained in this section will terminate immediately if Buyer or a third party undertakes inappropriate or improper modification or repairs or if Buyer, in case of a defect, does not immediately take all appropriate steps to mitigate damages and notify Hawa in writing of its obligations to remedy such defect. Correction of nonconformities in the manner and for the period of time provided above shall constitute fulfillment of all liabilities of Hawa to the Buyer, whether based on contract, negligence or otherwise, with respect to such Products. The warranty provided for in this Section 9 shall not be applicable if Buyer is in arrears with any payments due with regard to the respective Products. Furthermore, in the event of delivery of the Products in mass quantities, only defects in more than three percent (3%) of the Products delivered shall give rise to any warranty claims hereunder.

THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, OR OTHER WARRANTIES OF QUALITY, WHETHER EXPRESS OR IMPLIED.

10. Patents

(a) Hawa warrants that the Products and any component part thereof, in the particular form sold by Hawa, shall be delivered free of any rightful claim of any third party for infringement of any Swiss or US patent. If notified promptly in writing and given authority, complete information, cooperation and full assistance, Hawa shall defend or may settle, at its expense, any suit or proceeding against Buyer and any subsidiary so far as based on a claimed infringement which would result in a breach of this warranty. In such case, Hawa shall pay all damages and costs awarded therein against the Buyer due to, and resulting directly from such breach. The foregoing states Hawa's entire liability for any patent infringement.

(b) The preceding paragraph shall not apply to any Products or component part manufactured to Buyer's design, or to the use of any Products or component part sold hereunder in conjunction with any other product in a combination not furnished by Hawa as part of such transaction. As to any such Products, component part or use in such combination, Hawa assumes no liability whatsoever for patent infringement and Buyer shall indemnify Hawa against any infringement claims arising therefrom.

11. Limitation of Liability

Hawa shall not be liable for special, indirect, incidental or consequential damages such as, but not limited to, loss of profits or revenue, damage or loss of other property or Products or cost of capital. The remedies of Buyer set forth herein are exclusive, and Hawa's liability with respect to any contract or sale or anything done in connection therewith, whether in contract, in tort, under any warranty, or otherwise, shall not, except as expressly provided herein, exceed the cost of the Products or part on which such liability is based.

12. Indemnification

Buyer shall indemnify Hawa for all costs, damages and interests that may be incurred by the latter as a direct or indirect consequence of any action brought against it by third parties in respect to performance of this Agreement; Buyer shall be bound by virtue of this agreement to comply with a third party notice issued by Hawa.

13. Governing Law/Venue and Jurisdiction

This contract shall be governed by and construed in accordance with the laws of the country of Switzerland, without any regard to this country's or any other jurisdiction's conflicts of law principles. Buyer and Hawa stipulate and agree that the court of competent subject matter jurisdiction for the city of Mettmenstetten, Switzerland, shall have jurisdiction and both parties agree that such venue is proper in such courts for all actions or proceedings with respect to these Supply Conditions.