

# häwa – General Terms and Conditions

## § 1 Scope of application, protective clause

(1) Our General Terms and Conditions shall apply to all orders placed by us as well as the entirety of the products and services we supply. They shall be deemed accepted by our contractual partner upon taking or confirming the order or receiving the delivery.

(2) Any differing terms and conditions of our contractual partner shall not be an integral part of the agreement unless we have explicitly agreed to them in writing. These terms and conditions shall also apply if we provide the performance incumbent upon us unconditionally with the knowledge of other or conflicting terms and conditions.

(3) Our General Terms and Conditions shall apply to companies within the scope of Section 310 of the German Civil Code (BGB), legal persons under public law or special funds under public law. They shall also apply to any future business with our contractual partner.

## § 2 Offers, acceptance of contractual offers, contract documents

(1) Our offers are subject to change and shall be non-binding unless otherwise stated. Orders shall be deemed accepted only after written confirmation. The period of acceptance for offers submitted to us shall be four weeks.

(2) All stipulations in the contract require the written form to be valid. This applies equally to additions and amendments to the contract. At the time of signing the contract, no verbal ancillary agreements have been made.

(3) We will retain all property and copyrights for all figures, drawings, calculations and other documents. Any disclosure to third parties is not permitted without our express written consent.

## § 3 Prices, packaging, price changes

(1) Goods and services for which no fixed price has been explicitly agreed will be charged at the price applicable on the day of delivery of the goods or handover of service (current daily price). Unless otherwise agreed in the order or the order confirmation, our prices are quoted "ex works", packaging excluded. They do not include the statutory value added tax; the statutory rate applicable on the day of invoicing will be shown separately on the invoice and charged.

(2) For in-stock products, the packaging costs will be charged as a surcharge to the net price. The surcharge will amount to 3 % for rough finish packaging materials (cardboard boxes or corrugated board), 3 % for finish painted materials (cardboard boxes or corrugated board) and 5 % for finish painted materials (polyethylene film and/or cardboard boxes or corrugated board, if required). The minimum amount charged for packaging will be EUR 1.00.

(3) For orders below the minimum order value of EUR 150.00 (net) a service fee amounting to EUR 20.00 will be charged.

(4) In the event that subsequent to the submission of the offer or the signing of the contract, a considerable change in raw material prices, labor costs, energy costs or other similar costs occurs, we and our contractual partner reserve the right to demand reasonable price adjustments taking these factors into account, if the goods are scheduled for delivery more than 4 months after signing the contract.

(5) Deduction of cash discounts shall require a separate written agreement.

## § 4 Delivery time, partial deliveries and services, delay in acceptance

(1) Unless a binding delivery date has been agreed, the delivery times shall be deemed agreed upon on an approximate basis. In any case, the delivery period shall commence only after clarification of all technical and organizational questions. Furthermore, the fulfillment of our delivery obligations shall be contingent on the customer's timely and adequate fulfillment of his cooperation and advance performance obligations.

(2) In the event of force majeure or unforeseeable hindrances which, despite reasonable care as required by the circumstances of the case, we were unable to avoid, we shall be entitled to extend the delivery time by the duration of the hindrance, irrespective of the circumstance that has caused the hindrances to occur. Such circumstances, which can extend the delivery time can be, among others: industrial disputes, sovereign interventions at home or abroad, for which we are not responsible, power failures or non-culpable delays in the supply of essential raw materials as well as non-culpable operational disruptions and restrictions including those occurring at our suppliers. Moreover, delivery times shall be extended by a reasonable period of time as a result of changes in the contract if such changes impact the originally agreed delivery time.

(3) In the event that, due to non-culpable hindrances, similar circumstances or force majeure, delivery has become permanently impossible, we shall be released from our obligation to deliver. If such circumstances occur, our contractual partner shall be entitled to withdraw from the contract after setting and expiration of a reasonable grace period, which includes a threat of rejection. Any further claims in particular claims for damages for non-performance, untimely or incomplete delivery shall be excluded unless we or one of our senior managers are culpable of intent or gross negligence.

(4) Unless otherwise agreed in each particular case, we are entitled to fulfill our contractual obligations as partial performances. For call-off orders (contracts for successive deliveries) where no specific duration, production batches and performance acceptance days have been fixed, we can request a binding commitment three months after order confirmation at the latest, unless otherwise agreed in writing. Should the client not respond to this request within a period of three weeks, we shall be entitled to set a grace period of two weeks and, after expiry of this deadline, withdraw from the contract and claim damages. In the case of call-off orders (contracts for successive deliveries), the customer shall be obligated to call off and purchase the entire contract quantity or the quantity that remains to be delivered, after twelve months from the signing of the contract at the latest, unless otherwise agreed in each particular case. Should the customer fail to fulfill this obligation, we shall be entitled, after a grace period of two weeks, to deliver the remaining contract quantity to our contractual partner at his expense and risk and to charge him for same.

(5) If our contractual partner is in default of delivery or acceptance or if he breaches any other obligation to co-operate, we shall be entitled to claim compensation for the damage or any extra expenses we have incurred, if applicable. Otherwise, from the moment in which the delay in acceptance occurs, the risk of accidental loss or deterioration of the goods will pass to our contractual partner.

(6) Should we be in default, the contractual partner shall be entitled to set an appropriate period of grace and to withdraw from the contract upon its unsuccessful expiry. Any damages for lost profit and for damage from operational disruptions shall be excluded. Otherwise, claims for damages instead of performance shall be restricted to the contract-typical foreseeable damage, however limited to a maximum of 50 % of the contract value, insofar as such claims are based upon our slight or ordinary negligence.

## § 5 Shipment, insurance, passing of risks

(1) Deliveries will be made by railway, post, through a forwarding agency or our own delivery facility, at our discretion.

If our contractual partner requests a different mode of dispatch (e.g. express delivery, via airmail), he shall bear the extra cost incurred thereby.

(2) Upon written request by our contractual partner, we will arrange transport insurance coverage for the shipment. The cost incurred is to be borne by our contractual partner. Otherwise, we shall not be obligated to take out a transport insurance policy.

(3) In any case, the goods will travel at our contractual partner's risk. When the goods are ready for dispatch and should the acceptance or dispatch of these goods be delayed for reasons for which we are not responsible, the risk will pass to our contractual partner at the moment in which he has received the notification of readiness for dispatch.

## § 6 Reservation of proprietary rights, insurance obligation

(1) The goods supplied will remain our property until full payment of all our claims arising from the business relationship (including ancillary claims) has been made. Payment shall only be deemed effected upon receipt of the proceeds in one of our bank accounts. In the event of behavior by our contractual partner which is contrary to the contract, in particular if he defaults on a payment, we shall be entitled to reclaim the goods. Such repossession of the goods shall not be deemed a rescission of the contract unless expressly declared by us. On the other hand, any seizure of the goods, insofar as this is effected by us, will always imply a rescission of the contract. After reclaiming the goods we shall be entitled to re-realize them. The proceeds thereof will be set off against our contractual partner's liabilities, after deduction of reasonable costs.

(2) Our contractual partner shall not be entitled to use the goods subject to retention of title as security for a loan, in particular he shall not be allowed to pledge them or assign them as security to a third party. In the event of a seizure or other interventions by a third party, our contractual partner must inform us in writing without delay so that we can enforce our rights of ownership. As far as the third party is not able to reimburse us for the judicial and extra judicial costs incurred in connection with the enforcement of our rights of ownership, our contractual partner shall assume liability.

(3) Our contractual partner shall be entitled to resell goods subject to retention of title in the regular course of business. However, he immediately assigns all receivables to us in the amount of our final invoice (incl. VAT), which he will earn from the resale to a third party, irrespective of whether the goods sold under retention of title have been sold without or after further processing. Our contractual partner shall continue to be entitled to collect such receivables even after the assignment. Our right to collect these receivables ourselves shall remain unaffected thereof. We undertake, however, to refrain from collecting the receivables as long as our contractual partner complies with his all payment obligations in connection with proceeds collected, does not default on any payment and in particular has not filed for insolvency proceedings or stopped payments. If any such circumstance exists, our contractual partner shall be obliged to inform us about the receivables assigned and the respective debtor(s), give all information and documentation necessary for us to collect our claims and inform the debtors (third party) about the assignment.

(4) Any processing or transformation of the goods under retention of title shall always take place in our name and on our behalf. If the goods are processed or mixed with other objects that we have no property in, we shall become co-owner of these goods in proportion of the value of the goods delivered to the other items processed at the time of processing. If our retained goods are deemed to be the main item, we shall acquire sole ownership. Otherwise, for the item produced through processing, the same applies as for the goods supplied under retention of title.

(5) To secure our claims against him, our contractual partner shall also assign to us the receivables deriving from the relationship of the retained goods with a property against a third party.

(6) Upon request by our contractual partner, we shall release the receivables assigned as security under the condition that their achievable value exceeds the value of our secured receivables by more than 10 %, while the choice of the collateral security to be released shall rest upon us.

(7) Our contractual partner undertakes to handle the goods sold under retention of title carefully and to insure them against damage by fire, water, breakage, theft and similar risks, at his own expense. Any necessary maintenance and inspection work must be carried out by our contractual partner in due time and at his own expense. Our contractual partner immediately assigns his claims against the insurance company in the event of damage to the amount of our receivables against him (including ancillary claims); he must inform the insurance company about the assignment of receivables.

(8) Insofar as our reservation of title should not be legally effective under the law of the country of destination of the goods, our contractual partner, upon our request, must provide equivalent security and maintain such security until final payment. In the event that our contractual partner does not comply with this request, we shall be entitled to claim immediate settlement of all outstanding claims, without regard of any originally agreed payment date.

(9) Insofar as we are the recipient of goods, we reject the validity of any reservation of title that our contractual partner (supplier) may have stipulated in his favor.

## § 7 Notice of defect, warranty, liability

(1) A prerequisite for warranty claims is that the commercial duty to inspect and give notice of defect has been fulfilled. Any notice of defect must be given in writing no later than 8 working days after delivery in the case of defects detected in the framework of an orderly inspection of incoming goods, which shall always include a test processing or test use. For defects not detected in the framework of an orderly inspection of incoming goods (as described above), such notice of defect must be given within 8 days after detection of the fault.

(2) If deliveries are defective or lack warranted qualities, with the latter only existing if they have been explicitly agreed upon in writing, we shall be entitled to choose between subsequent performance through rectification of the defect or delivery of a new defect-free item. In the case of a rectification of the defect we shall bear all expenses incurred for the purpose of remedy of the fault, in particular transport, handling, labor and material costs unless these are derived from the fact that the item bought was brought to a place other than the place of fulfillment.

(3) In the event of an ultimate failure to remedy the fault or if we refuse or unduly delay the rectification or if we cannot carry it out for any other reason, then our contractual partner shall be entitled to demand a reduction in the purchase price. However, our client cannot demand a rescission of the contract.

(4) Any further claims, in particular in respect of damage claims for direct damages (including lost profit) or for indirect damages (financial losses) and other subsequent damages shall be excluded regardless of the legal foundation of such claims, unless the claims are derived from premeditation or gross negligence. Unless we are held liable for intentional breach of contract, our liability for damages shall be limited to the foreseeable typically occurring damage. We shall be liable under the statutory regulations for any culpable breach of fundamental contractual obligations; however, in such cases the liability for damages shall be limited to the foreseeable typically occurring damage. Liability due to culpable damage to life and limb remains unaffected; this applies equally to statutory liability laid down in the German Product Liability Act. Any liability for damages in connection with electromagnetic fields or the offshore utilization of our products shall always be excluded.

(5) Any further liability for damages other than provided in paragraph 4 shall be excluded irrespective of the legal nature of the claim made. This applies particularly to damage claims arising from fault in conclusion of the contract, other breach of obligations or on account of tort claims to compensation for property damage under section 823 of the German Civil Code (BGB). This limitation shall also apply if our contractual partner, instead of claiming compensation for the damage, demands reimbursement of unnecessary expenses in lieu of performance.

(6) Insofar as our liability is excluded or limited, the same shall apply to the personal liability of our vicarious agents. In cases of negligent breach of a contractual obligation, our obligation to pay damages for personal injury, property damage and financial losses shall be limited to the amount covered by our employer's liability and product liability insurance. Compensation for indirect damages shall be excluded. Upon request, we will grant inspection of our insurance policies to our contractual partners.

(7) The warranty period is 12 months commencing with the passing of risk and includes claims for compensation of any damage/harm caused by a defective product.

(8) All goods and products supplied to us must be inspected by the supplier in compliance with the currently applicable rules and regulations as well as the statutory requirements. Only faultless goods may be delivered to us.

## § 8 Payments, offsettings, retention of payments

(1) Each payment must be made within the agreed period of time without any deduction and shall be free of postage and expenses. If no term of payment has been agreed, our payment shall be due 30 days after invoice date.

(2) If a payment is delayed and in the case of a default of the debtor, we are entitled to receive at least the statutory default interest as minimum damage compensation. If we are able to prove any higher damage as a result of the delay, we reserve the right to claim for such damage.

(3) Bills of exchange and checks shall only be accepted upon agreement and on account of performance without guarantee for protest and subject to their discountability. Discount expenses will be borne by our contractual partner from the due date of our invoice.

(4) The creditworthiness of our contractual partner forms the basis for the conclusion of our contracts. Should circumstances come to our knowledge which give rise to justifiable doubt on the adherence to contractual payment obligations, e.g. application for or opening of insolvency proceedings or incurred or imminent over-indebtedness, inability to pay or cessation of payment, we are entitled to retain outstanding deliveries or rescind the contract unless collateral security or a bank guarantee is provided within an appropriate period of time.

(5) Our contractual partner shall only be entitled to offsetting and retention rights if his counterclaims have been determined with legal effect or have expressly been recognized by us.

## § 9 Place of fulfillment, place of jurisdiction and applicable law

(1) The place of fulfillment of all obligations arising from the contractual relationship shall be our company seat (Wain).

(2) The place of jurisdiction for all types of disputes with contractual partners entitled to prorogation shall be Wain. We reserve the right to sue at the company seat or place of residence of our contractual partner.

(3) The legal relationship with our contractual partners whose registered office is in Germany shall exclusively be governed by the law of the Federal Republic of Germany. If our customer has his registered office in a foreign country, the UN purchasing law shall apply, however subject to all restrictions in respect of claims as stipulated in our General Terms and Conditions.

(4) If any provision of these GTC is held or becomes wholly or partially invalid, such provision shall be replaced by the statutory regulation. The validity of the remaining provisions shall not be affected thereof.