

# Terms of Use for the Premium Dashboards of Hawa Dawa GmbH

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**PLEASE NOTE:** These Terms of Use (the "**ToU**") for the **data-as-a-service** service "Premium Dashboards" (the "**DaaS Service**") establish a legally binding contract between You (as the representative of the subscriber (as defined in Section 1) - hereinafter also "**You**" or the "**User**") and Hawa Dawa GmbH ("**Hawa Dawa**" or the "**Provider**") with regard to the provision of the DaaS Service and the use of the Premium Dashboards (as defined in Section 1).

Hawa Dawa is only prepared to provide the DaaS Service once you have accepted all conditions of these ToU and the associated General Terms and Conditions and have acquired an effective subscription (the "**subscription**") for the "Premium Dashboards" from Hawa Dawa or an authorised Hawa Dawa partner and if the subscription term has not ended. You accept these Terms of Use by clicking the button "**I agree**" or "**yes**", by accessing the "Premium Dashboards" or by expressing your consent in another way. These ToU shall therefore be legally effective in the relationship between you and the provider and you declare that you have read these ToU, have understood and accepted them and that you agree to be bound by the provisions of these ToU. Hawa Dawa hereby waives receipt of your corresponding declaration of acceptance at Hawa Dawa's premises. If you do not agree to all of the terms of the contract, Hawa Dawa is not prepared to provide the service. In this case, you should click on the "**Cancel**", "**No**", or "**Close Window**" Button and immediately discontinue and avoid all future use of the service and related data, and delete any copies of data in your possession.

If this contract is available as a translation in a language other than German and there is a conflict between provisions in the German version and the translation in the other language, the German version is authoritative. The User is advised to retain a copy of these ToU for their records. The latest full version of these ToU is available at <https://hawadawa.com/tc/>. Hawa Dawa reserves the right, at its sole discretion, to make reasonable changes to this contract, provided that disputes arising from these ToU are resolved in accordance with the terms of the contract that was in force at the time the dispute arose. Hawa Dawa shall duly inform the User after each change. The User is advised to check the published contract in each case to find out about any changes. Substantial changes with regard to these provisions shall become legally effective upon first use of the service with the User's effective knowledge of the changes. The use of the service by the User after the changed contract has taken effect represents the acceptance of the changed agreement by the User. If the User does not accept changes to this contract, the subscription shall be terminated with immediate effect in accordance with the "Termination" clause.

These terms of use relate to the time-limited use of the "Premium Dashboards" services as a "data-as-a-service".

They are supplemented by the separately documented Privacy Policy of Hawa Dawa GmbH and any individual agreements in the order confirmed by the order confirmation.

## 1. DEFINITIONS

1.1 **Subscriber:** The contractual partner of the subscription.

1.2 **Users:** The User designated by the contractual partner for the strictly personal use of the subscribed DaaS Service. The subscriber authorises the User as the legal

representative of the subscriber in relation to the contractual relationship with Hawa Dawa as regulated in this contract.

- 1.3 **Automatic extension:** A stipulation according to which a subscription is extended at the end of the subscription term without the need for further notification.
- 1.4 **DaaS-service:** The “Premium Dashboards” service provided as an online platform in the form of “data-as-a-service”.
- 1.5 **Data-as-a-service:** The provision of a service on a temporary basis in order to access and use the software and present and manage the data, whereby the software and data shall remain the property of Hawa Dawa and shall be hosted centrally on its (rented or purchased) servers.
- 1.6 **Decompiling:** The reverse engineering, decompiling or disassembly of the software for the purpose of achieving interoperability with other computer programs in accordance with Section 69 e of the German Copyright Act (UrhG).
- 1.7 **Documentation:** Written information (whether contained in user or technical manuals, training documents, specifications or other materials) belonging to the software and hardware and provided by Hawa Dawa or its authorised Hawa Dawa partners in any way (including on a USB stick, hard drive or via online access).
- 1.8 **Fee:** The subscription fee payable to Hawa Dawa for the DaaS Service.
- 1.9 **GDPR:** European General Data Protection Regulation
- 1.10 **Hardware or air measuring device:** The version of the "Sentience" air measurement device provided or sold by Hawa Dawa to the subscriber for a limited period of time, but also any other Hawa Dawa hardware product with or without embedded Hawa Dawa software.
- 1.11 **Hawa Dawa product:** A Hawa Dawa copyrighted product, including associated marketing materials, documentation, ToU and other supplemental materials.
- 1.12 **Data:** Calibrated data and smart data.
- 1.13 **Calibrated data:** The data stored by Hawa Dawa in a proprietary database, which Hawa Dawa generates and stores on its cloud servers using the sensor values (raw data) collected by Hawa Dawa air measuring devices using software owned by Hawa Dawa. This exclusively includes measuring values obtained directly at the measurement location for air pollutants and certain weather parameters.
- 1.14 **Smart data:** Calibrated data which is blended with, superimposed on or correlated with other data sources and software owned by Hawa Dawa or third parties and any data gained from further processing of calibrated data or other data which is not restricted to the direct sensor location.
- 1.15 **Term:** The term of the subscription specified in the contract (generally 24 months).
- 1.16 **Premium dashboards:** The platform provided by Hawa Dawa for the presentation and management of calibrated data and smart data within the scope of the DaaS Service, which is accessible for account-specific defined users via an access-controlled URL.

- 1.17 **Time clocks:** All time clocks, copy protection and other security devices embedded in the software which are used to deactivate the software once the corresponding subscription period has expired.
- 1.18 **Upgrades:** Any changes, improvements or revisions to the software. The classification of the relevant modifications as an upgrade is at Hawa Dawa's sole discretion.
- 1.19 **Volume:** The usage volume purchased as part of the subscription, measured in terms of the number of calls.
- 1.20 **Volume check:** All codes, copy protection and other security devices embedded in the software which provide evidence of the calls and which can be used to deactivate the software once the corresponding volume is reached.
- 1.21 **On-site installation:** The installation of an air measuring device at a location specified by the subscriber.

## 2. SCOPE, AMENDMENTS TO THESE TERMS OF USE

- 2.1 These Terms of Use claim exclusive validity. Conflicting or supplementary general terms and conditions of the subscriber or user shall not become part of the contract, regardless of whether they were communicated upon conclusion of the contract or at a later date and regardless of whether they were rejected separately. These Terms of Use shall also remain fully valid for follow-up contracts and follow-up orders from subscribers or users.
- 2.2 Hawa Dawa is entitled to amend these Terms of Use, other terms and other contractual provisions referred to in these Terms of Use and, in particular, to change and adapt the services and processes described in these Terms of Use. Hawa Dawa undertakes to only make amendments for good cause. Good cause in particular includes new technical developments, changes in jurisdiction and other equivalent reasons. If the contractual relationship between Hawa Dawa and the user is significantly altered as a result of the intended amendment, it shall not be implemented. Furthermore, any amendments require the consent of the user.

## 3. SUBJECT OF CONTRACT, TERM, PROVISION AS DATA-AS-A-SERVICE

- 3.1 The subject of contract for the DaaS Service concluded between the provider and the subscriber is the fee-based provision of the DaaS Service for the subscription term on high-performance servers as data-as-a-service (the "**DaaS Service**"). The parties hereby agree that the services to be provided under this contract as data-as-a-service have the character of a permanent contractual relationship. The provision of air measuring devices is governed by a separate agreement. The parties do not intend to apply legislation relating to contracts for work.
- 3.2 The scope of functions and the volume of the services to be provided as part of the DaaS Service are determined on the basis of the agreed Premium Dashboard package as described on the website <https://hawadawa.com/premium-dashboards/> .

- 3.3 The contract for the use of the DaaS Service shall, unless otherwise agreed and noted accordingly in the order confirmation, be concluded with a term of 24 months. It shall be automatically extended by a further 12 months unless it is terminated by one of the parties with a notice period of three (3) months before the end of the contract. The termination must be made in text form (e.g. by e-mail). The right to special termination or extraordinary termination remains unaffected.
- 3.4 Hawa Dawa shall undertake economically reasonable efforts to make the software and data which can be retrieved with it available to the subscriber online as a 24/7 service, except (x) as part of scheduled downtime (for which Hawa Dawa shall provide advance electronic notification) and (y) at times of unavailability caused by circumstances which are reasonably beyond Hawa Dawa's control, such as natural disasters, government intervention, floods, fires, earthquakes, civil unrest, acts of terrorism, strikes or other work problems (which do not involve Hawa Dawa employees), failure or delays on the part of the internet service provider, failure or delays on the part of the hosting service provider or denial of service attacks.
- 3.5 The subscriber agrees that the service levels offered by Hawa Dawa are not higher or more comprehensive than those of the hosting service provider.

## **4. CLOUD STORAGE AND SECURITY**

- 4.1 Hawa Dawa maintains administrative, physical, and technical safeguards to protect the security, confidentiality, and integrity of the software and/or data. These safeguards include, but are not limited to, measures to prevent access to the software and/or data and the use, modification or disclosure of the software and/or data by Hawa Dawa employees other than a) the provision of the subscribed services and the prevention or correction of service or technical problems, b) in accordance with legal regulations or c) in accordance with the express written permission of the subscriber. Sections 5, 6 and 7 remain unaffected.
- 4.2 Hawa Dawa does not guarantee the services and security offered by Hawa Dawa. Users are hereby cautioned that, according to the current state of the art, despite the greatest of diligence and care, program errors cannot be ruled out with 100% certainty, and that it is not possible to develop software that is protected against any type of cyber attack. The security of user data is particularly important to Hawa Dawa. Hawa Dawa shall therefore do everything possible within the technical and organisational framework to protect this data. The User acknowledges this.

## **5. PROPERTY RIGHTS**

The software and data are protected by international copyright laws, contracts and other applicable laws. Hawa Dawa and its licensors own and retain all rights, property and all claims to the software, including all copyrights, patents, business and trade secrets, brands and other intellectual property rights in the software and data. By accepting these Terms of Use, the User acknowledges that ownership of the software or data is not transferred at any time and that no permanent rights to use the software are granted. The rights to use the data are regulated in Section 6.

THE SOFTWARE AND THE SMART DATA ARE PROVIDED AS DATA-AS-A-SERVICE. THEY ARE NOT SOLD.

## 6. RIGHTS TO THE DATA

- 6.1 Within the scope of the provision of the DaaS Service, Hawa Dawa collects certain sensor values via the air measuring devices, temporarily stores these values on the hardware and transmits them to Hawa Dawa via mobile radio for storage on its cloud server. The raw data is then evaluated and revised, thus creating Hawa Dawa's own calibrated data. Calibrated data which is blended with, superimposed on or correlated with other data sources as well as any data gained from further processing of calibrated data or other data which is not restricted to the direct sensor location will then be stored as smart data in a proprietary database. The algorithms used by Hawa Dawa are self-learning and use artificial intelligence (AI). This technology is at the core of Hawa Dawa's protected intellectual property (IP). The customer acknowledges that Hawa Dawa is the sole author of all data.
- 6.2 Hawa Dawa, as the author of the data, grants the subscriber a right for use of the smart data, by the registered user only, whereby this right is (i) non-exclusive, (ii) limited to the term of the subscription, (iii) limited in terms of location to the measured area as defined in the order confirmation and (iv) restricted to the content in the respective Premium Dashboard. This right of use is non-transferable. Sub-licenses may not be granted. The simple right of use includes the right to download the smart data via the export function of the DaaS Service, provided that this is performed to an appropriate extent for the purposes of your own evaluation and creation of backup copies. Any disclosure of smart data to third parties, in particular for further processing or to merge with data from other measured areas, requires the express consent of Hawa Dawa.
- 6.3 Statutory information and disclosure obligations of the customer remain unaffected. If these cannot be fulfilled by the smart data provided by Hawa Dawa and the data needs to be fed into third-party systems (in particular national systems), Hawa Dawa must be informed of this in advance and the parties are obliged to adequately expand the license and negotiate to increase subscription fees.

## 7. USAGE STATISTICS, TRACKING

The customer agrees that Hawa Dawa is entitled to collect records and statistics concerning use of the DaaS Service. The types of use recorded in this form are only used for volume checking and time clocks, in order to improve Hawa Dawa products and/or for the provision of individual services for the customer and are not disclosed to third parties or passed on to third parties except in anonymous form.

## 8. OBLIGATIONS OF THE CUSTOMER

- 8.1 The customer shall treat all access data, personal data, its email address and stored passwords for its user account as strictly confidential. The customer shall regularly update its stored contact details.
- 8.2 The customer may make a reasonable number of backup copies of the smart data, provided that the backup copies are not used for purposes other than archiving.



- 8.3 The customer is solely responsible for setting up a functional hardware and software environment for using the DaaS Service. The same applies to regular data backups.
- 8.4 The User assures that they shall only use the DaaS Service for themselves. The User is prohibited from sharing the user account with third parties. The User undertakes to inform the Provider immediately if they become aware of unauthorised access to its user account, the theft of electronic data or other information relevant to the security of its user account.
- 8.5 Insofar as the User uses the functionalities of the DaaS-service that require the entry of personal data (e.g. dispatching of reports to User-defined eMail-adresses or mailing lists), the User shall ensure that he/she has the consent required in accordance with GDPR to transfer personal data to Hawa Dawa and any third parties commissioned by Hawa Dawa to provide the service. Hawa Dawa treats the transferred personal data in accordance with the privacy policy available via <https://hawadawa.com/privacy/> .

## **9. TIME CLOCKS, VOLUME CHECKS.**

- 9.1 By default, Hawa Dawa grants a right to use the DaaS Service for a limited time with a fixed term. The customer acknowledges that the DaaS Service may be provided to the customer with embedded time clocks. The customer hereby agrees that time clocks do not constitute a defect of the DaaS Service and the customer releases Hawa Dawa from all claims of any kind which arise due to or in connection with the time clocks or their operation.
- 9.2 The subscription fee is subject to a limited volume as standard. The customer acknowledges that the DaaS Service is provided to the customer with embedded volume checking devices. The customer hereby agrees that the volume check does not constitute a defect of the DaaS Service and that the customer releases Hawa Dawa from all claims of any kind which arise due to or in connection with the volume check or its implementation.
- 9.3 The customer agrees that Hawa Dawa shall use volume check and time clocks to obtain information regarding its product usage, as this is an integral part of the subscription fee and the restrictions which the subscription is subject to.

## **10. RESTRICTION OF USE, INADMISSIBLE USE**

- 10.1 If a contractual usage limit is exceeded, the customer must immediately place an order for additional volumes of the relevant services and/or pay any invoices for the usage violation at Hawa Dawa's request.
- 10.2 The customer undertakes to take economically reasonable measures to prevent unauthorised access to the DaaS Service and the data or its unauthorised use, to inform Hawa Dawa immediately of any such unauthorised access or use and to only use the DaaS Service and the data in accordance with this contract, the documentation and the applicable legal provisions and official regulations.
- 10.3 The customer is not permitted to:

- a) make the DaaS Service and data available to other people or users other than themselves and the user(s) they have nominated or to use them for the benefit of other people or users other than themselves, unless expressly agreed otherwise,
- b) sell, resell, license, sub-license, distribute, make available, rent or lease the DaaS Service and data or to offer any of the services or service content as an external service Provider or as an outsourcing service or commercial hosting service,
- c) use the DaaS Service or data for recording or storage or transmit material which infringes rights or is defamatory or otherwise illegal or unauthorised or use third parties for the storage or transmission of material in violation of data protection rights,
- d) impair or prevent the integrity or performance of the DaaS Service or data contained therein,
- e) attempt to gain unauthorised access to the DaaS Service, data or related systems or networks,
- f) grant direct or indirect access to, or use of, the DaaS Service or data in a manner which circumvents a contractual use limitation, or use one of Hawa Dawa's services to access any of Hawa Dawa's intellectual property rights or use the same, unless permitted in this contract,
- g) copy the DaaS Service or a part thereof, a feature, a function or a user interface of the DaaS Service or arrange for it to be copied,
- h) copy data, unless permitted in this contract,
- i) embed or mirror parts of the DaaS Service or data, except on the customer's own intranets or in any other way for its own internal business purposes,
- j) access the DaaS Service or data to build a competing product or service, or
- k) perform reverse engineering of the DaaS Service (insofar as this restriction is legally permissible).

Any use of the DaaS Service or the data in breach of this contract by the customer or by users which, in Hawa Dawa's view, threatens the security, integrity or availability of Hawa Dawa services, may result in the immediate suspension of the DaaS Service or access to data, notwithstanding that Hawa Dawa shall take economically reasonable steps to notify the customer prior to such suspension and provide an opportunity to remedy such a breach or threat.

- 10.4 The user hereby releases Hawa Dawa from all third-party claims asserted against Hawa Dawa, its bodies or vicarious agents and which result from a breach of obligations by the user according to these Terms of Use. The exemption also covers the costs of adequate and appropriate legal representation to defend against claims and criminal prosecution.

## **11. LIMITED WARRANTY, AVAILABILITY, WARRANTY DISCLAIMER**

- 11.1 Unless expressly agreed otherwise, the DaaS Service provided by Hawa Dawa corresponds to the current state of the art and the product information and specifications provided by Hawa Dawa. Hawa Dawa does not guarantee under these terms of use that the DaaS Service is suitable for purposes that go beyond the fulfilment of Hawa Dawa's contractual obligations.



11.2 Under no circumstances is the user entitled to request the source code for the software in relation to defects.

## 12. LIMITATION OF LIABILITY

Irrespective of the legal nature of the claim in question, the following rules apply to any claims for damages or reimbursement of wasted expenditures:

12.1 Hawa Dawa is liable for any damages which you incur as a result of grossly negligent or wilful conduct on the part of Hawa Dawa, or as a result of a culpable injury to life, limb or health for which Hawa Dawa has assumed a guarantee or for which Hawa Dawa is liable under the Product Liability Act (Produkthaftungsgesetz). In all other cases, Hawa Dawa's liability to pay compensation is limited to the violation of essential contractual obligations. Essential contractual obligations are only deemed as such if their fulfilment enables the proper execution of the contract and if you should be able to rely on their fulfilment. Hawa Dawa's liability for data loss is limited to the typical effort which is normal and standard when backup files have been created.

12.2 In the event of a negligent breach of essential contractual obligations by Hawa Dawa, Hawa Dawa's liability is limited to foreseeable, contract-typical damage.

12.3 The above-mentioned limitations of liability also apply to all Hawa Dawa representatives, in particular its managing directors, legal representatives, employees and other vicarious agents.

## 13. HIGH-RISK ACTIVITIES

The DaaS Service is not fault-tolerant and is not designed, manufactured or intended for use or resale as control equipment in hazardous environments which require fail-safe performance, such as nuclear power plants or communications, air traffic control, life support or weapon systems where the failure of the software may directly result in death or injury to people or serious physical or environmental damage ("**high-risk activities**"). Accordingly, Hawa Dawa and its suppliers in particular exclude any implicit or explicit guarantee as to its suitability for high-risk activities.

## 14. DATA PRIVACY

By accepting these Terms of Use, you agree to the validity of the currently valid version of the Hawa Dawa Privacy Policy available via <https://hawadawa.com/privacy/>.

## 15. PLACE OF JURISDICTION

The place of performance for the obligations arising from this contract is the registered office of Hawa Dawa. This contract is exclusively subject to the law of the Federal Republic of Germany, excluding the UN Sales Convention (CISG). This does, of course, not affect mandatory criminal provisions which apply to the user's registered office or the location of the relevant IT infrastructure.

The place of jurisdiction for all disputes arising from this contractual relationship is Hawa Dawa's registered office. Hawa Dawa's right to choose another legal jurisdiction remains unaffected.

## **16. SEVERABILITY CLAUSE**

Should one or more provisions of these Terms of Use be or become partially or wholly ineffective, this shall not affect the effectiveness of the remaining provisions. The parties undertake to replace the ineffective provision with an effective provision which comes economically as close as possible to what the parties intended.

## **17. GENERAL**

The contractual language between the parties is German. If Hawa Dawa provides translations of these Terms of Use or other documents, this is a non-binding service. Only the German version of these Terms of Use is legally binding.

The provisions of Sections 1, 5, 6, 7 and 10 to 17 shall survive the end of the subscription in regard to use of the DaaS Service.

All communications under these Terms of Use should be sent to:

Hawa Dawa GmbH  
c/o Impact Hub Munich  
Gotzingerstraße 8  
D-81371 Munich