

# General Terms and Conditions of Sale and Delivery (GTC) for Companies of SAIER Group, as of: February 2023

## 1. Scope of application

- a) Any deliveries, services and offers of companies of the SAIER Group as *Vendor* (hereinafter referred to as the **SAIER**) shall be made exclusively on the basis of these General Terms and Conditions of Sale and Delivery. These GTC are an integral part of any contracts concluded by the Vendor with their contractual partner (hereinafter also referred to as *Buyer*) concerning services and deliveries provided by them. These shall also apply to future deliveries, services or offers to the customer, notwithstanding the absence of a further separate agreement.
- b) General Terms and Conditions of the Buyer or any third parties shall explicitly not apply, even if **SAIER** does not issue a separate objection to their validity in an individual case. Even if **SAIER** refers to a letter containing or making reference to General Terms and Conditions of Business of the Buyer or any third party, this does not constitute consent with the validity of those Terms and Conditions of Business.

## 2. Offer, order, order confirmation

- a) Our offers are non-binding and subject to alteration, unless explicitly marked as binding or containing a specific term of acceptance. **SAIER** can accept orders or commissions within ten work days.
- b) Any deviations from our Terms and Conditions of Sale, particularly the Buyer's Terms and Conditions, shall only apply if they have been confirmed by **SAIER** in writing. Orders as well as oral agreements are only binding upon us if and to the extent to which we confirm them in writing or correspond to them by sending goods and invoice.
- c) Any amendments and alterations of the agreements entered into, including these Terms and Conditions of Sale and Delivery, must be in writing in order to be effective. In order to preserve the written form, transmission by telecommunication, particularly by telefax or e-mail, is sufficient, provided that a copy of the signed declaration is submitted.

## 3. Quality, sample

- SAIER** as Vendor safeguards the merchantable quality of our products. Updated product specifications (data sheets) are available on the SAIER Group website at [www.saiier-gruppe.de](http://www.saiier-gruppe.de). Any ceded samples are size samples and only binding in terms of quality and colour, if this has explicitly been indicated by **SAIER** or unless the applicability for the stipulated purpose requires strict conformity. Customary deviations in shape and colour remain reserved. This reservation always applies to technical improvements. Customary tolerances in terms of specified dimensions, weights and performance shall be reserved. Any statement of percentages and mixing ratios of our products shall only be regarded as approximate average values. Any deviations within the error margins possible in every individual case and inevitable despite utmost care in manufacturing the goods and determining the values shall explicitly remain reserved.

## 4. Consulting

- a) Application-specific advice is given by **SAIER** to the best of their knowledge on the basis of their development activities and experience. However, any data and information regarding the suitability and application of our products are non-binding and do not exempt the Buyer from their own tests and inspections. Any information regarding processing and application opportunities for our products, any technical advice and any other information are given to the best of our knowledge, but are non-committal.
- b) We do not provide a guarantee for the chemical, physical and any other properties of the **SAIER** products, as **SAIER** is not the producer of the raw materials used. We will gladly consult the Buyer in this respect on a non-binding basis and non-committally submit customer requirements to the raw material producer for **SAIER**, if necessary.

## 5. Prices, charges

- a) All prices are to be understood in € (Euro) ex works, plus packaging, value added tax and, for export deliveries - customs duties, fees and other charges.
- b) Any fixed price agreement requires explicit confirmation by **SAIER**. In the event of agreements with a term of over 3 months or when any freight charges, customs duties and fees included in the sales prices according to the contract are increased, **SAIER** may demand a reasonable price advance.

## 6. Invoices, due date

- a) The invoices are payable net without deductions within 30 days. The term is calculated from the date of invoice, the payment receipt on the **SAIER** business account shall be relevant. Any agreements deviating from these General Terms and Conditions of Sale and Delivery are printed on the front side of our offers, order confirmations and invoices.
- b) Any invoices containing contract work shall be settled immediately without deductions. Tooling cost shares shall be paid in the following way: 1/3 upon receipt of the order confirmation, 1/3 upon completion, 1/3 within 8 days from receipt of our invoice and submission of sample products; each of them net without deductions, terms calculated from the date of invoice, payment receipt by **SAIER** shall be relevant.

## 7. Tools, retention of title

- a) As only tooling cost shares are charged and paid, the design shall remain property of the Vendor. The Vendor shall not be obliged to surrender the design. This does not apply if the design was exclusively developed by the Buyer.
- b) If the full expenditures for storage, insurance, maintenance and servicing are paid, surrender of the tool without design may be agreed upon.
- c) If no orders are placed with **SAIER** within six months from completion of the tool, the design effort will be invoiced as a substitute for lost orders.

## 8. Default, payments

- a) The Buyer is in default if they do not pay upon the Vendor's reminder notice given after the due date for payment of the purchase price. Irrespective of this, the Buyer shall be considered to be in default should he fail to make his payment at a calendar date specified in the contract. The stipulation according to which the debtor is also automatically in default after 30 days upon maturity and receipt of an invoice shall remain unaffected.
- b) The amount of interest on arrears shall be based on the statutory interest rate of 9% above the respective base interest rate of the ECB, except where **SAIER** provides evidence of higher damages.

Default interest are always immediately due and payable.

- c) Payments shall be regarded as rendered on the date of receipt of bank credit. Cheques and bills of exchange are accepted as means of payment, however, they shall only be regarded as payment after they have been cashed. In case of bills of exchange and cheques, the Vendor reserves the right to accept them.
- Any charges for bills of exchanges shall be borne by the Buyer.
- d) **SAIER** shall be entitled to deliver or render any pending deliveries or services only on advance payment or security, if after conclusion of the contract any circumstances come to be known which are suitable to considerably reduce the customer's creditworthiness and which compromise the Buyer's payment of our outstanding accounts resulting from the respective contractual relationship (including other individual orders to which the same framework agreement applies).
- e) Offsetting against counter-claims or retention of payments shall only be permissible for such claims if the counter-claims are undisputed or legally established.

## 9. Reservation of title

- a) **SAIER** reserves the property in the delivered goods until complete payment of any claims, also

those arising from the business relationship with the customer in the future, even if payments are made for specifically named claims.

- b) The reservation of title shall also extend to the confirmed balance insofar as the Vendor accounts for claims against the Buyer on current account (current account reservation).
- c) Should the Buyer act in breach of contract, in particular by failing to pay the purchase price due, the Vendor shall be entitled to terminate the contract in accordance with the statutory provisions and to demand the return of the goods on the basis of the retention of title and termination of the contract. If the Buyer does not pay the purchase price due, **SAIER** may only assert these rights if **SAIER** have previously set a reasonable term for payment for the Buyer without success or if setting such a term is dispensable according to legal regulations.
- d) In the event of attachment or any other third-party interventions, the Buyer shall immediately inform the Vendor in writing in order that **SAIER** can institute legal proceedings pursuant to Sec. 771 of the German Code of Civil Procedure.
- e) The Buyer shall be entitled to resell the goods delivered in the ordinary course of business; however, the Buyer hereby assigns to the Vendor all claims - including all current account balance claims - against third parties to which the Vendor may be entitled due to the use of the goods subject to retention of title, in particular due to resale, combination, treatment and processing, in the amount of the invoiced value of our goods. The assignment serves to secure any receivables, particularly also claims for compensation, that **SAIER** has towards the Buyer.
- f) The Buyer shall be authorised to collect these receivables also after their assignment. The entitlement of the Vendor to collect these receivables on their own shall remain unaffected; however, **SAIER** undertakes not to collect the receivables as long as the Buyer properly fulfil their payment obligations, is not in default, no application to open insolvency proceedings has been made and there is no other deficiency in their performance.
- g) In this case the Vendor may demand the Buyer to make the assigned claims and respective debtors known to **SAIER**, furnish any equipment up for collection, submit the associated documents, and inform the debtors (third parties) about the assignment.
- h) The reservation of title applies to the full value of any products generated by processing, mixing or combining our goods, with **SAIER** recognised as the manufacturer. Should after processing, mixing or combination with goods by third parties their right of property remain in force, **SAIER** shall acquire co-ownership in the rate of invoice values of the processed, mixed or combined goods. Besides, the same applies to the generated product as to our goods delivered under reservation of title.
- i) **SAIER** undertakes to release any securities due to us upon the Buyer's request if and when their value exceeds the receivables to be secured by more than 20%, provided they have not been settled.

## 10. Term of delivery, delivery

- a) Any delivery dates mentioned by the Vendor are non-binding, unless they have explicitly been confirmed by the Vendor as "compulsory delivery date" in writing.
- b) Delivery by the Vendor is subject to punctual delivery to us on the part of our suppliers. The Vendor will immediately inform the Buyer if they do not receive any delivery.
- c) Any delivery uncompleted for this reason does not establish Vendor's liability, unless they are responsible for it.
- d) If the Vendor does not receive any delivery, they may withdraw from the contract. There is no procurement risk assumed by the Vendor.
- e) A prerequisite to meet the delivery term is the timely fulfilment of any contractual obligations assumed by the Vendor, particularly with respect to releases, documents, supply of materials (if required).
- f) The Vendor's default of delivery is determined by legal provisions. In any case, a reminder notice issued by the Buyer is necessary.
- g) Delivery shall always be effected ex works. Any delivery, also those from ongoing contracts, is regarded as specific transaction without influence on any subsequent ones. If the delivery quantities are not purchased according to the contract, the Vendor shall be entitled to claim compensation for breach of contract.
- h) Excess deliveries or short deliveries by 10% shall be permissible. The Vendor is entitled to fix minimum quantities for delivery and to charge minimum-quantity surcharges, if required.
- i) If the Buyer is in default in their payments, the Vendor shall be entitled to retain any deliveries until settlement of the payments due.

## 11. Transfer of risk

- a) Any deliveries are shipped at the Buyer's risk even if we bear the freight charges. Our obligation to deliver shall be fulfilled as soon as the goods leave our works or warehouse or has been handed over to the shipping company. Taking out transport or any other insurances is left to the Buyer or, respectively, is only done at extra cost.
- b) The risk of accidental destruction and of accidental impairment of the goods is transferred to the Buyer at the latest upon handover. In the event of sale by dispatch, however, the risk of accidental destruction and of accidental impairment of the goods as well as the risk of delay is already transferred upon delivery to the carrier, forwarder or any other person or institution commissioned with the shipment. If an acceptance has been agreed, it is decisive for the transfer of risk. Besides, the legal regulations for contracts for work and services apply to any agreed acceptance. It is equivalent to delivery or acceptance if the Buyer is in default of acceptance.

## 12. Code of conduct

- The customer has accepted the code of conduct of the General Association of the Plastics Processing Industry (GKV) on antitrust regulations, global guidelines and ethical and social principles. If the customers have their own consensual code of conduct, both contractual partners accept their codes as equivalent. Therefore, they refrain from the partner's contractual submission to their own code of conduct.

## 13. Custom-made products

- a) Concerning products made individually according to drawings, specifications or samples of the Buyer, the Buyer shall assume liability in the event of infringement of third-party property rights.
- b) If the production by third parties is prohibited with reference to any existing property right, the Vendor shall be entitled to cease delivery without checking the legal situation until the Buyer has proven that there is no violation of property rights.
- c) Any drawings, samples, models and associated data created by the Vendor shall remain the Vendor's property and must only be ceded to any third parties with their explicit consent.
- d) The Vendor shall not be obliged to surrender them. The Vendor undertakes not to manufacture any parts from such tools for third parties as long as follow-up orders are placed. The obligation expires if no further orders are placed within 1 year after the last order, the period of retention shall equally expire. We undertake to enquire again from the Buyer before the retention period expires whether they want to place any follow-up orders.

## 13. Custom-made products

- e) The cost shares for tools mentioned in the offers and order confirmations are approximate values. The actual costs can only be determined and invoiced upon completion. Usually there are deviations between the approximate values and the final invoice within the scope of +/- 15%. The Buyer must immediately be informed about any further deviations.
- f) A respective agreement can be concluded for the amortisation of tool cost shares. In the event of amortisation of tool cost shares, the Vendor remains the beneficial owner of the tool. Costs for tool modifications shall completely be borne by the Buyer and cannot be redeemed.

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- g) The costs to replace any unserviceable tools shall only be borne by the Vendor if it is attributable to their fault.
- 14. Packaging**  
a) If special, sales, transport or outer packaging is required, we will charge it. Should the Vendor take packaging back either voluntarily or on the basis of a legal obligation, the costs will be invoiced.  
b) Upon the demand for special packaging, the Vendor is exempted from any legal obligations.
- 15. Force majeure**  
a) Events of force majeure allow the Vendor to postpone the performance of services for a reasonable period of time or to withdraw from the part of the contract that has not yet been fulfilled. If acceptance of the delivery or service is infeasible for the customer due to the delay, they can withdraw from the contract upon immediate written declaration to the Vendor.  
b) Strike, lockout, mobilisation, war, blockade, export and import bans, shortage of raw materials and fuel, fire, traffic blocks, disruptions of operational or transport facilities as well as similar circumstances, including those affecting upstream suppliers, shall be deemed equivalent to force majeure.  
c) Claims for damages by the Buyer shall be precluded in the event of force majeure, provided that **SAIER** is not found liable for malicious intent or gross negligence.  
d) **SAIER** cannot be held responsible for the circumstances mentioned above even if they occur during an already existing delay. The Vendor shall inform the Buyer about the beginning and end of such hindrances as soon as possible. Any damage caused by delay before the event of force majeure, which meets the requirements of Sec. 8 of these GTC and does not fall within the exclusion of liability pursuant to Sec. 19, shall remain unaffected.
- 16. Liability for defects, warranty**  
a) The Buyer shall inspect our deliveries and services immediately after receipt of the goods professionally and objectively or carry out a goods inspection based on our shipping documents. They cannot be released from this obligation to check.  
b) Any notices of defect must be brought in within a term of 10 days from goods receipt in writing, otherwise it is excluded to assert any warranty claim. Timely dispatch of the notice of defects shall suffice to meet the deadline. Irrespective of the legal obligation to check and to give notice of defects, the Buyer shall notify any apparent defects (including wrong and short deliveries) within a period of two weeks from delivery in writing, with timely dispatch of the notice being sufficient to meet the deadline. Should the Buyer fail to properly inspect the goods and/or report defects, the Vendor's liability for the unreported defect shall be excluded.  
c) Burden of proof lies entirely with the Buyer for any claim eligibility criteria, particularly the defect itself, for the time of its occurrence and dispatch of the notice of defects in due time.  
d) **SAIER** shall bear the expenses necessary for the purposes of inspection and subsequent compliance, in particular transport, travel, labour and material costs (excluding removal and installation costs) should a defect actually exist. Should, however, any claim for removal of defects on the part of the Buyer turns out to be unjustified, **SAIER** may reclaim any costs incurred by this from the Buyer.  
e) Any hidden defects that cannot be discovered within this period even under the most careful inspection shall be notified in writing immediately upon discovery, but no later than one year after receipt of the goods.  
f) In the event of justified complaints **SAIER** shall perform either subsequent repairs or substitute delivery at its own discretion. If two attempts at repair or replacement fail, the Buyer may demand cancellation of the contract or a reduction in price.  
g) The Buyer is not granted any guarantees in the legal sense against **SAIER**. Manufacturer warranties remain unaffected by this. The warranty period shall principally be one year from delivery of the goods. This does not apply should the Vendor be charged with fraud.  
h) Warranty for stress corrosion cracking can only be assumed for the material used and its processing. Warranty claims for deliveries of goods that do not conform to the type or recycled goods are excluded insofar as they are based on the special nature of the material used. Notices of defect do not justify to retain any payments of the purchase price.  
i) If packaging products of **SAIER**, which are type-tested, are sold with reference to the hazardous materials approval, the properties mentioned in the certificate of approval shall be considered as having been agreed. Type testing is effect by authorised testing institutes.
- 17. Ban on exports to North America**  
The buyer shall not be permitted to export the purchased goods to the USA or Canada either in an unchanged or modified form or as part of a new item.
- 18. Product**  
b) The buyer is solely responsible for ensuring that the packaging materials purchased for his products are generally suitable for the purpose. a) Furthermore, the Buyer shall be responsible for ensuring that products of **SAIER** as primary packaging are only used take those substances for which they are permissible pursuant to the stipulations of dangerous goods legislation or suitable according to the state of the art.  
c) If any reprocessed, reused or reconditioned packaging is used within the permissible period of use, it is the Buyers' or filler's task to check every packaging for non-existence of corrosion, contamination or any other damage prior to filling.  
c) Any packaging showing signs of reduced resistance to the approved type must not be used any more or must be overhauled in such a way that it can withstand the type tests. **SEIER** assumes no liability whatsoever in the event of refilling, multiple use or in case of reconditioned or reprocessed packaging. Any safety specifications shall then be invalid. Special features are not ensured in case of re-use.
- 19. Limitations of liability**  
a) Unless otherwise provided for in these General Terms and Conditions of Sale and Delivery, including the provisions below, **SAIER** shall be liable in accordance with the relevant statutory provisions in the event of a breach of contractual and non-contractual obligations.  
b) **SAIER** can be held liable for compensation - for whatever legal reason - in the event of intent and gross negligence. In the event of ordinary negligence **SAIER** can only be held liable  
ba) for any damage resulting from injury to life, body or health.  
bb) for any damage resulting from the breach of a fundamental contractual duty (any obligation the fulfilment of which facilitates proper performance of the contract in the first place and on the observance of which the contractual partner regularly relies and may rely); in this case, however, liability of the Vendor shall be limited to compensation of the foreseeable typical damage.  
c) The limitations of liability resulting from paragraph b) shall not apply insofar as **SAIER** has fraudulently concealed a defect or has provided a warranty concerning the quality of the goods. The same shall apply to Buyer's claims according to the German Product Liability Act.  
d) The Buyer may only withdraw or terminate for any breach of duty not constituting a defect if **SAIER** can be held responsible for the breach of duty. Free right of termination by the Buyer (particularly pursuant to Sec. 651, 649 German Civil Code) shall be excluded. Besides, the legal

requirements and consequences apply.

- 20. EU fiscal law**  
The Buyer shall be liable for the inaccuracy of any notices given to us within the context of using the exemption from VAT for deliveries in intra-Community trade. If we incur any expenditures to determine or check the Buyer's identification number, the Vendor shall be entitled to carry them over to their account.
- 21. Place of fulfilment, venue**  
The place of performance for all obligations arising directly or indirectly from this contractual relationship, including payment obligations, is our registered office. Should the customer be a merchant, a legal entity governed by public law or a special fund under public law, the place of jurisdiction shall be the registered office of the respective company of the **SAIER** Group. The same applies should the Buyer have no general domicile in Germany or the domicile or the general residence of the buyer are not known at the time of the commencement of action. We shall also be entitled to take legal action at any court which has jurisdiction over the registered office or a branch of the Buyer.
- 22. Jurisdiction**  
The laws of the Federal Republic of Germany shall exclusively apply to these General Terms and Conditions and the entire legal relationships between **SAIER** and the Buyer. The application of the UN Convention on Contracts for the International Sale of Goods shall be excluded.
- 23. General data protection regulation**  
According to Article 6 Paragraph 1b of the General Data Protection Regulation (DSGVO), it is necessary to process the data of the client for the purpose of fulfilling the order, with due regard for data protection regulations. Further information on data protection, in particular concerning your rights, can be found at [www.saier-gruppe.de/de/datenschutz/](http://www.saier-gruppe.de/de/datenschutz/).
- 24. Severability clause**  
If any stipulations of the GTC are or become ineffective, the remaining contents shall remain unaffected - even if they constitute fundamental parts. The same shall apply if any loopholes become evident. Loopholes of any type shall be closed by the Buyer and **SAIER** in the form of a subsequent regulation which comes closest to the economic purpose of the contract.

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• **SAIER HOLDING GmbH, D-72275 Alpirsbach**  
• **SAIER MANAGEMENT GmbH, D-72275 Alpirsbach**  
• **SAIER VERPACKUNGSTECHNIK GmbH & Co. KG, D-72275 Alpirsbach**  
• **GFV VERSCHLUSSTECHNIK GmbH & Co. KG, D-72275 Alpirsbach**  
• **E+E VERPACKUNGSTECHNIK GmbH & Co. KG, D-71131 Jettingen**