

**General Terms and Conditions**  
**of**  
**Salinen Austria Aktiengesellschaft**

**1. Scope of validity**

**1.1** To the extent that nothing else is expressly agreed, the following general terms and conditions of sale and delivery (referred to in the following as "**AGB**", German AGB, short for General Terms of Business) which have been made known to the contractual partner of SAAG (referred to in the following as the **partner to the agreement**) apply exclusively for the supply of goods (in particular salt, salt mixtures, saline, salt-based cosmetics, merchandise and other products) by the Salinen Austria Aktiengesellschaft (referred to in the following as "**SAAG**"). These AGB of the SAAG form an integrated part of the contract with the partner to the agreement in each case. They are also valid for all future contractual relationships with the partner to the agreement.

**1.2** Terms and conditions of the partner to the agreement (general) which deviate from the AGB will not become part of the agreement, even if SAAG does not expressly object to them. The partner to the agreement waives the use of his own general terms and conditions, in particular the clause referring to unlawful interference, by making an order, by accepting an offer by SAAG or by completion of a contract with SAAG.

**1.3** Deviations from this AFB are only effective on written confirmation or recognition by SAAG. Departures from this formal requirement, have to be made in writing.

**2. Offer, cost estimate**

**2.1** Offers made by SAAG are subject to change until completion of the contract.

**2.2** Cost estimates made by SAAG are always non-binding and do not oblige SAAG to accept an order to carry out the services listed in a cost estimate or to carry them out.

**2.3** None of the documents relating to the offer may be copied, or made available to a third party, without the prior agreement of SAAG. They can also be claimed back at any time by and are to be returned without delay or destroyed in their entirety, if the customer places an order elsewhere.

**3. Completion of contract; deviations**

**3.1** An agreement is completed if SAAG issue a written order confirmation on receipt of the order or if it has sent a delivery to the partner to the agreement.

**3.2** SAAG delivers its goods in customary condition. The details of the condition of the goods contained in catalogues, brochures and other documents belonging to SAAG and also other written or spoken statements are only authoritative if they are expressly referred to in the order confirmation of SAAG. Details of the condition are only to be regarded as quality guaranteed by SAAG if they are expressly termed as such in the order confirmation from SAAG. Details of content by percentage and analysis data are only to be regarded as non-binding guide-lines, to the extent that something else is not compulsorily prescribed by law.

**3.3** Excess deliveries or short deliveries, or excess weights or short weights in the magnitude of +/- 3% do not entitle the partner to the agreement to objection and /or price alteration. Furthermore, SAAG is only obliged to recognise complaints due to excess or short deliveries or excess or short weights, if a written confirmation of the forwarder in this regard is presented by the partner to the agreement.

**3.4** Deviations caused by production (in particular concerning types of salt, graining, and packaging) fundamentally do not entitle the partner to the agreement to an objection and/or to a price alteration, to the extent that the product characteristics per se have not altered substantially due to this.

**3.5** Partial deliveries by SAAG are admissible.

**3.6** Subsequent alterations and supplements to the agreement by the partner to the agreement fundamentally require the written confirmation of SAAG to be valid.

#### **4. Prices**

**4.1** The prices stated by SAAG in the respective order confirmation apply fundamentally. The prices are always exclusive of a possible value added tax in the statutory amount in each case. If need be discounts, rebates, goods credits, bonuses and the like are calculated from the sales prices exclusive of value added tax.

**4.2** The prices are valid ex works or ex warehouse of SAAG exclusive of packing, loading and value added tax. If fees, taxes or other dues are charged in connection with the delivery of the goods, these are borne by the partner to the agreement. If it is agreed that the consignment is to be delivered by SAAG, this will be invoiced separately just as a transport insurance possibly desired by the partner to the agreement, however this will not include unloading and carrying. Packaging and packing aids may only be re-used by the

partner to the agreement after the company logo and the name and also the trademark or other marks of SAAG in the trade have been rendered unrecognisable.

**4.3** In the event of an order by the partner to the agreement differing from the total offer by SAAG, SAAG reserves the right to a corresponding alteration of the price.

**4.4** The prices are based on the costs at the time of the initial price offer by SAAG. Should the costs increase by the time of delivery, SAAG is entitled to adapt the prices accordingly. In this event, the partner to the agreement can withdraw from the agreement in writing within seven (7) days of being informed of the price increase.

**4.5** To the extent that the SAAG prices are given in foreign currency, they are based on the respective rate of exchange on the day of the issue of the order confirmation. In the event of alterations in the rate of exchange of more than 2% to the detriment of SAAG, SAAG is entitled to adapt the prices accordingly. In this event, the partner to the agreement is entitled to withdraw from the agreement in writing with regard to not delivered amounts within seven (7) days.

## **5. Delivery**

**5.1** The time for delivery starts at the latest of the following times:

- the date of the order confirmation;
- the date of the satisfaction of all possible technical business and other prerequisites incumbent on the partner to the agreement in the individual case
- the date on which SAAG receives a down payment or security to be paid prior to delivery of the goods.

**5.2** SAAG is entitled to carry out part or advance deliveries and to offset these.

**5.3** If delivery on call has been agreed, SAAG can regard the goods as goods called forward six months after the placing of the order and can demand the services owed by the partner to the agreement in this case. If it has been agreed that the goods are to be called forward during a certain time-period, SAAG is entitled, in the case of a call which does not comply with the schedule, to withdraw from the agreement completely or in part, without setting a further time limit. SAAG is entitled in any case to submit an invoice for the storage charges for the duration of the time exceeding the deadline.

**5.4** To the extent that unforeseeable circumstances or circumstances independent of the intentions of the parties, such as cases of force majeure in accordance with Point 12 occur, which prevent the compliance with the agreed time of delivery, this is extended for the length of these circumstances in any case.

## **6. Transfer of risk**

**6.1** Use and risk are transferred to the partner to the agreement with the transfer to the carrier ex works of SAAG or ex warehouse of SAAG - in the event of a delay in default of acceptance by the partner to the agreement, with readiness to dispatch on the part of SAAG - and moreover, independently of the price setting agreed for the delivery (such as for example cif, free delivery ). If the transport is carried out, organised or managed by SAAG, use and risk are transferred to the partner to the agreement on departure from the site of the SAAG works.

**6.2** A transport insurance may be concluded on the express wish of the partner to the agreement in their name and at their cost.

## **7. Payments**

**7.1** To the extent that no special terms of payment were agreed, on conclusion of the agreement, the whole invoice amount (net price plus value added tax) is due for payment within 14 days of the date on the invoice.

**7.2** In the case of partial invoices, the corresponding part payments are due on receipt of the respective invoice. This also applies to offset amounts, which arise due to subsequent deliveries or other agreements beyond the original final amount, independent of the terms of payment which were agreed for the main delivery.

**7.3** Payments are to be made without any kind of deduction and free of transaction charges to the designated bank account of SAAG in the currency specified in the invoice. The date of arrival at SAAG or at the designated bank account of SAAG counts as the date of payment. A possible acceptance of check or bank draft takes place only as payment. All interest and expenses associated with this (for example collection and discount expenses) are at the expense of the partner to the agreement. Payments of the partner to the agreement - independent of the respective payment reference of the partner to the agreement - are initially accounted for subsidiary fees and then for the respectively oldest debt of the partner to the agreement.

**7.4** The partner to the agreement is not entitled to withhold payments or to balance these with counter claims due to guarantee claims or other claims, whatever the kind.

**7.5** A payment is held to have been made on the day when SAAG has it at its disposal.

**7.6** If the partner to the agreement is in arrears with a payment or other service from a legal transaction, then SAAG is entitled in particular, without prejudice of its other rights,

- to defer the fulfilment of its own obligations until the obtaining of this payment or other service and to take advantage of a reasonable extension of the delivery time, (and /or)
- to accelerate maturity of all unpaid debts/demands from this or other transactions with the partner to the agreement and to bill interest payable on arrears in the amount of 12% p.a. , (and/or)
- to withdraw from the agreement in the case of non compliance with one of the extensions of the deadline set by them, (and/or)
- to invoice the out-of-court operating and transfer costs (in particular the costs incurred by SAAG for reminders and collection expenses and lawyer's fees). SAAG is entitled to invoice the partner to the agreement for remuneration in the amount of EUR 12 plus VAT for each out-of -court reminder.

**7.7** Discounts and bonuses, which have been granted are conditional on the punctual and complete payment by the partner to the agreement.

## **8. Retention of title**

**8.1** SAAG retains the title on all goods delivered by it until after complete payment of the invoiced amounts exclusive of interest/tax and other costs. The partner to the agreement hereby cedes his demand from the resale of reserve goods to SAAG as security for the debt, even if these have been processed, transformed, or mixed, and they undertake to put a corresponding note in its open item list or on its invoices. SAAG accepts this transfer. The partner to the agreement has to notify SAAG of any claims transferred and of the party liable, to make available all the details and documents necessary for the collection of the claim and to notify the third party liable of the transfer. In the event of attachment or other claim, the partner to the agreement is obliged to point out the right of proprietorship of SAAG and to notify the same without delay. The partner to the agreement will keep the reserved goods in custody for SAAG free of charge. He is to insure them against usual risks, such as fire, burglary, theft, water and similar to a reasonable extent and transfers his indemnity claims, to which he is entitled from the insurer, to SAAG in the amount of its claim.

**8.2** The partner to the agreement may not burden the reserve goods, in particular may not mortgage them or transfer them as security.

**8.3** If SAAG take the reserved goods back from the partner to the agreement, this is only a cancellation of the agreement if SAAG expressly declare it to be.

### **9. Guarantee and liability for faults**

**9.1** If the agreed terms of payment are observed, SAAG is obliged to remedy entitled guarantee claims of the partner to the agreement by their own choice by means of substitute delivery (exchange) or by means of reasonable price reduction in accordance with the dictates of the following provisions. Further claims of the partner to the agreement do not exist.

**9.2** No guarantee claims can be derived from information in catalogues, brochures, and other written or spoken statements which have not been expressly recorded in the agreement.

**9.3** The guarantee period is six (6) months, to the extent that no special guarantee periods are agreed for individual goods. The term of the guarantee period starts with the time of the transfer of risks in accordance with Point 6.

**9.4** The guarantee claim assumes, that the partner to the agreement has advised SAAG in writing of the fault which has occurred, without delay, at the latest however within 48 hours after arrival of the goods at the place of principle and has proved that the claimed fault was present at the time of the transfer of risks (in accordance with Point 6).

Excluded from this are faults, which can not be discovered within the above time period, in spite of careful examination. These faults are deemed approved, if they are not asserted in the above fashion immediately after their discovery.

The partner to the agreement is to prove the presence of a fault without delay and in particular to make available the samples of the faulty goods he has in his possession and also documents or data of SAAG at its request.

**9.5** From the identification of the fault by the partner to the agreement, any further disposal of the goods is inadmissible without the express written permission of SAAG.

**9.6** The assertion of the fault does not discharge the partner to the agreement from his obligation to pay.

**9.7** A return of the rejected goods, apart from the samples of faulty goods and documentation is not admissible without prior written agreement by SAAG. No claims of any kind, or other legal consequences can be derived by the partner to the agreement by taking over the returned goods. Likewise, an examination of the fault by SAAG does not affect any claims of the partner to the agreement or other legal consequences.

**9.8** Claims in accordance with Section 933b ABGB (Austrian Civil Code) are subject to the statute of limitations at all events with the lapse of the time period named in Point 8.3.

**9.9** The aforementioned provisions also apply accordingly for every liability for faults for other legal reasons.

## **10. Withdrawal from the agreement**

**10.1** To the extent that no different provision has been made, a prerequisite for the withdrawal from the agreement by the partner to the agreement is a delay in delivery which is attributable to gross negligence on the part of SAAG, which is to be proved by the partner to the agreement, and also the unsuccessful expiry of a reasonable additional period of time set by the partner to the agreement. The withdrawal is to be announced by the partner to the agreement by registered letter.

**10.2** Independent of their other rights, SAAG is entitled to withdraw from the agreement,

- if the carrying out of the delivery or the start or the continuation of the service is impossible or, in spite of the setting of a reasonable additional period of time is delayed for reasons which the partner to the agreement has to answer for, or
- if doubts have arisen regarding the solvency of the partner to the agreement and he neither pays an advance at the request of SAAG nor submits a suitable security, or
- if the extension of the delivery time as a whole amounts to more than half of the originally arranged delivery time, at least six months however, due to the reasons listed in Point 5.4.

**10.3** The withdrawal can also be declared regarding a still outstanding part of the delivery or a service for the above reasons.

**10.4** Should insolvency proceedings be opened concerning the assets of the partner to the agreement or if a petition for bankruptcy is rejected due to lack of cost-covering assets, SAAG is entitled to withdraw from the agreement without delay, without setting an additional period of time.

**10.5** Without prejudice of the claims for compensation by SAAG, in the event of the withdrawal already performed services or part services are to be charged in accordance with the agreement and are to be paid by the partner to the agreement. This also applies to the extent that the delivery has not yet been taken over by the partner to the agreement, and also for preparatory acts performed by SAAG. Instead of this SAAG is also entitled to demand the cost-free return of already delivered items.

**10.6** Other consequences of the withdrawal are excluded.

## **11. Liability**

**11.1** SAAG is liable in the context of the legal provisions for damages outside the jurisdiction of the product liability act, only to the extent that it can be proved guilty of wrongful intent or gross negligence by the partner to the agreement. In cases of gross negligence, the liability of SAAG (excluding personal injury) is limited to the net invoice amount for each delivery - to the extent that this is legally admissible. The liability for slight negligence, damages for consequential loss (in particular expected and not realised reduction of costs, the loss of data, the loss as a consequence of an interruption of operations etc), financial losses, loss of interest and from damages resulting from third party claims against the partner to the agreement are expressly excluded.

**11.2** If penalties fixed by contract are agreed, claims by the partner to the agreement in excess of this are excluded from the respective item in any case.

**11.3** Claims for compensation are subject to a limitation period of 2 years after knowledge of the damage and of the originator of the loss, in any case in 3 years after the transfer of risks in accordance with Point 6.

**11.4** Possible recourse claims which the partner to the agreement or a third party direct against SAAG from the item of the product liability in the sense of the PHG (product liability act) are excluded, unless the person seeking regress proves that the mistake originated within the sphere of SAAG or at least was caused by gross negligence.

## **12. The assertion of claims**

To the extent that in the individual case specially arranged or legal provision do not provide for shorter time limits, all claims of the partner to the agreement within three years of the transfer of risks - in the case of other loss of claims are to be enforced by law.

### **13. Force majeure**

**13.1** Occurrences of force majeure, which affect SAAG or one of their preliminary suppliers, entitle SAAG to cease the deliveries for the duration of the obstruction and of a reasonable initial stage or to cancel the agreement completely or in part, according to the effects. The partner to the agreement is not entitled to demand compensation or subsequent delivery in this case.

**13.2** If the delivery is delayed more than 18 months by the effects of force majeure, the partner to the agreement is entitled to cancel part of the delivery affected by this within 4 weeks.

**13.3** The following are considered to be occurrences of force majeure in particular: all effects of force majeure such as for example, earthquake, lightning, frost, storm, floods; further: war, laws, official intervention, confiscation, transport breakdown, export, import and transit constrictions, international payment constrictions, raw material unavailability and power failure; further: disruption of operations, such as for example, explosion, fire, strikes, sabotage and all other occurrences, which could only have been preventable with disproportional expense and means not justifiable economically.

### **14. Industrial property rights and copyright**

Trademarks, samples, catalogues, brochures, productions and similar always remain the intellectual property of SAAG and are subject to the relevant legal regulations regarding reproduction, imitation, competition etc.

### **15. Other provisions**

#### **15.1** Severability clause

Should individual provisions of the agreement or of these provisions be or become ineffective, invalid and/or impracticable, the effectiveness, validity or practicality of the remaining provisions are not affected. The ineffective provision is to be replaced by an effective, valid or practicable one, which is as close as possible to the desired economic target.

#### **15.2** Confidentiality

The partner to the agreement is to treat the completion of the agreement confidentially and may only refer to business connections with SAAG in advertising material and reference lists after prior written agreement from SAAG. The partners to the agreement undertake to treat all non-evident/obvious business or technical details, which become known to them through the business association as a business secret. Subcontractors are to be obligated accordingly. The partner to the agreement is liable for every fault, also insubstantial ones, which SAAG incurs from a contravention.

**15.3** Data protection

The partner to the agreement is obliged to confidentiality of the individual-related data, which has come to his knowledge. He is obliged to protect this data from third party access.

**15.4** Cancellation of the agreement in the event of continuous obligation

To the extent that nothing to the contrary is agreed, continuous obligations can be dissolved by SAAG at any time subject to a term of 3 months. SAAG may terminate agreements for grave and weighty reasons with immediate effect. This includes if the partner to the agreement violates fundamental contractual obligations gravely or repeatedly or if insolvency proceedings have been opened for him, or if a corresponding application has been rejected due to lack of cost-covering assets. In the event of a justified cancellation, the partner to the agreement bears the expenses of the return of the goods.

**15.5** Covenant not to assign

The partner to the agreement is not entitled to transfer his rights and obligations to a third party without prior written agreement by SAAG.

**15.6** Contractual exclusion of set-off

The partner to the agreement may not set off demands by SAAG against its own demands. Excluded from this are amounts assigned by court decision and also debts recognised expressly and in written form by SAAG.

**15.7** Legal succession

SAAG is entitled to transfer rights and obligations from the contractual relationship with the partner to the agreement to companies in which SAAG has an interest of more than 25% or to companies, which have an interest in SAAG of more than 25%. The partner to the agreement does not accrue any right of cancellation or of withdrawal from the occasion of this transfer.

**15.8** The written form

Explanations, announcements, notifications etc directed to SAAG require the written form and the company original signature to have legal validity. Agreements to waive this formal requirement, require the same form. Emails do not fulfil the written form requirement.

**15.9** The place of obligation, court of jurisdiction and law applicable

The place of obligation is SAAG's respective depot.

The court of jurisdiction for Bad Ischl is exclusively the court of jurisdiction for the arbitration of all disputes arising directly or directly from the agreement - including those concerning its existence or non-existence.

The agreement is subject to Austrian law with the exclusion of conflicts-of-laws rules which provides for the application of another legal system. The application of the UNICITRAL (United Nations Commission on International Trade Law) to contracts for the international sale of goods (UN - CISG; BGBl 1988/96 - Austrian Federal Gazette) is expressly excluded.

Valid, since July 1<sup>st</sup> 2005