

# General Standard Terms and Conditions of Business and Delivery (status: 09.05.2017)

## I. General provisions

1. The following General Standard Terms and Conditions of Business and Delivery apply to all contracts concluded between Saxonia Galvanik GmbH (hereinafter referred to as SAXONIA) and its contractual partners (hereinafter referred to as ordering party or parties) and are the basis for all quotations, deliveries and services of SAXONIA. They shall also apply to all future business relationships, even if they have not been expressly agreed. Different terms and conditions of the ordering party that are not expressly acknowledged by SAXONIA in writing shall not be binding on SAXONIA, even if SAXONIA does not expressly object to them. The following General Standard Terms and Conditions of Business and Delivery shall also apply if SAXONIA performs the services without reservation despite being aware of contrary or different terms and conditions of an ordering party.

2. Where declarations and certifications issued to the user, within the context of these General Terms & Conditions, require the "written" form ("in writing"), this means print form (email, letters, fax etc.) as defined under Sec. 126 b German Civil Code (BGB), which does not require a signature.

## II. Quotation and conclusion of contracts

1. SAXONIA can accept an order, which has to be qualified as a quotation for a contract to be concluded, within two weeks by sending an order confirmation.

2. Quotations from SAXONIA are always without engagement and non-binding, unless they are expressly stated as being binding. SAXONIA shall be bound to prices it bindingly offers for a period of 2 months at the most.

3. A contract shall be formed for quotations that are not expressly stated as being binding only upon, and always as specified and in accordance with the contents of, a written order confirmation from SAXONIA, where such confirmation is issued. Communicated recommended prices and capacities are not binding offers and shall only become a basis of the contract if the order is confirmed in writing. In the quotation stage, the ordering party shall point out increased stress, special types of usage and applicable risks in writing.

4. Oral understandings and ancillary agreements, as well as modifications to a contract, shall not be effective until confirmed in writing by SAXONIA.

5. SAXONIA reserves its ownership rights, copyrights and other proprietary rights to all figures, calculations, drawings and other documents. An ordering party may disseminate these to third party only with the written consent of SAXONIA, regardless of whether SAXONIA has designated them as being confidential or not.

## III. Terms of payment

1. Prices of SAXONIA shall apply ex works and excluding packaging, unless otherwise specified in the order confirmation. These prices do not include statutory value-added tax. SAXONIA shall state this separately on the invoice at the statutory rate applicable on the day of invoicing.

2. Cash discounts may only be deducted pursuant to a special written agreement between SAXONIA and an ordering party. The agreed price shall be due for payment in net (without deduction) and immediately upon receipt of the invoice by the ordering party, unless a different period of payment is defined in the order confirmation. Payment shall be deemed as having been made once SAXONIA can dispose of the amount. In the case of payments by cheque, the payment shall be deemed as having been made only when the cheque has been redeemed.

3. If an ordering party is in arrears with payment, the statutory regulations shall apply.

4. The ordering party shall be authorised to offset its claims, even if notices of defects or counterclaims are asserted, only if the counterclaims have been ruled on finally and conclusively, have been acknowledged by SAXONIA or are not in dispute. The ordering party shall be authorised to exercise a right of retention only if its counterclaim is founded on the same contractual relationship.

5. If the ordering party withdraws in full or in part from a concluded contract for reasons for which SAXONIA is not to blame, it shall reimburse SAXONIA for the costs incurred, including the costs for storing parts, and other damage incurred.

## IV. Delivery and service time

1. Delivery dates and deadlines that have not been expressly agreed as binding shall only be non-binding details. The delivery time specified by SAXONIA shall not commence until the technical questions have been clarified. The ordering party shall also fulfil all obligations incumbent on it correctly and on time.

2. Observance of the delivery deadlines is subject to the proviso that SAXONIA itself is supplied correctly and on time, in particular if SAXONIA has concluded a congruent covering transaction. The delivery deadline shall be regarded as having been observed if the delivery has left the plant by the time it expires or if SAXONIA has reported that it is ready for shipment. If acceptance testing has been agreed, observance of the delivery deadline will be determined by the date agreed for this or by notification that the delivery is ready for acceptance testing.

3. If it is in delay in delivery, SAXONIA shall be liable towards the ordering party in accordance with the statutory regulations, if this is due to intentional or grossly negligent breach of contract for which SAXONIA is to blame, which shall also include blame on the part of representatives or vicarious agents. SAXONIA's liability shall be limited to foreseeable, typical damage if the delay in delivery is not due to intentional breach of contract for which SAXONIA is to blame. The amount of liability shall always be limited to the agreed order value.

4. Any further liability, including for delay in delivery for which SAXONIA is to be blame, shall be excluded.

5. SAXONIA shall be authorised to make part deliveries or provide part services at any time, provided this is reasonably acceptable to the ordering party.

6. If the ordering party is in delay in taking delivery or itself is in delay in delivery, SAXONIA shall be authorised to demand restitution of damage it incurs and any extra costs. The same shall apply if the ordering party culpably violates duties of cooperation. The risk of accidental deterioration and accidental loss shall pass to the ordering party upon occurrence of the delay in acceptance or debtor's delay.

7. If the ordering party is in delay after a written warning as regards its duty to provide services and duty of cooperation, SAXONIA shall be authorised, after setting a subsequent period of grace of 14 days in writing, to rescind the contract or demand damages for non-fulfilment, at its discretion.

## V. Passage of risk – Dispatch, packaging

1. Goods shall be loaded and shipped uninsured at the risk of the ordering party. SAXONIA shall endeavour to take into account the wishes and interests of the ordering party as regards the means and route of shipment; extra costs incurred as a result of this – even if carriage paid delivery is agreed – shall be borne by the ordering party.

2. SAXONIA shall not take back transport and all other packaging in accordance with the Packaging Ordinance; pallets shall be excluded from this. The ordering party shall ensure disposal of the packaging at its own cost. Deliveries will in principle be made ex works, excluding packaging.

SAXONIA Galvanik GmbH  
Erzstrasse 5 • 09633 Halsbruecke • Germany

Fon +49.3731.782.0 • Fax +49.3731.782.313

Managing Director  
Stefan Tilke

Handelsregister  
Chemnitz  
HRB 22485

Volksbank Chemnitz eG  
Konto-Nr. 321 017 983  
BLZ 870 962 14  
IBAN DE29 8709 6214 0321 0179 83  
SWIFT GENODEF1CH1

USt.-IdNr. DE 814553050



SAXONIA Galvanik GmbH • Erzstrasse 5 • 09633 Halsbruecke/Sachsen, Germany

3. If shipment is delayed at the request or due to the fault of the ordering party, SAXONIA will store the goods at the cost and risk of the ordering party. In this case, notification of readiness for shipment will be tantamount to shipment. We retain the right to charge storage fees amounting to 1% of the invoice amount for each month or part thereof after expiry of one month after notification that the goods are ready for shipping. The total amount of storage fees charged shall not exceed 5% of the invoice amount unless we are able to demonstrate that higher charges were, in fact, incurred. The customer is entitled to demonstrate that no storage costs at all were incurred or that these were considerably lower than the above flat rate.

4. SAXONIA shall also not be liable for waiting times that are incurred, even if collection dates or delivery dates have been promised, provided the time by which they have been exceeded overall is still reasonable.

5. SAXONIA shall insure the delivery by means of transport insurance at the request and cost of the ordering party. If processed workpieces are returned to SAXONIA for reasons beyond SAXONIA's control, the customer shall bear the risk up to the point of receipt by SAXONIA.

## VI. Warranty/liability

1. The quality owed to the ordering party shall be as defined in the agreements made with it, the quality features specified by SAXONIA and the general intended use of the supplied object. If SAXONIA has to provide deliveries in accordance with individual drawings, specifications or specimens of the ordering party, the ordering party shall warrant the suitability of the deliveries for the intended purpose envisaged by it.

In the event of a justified notice of defects, SAXONIA shall remedy the defects by supplying a substitute or by subsequent improvement, at its own discretion. For this to be possible, the ordering party must have examined the delivery as soon as it has been received and defects discovered in this must be reported immediately in writing to SAXONIA along with the reasons for the complaint. If hidden defects are discovered later, these must also be reported immediately in writing along with the reasons for the complaint. The ordering party shall set SAXONIA a reasonable period of time in its request for remedy. A remedy shall be regarded as having failed only after the second futile attempt, unless further attempts at subsequent improvement are reasonable and are reasonably acceptable to the ordering party due to the subject matter of the contract.

2. SAXONIA shall warrant proper surface treatment as regards material and workmanship in accordance with the recognised state of the art and the applicable or generally recognised (draft) DIN regulations. In the case of electroplating and chemical processes and due to differences in quality of the raw material, deviations from a specimen on which the order was based are unavoidable.

3. The normal warranty period shall be 12 months after delivery of the goods, unless SAXONIA has maliciously kept silent with regard to a defect: in such a case, the statutory regulations shall apply.

4. The objects handed over to SAXONIA for processing shall be delivered with a delivery note and with precise written details of the quantity and total weight. These details are not binding on SAXONIA. Notification of the ordering party by SAXONIA by telephone shall be sufficient as a valid means of issuing notification and complaint of quality deviations.

Missing parts shall only be replaced if delivery of them is proven by a delivery note signed by SAXONIA and the risk has passed to SAXONIA. In the case of small and bulk parts, SAXONIA shall in principle not assume any liability for short quantities of up to 5 % of the total delivery quantity. In the case of short quantities above 5 % of the total delivery quantity, liability shall only be possible for the difference of the short quantity above the basic figure of 5 %.

5. Defects in a partial delivery do not entitle the customer to withdraw from the contract unless the defect is so considerable that the customer has no interest in accepting further part deliveries.

6. Where product characteristics regarding visual appearance, layer thickness, corrosion resistance and coefficients of friction are warranted, the warranty is subject to the condition that the goods remain in the state returned by SAXONIA, i.e. not installed. Warranted characteristics are subject to the condition that the products are properly handled by the contractual party, in particular by appropriate transport, storage, sorting and packaging processes. Where a

contractual party intends to make a claim based on warranted characteristics, it must be able to prove that the products were handled appropriately.

7. The material to be processed and raw parts provided must be in a state suitable for electroplating. It must be free of oil, grease, dust, silicone, stripping agent, casting skin, moulding sand, cinder, oil carbon, slag, graphite and coats of paint. It must not have any pores, contraction cavities, cracks, laps, grease residues, burrs or similar faults that damage the electroplating process. The raw parts must be delivered in a clean, chip-free and dry state. If this is not the case, SAXONIA shall be authorised to reject processing them. If the ordering party nevertheless insists on their being processed, SAXONIA shall in principle not warrant and accept liability for a specific dimensional accuracy, durability, adhesive strength, corrosion resistance, surface purity and colour retention of the parts to be processed and the coat to be applied. If errors in the raw parts that only become visible after the electroplating process occur in the material provided, the processed parts shall be paid for by the ordering party at the contractually agreed price. In such cases, there shall be no warranty and liability for any capacities and delivery quantities that have been agreed or promised by SAXONIA.

In particular, no liability shall be assumed for adhesive strength if the material has been deformed after surface treatment, even if parts that have been electroplated as a test were able to be deformed without the electroplating coat flaking.

8. If, following the supply of samples in series production, changes are made by the ordering party in the manufacturing process for raw parts (e.g. to the tool or material) and this is not reported, SAXONIA shall be authorised to reject any liability and warranty.

9. Hollow parts will in principle be treated by electroplating only on the outer areas, unless treatment of the hollow spaces has been agreed in special cases. The immediate onset of corrosion on the untreated areas shall not be justification for complaint. Surface-treated material is at risk from splash water and fretting corrosion. It must be packaged, stored and transported correctly.

10. The ordering party shall define the minimum coating thicknesses at a measurement point to be agreed, prescribe the means of shipment and prevent chemical and mechanical damage to the surface by suitable measures. SAXONIA shall not be liable for damage from weathering and for any damage caused by residues from the treatment process that later ooze out of laps and other inaccessible hollow spaces.

## VII. Reservation of ownership and security right

1. SAXONIA shall have a statutory artisan's lien to the objects handed over to SAXONIA. Regardless of this, the ordering party shall grant SAXONIA a contractual lien to the handed-over objects as security for all claims from the business relationship that are undisputed or have been ruled on finally and conclusively. If the surface-treated parts are delivered to the ordering party before full payment, it is hereby agreed with the ordering party that it will assign SAXONIA ownership of these parts to the value of SAXONIA's claim so that SAXONIA can secure its claims and that handover of possession is replaced by the ordering party holding the parts in safekeeping for SAXONIA. The same shall apply accordingly as regards the expectant right of the ordering party to objects that have been handed over to SAXONIA and that have been supplied to the ordering party by a third party subject to reservation of ownership. SAXONIA shall be authorised to bring about the cessation of the reservation of ownership. Claims for retransfer of ownership of the ordering party against third parties to which it had previously transferred the objects handed over to SAXONIA by way of security shall be assigned to SAXONIA. SAXONIA hereby accepts this assignment.

2. The ordering party shall neither attach objects to which SAXONIA has a right of lien or that are in the conditional ownership of SAXONIA nor transfer ownership of them by way of security. However, it may resell or further process the goods in the ordinary course of business, unless it has effectively assigned its claim against its contractual partner to a third party beforehand.

3. If the supplied objects or goods serving as security are combined, mixed or blended with other objects to create a uniform new object and the ordering party acquires the sole ownership or co-ownership of this new object, it hereby assigns SAXONIA this right of ownership in the ratio of the value of the goods serving as security to the value of the other object in order to secure the claims of SAXONIA and promises to keep the new object in proper safekeeping for SAXONIA free of charge. If the goods processed by SAXONIA and assigned to SAXONIA by way of security or the new object produced from them are resold, the ordering party shall point out the conditional ownership of SAXONIA to its purchaser.

At the request of SAXONIA, the ordering party shall provide individual proof of the claims and disclose the assignment to third-party purchasers, with the demand to pay an amount up to the level of the claims of SAXONIA to SAXONIA. SAXONIA shall itself be authorised to inform the subsequent purchaser of the assignment at any time and to collect the claim.

**SAXONIA Galvanik GmbH**  
Erzstrasse 5 • 09633 Halsbruecke • Germany

Fon +49.3731.782.0 • Fax +49.3731.782.313

**Managing Director**  
Stefan Tilke

**Handelsregister**  
Chemnitz  
HRB 22485

Volksbank Chemnitz eG  
Konto-Nr. 321 017 983  
BLZ 870 962 14  
IBAN DE29 8709 6214 0321 0179 83  
SWIFT GENODEF1CH1

USt.-IdNr. DE 814553050



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SAXONIA Galvanik GmbH • Erzstrasse 5 • 09633 Halsbruecke/Sachsen, Germany  
The ordering party shall be obliged to inform SAXONIA immediately of enforcement measures of third parties that affect the security rights. The ordering party shall be obliged to insure the goods that are in the conditional ownership of SAXONIA adequately against damage by natural forces, e.g. fire, and theft and assign claims against the insurer and the damaging party to SAXONIA upon request.

At the request of the ordering party, the securities to which SAXONIA is entitled pursuant to the above provisions shall be released to the extent that their value exceeds the claims to be secured by more than 20 %.

4. If third parties assert rights to the goods serving as security, the ordering party undertakes to provide SAXONIA immediately with all the necessary documents and reimburse SAXONIA for the costs of intercession it incurs.

5. All claims of SAXONIA, including from other contracts with the ordering party, shall become due immediately, including if a respite has been granted for them, as soon as the ordering party is in delay with fulfilling other obligations towards SAXONIA, discontinues its payments, has excessive debt, insolvency proceedings have been instigated on its assets or instigation of insolvency proceedings is rejected due to insufficiency of assets or if circumstances that considerably impair the creditworthiness of the ordering party become known. In such a case, SAXONIA shall be authorised at its discretion to perform outstanding deliveries or services only in exchange for advance payment or provision of security or, following a preceding fruitless warning setting a deadline, to demand damages for non-fulfilment or rescind the contract.

**VIII. Place of performance, place of jurisdiction, applicable law**

1. The place of performance and place of jurisdiction for deliveries and payments (including legal action based on a dishonoured cheque or bill) and all disputes between SAXONIA and the ordering party arising from the contracts concluded between SAXONIA and the ordering party shall be the registered offices of SAXONIA in Halsbrücke. However, SAXONIA shall be also authorised to file action against the ordering party at its place of residence or registered office.

2. The relationships between the parties shall be governed solely by the law of the Federal Republic of Germany. Application of the Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods shall be excluded. Only the German version of a contractual text shall be authoritative.

**IX. Severability clause**

If one of the provisions of the above General Standard Terms and Conditions is void, invalid or infeasible for any reason, the validity of the other provisions and the underlying contract shall not be affected thereby. Invalid provisions shall be replaced by arrangements that most closely correspond to the economic spirit and purpose of the invalid provision.

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