

These Conditions of Supply apply solely to business between companies within the meaning of Articles 1ff Austrian UGB or Article 1 section 2 Austrian Consumer Protection KSchG. We supply solely subject to our written order confirmation and these Conditions of Supply. Acceptance of the Purchaser's order does not mean that we recognise the Purchaser's terms and conditions of purchase, where these differ from these Conditions of Supply. By executing the order and acceptance of the goods supplied by us the Purchaser confirms its consent to the following conditions.

Our Conditions of Supply apply even if we, in the knowledge that the conditions of the Purchaser either contradict or deviate from our Conditions of Supply, execute the order without reservation.

- 1. Price**
 - 1.1 Our prices are ex works, excluding statutory value-added tax and packaging.
 - 1.2 Invoices shall be due for payment within 14 days after receipt of invoice with 2% discount; otherwise within 30 days after receipt of invoice, net. Bills of exchange shall only be accepted as payment subject to a separate agreement; discounts and expenses shall be charged at the customary bank rate. If the invoice has not been paid by the time it is due at the latest the Purchaser is in default with payment at that time and we can claim default interest and damage caused by such default unless the Purchaser bears no fault for this. If the time of receipt of the invoice is unclear the Purchaser shall be in default no later than 30 days after the due date and receipt of counter-performance. If the Purchaser is in default with payment we are entitled to demand default interest of 9.2% points above the respective discount rate of the Österreichische Nationalbank. We are entitled to claim a higher amount where we can prove that the actual loss incurred was higher. We will claim any unjustified deduction of discount or default interests.
 - 1.3 The Purchaser is not entitled to set off our claims or assert a right of retention unless the Purchaser's claims are undisputed or have been declared final and absolute by a court.
- 2. Delivery Time**
 - 2.1 If a delivery time has been agreed upon, this shall commence on the date of our order confirmation. We shall only be bound to observe the delivery time subject to timely receipt of the documents to be provided by the Purchaser, necessary permits, releases, timely clarification and approval of the plans, compliance with the agreed terms of payment and other obligations. If these prerequisites are not fulfilled in time the deadline will be extended by a reasonable period. The delivery date shall be deemed to have been met if, by this date, the goods have left our premises or the merchandise is ready for despatch and the Purchaser has been notified accordingly.
 - 2.2 The delivery time shall be extended by a reasonable period should circumstances occur which are due to force majeure. This includes strikes and lock-outs, even if these occur at our sub-suppliers.
 - 2.3 If unforeseen occurrences within the meaning of clause 2.2 last longer than 3 months each party shall be entitled to terminate the agreement with a notice period of two weeks or to withdraw from the agreement. Alternatively, we may adjust the agreement based on additional costs incurred due to the unforeseen occurrences in accordance with the economic significance or the relevance of the amendment for the content of the delivery and the resulting changes for our operations.
 - 2.4 In the event of an amendment of the agreement pursuant to clause 2.3 the Purchaser shall be entitled to terminate the agreement or withdraw from the agreement within a period of 5 working days after receipt of notification of the amendment.
 - 2.5 If a party intends to withdraw from the agreement it shall inform the other party without undue delay after gaining knowledge of the implications of the event even if an extension to the delivery period had been agreed initially.
 - 2.6 This has no effect on the parties' right to assert claims if there is a fundamental change of circumstances underlying the agreement.
 - 2.7 The Purchaser is entitled to withdraw from the contract in respect of the goods due if we are in default and if a reasonable deadline set by the Purchaser, combined with threat of refusal, has expired without result. Subject to the provisions in clause 2.11 and clause 4 claims for compensation are excluded.
 - 2.8 Compliance with the delivery and performance deadlines shall also be subject to FAULHABER Austria GmbH having been supplied in a correct and timely manner by its sub-suppliers. Should it become apparent that delays are likely the Purchaser will be notified as soon as possible.
 - 2.9 At our request the Purchaser shall state within a reasonable period whether it intends to withdraw from the agreement in case of a delay in delivery or insist on supply.
 - 2.10 For freight-free shipments the risk will pass to the Purchaser on despatch or collection of the shipment. Partial shipments are permissible.
 - 2.11 In the event of default, the Purchaser may demand not only delivery but also reimbursement of any loss incurred by the delay. However, provided we have not acted with intent or gross negligence, this claim is restricted to a maximum of 5% of the value of the shipment in delay. This has no effect on the Purchaser's right to withdraw from the agreement and/or to compensation for non-fulfilment in accordance with clause 4.8 once a reasonable subsequent deadline set by the Purchaser has expired.
- 3. Retention of Title**
 - 3.1 We reserve title in all goods supplied until all claims to payment arising from the business relationship with the Purchaser have been settled in full (Reserved Goods). The Purchaser is revocably entitled to re-sell Reserved Goods supplied in the context of its normal business. The Purchaser hereby assigns to us all claims, including ancillary rights, to which it is entitled by virtue of re-selling the Reserved Goods. We hereby accept such assignment. The claims assigned shall serve as security for all claims under clause 3.1. The Purchaser is not authorised to make other disposals of Reserved Goods, in particular to pledge or transfer by way of security. If the Purchaser is in default with its payment obligations towards us or if the Purchaser infringes one of the obligations arising from agreed reservation of title, the balance of the debt shall become due for payment immediately. After setting a reasonable deadline for performance we are entitled to withdraw from the agreement and demand that the Reserved Goods be surrendered and to collect them from the Purchaser. The Purchaser has no right of possession in such case.
 - 3.2 The Purchaser is permitted to process or transform the Reserved Goods and combine or mix these with other items. Processing or transformation by the Purchaser shall be carried out for ourselves. We will become the direct owners of the item produced as a result of such processing or transformation. The processed or transformed item shall be deemed to be Reserved Goods. If the Reserved Goods are processed or transformed with other items which are not the property of the Purchaser we shall have joint ownership in the resultant new product in the ratio of the value of the processed or transformed Reserved Goods to the value of other processed or transformed items at the time of processing or transformation.
 - 3.3 If the Reserved Goods are irreversibly mixed or combined using other items which do not belong to us, we shall acquire co-ownership of the new item in the ratio of the value of the Reserved Goods to the other mixed or combined items at the time of mixing or combining. If the mixing or combining process takes place in such a way that the Purchaser's item must be regarded as the principal item, the parties shall be deemed to have agreed that the Purchaser shall transfer to us joint title in the new item in the ratio of the value of the Reserved Goods to the other mixed or combined items at the time of such combining or mixing and the Purchaser hereby acknowledges this transfer (Anticipated Constructive Possession). We hereby accept such transfer. The item created as a result of mixing or combining shall be deemed to be Reserved Goods. The Purchaser shall hold the items which are in our sole ownership or co-ownership and which have been thus created pursuant to clauses 3.2 and 3.3 in custody on our behalf free of charge. An item shall be deemed inseparable if separation of the mixed items would entail unreasonable costs.
 - 3.4 If the realisable value of the securities exceeds our claims against the Purchaser by more than 10% we are obliged at the request of the Purchaser to release securities due to the Purchaser – to be selected by us – to that extent.
 - 3.5 If reservation of title is claimed by us, or if we take back or pledge the Reserved Goods this shall not automatically constitute withdrawal from the respective agreement.
- 3.6 If the Reserved Goods are taken back we are entitled to realise the Reserved Goods at our discretion as well as possible, following prior warning and setting of a reasonable deadline. The proceeds from such realisation shall be offset against our claims after deduction of reasonable realisation costs. Any remaining proceeds shall be paid out to the Purchaser.
- 3.7 The Purchaser shall treat the Reserved Goods with care; in particular it shall insure them sufficiently against fire, water and theft at reinstatement value at its own cost.
- 3.8 In the event of a seizure or other interventions by third parties, the Purchaser shall notify us without delay to enable us to file suit pursuant to Article 37 Ekekutionsordnung of Austria (EO). If the third party is unable to reimburse the costs incurred in or out of court of a claim pursuant to Article 37 EO, the Purchaser is liable for our loss.
- 4. Liability for Defects, Compensation, Limitation of Liability**
 - 4.1 The Purchaser shall inspect the goods received without undue delay on arrival for defects and guaranteed quality. Any visible defects in the goods shall be notified to us immediately, but no later than seven days after receipt of the delivery, latent defects shall be reported in writing no later than seven days after discovery. Otherwise the goods shall be deemed to have been accepted.
 - 4.2 The Purchaser shall provide us with an opportunity to investigate the complaint; in particular it shall make damaged goods and the packaging available to us for inspection. If the Purchaser fails to comply with this requirement we shall be released from liability for defect during the period when the Purchaser fails to comply and for a reasonable period thereafter. In urgent cases only, i.e. where operational safety is at risk and to avert disproportionately high damage, which shall be reported to us immediately, or where we are in default with remedying the defect, the Purchaser shall be entitled to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary costs from us.
 - 4.3 We are obliged to repair (improvement) or replace (replacement) — at our own discretion — defective goods at our own expense within a reasonable period set by the Purchaser. Goods which have been replaced become our own property and shall be returned to us. If rectification or subsequent delivery are not possible or do not take place or fail for other reasons before expiry of the reasonable deadlines set by the Purchaser, the Purchaser may within the framework of statutory regulations at its own discretion withdraw from the agreement concerning supply of the defective goods or demand a reduction in the purchase price.
 - 4.4 To the extent that the complaint is justified, of the direct costs incurred by rectification or subsequent delivery we shall bear the costs of the replacement part including shipment. Before returning defective goods to us the Purchaser shall disassemble these goods at its own expense. Any other costs incurred by the Purchaser shall be borne by the Purchaser. Necessary assembly and travel expenses incurred in connection with unjustified complaints regarding defects shall be borne by the Purchaser unless the lack of defect was not recognisable for the Purchaser. We shall not be liable for consequential damage caused by any modifications or repair work carried out by the Purchaser or third parties without our previous written consent; this shall not apply to the circumstances regulated in the last sentence of clause 4.2 unless the remedy of defects stipulated there was performed incorrectly.
 - 4.5 We may refuse subsequent remedy (improvement and/or replacement) if it is only possible by incurring unreasonable costs; to determine whether this is the case we will, for example, take account increases in costs of transport, travel, labour and materials caused by the goods subsequently having been moved to a location other than the Purchaser's premises.
 - 4.6 We shall not be liable for damage to goods caused by natural wear and tear, abrasion, unsuitable or incorrect use or use which does not comply with designated contractual use, excessive use or improper modification, rectification or maintenance work by the Purchaser or third parties, or by faulty or negligent treatment, unless we were responsible for such issues.
 - 4.7 For damage of the goods which occur due to faulty assembly or commissioning we are only liable to the extent of our fault, unless the goods are made to be assembled and our assembly instructions are faulty or assembly of the goods is owed by us and was completed incorrectly.
 - 4.8 We shall only be liable pursuant to statutory provisions to the extent that
 - a) we fraudulently/maliciously concealed a defect of title or quality defect or have assumed a special guarantee for the quality of the goods,
 - b) the damage is caused by intent or gross negligence on our part or on the part of our legal representatives or vicarious agents or it is based on a material breach of our contractual duties on the grounds of negligence by these persons - meaning duties which must be duly fulfilled in order to even facilitate implementation of the agreement and which the Purchaser may trust in as a rule,
 - c) a culpable infringement of duty on our part, on the part of our legal representatives or vicarious agents has led to injury to life or personal injury or damage to health, or
 - d) we are liable under other mandatory statutory provisions such as the Austrian Product Liability Act.
 Where there is no intentional or grossly negligent contractual infringement and we are not liable for injury to life or health, our liability for compensation shall be limited to foreseeable damages which typically occur. Further-reaching claims for damages and compensation by the Purchaser, in particular for compensation in lieu of performance and for replacement of other direct or indirect damage - including concomitant or consequential damage, irrespective of legal grounds, in particular owing to the infringement of duties arising from the agreement or from tort, are excluded. The above provisions are not meant to create a change of the statutory provisions regarding the burden of proof to the detriment of the Purchaser.
 - 4.9 The limitation under clause 4.8 shall also apply if the Purchaser demands compensation for expenses made to no avail instead of a claim for compensation in lieu of performance.
 - 4.10 The provisions of clause 4.8 to 4.9 shall apply accordingly to direct claims of the Purchaser vis-à-vis our legal representatives or vicarious agents.
- 5. Adjustment to Agreement**

We reserve the right to adjust our prices reasonably if after the conclusion of the agreement cost reductions or cost increases occur in particular due to collective bargaining agreements or changes in (raw) material costs. We will provide evidence of such changes to the Purchaser on request. This shall not apply during the first four months after conclusion of the agreement.
- 6. Time-Barring**

All claims for faults asserted by the Purchaser except for compensation claims shall become time-barred one year after delivery of the goods to the Purchaser. The limitation period for replaced or repaired goods shall be one year from delivery or performance for replacement goods and repairs. However, it shall run at least until expiry of the original limitation period for the goods. This shall have no effect on provisions regarding a shorter life of the goods in the context of their designated use.
- 7. Copyright, Industrial Property Rights**

We — without restriction — reserve the right to realise ownership, industrial property rights and copyrights in drawings and other documents.
- 8. Jurisdiction, Applicable Law**
 - 8.1 If the Purchaser is a businessperson the place of exclusive jurisdiction shall be the court competent for our headquarters both in terms of location and subject matter; subject to our discretion it may also be the headquarters or the branch of the Purchaser.
 - 8.2 The contractual relationship shall be subject to Austrian law excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
 - 8.3 If any provision of these Conditions of Supply is or should become invalid, this shall not affect the validity of the remaining provisions. The parties shall replace the invalid provisions with a provision which reflects as closely as possible the economic purpose of the original provision.