

**Faulhaber Pinzetten KG**  
**Daimlerstr. 1, 78665 Frittlingen, Germany**

**General Terms & Conditions**  
**(as of 03 January 2024)**

**1. Scope of Application**

1.1. These General Terms & Conditions (hereinafter referred to as GTC) shall basically apply to all deliveries, services and offers of the company Faulhaber Pinzetten KG (hereinafter referred to as Seller), unless they are expressly modified or excluded in writing. Differing General Terms and Conditions shall not be acknowledged and shall not become content of the contract even if the Seller fails to explicitly object in writing.

**2. Offer, Acceptance and Order Documents**

2.1. Offers of the Seller shall not be binding.

The contract shall be deemed concluded if the Seller has sent off a written declaration of acceptance or order confirmation following a purchase order, where appropriate within the time limit set by the Buyer. If the Seller has set a time limit for acceptance when placing a written and binding offer, the contract shall be deemed to concluded if the Buyer has sent off a written declaration of acceptance before the time limit expired, provided that such declaration is received within three days after expiry of the time limit at the latest.

2.2. The contract content shall be governed by the Seller's technical specification. Additional services rendered upon consultation with the Buyer shall be invoiced separately. This shall apply, in particular, to all costs arising from retrospective change requests of the Buyer.

2.3. The Seller reserves titles and copyrights to illustrations, drawings, calculations and other documents. This shall also apply to written documents referred to as confidential. The Buyer must obtain the Seller's explicit written consent before passing them on to third parties.

2.4. Any and all standard products from the product catalogue shall be delivered as merchandise. These products shall be deemed to be medical devices and the Seller shall be regarded as legal manufacturer. They shall be provided by the Seller with complete lettering, packaging and labelling in line with the applicable norms. The Seller shall not assume any liability in case of retrospective modifications by the Buyer or third parties.

2.5. Buyer-specific products and standard products from the Seller's product catalogue with Buyer-specific features shall be manufactured under the contract manufacturing contract model. This shall be subject to the conclusion of a separate contract between Buyer and Seller, with the Buyer being deemed to be the legal manufacturer.

2.6. Products declared as non-medical devices by the Seller shall not be subject to the regulatory requirements for medical devices. The Seller shall not be provided with any documentations as well as support regarding regulatory requirements for medical devices to

that end. The Seller shall not assume any responsibility if the Buyer declares these as medical devices on the Buyer's part.

### **3. Prices and Payment Terms**

- 3.1. The prices pursuant to the item price list shall be exclusive of final cleaning, lettering, labelling, packaging, transport and postage. These additional costs shall be set out in a separate price list. The statutory VAT in the respective applicable amount shall be added to the prices.
- 3.2. All payments shall be effected in EUR, without regard to any currency rate fluctuations and without deduction, "free paying agency" of the Seller. The payer shall be responsible for any banking fees. The payee reserves the right to charge any banking fees.
- 3.3. Payment terms: payments for deliveries of goods shall be effected net within 30 days or with 2% cash discount within 8 days from the invoice date. Payments for services shall be effected strictly net without delay. New customers shall be supplied exclusively against cash before delivery.
- 3.4. If any payment has not been made within the time limits set out in 3.3, the Buyer shall be deemed to default without any further notice by the Seller. The legal rules on the consequences of default in payment shall apply.
- 3.5. In case of special circumstances giving reasonable rise to substantial doubts as to the Buyer's creditworthiness, all receivables from the business relationship shall become due immediately and the Seller shall be entitled to demand delivery against cash in advance as well as cash in advance before release to manufacturing.
- 3.6. Differing payment terms must be agreed separately in writing between Seller and Buyer.
- 3.7. If any payment is not effected in due time, the Seller shall be entitled to charge interest of 8% p. a. above the discount rate of the European Central Bank as from the due date. The Seller may suspend the execution of the contract to that extent. If the Buyer has failed to effect the agreed payment within a reasonable period of grace, but within one month after the due date at the latest, the Seller may give written notice of the contract cancellation and claim damages.

### **4. Dispatch and Passing of Risk**

- 4.1. Unless otherwise agreed, any and all deliveries shall be exclusively performed ex works of the Seller.
- 4.2. Unless otherwise agreed, packing shall be effected, at the Seller's option, at a charge. The Buyer shall be responsible for the disposal of the packaging.
- 4.3. Dispatch shall be effected at the Buyer's account and risk. Any transport insurance shall be taken out by the Buyer.
- 4.4. Partial deliveries shall be admissible.

4.5. The risk shall pass to the Buyer upon dispatch of the products at the latest, even if partial deliveries are made or the Seller has taken on other services, e.g. the shipping costs, as well.

## **5. Delivery Time, Acceptance and Return**

5.1. Statements about the period of delivery and fixed delivery dates shall not be binding.

5.2. If the Buyer defaults on acceptance or culpably breaches any other duties of cooperation, the Seller shall be entitled to demand compensation for the damage caused to that extent, including any extra expenditures. Farther-reaching claims or rights shall remain reserved. Where the requirements above have been met, the risk of any accidental destruction or any accidental deterioration of the product shall pass to the Buyer at the time the Buyer has defaulted on acceptance or as debtor. This shall also apply if the deterioration or destruction of the product has occurred only due to slight fault by the Seller, the Seller's employees or vicarious agents. If any impossibility occurs during the default of acceptance or debtor's default or if the product becomes subject to any deterioration or destruction without this being attributable to wilful intent or gross negligence by the Seller, the Seller's employees or vicarious agents, the Buyer shall remain obliged to reciprocate.

5.3. The period of delivery or the fixed delivery date shall be deemed to have been complied with if the products have left the Seller's works or notice of readiness for dispatch has been given.

5.4. The Seller shall charge a handling fee for taking back products.

5.5. Custom-made products, special purchase orders, products not unambiguously assigned to a production batch of the Seller and products modified by the Buyer or third parties shall basically not be taken back.

## **6. Cancellation**

6.1. Where Buyer-specific products (custom-made products, special purchase orders) or variants of the same are cancelled after commencement of production, the Buyer has to bear the costs already incurred.

## **7. Rights in Case of Defects, Exclusion of Warranty**

7.1. The Buyer has to make the goods subject to an incoming goods inspection without delay, but not later than seven calendar days after receipt. In doing so, the Buyer has to arrange for an inspection reasonable in terms of nature and scope, including with regard to any deviation from the purchase order specification as well as quality.

The Buyer shall lose the right to invoke contravention of contract at all events, unless the Buyer gives written notice of the defects to the Seller immediately after the Buyer had established or would have had to establish them, assigns them to a production batch of

the Seller and exactly specifies them. The Buyer has to ensure freezing of any and all evidence upon consultation with the Seller.

- 7.2. The Seller's warranty (claims from any breach of duty in the form of poor performance in case of material defects) and the resulting liability shall be excluded, unless defects and related damage are demonstrably based on faulty material, faulty construction, deficient workmanship or faulty manufacturing substances.
- 7.3. The above (7.2) shall not apply to malicious, grossly negligent or wilful conduct on the Seller's part or any injury to limb, life or health, the giving of any guarantee, of any procurement risk under sect. 276 BGB (German Civil Code) or any liability under a legally mandatory elements of liability.
- 7.4. Claims for defects shall not exist in case of any only insignificant deviation from the agreed or customary quality or usability. If the Buyer or any third party subsequently improves the products delivered or processed by the Seller, the Seller shall not be liable for the resulting consequences.
- 7.5. The acknowledgement of breaches of duty in the form of material defects must always be made in writing. Sect. 305b BGB (Priority of individually agreed terms) shall remain unaffected.
- 7.6. To the extent that the product exhibits any defect, the Seller shall be entitled, at the Seller's option, to subsequent performance in the form of remedy of the defect or delivery of a new product free of defects. In the case of cure, the Seller shall generally be entitled to two attempts of cure.
- 7.7. If subsequent performance or cure fails, the Buyer shall be entitled, at the Buyer's option, to demand withdrawal or reduction.
- 7.8. No claims for defects shall exist in case of any inadequate or improper use by the Buyer or third parties, inappropriate storage, natural wear and tear, faulty or negligent handling, inappropriate maintenance, inadequate operating materials, chemical, electrochemical or electrical influences, unless the Seller has to answer for them. If improper changes are made by the Buyer or third parties, no warranty claims shall exist for these and the resulting consequences either, irrespective of any damages claims. The exclusion of liability shall also apply if the defect is attributable to any substance or material made available by the Buyer for the manufacture and packaging. The same shall apply if the service provided by the Seller has been rendered as instructed by the Buyer.

## **8. Liability and Damages**

- 8.1. Subject to the exception hereinafter, the Seller shall not be liable, in particular, for claims of the Buyer for damages or reimbursement of expenses based on any legal ground whatsoever in case of any breach of duties from the existence of an obligation.
- 8.2. The exclusion of liability under 8.1 above shall not apply
  - a) to own breaches of duty by wilful intent or gross negligence and breaches of duty by wilful intent or gross negligence by legal representatives or vicarious agents,

- b) to the breach of essential contractual duties, with “essential contractual duties” being duties the performance of which is crucial for the contract and on which the Buyer may rely, to some extent referred to as “cardinal duties”,
- c) to the extent that the Seller has given the guarantee for the quality of the performance of work or goods or the existence of any performance-related success or any procurement risk in terms of sect. 276 BGB and/or
- d) to legally mandatory elements of liability, in particular under the German Product Liability Act.

- 8.3. In case that only slight negligence can be held against the Seller or the Seller’s vicarious agents and no case of paragraph 8.2c, 8.2d above exists, the Seller shall be liable for the breach of essential contractual duties (8.2b hereunto) only for the contract-typical and foreseeable damage as well.
- 8.4. As regards the level, the Seller’s liability for each individual case of damage shall be limited to a maximum liability total in the amount of € 5.000.000,00 (in words: euros five million). Any farther-reaching liability shall be excluded.
- 8.5. The exclusions of liability or limitations of liability under paragraphs (1.) to (4.) above shall apply to the same extent in favour of the bodies, proprietors, executive and non-executive employees and other vicarious agents as well as any subcompanies of the Seller.
- 8.6. Any reversal of the burden of proof shall not be entailed by the regulations above.

## **9. Jigs, Plans, Sales Records, Non-Disclosure**

- 9.1. All rights to jigs, drawings, drafts and plans prepared by the Seller, in particular patent rights, copyrights and rights of inventors shall be exclusively due to the Seller.  
Title to any and all sales records, including catalogues, sample books, price lists etc., which are made available to the Buyer, shall remain with the Seller and are to be sent back on request.
- 9.2. The records pertaining to an offer, including illustrations, drawings, indications of weights and dimensions, statements of work and other specifications of features as well as other information about contract products and services shall be only approximately binding statements. All titles and copyrights to information originating from the Seller, including in electronic form, shall remain with the Seller.
- 9.3. The parties to the contract agree to maintain secrecy about all economic and technical details of their mutual business relationship as long as these have not become common knowledge. This shall also apply to the things set out in no. 9.1 and 9.2 which must not be copied or disclosed or otherwise made available to third parties without authorisation.
- 9.4. The parties to the contract shall impose on their sub-suppliers the same non-disclosure obligations as those specified in no. 9.3.

## **10. Force Majeure**

- 10.1. Every party shall not be responsible for the non-performance of any of their duties if such non-performance is based on any impediment beyond its control or, in particular, on one of the following reasons: fire, natural disasters, epidemics, war, seizure, export ban, embargo or other regulatory measures, general scarcity of raw materials, restriction on energy consumption, labour disputes or cases where contraventions of contract by external suppliers are based on one of these reasons.
- 10.2. Every party may terminate the contract by written notice if its implementation is prevented for more than 6 months under no. 10.1.

## **11. Retention of Title, Right of Retention**

- 11.1. Pending full payment of all receivables from the business relationship, title to all delivered goods shall remain with the Seller to the extent that such a retention of title is effective under applicable law.  
If the effectiveness of the retention of title is made subject to special conditions or laws in the country of destination, the Buyer shall be responsible for compliance with these. The Buyer has to inform the Seller about this.
- 11.2. The Buyer shall support the Seller in any measures necessary to protect the Seller's title in the relevant country. The Buyer shall inform the Seller without delay if any risks to the Seller's title arise. This shall apply, in particular, to dispositions by third parties or regulatory measures.
- 11.3. Once a reasonable time limit set for the Buyer has expired to no avail, the Seller shall be entitled to withdraw and to take back the goods subject to retention of title following a warning due to breaches of duty by the Buyer, in particular in case of default in payment. Setting a time limit may be omitted if any legal elements of exception exist.

## **12. Property Rights**

- 12.1. The Buyer may use or apply for trademarks, trading names and other marks and property rights of the manufacturer only after prior written approval by and only in the interest of the Seller.
- 12.2. The Buyer shall be responsible for ensuring that property rights of third parties are not encroached upon due to the Buyer's instructions regarding shapes, dimensions, colours, weights, etc. The Buyer shall indemnify the Seller from all claims of third parties on account of any infringement of industrial property rights referred to above, including all judicial and extra-judicial costs, and shall assist the Seller in any legal dispute upon request.

### **13. Place of Jurisdiction and Applicable Law, Written Form, Severability Clause**

- 13.1. The parties to the contract shall agree on the Local or Regional Court having jurisdiction for Frittlingen as place of exclusively jurisdiction for all disputes from or in connection with the contract. The Seller shall be entitled, however, to sue the Buyer at the place of jurisdiction of the Seller's registered office under the law applicable there as well.
- 13.2. All legal relations between the Buyer and the Seller from and in connection with the contract shall be exclusively governed by the law of the Federal Republic of Germany to the exclusion of the UN Sales Law (CISG).
- 13.3. Modifications and amendments to the contracts concluded with the Buyer must be made in writing. This shall also apply to the waiver of the written form agreement itself. This shall not affect the priority of individually agreed terms (sect. 305b BGB) in written, text or verbal form.
- 13.4. If any provision of the contract is ineffective, void or unenforceable in whole or in part for reasons of the law governing standard business terms under sect. 305 to 310 BGB, the legal regulations shall apply.