

## **TERMS OF PURCHASE**

Ottobock SE & Co. KGaA  
Max-Näder-Strasse 15  
37115 Duderstadt

Otto Bock Healthcare Products GmbH  
Brehmstraße 16  
1110 Wien

Otto Bock Austria Gesellschaft m.b.H.  
Brehmstraße 16  
1110 Wien

Otto Bock HealthCare Deutschland GmbH  
Max-Näder-Strasse 15  
37115 Duderstadt

Otto Bock Mobility Solutions GmbH  
Lindenstraße 13  
07426 Königsee-Rottenbach

Otto Bock Manufacturing Königsee GmbH  
Lindenstraße 13  
07426 Königsee-Rottenbach



OBHC / OBHCD/ OBMS / OBMK / OBHCP
<b>1. General</b>
1.1 The following terms and conditions shall apply exclusively, unless agreed otherwise, to all services rendered by the supplier to Ottobock SE & Co. KGaA, Otto Bock HealthCare Deutschland GmbH and Otto Bock Mobility Solutions GmbH, Otto Bock Healthcare Products GmbH (hereinafter 'Ottobock').
1.2 The services to be provided by the supplier shall be determined by the type and scope of the specific delivery agreement based on a purchase order and the framework agreement including the Quality Assurance Agreement included in the Annex. In the event of contradictions, the contractual basis referred to in Sections 1.2.1 – 1.2.8 below shall apply consecutively. A contradiction does not exist if one contractual basis supplements or concretises another one and if it does not result in worse quality, smaller quantity, higher price, etc. at the expense of Ottobock compared to the requirements under Sections 1.2.1 – 1.2.7. Where a contradiction cannot be resolved by mutual agreement on the basis of the sequence specified in Sections 1.2.1 – 1.2.8 below, or by interpretation, Ottobock shall decide on the variant to be executed pursuant to Section 315 BGB (German Civil Code).
1.2.1 Purchase order
1.2.2 Records of negotiation
1.2.3 Service specifications with additional technical regulations
1.2.4 Documents attached to the call for tenders, available for inspection or mentioned in the call for tenders
1.2.5 Terms and conditions of purchase of Ottobock
1.2.6 Terms and conditions of sale of the supplier
1.2.7 Applicable law.
1.2.8 The supplier's bid
1.3 Variant solutions are welcome. However, they shall be submitted via a special annex. They will become part of the agreement only upon confirmation provided by Ottobock in written or text form.
<b>1.4 Contract terms and conditions of the supplier deviating from the provisions of the terms and conditions of purchase or the Quality Assurance Agreement (Annex) of Ottobock shall only apply in accordance with Sections 1.2 to 1.3 and only if their inclusion in the agreement or purchase order is expressly accepted by Ottobock with reference to the relevant provisions of the terms and conditions of purchase or the Quality Assurance Agreement (Annex) from which they deviate.</b>
<b>2. Conclusion of the agreement</b>
2.1 An agreement is concluded upon receipt by Ottobock of the acceptance by the supplier (in written or text form) of the purchase order of Ottobock (for example, fax or e-mail).
2.2 Already at this point, Ottobock rejects the validity of an acceptance in which the price, the terms of payment or the quality of the goods as well as the place and time of delivery have been altered. Any change requests shall be negotiated in advance and, if necessary, included in the records of negotiation and the purchase order. In this respect, the procedure described in Section 1.4 shall apply.
<b>3. Prices, payment</b>
3.1 Payment shall be made within 21 calendar days with a 3% discount or 60 calendar days without deductions upon receipt of the invoice.
3.2 The supplier has a set-off and retention right only in connection with uncontested or adjudicated counterclaims.
<b>3. Delivery deadlines</b>
3.1 The agreed delivery times or dates are binding and – if 'free domicile' delivery has been agreed – refer to the time of receipt of the goods at Ottobock. The purchase order date is used to calculate the delivery deadline.
3.2 If the supplier identifies a risk of non-compliance with delivery deadlines or dates, he shall notify Ottobock immediately thereof.
3.3 Ottobock's right to withdraw from the agreement and claim damages in the event of delivery default shall be subject to statutory provisions. Where necessary in this respect, the supplier shall be set a reasonable grace period, and the parties agree that a period of 14 days is generally sufficient. The acceptance of a delayed delivery does not imply that Ottobock renounces the aforementioned rights.

<p>3.4 Ottobock reserves the right to demand lump-sum damages in the amount of 0.5% of the value of the goods to be delivered for each week of delay that has begun, but no more than 5%; further legal claims are also reserved (paid lump-sum damages will be deducted from legal claims for damages). The supplier shall be free to prove that there were no damages or that there was considerably less damage.</p>
<p><b>4. Delivery/packaging</b></p>
<p>4.2 Under the provisions of the Quality Assurance Agreement (Annex), the parties agree on 'zero defect quality'. An incoming inspection will take place only to the extent specified in Section 6.1.1.</p>
<p>4.3 Partial deliveries require the approval of Ottobock.</p>
<p><b>5. Safety provisions, authorised economic operator</b></p>
<p>All products shall be delivered to Ottobock under the status of an Authorised Economic Operator (AEO). The obligations resulting therefrom regarding compliance with safety provisions shall be observed.</p>
<p><b>6. Product quality, statutory warranty, zero defect quality</b></p>
<p>6.1 If the statutory provisions for the delivery or performance provide for a material and/or legal defect warranty (such as for purchase contracts, work contracts, rental agreements), the statutory provisions on material and/or legal defect warranty shall apply with the following stipulations:</p>
<p>6.1.1 Material and legal defects, poor performance</p>
<p>The parties agree on zero defect quality, which the supplier shall ensure through the measures listed in the Quality Assurance Agreement (Annex). Ottobock shall inspect the deliveries in connection with agreements on the purchase of products promptly after their delivery in terms of their identification, obvious defects and clearly recognisable transport damage by means of a visual inspection with the naked eye. Ottobock shall report any defect within two (2) weeks of its discovery. There are no further inspection and defect notification obligations. Any statutory further obligations under Section 377 HGB (German Commercial Code) (corresponds to Section 377 UGB (Austrian Commercial Code) in Austria) are excluded.</p>
<p>6.1.2 Supplementary performance shall be commenced immediately and completed within a reasonable time. Immediacy and appropriateness are measured by the severity of the defect to be assessed under market conditions as well as the economic and technical significance of its effects on the operation of Ottobock.</p>
<p>6.1.3 Ottobock will report defects to the supplier, and the supplier will process these complaints in accordance with the provisions of the Quality Assurance Agreement (Annex).</p>
<p>6.1.4 The period of limitation for material and legal defects is 24 months. Where the law provides for a longer period, such period shall apply.</p>
<p>6.2 If the services to be provided are services in the legal sense, the following shall apply in addition to the statutory provisions:</p>
<p>6.2.1 If the service is rendered in a faulty manner or otherwise not in accordance with the agreement and if the supplier is responsible for it, the supplier shall provide the service for Ottobock without additional costs and in accordance with the agreement within a reasonable period of time. This requires a complaint by Ottobock, which shall be made immediately, but no later than four weeks after becoming aware. If the performance of the service in accordance with the agreement does not materially succeed within a reasonable grace period to be set by Ottobock, Ottobock shall be entitled to terminate the agreement in question without notice.</p>
<p>6.2.2 Ottobock will report defects to the supplier, and the supplier will process these complaints in accordance with the provisions of the Quality Assurance Agreement (Annex).</p>
<p>6.2.3 The right to terminate the agreement on substantial grounds as well as any claims for damages shall remain intact.</p>
<p><b>7. Freedom from third-party rights</b></p>
<p>7.1 The supplier guarantees the following:</p>
<p>7.1.1 to dispose of the rights required and legal positions to be granted for the delivery of the products or for the provision of the service owed and to grant or transfer these to Ottobock in each case without violating third-party rights;</p>
<p>7.1.2 to have obtained from prior rights holders or other parties entitled to the performance results, all legal declarations and other acts of participation (including approvals and waivers or rights) that are necessary for the contractual use of the products and services;</p>
<p>7.1.3 that the products and services to be provided do not violate applicable law and do not infringe any patent, copyright, ancillary copyright, trademark rights or other rights of third parties worldwide.</p>
<p>7.2 The supplier undertakes to indemnify Ottobock against all claims, damages, costs, expenses, etc. which a third party derives from patent, copyright, ancillary copyrights, trademark rights, other industrial property rights or property rights in connection with the contractual use of the delivered products or services to be provided or provided to Ottobock. Ottobock shall also be indemnified against and/or exempted from reasonable legal defence costs in these cases.</p>

The condition for exemption or indemnity is that Ottobock shall inform the supplier within a reasonable period of time of any claim asserted or threatened by a third party of this kind. Another condition for any claim for exemption or indemnity under this clause is that, assuming the actual allegations of the attacking third party are accurate, the supplier is responsible for the infringement of the rights of the third party.

7.3 The supplier shall, as far as reasonably practicable, assume sole control over the legal defence and all costs in connection with the defence as well as all negotiations regarding settlement or accord regarding the asserted claim. The above provision notwithstanding, however, Ottobock is entitled at any time, at the supplier's expense, to take temporary measures to safeguard the continued use of the product or service concerned in order to avoid any greater damage whatsoever.

7.4 If Ottobock wishes to conclude a settlement with the third party and assert the results of such settlement by way of exemption under this clause against the supplier, the conclusion of the settlement shall require the consent of the supplier. However, the supplier may not refuse consent in bad faith.

7.5 Any claims for damages, unfair enrichment or other claims by Ottobock are not affected by this; however, payments made on the basis of this clause shall be set off against such claims if Ottobock would otherwise be unduly better off.

### **8. Electrical and Electronic Equipment Act, ElektroStoffV, REACH**

8.1 The supplier shall comply with the provisions of the Act governing the sale, return and environmentally sound disposal of electrical and electronic equipment and observe the obligations resulting therefrom for Ottobock. Where such obligations are transferable, the supplier shall support Ottobock in meeting such obligations. In particular, the supplier undertakes, where necessary, to affix the manufacturer's label, required by law, on the contract object for Ottobock free of charge in accordance with Ottobock specifications, as well as, where required under applicable statutory provisions, to identify the respective contract object by means of the appropriate symbol in accordance with Ottobock specifications (e.g., crossed-out wheeled bin).

8.2 The supplier shall guarantee to comply with the provisions of the 2011/65/EU directive to limit the use of certain hazardous substances in electrical and electronic equipment (Restriction of Hazardous Substances, RoHS) as well as the provisions of national implementation (e.g., for the Federal Republic of Germany: the ordinance on the restriction of the use of hazardous substances in electrical and electronic equipment (ElektroStoffV)). In addition, the supplier shall guarantee that the electrical and electronic equipment supplied be identified for type, batch or series number or be labelled in another manner or that his name, registered company name or registered trademark and address be indicated on the electrical or electronic equipment and/or that such labels and information be visible on the packaging or contained in the documentation enclosed with the equipment. Moreover, the supplier shall affix a CE mark to the equipment and products where necessary and permitted. This shall be affixed to the electrical or electronic equipment or data plate in a visible, legible and permanent manner. The supplier shall declare RoHS conformity to Ottobock in writing prior to the first delivery in the case of delivery of electrical or electronic equipment, including cables and spare parts. The packaging of such products shall be labelled with a reference to RoHS conformity. RoHS conformity shall be confirmed in the delivery note by adding 'RoHS-konform/RoHS-compliant'. In addition, the supplier shall inform Ottobock immediately in writing and without being requested if the information in the conformity declaration no longer applies. If so requested, the supplier shall provide Ottobock immediately with the documentation (e.g., technical documentation) needed for verifying conformity.

8.3 The supplier shall guarantee that the products delivered by him comply with the provisions of the EC Regulation No. 1907/2006 regarding the registration, evaluation, approval and restriction of chemical substances (REACH). The supplier shall provide Ottobock with the necessary information relative to registration without being requested. If so requested by Ottobock, the supplier shall provide a current, complete safety data sheet in accordance with the specifications under the REACH regulation.

8.4 The supplier shall guarantee that the product does not contain any substances of very high concern under the REACH regulation in concentrations of more than 0.1% weight by weight (w/w). If the supplier still delivers products to Ottobock that contain a concentration of more than 0.1% weight by weight (w/w) of one or more substances of very high concern or one or several substances that meet the criteria under Art. 57 REACH and have been included in Annex XIV of the REACH regulation (candidate list) and/or have been determined under Art. 59(1) REACH (candidate list), the supplier shall, under Art. 33 REACH, supply adequate information within 45 days regarding the safe use of the products, and shall indicate as a minimum the name of the relevant substance.

8.5 If the supplier contravenes the provisions under Sections 7.1 to 7.4, Ottobock may withdraw from contracts with suppliers under statutory provisions and/or terminate such contracts and claim damages as well as exemption from third-party claims and fines imposed as a result of the violation.

### **9. Work performed at Ottobock plant**

Persons who perform work at the Ottobock plant shall observe the plant regulations in force. As such, all employees of the supplier shall be familiar with and strictly comply with the Working Conditions Act and accident prevention provisions as well as Ottobock's internal regulations. The supplier shall be responsible for instructing all employees involved in the execution of the respective order. Furthermore, the supplier shall ensure and verify that his employees have understood the aforementioned basic instructions and instructions issued by coordinators on site prior to the start of the work. That same shall apply if and where the supplier employs subcontractors. Ottobock shall assume no liability for accidents, unless Ottobock is responsible for the accident.

### **10. Product liability**

Quality for life

10.1 The supplier shall save Ottobock harmless with respect to third-party claims resulting from defects in the end product that are derived from a defect in the supplied product for which the supplier is responsible. This shall also apply to all costs connected with a re-call programme that Ottobock deems necessary and well-founded. The right of recourse shall include the advance payment for the necessary costs of prosecution.

10.2 At his own expense, the supplier shall take out and maintain appropriate insurance cover (product liability, re-call costs and, if applicable, re-call costs in connection with suppliers) relative to his business activity. If so requested, the supplier shall provide Ottobock with a copy of the liability insurance policy or an insurance certificate at any time.

**11. Samples, drawings and sample protection**

11.1 Documents of any kind, such as drawings, sample prototypes or data processing media, placed at the disposal of the supplier by Ottobock shall not be duplicated or made available to third parties. They shall be returned free of charge upon request.

11.2 Products manufactured according to documents or with tools provided by Ottobock shall not be used by the supplier or delivered to third parties. The supplier shall not participate directly or indirectly in copying these products or in selling copied products.

**12. Loaning of and ownership of tools**

Tools provided by Ottobock shall remain the property of Ottobock. The supplier shall store such tools separately and may use them exclusively for the fabrication of Ottobock products. The supplier shall be liable without fault for decrease in value or loss and shall take out a corresponding insurance. The storage costs are covered by the purchase price for the products fabricated through the use of such tools.

In connection with the supply agreements, the supplier is demonstrably given by OTTOBOCK objects such as testing equipment/tools, evaluation models, products or product components (hereinafter 'Loaned Object'). The Loaned Object is the property of OTTOBOCK. Such Loaned Object shall be used only for the execution of the individual supply agreements. Use of the Loaned Object for a purpose other than the intended one shall entitle OTTOBOCK to terminate the relevant supply agreement(s) immediately. If so requested by OTTOBOCK, the supplier shall return the Loaned Object to the person identified in the request letter immediately, but no later than within two weeks. At the time of its return, the Loaned Object shall be clean, functional and complete and, subject to normal wear and tear, in usable condition. The use of the Loaned Object is free of charge. Unless expressly agreed otherwise between the parties, any shipping of the Loaned Object between the supplier and OTTOBOCK shall be at the expense of OTTOBOCK. OTTOBOCK shall specify the shipping method in advance for returns from the supplier. The obligation to take inventory of Loaned Objects shall be subject to the same specifications as those applicable to customer-provided components.

**13. Company and business confidentiality**

The supplier shall treat orders from Ottobock and the pertaining commercial and technical details as confidential company and business matters

**14. Compliance**

14.1 The supplier hereby confirms that, in connection with delivery of the products to Ottobock and/or performance of work for Ottobock, he has complied with all relevant laws of the respective applicable jurisdictions, particularly as concerns criminal law, antitrust law, social security law and administrative offences law, as well as with regard to minimum wage and prevention of child labour.

14.2 The supplier confirms that he complies in particular with relevant anti-corruption laws and provisions and refrains from any financial gifts or other gifts to employees of Ottobock or their family members in exchange for receiving contracts from Ottobock. The supplier shall abstain from such practices in the future.

14.3 The supplier confirms that, where applicable, he complies with the statutory provisions on minimum wage and that he pays his employees who are subject to such provisions the respective minimum wage. In addition, the supplier confirms that he is not excluded from bidding on public contracts.

14.4 The supplier shall recognise and acknowledge the principles and provisions of the Ottobock Code of Conduct and shall act accordingly. The Code of Conduct is attached to these Terms and Conditions of Purchase. Furthermore, the supplier shall observe the principles of the UN Global Compact initiative referenced in the Ottobock Code of Conduct. These concern in particular the protection of international human rights, the right to collective bargaining, the abolition of forced labour and child labour, the elimination of discrimination in employment and occupation, responsibility for the environment and the prevention of corruption. Detailed information on the UN Global Compact initiative can be found at [www.unglobalcompact.org](http://www.unglobalcompact.org).

14.5 The supplier shall attempt to obligate his subcontractors and suppliers to comply with the provisions under 13.1 to 13.4.

14.6 If the supplier contravenes the provisions under 13.1 to 13.5, Ottobock may withdraw from and/or terminate contracts with the supplier under statutory provisions and/or terminate all contract negotiations and claim damages as well as exemption from third-party claims.

**15. Data protection, data security and protection of confidential information**

15.1 The supplier shall collect, process and use personal data exclusively in accordance with the applicable data protection regulations. In particular, the supplier is aware of the high level of protection afforded by applicable laws for so-called health data and shall always ensure under this agreement that all legal requirements for legitimate data processing relating to the supplier's contractual services are met insofar as these requirements affect the services themselves.

15.2 If the supplier processes personal data on behalf of Ottobock and/or the supplier carries out the inspection or maintenance of automated procedures or data processing systems on behalf of Ottobock

and if access to personal data cannot be ruled out, a contract data agreement or contract data processing agreement according to Data Protection (Annex) shall be concluded or shall exist. The supplier shall verify, prior to conclusion of each service agreement, whether the execution of the service agreement legally requires the conclusion of a new agreement of this kind or a supplement to an existing agreement. The supplier shall inform Ottobock without delay if the supplier can access personal data stored by Ottobock in the course of his work for Ottobock where such access is not regulated by a contract data agreement or contract data processing agreement concluded with Ottobock.

15.3 If a fine is threatened or imposed on Ottobock on the basis of data protection law and/or a claim for damages or compensation is filed against Ottobock on the basis of data protection law and this is based on the supplier's action or omission in connection with data processing for Ottobock, Section 7 shall apply accordingly.

15.4 It is clarified that the products and services acquired by Ottobock shall not send any data to the supplier without the prior consent of Ottobock where this is not precisely part or the purpose of the products and services. This also includes, in particular, data with registration information or configuration data relating to Ottobock systems.

15.4 Furthermore, the parties undertake to protect all business and trade secrets of the other party as they would their own business and trade secrets, in particular to keep them safe from access by third parties or being transferred to third parties. If one party learns that third parties have access to the relevant data or data has been transmitted to third parties (data leak), or if one party has reason to suspect this, the party concerned shall be informed immediately and all information shall be provided that is needed to prevent further damage.

**16. Quality assurance agreement**

As far as legally required, the parties will enter into a separate quality assurance agreement. Such Quality Assurance Agreement (Annex) is an essential component of the supplier relationship with Ottobock.

**17. Applicable law, place of performance, jurisdiction**

17.1 This agreement is governed by German law to the exclusion of UN sales law and the German rules for International Private Law.

17.2 Place of performance shall be the place of business of Ottobock or, at the discretion of Ottobock, the place of business of the supplier.

17.3 Exclusive jurisdiction for all disputes that may arise shall lie with the court responsible for Duderstadt (Federal Republic of Germany).

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