

Ottobock SE & Co. KGaA (Germany)  
Otto Bock HealthCare Deutschland GmbH (Germany)  
Otto Bock Mobility Solutions GmbH (Germany)  
Otto Bock Manufacturing Königsee GmbH (Germany)

Otto Bock Healthcare Products GmbH (Austria)  
Otto Bock Austria GmbH (Austria)

Ottobock Industries Co., Ltd. (China)

Otto Bock HealthCare LP (USA)

## 1. General

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 (Germany), Otto Bock HealthCare Deutschland GmbH (Germany), Otto Bock Mobility Solutions GmbH (Germany), Otto Bock Manufacturing Königsee GmbH (Germany), Otto Bock Healthcare Products GmbH (Austria), Otto Bock Austria GmbH (Austria), Ottobock (China) Industries Co., Ltd. and Otto Bock HealthCare LP (USA) (hereafter referred to as 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 at its discretion.

1.2.1 Purchase orders

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 Ottobock Terms and conditions of purchase

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 Alternative offers 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.

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.

## 2. Conclusion of the agreement

2.1 An agreement is concluded upon receipt by Ottobock of the supplier's acceptance of the purchase order from Ottobock (in written or text form, for example, fax or e-mail).

2.2 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 the delivery have been altered, shall be contravened by Ottobock. 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.

## 3. Prices, payment

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.

## 4. Delivery deadlines

4.1 The agreed delivery times or dates are binding and – if a DDP (delivery duty paid) delivery in accordance with Incoterms 2010 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.

4.2 If the supplier identifies a risk of non-compliance with delivery deadlines or dates, he shall notify Ottobock immediately.

4.3 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 the aforementioned rights have been waived.

4.4 Ottobock reserves the right to demand lump-sum damages in the amount of 0.5% of the value of the goods to be delivered at the beginning of each week of delay, up to a maximum of 5%; whereby further legal claims are reserved (lump-sum damages that have already been paid 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.

#### **5. Delivery/packaging**

5.1 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 7.1.1.

5.2 Partial deliveries require the approval of Ottobock.

#### **6. Safety provisions, Authorised Economic Operator**

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.

#### **7. Product quality, warranties**

7.1 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:

##### **7.1.1 Material and legal defects, poor performance**

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 further statutory obligations are excluded.

7.1.2 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.

7.1.3 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)**.

7.1.4 The period of limitation for material and legal defects is 24 months. Where the law provides for a longer period, such period shall apply.

7.2 If the services to be provided include services in the legal sense of the word, the following shall apply in addition to the statutory provisions:

7.2.1 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.

7.2.2 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)**.

7.2.3 The right to terminate the agreement on substantial grounds as well as any claims for damages shall remain intact.

#### **8. Freedom from third-party rights**

8.1 The supplier guarantees the following:

8.1.1 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;

8.1.2 to have obtained from prior right 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;

8.1.3 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.

8.2 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 to Ottobock. Ottobock shall also be indemnified against and/or exempted from reasonable legal defence costs in these cases.

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

8.3 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.

8.4 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.

8.5 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.

#### **9. Electrical and Electronic Equipment Act, ElektroStoffV, RECh, ionising radiation**

9.1 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 on behalf of 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).

9.2 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 marking 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. In the case of delivery of electrical or electronic equipment, including cables and spare parts, the supplier shall declare RoHS conformity to Ottobock in writing prior to the first delivery. 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 is no longer accurate. If so requested, the supplier shall provide Ottobock immediately with the documentation (e.g., technical documentation) needed for verifying conformity.

9.3 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 relating 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.

9.4 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.

9.5 If the supplier contravenes the provisions under Sections 9.1 to 9.4, 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.

9.6 The Supplier ensures that all deliveries are free from ionising radiation.

**10. Work performed at the 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.

**11. Product liability**

11.1 The supplier shall hold 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 any recall action that Ottobock deems necessary and well-founded. The right of recourse shall include the advance payment for the necessary costs of prosecution.

11.2 The supplier shall take out and maintain appropriate insurance cover relating to his business activities and at his own expense (for product liability, recall costs and, if applicable, recall costs in connection with suppliers). If so requested, the supplier shall provide Ottobock with a copy of the liability insurance policy or an insurance certificate at any time.

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

12.1 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.

12.2 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 replicating these products or in selling replicated products.

**13. 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 manufacture 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 manufactured through the use of such tools.

In connection with the supply agreements, Ottobock demonstrably provides the supplier with 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 Objects shall be used only for the execution of the individual supply agreements. Use of the Loaned Object for a purpose other than the intended purpose 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, and 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 transfer 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 make an inventory of Loaned Objects shall be subject to the same specifications as those applicable to customer-provided components.

**14. Company and business confidentiality**

The supplier shall treat orders from Ottobock and their associated commercial and technical details as confidential and as a trade secret.

**15. Compliance**

15.1 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, with particular regard to criminal law, antitrust law, social security law and administrative offences law, as well as with regard to minimum wage and prevention of child labour.

15.2 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. Ottobock shall in future abstain from such practices.

15.3 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.

15.4 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).

15.5 The supplier shall endeavour to obligate his subcontractors and suppliers to comply with the provisions under 15.1 to 15.4.

15.6 If the supplier contravenes the provisions under 15.1 to 15.5, 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.

#### **16. Data protection, data security and protection of confidential information**

16.1 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 personal medical 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.

16.2 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 the **Data Protection Annex** must be in place. 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.

16.3 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.

16.4 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 in question. This also includes, in particular, data containing registration information or configuration data relating to Ottobock systems.

16.5 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 being accessed 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.

#### **17. Quality assurance agreement**

The parties will enter into a separate quality assurance agreement. This **Quality Assurance Agreement (Annex)** is an essential component of the supplier relationship with Ottobock.

#### **18. Export control, customs**

1. The supplier shall inform Ottobock in his business documents of any authorisation requirements for (re-)export of his goods in accordance with German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of his goods. For this purpose, the supplier must provide the following information at the minimum in his tenders, order confirmations and invoices for the relevant goods:
  - the export list number in accordance with Annex "AL" to the German Foreign Trade Ordinance (AWV) or comparable list items of relevant export lists,
  - for US goods the ECCN (Export Control Classification Number) according to the US Export Administration Regulations (EAR),
  - the commercial origin of goods and the components of its goods, including technology and software,
  - whether the goods were shipped through the US, manufactured or stored in the US, or manufactured using US technology,
  - a contact person in his company available to clarify any queries from Ottobock.
  
2. Upon request by Ottobock the supplier shall inform Ottobock in writing of all further foreign trade data on its goods and their components and to inform Ottobock immediately of any changes in the above data (before delivery of corresponding affected goods).

#### **19. Health, Safety, and the environment; corporate responsibility**

19.1 The supplier maintains a system designed and implemented to comply with all applicable health and safety, environmental and environmental standards ("HSE"), sustainability and corporate responsibility ("HSE Requirements ") and strives to achieve continuous improvement. The supplier must regularly evaluate the system and introduce continuous improvement options. Upon written request, the supplier shall provide Ottobock with documentation on this system.

19.2 The supplier guarantees payment of the statutory or agreed minimum wage to its employees. The supplier shall indemnify Ottobock against claims if, contrary to this statement, the obligations under these laws are not fulfilled, in particular claims by employees. The supplier undertakes to inform Ottobock without delay if claims are asserted by its own employees or by employees of its subcontractors to whom the minimum wage law applies, or if corresponding infringement proceedings have been initiated.

19.3 All contractual items provided by the supplier under the agreement are designed, constructed, completed, packaged and labelled to comply with all applicable HSE requirements, including but not limited to:

- ensuring that the subject matter of the agreement complies with all applicable CE marking requirements, has a properly affixed CE label and a certificate of conformity, and meets all required technical specifications; and

- providing safety information sheets for substances and mixtures, including hazard statements and safe-keeping guidance, in accordance with the United Nations Globally Harmonized System (GHS) on the classification and labelling of chemicals and the European Regulation on Classification, Labelling and Packaging (CLP Regulation).

19.4 The supplier undertakes to use raw materials, energy, water and other natural resources economically and to continuously improve the environmental sustainability of the contract items throughout their lifecycle (production, use and disposal).

19.5 The supplier shall provide information requested by Ottobock in order to meet HSE requirements, including responding to regulatory inquiries or requests from customers regarding the composition and environmental sustainability of contract items, including energy consumption.

19.6 The supplier shall use minerals responsibly and considers mining activities that could provoke conflicts under the requirements of the Electronic Industry Citizenship Coalition® (EICC®) and the Global e-Sustainability Initiative (GeSI) to be unacceptable.

19.7 In performing the order, the supplier shall fully comply with all applicable laws, including regulations, rules, directives, conventions and standards, and will inter alia, if acting in any capacity for Ottobock, comply with all applicable anti-corruption laws, including but not limited to the US Foreign Corrupt Practices Act and the UK Bribery Act 2010 and their amendments.

19.8 The supplier shall not make direct or indirect payments or give anything of value to any Government Officials (including government employees), any political party or party candidate to either influence that person in official capacity or to gain an undue advantage in order to obtain or prevent a transaction from occurring or to obtain a business advantage, or to cause or reward any other person for the corrupt or abusive performance of a function or activity in the employment of that person, or if the acceptance of the offer itself would already constitute such a corrupt or abusive act.

## **20. Sanctions**

20.1 The supplier hereby agrees to comply with the law on sanctions and also ensure compliance from its affiliated companies in which he is a majority shareholder, In particular, the supplier shall guarantee that the purchase or import of products under this agreement does not constitute a violation of sanction law. The supplier shall, upon reasonable request, provide Ottobock with documents and/or information documenting compliance with this clause. For the purposes of this provision, sanction law is the law designated by the European Union, the United States, the United Nations or the country of origin of the products as an objective of economic or financial sanctions.

20.2 If the supplier violates the obligations set out in clause 20.1, Ottobock shall be entitled to immediate termination / rescission of the agreement and the supplier shall indemnify Ottobock against any liability, costs, expenses and damages resulting from a breach of the obligations under clause 20.1. However, the obligation to indemnify against any liability, costs, expenses and damages does not exist if the supplier is not responsible for the breach. The supplier is not entitled to any claims for damages or other rights against Ottobock due to termination.

## **21. IT security**

The supplier is obliged to take appropriate IT security measures, in particular to

- keep software and hardware up-to-date and
- take appropriate technical and organisational safety precautions, in particular regarding antivirus network security (e.g. firewalls) and the transmission of data (e.g. encryption).

The supplier is obliged to immediately inform the designated Ottobock contact person or his representative by phone and in writing about threats to IT security, especially if

- confidential information belonging to Ottobock and/or its trade or business secrets (e.g., plans / construction drawings) and / or
- the ability of the supplier to fulfil its obligations to Ottobock

could be affected.

**22. Applicable Law / jurisdiction**

The buyer's address, as stated in the order, shall dictate the exclusive application of the legal regulations of that federal state or country, under exception of the UN Convention on Contracts for the International Sale of Goods (CISG). Exclusive jurisdiction for all disputes that may arise from or in connection with this agreement shall lie with the competent court according to the buyer's address.

Valid from: 15th January 2020