

**General Terms and Conditions of Purchase**  
**KOB GmbH, 67752 Wolfstein, Germany**  
**KOB Medical Devices (Deutschland) GmbH, 67752 Wolfstein, Germany**

**1. Scope**

Our orders are exclusively subject to our General Terms and Conditions of Purchase, which shall also apply to all future business transactions without the need for a separate reference. Any counter-confirmations issued by the supplier ("Supplier") referring to his conditions are herewith rejected. Our General Terms and Conditions of Purchase are deemed to have been accepted, at the latest, upon order execution. Our acceptance of the ordered goods and services does not constitute an approval of the validity of other conditions.

**2. Order placement**

Orders must only be submitted in writing and include two signatures; any agreements and/or contract amendments that are otherwise concluded shall only become binding upon our written confirmation.

**3. Order confirmation**

Every order or every call-up must immediately be confirmed by the Supplier who must state a binding delivery time. We reserve the right to withdraw from any order that is not confirmed. Order confirmations that differ from our order are considered a new offer and shall only become contractually binding if we have agreed to them in writing.

**4. Compliance with delivery times**

The Supplier undertakes to render the service on time. Delivery time shall start on the day of order placement. The Supplier must inform us immediately of any circumstances (including force majeure) that undermine compliance with the delivery date and indicate the reasons and the anticipated delay without this affecting in any way his obligation to deliver the ordered goods on time. The occurrence of force majeure shall justify a delay only if the Supplier notifies us forthwith of the underlying circumstances and if he was not already in default when the force majeure event occurred. In urgent cases we shall have the right to make up for the shortage ourselves or use a third party to do so at the expense of the Supplier. In the event of a delay we shall, without further proof, have the right to request that the Supplier pay a contract penalty of 0.1 per cent of the order value for each day of the delay up to a maximum of 8 per cent of the order value; we may furthermore claim compensation for all direct and indirect damage/loss caused by the delay; any contract penalty shall be set off against the damages payable.

If the contractor ("Contractor"), being offered an appropriate period of grace, fails to deliver the ordered goods, we shall have the right, at our discretion, to either claim damages due to contractual non-fulfilment and/or to engage a third party to procure replacement or to withdraw from the contract; any contract penalty shall be set off against the damages payable. Partial and early deliveries must be agreed with us in advance.

**5. Transportation, customs clearance, insurance**

All goods shall, in accordance with the Incoterms® 2010, be delivered to the destination indicated by us. We are exempt from contracting a forwarding, logistics and warehousing insurance (SLVS); the Contractor must not charge us for transport insurance premiums and liability surcharges; should any such amounts be invoiced to us, they must be paid by the Contractor. The addition of costs for crediting or goods handling [Vorlageprovision] shall not be accepted.

**6. Packaging**

The goods must be delivered in appropriate packaging. The Contractor must use nothing but recyclable and single-line packaging featuring the corresponding symbols. We have the right to return, dispose of or arrange for the disposal of the packaging material free of charge and to pass on the resulting costs to the Contractor.

**7. Means of production**

All means of production such as drafts, drawings, models, samples, measuring and testing equipment, delivery inspection regulations, printing templates etc. as well as the tools made available by us to the Supplier shall remain our property. The Supplier expressly undertakes to refrain from making such items available to third parties for viewing or usage and from supplying third parties with the goods produced on the basis of such items, whether they be unadulterated or in the form of machines or machine equipment, without our express consent. The same applies to parts that have been developed for us by the Supplier based on the instructions or help of our factory (through trials etc.). Third parties in this sense are also deemed to be such companies or persons who are in any way engaged in the production, refinement and distribution of our products. In as far as we pay for all or most of the production aids used by the Contractor (e.g. tools, printing plates), they shall become our property. The handover of these aids shall be replaced by a leasing agreement on the basis of which the Contractor shall, until further notice, have the right to ownership of these production aids. The Contractor shall not have a right of retention concerning these aids. The production aids may only be scrapped or recycled with our express consent.

**8. Acceptance of goods**

Acceptance shall always be conditional upon us reserving all rights, in particular those arising from defective or late delivery.

We are not obliged to accept under- or over-deliveries. If acceptance is prevented or made overly difficult by certain circumstances for which the Contractor is responsible, **in particular concerning non-compliance with our special delivery regulation**, we shall have the right to refuse acceptance. In

such a case the Contractor shall not be entitled to claim damages. Unforeseen events such as, for example, force majeure, war, regulatory measures and cases of operational interruption that are not our fault shall relieve us from the obligation to accept the ordered goods. In such a case the Supplier shall not be entitled to claim damages. In other cases of operational interruption, we shall have the right to request that the acceptance period be extended accordingly. After expiry of this period, the Supplier shall, pursuant to the statutory regulations, have the right to withdraw from the contract, as in the case of acceptance delay, as long as it has not been caused by us through gross negligence or intent; he shall not have the right to make any further-reaching claims.

**9. Shipping documents**

Every delivery must contain a delivery note with our order and material number, a list of the delivered batches if the material requires batch handling, a description of the goods, the quantity of goods (based on the specified unit), the weight (gross and net) as well as details concerning the packaging material used. The corresponding information must, together with the name of the Supplier, be clearly visible on all pallets and each package. If goods are delivered from non-EU states, a copy of the invoice must be added to the delivery note. As far as agreed, the Supplier must, without being specifically asked to do so, add a test certificate or an analysis certificate to each delivery; in the case of sterile products, the Supplier must, without being specifically asked to do so, add a sterilisation certificate to each delivery. If there are proof-of-preference and trade agreements between the Federal Republic of Germany and the country of origin, the Supplier must add certificates of origin to the delivery, which have been confirmed by the competent authorities. The Supplier must issue an invoice for each delivery and send it, irrespective of the delivery site within Germany, in duplicate to the invoice address stated on the order. The invoice must in particular include our order, item and material number. Invoices that are incorrect or contain errors do not become due and payable and may be returned by us at any time. In the latter case, the invoice becomes due and payable only upon our receipt of the correct invoice. Missing delivery documents, receipt by a department other than the one indicated on the order and incomplete data or errors shall delay the payment period until receipt of the correct invoice as well as all other necessary and complete documents. The suspension of invoice verification must be taken into account by the Supplier when compiling evidence for his collection file; the delay must not lead to the loss of rebates, discounts and similarly favourable payment

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conditions. In the case of early acceptance of delivery, the payment period does not commence until the delivery date specified in the order or until the invoice date depending on whichever date is the latest.

### **10. Retention of title**

We accept regulations concerning retention of title. We shall, however, be free to sell or further process the goods during the normal course of business. Any seizure or transfer of these goods by way of security for the benefit of third parties shall be excluded without our consent.

### **11. Payment terms**

Payment shall be effected in line with customary commercial practice either within eight days with a discount of three per cent or within two weeks and a discount of two per cent or after 30 days strictly net, based on the time of delivery/service and invoice receipt in the (weekly) payment run following the due date; a payment mode chosen by us or specified in a separate agreement shall be used.

### **12. Prices**

The price stated on our order is the agreed maximum fixed price. Any price increase requires our express written consent. If our order does not include a price, the order must be confirmed in writing with the confirmation containing a binding price. The Supplier may only include VAT in his invoice if he is entitled to do so in accordance with the regulations of the VAT law. In the event that the tax authorities do not permit that the VAT charged by the Contractor be deducted or if it must be paid back to the tax authorities, the Supplier, being the issuer of the invoice, shall forthwith pay back to us any VAT that has already been collected.

### **13. Quality**

The Supplier guarantees that the delivered goods comply with the regulations applicable to said goods and the products used for the production of said goods as well as to the products for the production of which he believes they are used. Regulations in the aforementioned sense are legal regulations of any type, European standards, DIN standards [German Industrial Standards], pharmacopoeia monographs as well as other accepted technical rules, in particular the specification agreed with the Contractor. If the goods fall under the German Food and Consumer Goods Act [Lebensmittel- und Bedarfsgegenständegesetz] the Supplier warrants that, provided they are used as intended and as foreseen, no health hazard results either from the goods or from secondary products or impurities and the goods are therefore physiologically safe. If a recommendation by the Plastics Commission of the Federal Institute for Consumer Health Protection and Veterinary Medicine [Bundesinstitut für gesundheitlichen Verbraucherschutz und Veterinärmedizin] exists for said goods, the Supplier warrants that the goods comply with the applicable recommendation as amended from time to time. The Supplier guarantees compliance with these

provisions for every delivery and shall provide further documentation and validation papers upon request. The Supplier shall carry out quality control measures that are appropriate in terms of their nature and scope and that comply with the latest state of the art as applicable from time to time and shall, upon request, submit the corresponding proof to us.

### **14. Warranty**

The Supplier accepts responsibility for his deliveries in accordance with the statutory provisions applicable in Germany. He warrants that the goods are free from industrial property rights of third parties. The Supplier undertakes to inform us forthwith of all product changes undertaken with regard to the delivered item that are relevant in terms of product liability under the German Product Liability Act [ProdHaftG] and/or the German Act on Medical Devices [MPG]. Unless claims for defects have been agreed separately, the time to assert such claims is two years from receipt of goods unless the statutory warranty period is longer. In order to determine whether the delivery is in order, the number of pieces, the dimensions, the weights and the quality characteristics established during our inspection of incoming goods is decisive. Any apparent defects must be reported to the Supplier without undue delay but, at the latest, within 30 days after goods receipt. The Supplier warrants to replace, free of charge, any goods with defects that are not detected upon delivery but only materialise during laboratory tests or during the processing or use of said goods, and to compensate us for any damage/loss that may have been incurred. Payments made by us are not deemed to constitute a waiver of any complaints on our part. In the event of a complaint, we reserve the right to delay full or partial payment of the purchase price until said defect has been remedied.

### **15. Health, safety, environment and energy efficiency**

As to the procurement of products, facilities, energy services and energy, we shall consider energy-related, environmental as well as occupational safety aspects as a selection criterion. Offers should alternatively also include energy-efficient products. If services are to be rendered on our company premises or at the place of performance indicated by us, the Contractor shall warrant compliance with the statutory requirements and our local regulations concerning occupational safety, health, environmental and fire protection. We may, at any time and upon request, view or ask for the necessary proof (e.g. proof of instruction, proof of occupational medical care etc.). The operational means used by the Contractor shall comply with the relevant safety standards. To ensure the protection of the environment, the Contractor warrants, in accordance with our rules and regulations, to improve energy efficiency

and make sparing use of the resources made available by us such as water, energy and consumables.

We do not tolerate child labour. Upon accepting our order, the Supplier warrants to not employ child workers in his factory. The employees must not be under 15 years of age (or not under 14 years of age provided this is permitted in the country of production) or, in countries of production where the minimum age is more than 15 years, under the minimum age at which compulsory schooling ends.

### **16. Product liability**

If, under German or foreign law, a claim is made against us due to a breach of special government rules or product liability regulations or warranty, the Supplier shall compensate us for any damage/loss incurred in as far as his deliveries were defective and the cause of the damage. Said damage also includes the costs arising from precautionary product recalls. The Supplier shall insure himself against all risks arising from product liability including the risk of product recalls, to the extent necessary and shall, upon request, submit qualified proof of insurance. Quality checks of the goods undertaken by us do not affect the liability of the Supplier.

### **17. Certificate of origin**

Upon special request, the Supplier shall be willing to issue a supplier declaration for his delivered goods pursuant to EEC Regulation 3351/83 and/or a certificate of origin and, if required to do so, confirm this by providing an information sheet. If this is not possible, his order confirmation and invoice must contain the note "not originating goods" or "not eligible for preferential treatment".

### **18. Claim assignment/set-off**

To the extent permitted by law, we have the right to offset all claims that we have against the Supplier against all claims that the Supplier has against us.

### **19. Place of performance**

Unless otherwise agreed, the place of performance for all deliveries is 67752 Wolfstein, Germany.

### **20. Place of jurisdiction and applicable law**

If the Supplier is a registered trader [Vollkaufmann], the place of jurisdiction for all contractual disputes shall, at our discretion, either be the competent court in the respective area where our company is based or another legal place of jurisdiction. The law of the Federal Republic of Germany shall also apply to deliveries from abroad.

### **21. Severability**

Should one or several of the aforementioned provisions be or become invalid or unenforceable, the remaining provisions and the contract as a whole shall continue to be valid. The

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invalid or unenforceable provisions shall be replaced by provisions that come closest to the economic purpose of the applicable provision.

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