KOOS

General Terms and Conditions of Sale and Delivery

For use in all contractual relationships for the sale and delivery and other services of KOOS Edelmetalle GmbH, with registered office in Renningen, entered in the commercial register of Stuttgart under HRB 252425 (“**KOOS**”) with companies, legal entities under public law, and public-law special funds (the “**Customer**”).

1. Scope of Application, Subject Matter of the Contract

1.1. The following General Terms and Conditions (“**GTC**”) shall apply exclusively to the sale, delivery, and other services by KOOS. Thereunder, in particular, the delivery of semi-finished products (half-finished metal) and dental alloys is covered.

1.2. Contradictory or deviating terms of the Customer are hereby expressly objected to, unless KOOS expressly agrees to them in writing. These GTC shall apply even if KOOS, with knowledge of contradictory or deviating terms of the Customer, performs the contractual service without reservation.

1.3. Amendments and additions to these GTC and to the contracts concluded between the Parties require text form (e.g. e-mail) to be effective. This also applies to an amendment of this text form requirement.

1.4. Individual contractual agreements (including ancillary agreements, additions, and amendments) made after conclusion of the contract shall prevail over these GTC if they are confirmed by KOOS in text form.

2. Conclusion of the Contract

2.1. All offers of KOOS are made without obligation unless expressly designated as binding. A contract shall be concluded by an order confirmation (acceptance) made in writing or in text form.

2.2. The Contractual Partner shall bear the risk of accidental loss and accidental deterioration of the reworking material until acceptance of the offer by KOOS. This also applies during the transport to KOOS and until the completion of the goods receipt and authenticity check, insofar as the damage or loss is not attributable to intent or gross negligence of KOOS.

3. Metal Account

3.1. KOOS shall establish a separate, free of charge metal account for each Contractual Partner to which amounts are credited in favour of and debited to the disadvantage of the Contractual Partner out of or in connection with the settlement of the contract in the course of trade in precious metals (the “**Metal Account**”). The Contractual Partner and KOOS shall conclude a separate agreement on the establishment and maintenance of the metal account (the “**Weight Account Agreement**”). Movements on the weight account shall take place by weight quantities in grams of the respective precious metal as a credit entry in favour of or as a debit entry to the disadvantage of the Contractual Partner (a “**Booking**”). The Metal Account shall name the booked precious metals and shall show their booking value as a positive or negative balance (the “**metal credit**”).

3.2. The metal transactions of the Contractual Partner and KOOS shall be settled through the Metal Account of the Contractual Partner, unless expressly agreed otherwise.

3.3. Metal accounts shall be maintained as current accounts in accordance with the requirements of the BMF letter of 17 January 2022, III C 2 – S 7100/19/1002:002, 2022/0031043. All claims arising from purchase and sale, services, in particular recycling, and other inflows and outflows shall accordingly be booked, by type (including the purity of the metal and its form and denomination in each case, insofar as specified in this manner) and by quantity (in each case, insofar as specified in this manner), in accordance with the requirements of the BMF letter for deliveries. Bookings shall take place by weight quantities (fine metal) in grams. The Parties agree that KOOS may issue credit entries in the name and for the account of the Contractual Partner for the services actually rendered by the Contractual Partner and owed under the contract. KOOS shall transmit the credit entries electronically to the receiving address communicated by the Contractual Partner. A credit entry may be specified as follows:

3.3.1. The credit entry either (i) gives rise to a claim of the Contractual Partner for delivery of the quantity of metal credited within the meaning of No. 3.3. This is the case where a specification (in particular with regard to the place, form, denomination, or purity) of the metal has taken place or where, at the time of conclusion of the underlying transaction, it is already intended to make such a specification subsequently. This in particular covers metal trade that is in a comprehensible connection with a product transaction (e.g. semi-finished product, jewellery) or a service transaction (recycling service). This in particular also covers all purchase situations following reworking of recycling material as well as purchases of metal on account to offset jewellery purchases. The place of physical handover of the credited quantity of metal is, in this case, the respective business address of KOOS.

3.3.2. A credit entry may instead (ii) be made without specification of the metal. This is the case where no comprehensible connection exists between the precious metal trade transaction and a product (e.g. semi-finished product) or service transaction (recycling service) (e.g. a contract for a credit entry on the weight account for the subsequent transfer of the credit entry to third parties, without a comprehensible connection between the precious metal trade transaction and a product). This is done on the basis of the net weight and fine content determined in the analysis report and the agreed price and deduction rules. The metal credit entry shall contain the data material for the calculation and the individual calculation steps.

3.3.3. A settlement prepared before the analysis result shall be valid exclusively as a provisional advance or part payment credit entry. Once the analysis report is available, KOOS shall prepare a metal credit entry, which shall supersede the provisional advance or part payment credit entry. The Contractual Partner shall examine this metal credit entry, including the analysis report, within ten working days after receipt. Objections to the weight, fine content, analysis allocation, price, or deductions must be made within this period with adequate detail. The period does not give rise to an exclusion of objections based on non-recognisable errors and shall leave statutory rights of objection unaffected.

3.4. Metal accounts shall at all times show a balanced or positive balance.

3.4.1. If the metal account shows a negative balance, the Contractual Partner shall, following a written request by KOOS setting a reasonable period, settle this negative balance at the choice of KOOS in the cash value of the negative metal credit at the respective valid KOOS sales price, or as a delivery of a corresponding quantity of the respective metal in grams, or by a metal transfer.

3.4.2. If the Contractual Partner does not settle a negative balance within the set period, it shall owe default interest of nine percentage points per annum above the base rate from the occurrence of default until settlement of the balance. KOOS shall be entitled to close the negative balance by cover transactions at the expense of the Contractual Partner and to charge the resulting costs to the account. The assertion of further claims for damages shall remain unaffected thereby.

3.5. The Contractual Partner shall be entitled to transfer metal credits to a third party subject to prior written consent of KOOS. KOOS shall not be entitled to withhold its consent unreasonably.

3.6. KOOS shall be entitled to correct erroneous bookings of the metal account by a correction entry. KOOS shall inform the Contractual Partner of such correction entries no later than with the next metal account statement.

3.7. KOOS shall provide the Contractual Partner, together with the invoice or metal credit entry, with an account statement showing the opening balance, all bookings within the relevant period, and the closing balance in the current account procedure (the “**Metal Account Statement**”). The Contractual Partner shall examine the Metal Account Statement promptly upon receipt. Any objections to the Metal Account Statement must be notified to KOOS promptly, and in any event no later than six weeks after receipt, in text form. For the purpose of observing the period, it shall be sufficient that objections in text form are sent within the six-week period. Failure to raise objections in a timely manner shall be deemed approval of the Metal Account Statement and of the balances shown therein. We draw the Contractual Partner’s particular attention to this consequence when issuing the Metal Account Statement. If no objection is received by KOOS within this period, the Metal Account Statement shall be deemed approved. This shall not apply to objections based on mere arithmetic errors, tax-relevant matters, or clerical errors, or which were not recognisable by the Contractual Partner within the period without its own fault. Metal account balances may further be reviewed at any time in the KOOS customer portal.

3.8. If the metal account shows a positive balance, the Contractual Partner may, at its choice, either (i) demand the payout of the cash value of the metal credit in euros at the KOOS purchase price, or (ii) demand the delivery of the corresponding precious metal. A disposal of the metal credit shall be announced within a reasonable period, and in any event at least three working days in advance, in text form. Costs arising in connection with the delivery of the metal credit, which KOOS was reasonably entitled to consider necessary, shall be invoiced separately by KOOS to the Contractual Partner. The assertion of rights of retention by KOOS shall remain unaffected thereby.

3.9. Precious metals held by KOOS for the purpose of satisfying delivery claims arising from metal credits or in the context of other custodianship services shall not be held separately for individual Contractual Partners but in pooled custody. If the Contractual Partner demands the delivery of the metal credit, the pieces to be handed over for performance shall be selected by KOOS from precious metals of standard industrial quality; the handover of identical pieces, serial numbers, or mints shall be owed only where this has been expressly agreed.

3.10. There is no obligation to pay interest on a positive metal credit.

3.11. The place of performance shall be the registered office of KOOS.

4. Prices, Payment, Set-Off

4.1. Unless otherwise agreed with the Customer, settlement shall take place following issuance of an invoice. This may be settled through the metal account. Processing costs (e.g. analysis, melting, or similar costs) shall be invoiced separately.

4.2. All prices stated are net prices in euros (EUR) plus the respective applicable statutory value added tax (VAT), unless expressly agreed otherwise or prescribed by law.

4.3. Prices for metal sale transactions shall be determined by the KOOS sales price valid for the respective time of issuance of the invoice, stated by weight in grams of the respective precious metal in euros (the “**KOOS sales price**”). The KOOS sales price is available online in the customer portal, by telephone, or in the KOOS app. Ancillary services such as shipping, refining costs, and handling shall, unless otherwise agreed, be invoiced separately or, where the settlement takes place through the metal account, be shown separately on the invoice.

4.4. The metal component of the goods (the “**precious metal share**”) may be calculated at the KOOS sales price per gram of the respective precious metal in euros valid at the material time.

4.5. Any processing losses (“**PV**”) arising from the processing of the subject matter of the contract and which typically occur shall be shown by KOOS on the invoice.

4.6. Invoices are payable immediately without deduction upon receipt of the invoice. The material date for the commencement of the payment period shall be the date of receipt of the invoice by the customer.

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4.7. Bills of exchange and cheques shall be accepted only on account (by way of interim payment); bills of exchange only subject to prior written agreement. The discount, expenses, and costs in connection with the collection of the bill or cheque amount shall be borne by the Contractual Partner and shall be payable immediately. An effect of performance shall occur only upon redemption of the cheques or bills of exchange and our discharge from any and all liability.

4.8. The Customer shall be entitled to set off or exercise a right of retention only if the counter-claim is undisputed, established by a final judgment, or ready for judgment.

4.9. KOOS shall be entitled to set off outstanding claims against the Customer, including monetary payment claims, with claims arising from the metal account and to make the corresponding bookings on the metal account. The valid KOOS sales price by weight in grams of the respective precious metal in euros on the day of set-off shall apply.

4.10. If the reworking material or other subject matter of the contract shows special material properties and this was not known at the time of conclusion of the contract, KOOS shall be entitled to adjust the processing and treatment costs appropriately and to extend agreed delivery times accordingly, insofar as this gives rise to additional effort.

4.11. The prices offered and agreed by KOOS are based on the cost factors applicable at the time of conclusion of the contract (in particular material, energy, labour, transport, disposal, tax, and customs costs). If cost increases arise after conclusion of the contract but before the rendering of the service, which KOOS is not responsible for and which were not foreseeable at the time of conclusion of the contract (in particular changes in taxes and customs duties, official levies, significant changes in precious metal quotations, significant increases in energy prices, wars, embargoes, natural disasters, pandemics, or comparable events), KOOS shall be entitled to adjust the prices to the extent in which the named cost factors have actually increased. KOOS shall notify the Customer of the price adjustment in text form, setting out the material cost factors. If the price increase exceeds ten per cent of the originally agreed price, the Customer shall be entitled, within fourteen days after receipt of the notification, to withdraw from the contract, to the extent that it has not yet been performed.

5. Precious Metal Semi-Finished Product

5.1. KOOS sells industrially pre-fabricated semi-finished products in standardised forms made of precious metal or its alloys, intended for further processing (the "**precious metal semi-finished product**"). The specification of the precious metal semi-finished product shall be agreed between KOOS and the Customer.

5.2. If the Customer supplies KOOS with raw material for the manufacture of the precious metal semi-finished product, the Customer shall bear the risk that, as a result of a substance supplied by the Customer, the manufacture is impossible or otherwise impaired (the "**provision**").

5.3. The Customer and KOOS are aware that unforeseeable properties of the raw material used may give rise to technically unavoidable deviations from the agreed specification in the manufacturing process. KOOS shall promptly inform the Customer of such deviations.

6. Delivery, Time of Performance

6.1. Delivery times shall be non-binding, unless expressly agreed to be binding.

6.2. Compliance with delivery or performance obligations, in particular delivery dates, shall be conditional on the lawful and proper fulfilment of any cooperation obligations of the Customer and on the existence of any required official permits and licences. The defence of non-performance of the contract shall be reserved.

6.3. Where dispatch has been agreed, the risk of accidental loss and accidental deterioration shall pass to the Customer upon handover of the goods to the carrier/freight forwarder. Upon request of the Customer, KOOS shall conclude a transport insurance at the expense of the Customer.

6.4. KOOS shall be entitled to partial delivery.

7. Dental Alloys

7.1. The dental alloys delivered by KOOS are – insofar as applicable – medical devices within the meaning of Regulation (EU) 2017/745 on medical devices ("**MDR**") and shall be manufactured and placed on the market in accordance with the respective applicable medical device regulations. KOOS shall ensure that the products are provided only with a valid CE marking and on the basis of a proper conformity assessment, insofar as this is legally prescribed.

7.2. The intended purpose of the dental alloys shall result from the respective attached or made available product and user information of the manufacturer (in particular labelling, product data sheet, user instruction). The manufacturer shall be responsible for the determination of the intended purpose and the conformity of the product.

7.3. The Customer, as a professional user (in particular dentist, dental technician, dental laboratory), shall be responsible, on its own responsibility, for the selection of the suitable product, its proper processing, combination with other products, and application on the patient. It shall hereby comply with the respective applicable statutory provisions, professional rules, the state of the art, and the manufacturer's information.

7.4. A liability of KOOS for damage based on an improper selection, processing, combination, or application of the dental alloys by the Customer or its vicarious agents shall be excluded; unaffected thereby are mandatory statutory liability grounds and a liability for product defects attributable to KOOS in accordance with the principles set out in these GTC.

8. Retention of Title, Processing

8.1. In the sale of precious metals and semi-finished products to the Customer, the goods delivered (the "**goods subject to retention of title**") shall remain the property of KOOS until full payment of all claims arising from the business relationship with the Customer, including the metal credit, is made (retention of title).

8.2. The Customer must treat the goods subject to retention of title with care. It must insure them adequately against fire, water, and theft damage to their full replacement value at its own expense.

8.3. Any processing or transformation of the goods subject to retention of title by the Customer shall always be carried out for us. If the goods subject to retention of title are processed together with items not in the property of KOOS, KOOS shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (net invoice amount) to the other processed items at the time of processing. Otherwise, the same shall apply to the new item resulting from the processing as to the goods subject to retention of title. If the goods subject to retention of title are inseparably joined or mixed with other items not in the property of KOOS, KOOS shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (net invoice amount) to the other joined or mixed items at the time of the mixing or joining. If the goods subject to retention of title are joined or mixed in such a way that the Customer's item is to be regarded as the principal item, the Customer and KOOS agree that the Customer shall transfer pro-rata co-ownership of this item. KOOS accepts this transfer.

8.4. The Customer may use the goods subject to retention of title and resell them in the ordinary course of business, as long as it is not in default of payment. The Customer may, however, not pledge the goods subject to retention of title or transfer them by way of security. The customer's consideration claims against its buyers arising from a resale of the goods subject to retention of title, as well as those claims of the Customer in respect of the goods subject to retention of title which arise against its buyers or third parties on the basis of another legal ground (in particular claims arising from unlawful acts and claims from insurance benefits), including all claims from the metal account, shall hereby be assigned by the Customer to KOOS for security, in full, for the time being. KOOS accepts this assignment. Subject to revocation, the Customer may collect the claims assigned to KOOS on its own account in its own name. The right of KOOS to collect any such claims itself shall not be affected thereby.

8.5. In the event of a seizure of the goods subject to retention of title by third parties or of other interventions by third parties, the Customer must point to the property of KOOS and promptly notify KOOS in writing, for the enforcement of its rights. Any extrajudicial and judicial costs arising in this context, which the third party is not obliged to reimburse, shall be borne by the Customer.

9. Pledge

9.1. The Customer hereby grants KOOS a pledge over all metal credits on the metal account and over all other movable assets and rights that come into the possession or control of KOOS in the course of the business relationship (together, the "**Pledged Items**"). The pledge shall serve to secure all present and future, conditional and unconditional, own and statutory claims of KOOS arising from the business relationship with the Customer.

9.2. KOOS shall be entitled to retain Pledged Items for as long as due claims against the Customer exist. If the Customer is in default of the fulfilment of due claims, KOOS shall, following a prior warning in text form and expiry of a reasonable additional period, be entitled to realise the Pledged Items in accordance with the statutory provisions. When selecting the Pledged Items to be realised, KOOS shall take due account of the legitimate interests of the Customer. Any proceeds of realisation shall be paid over to the Customer after deduction of the secured claims and reasonable realisation costs.

9.3. If the realisable value of the Pledged Items exceeds the claims secured by KOOS on a sustained basis by more than ten per cent, KOOS shall, upon request of the Customer, release Pledged Items in the corresponding amount at its own discretion.

9.4. KOOS shall return the remaining Pledged Items to the Customer if the secured claims have been fully satisfied. This shall not apply to the extent that the pledge passes to a third party by operation of law.

9.5. The Customer waives the defences of revocability and set-offability (Sections 1211, 770 of the German Civil Code (BGB)).

10. Defects

10.1. The Customer may not refuse acceptance on account of insignificant defects.

10.2. The Customer shall examine the goods promptly upon delivery and notify any defects promptly in writing or in text form; otherwise, the goods shall be deemed approved.

10.3. The condition shall be determined by the specifications agreed with the Customer (e.g. alloy, melting range, form).

10.4. The subsequent performance shall take place at the choice of KOOS by remediation or re-delivery.

10.5. Claims for defects shall expire twelve months after delivery. The limitation period shall not begin to run anew as a result of the subsequent performance.

11. Liability

11.1. KOOS shall be liable without limitation for intent and gross negligence. For simple negligence, KOOS shall be liable in a limited manner for typical, foreseeable damage and only insofar as a breach of a duty the fulfilment of which alone enables the proper performance of the contract and on whose observance the Customer may regularly rely (a cardinal duty) is committed.

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11.2. The foregoing limitations and exclusions of liability shall not apply to damages caused intentionally or with gross negligence that result from the infringement of life, body, or health or from other non-excludable statutory provisions.

11.3. To the extent that the liability of KOOS is excluded or limited, this shall also apply to the personal liability of employees, workers, staff, agents, and vicarious agents.

11.4. Except in the case of a seller's recourse under Section 478 of the German Civil Code (BGB) where the subject matter of the service is a building or building materials incorporated in such a building, as well as where the defect is based on proprietary rights of third parties or rights registered in the land register, the limitation period shall be one year.

12. Force Majeure

12.1. In cases of force majeure, the Party affected thereby shall be relieved, for the duration and to the extent of the impact, from the obligation to deliver or to accept performance. Force majeure is any unforeseeable event outside the sphere of influence of the respective Party, which wholly or partially prevents it from fulfilling its obligations, including fire damage, floods, strikes and lawful lockouts, unexpectedly arising pandemics or epidemics, as well as business disruptions not attributable to it or official orders. Supply difficulties and other performance disruptions on the procurement side shall be treated as force majeure only if the supplier is itself prevented from rendering the service due to an event within the meaning of sentence 1.

12.2. The Party affected shall promptly notify the other Party of the occurrence and the cessation of the force majeure and shall use its best efforts to remedy the force majeure and to limit its effects to the extent possible.

12.3. The Parties shall coordinate with each other upon the occurrence of force majeure and determine the further course of action.

13. Code of Conduct, Conflict-Free Material

13.1. The Customer undertakes to comply with the code of conduct issued by the Responsible Jewellery Council ("**RJC**") in its respective current version, available at https://www.responsiblejewellery.com/standards/code-of-practices/.

13.2. The Customer acknowledges that KOOS accepts only conflict-free material in accordance with the Responsible Minerals Initiative, available at www.responsibleminerals initiative.org, for processing, treatment, and further processing.

14. Data Protection

14.1. KOOS shall process personal data of the contact persons and employees of the Customer (e.g. name, business contact details, function) exclusively in accordance with the respective applicable data protection provisions, in particular the Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG).

14.2. The processing is in particular carried out

14.2.1. for the preparation, conduct, and settlement of the contractual relationship with the Customer,

14.2.2. for the fulfilment of statutory obligations (e.g. commercial and tax retention obligations, anti-money laundering requirements), and

14.2.3. for the safeguarding of the legitimate interests of KOOS, in particular for the enforcement of legal claims, for the optimisation of internal processes, and for the maintenance of the business relationship with the Customer.

14.3. The controller within the meaning of the GDPR is the KOOS Edelmetalle GmbH, Steinbeisstraße 1, 71272 Renningen. Further information on the processing of personal data, in particular on the categories of data processed, legal bases, storage periods, recipients, transfers to third countries, and on the data subject rights (access, rectification, erasure, restriction of processing, data portability, objection, and right to lodge a complaint with a supervisory authority), shall result from the respective current data protection declaration of KOOS. This shall be provided to the Customer upon request.

14.4. The Customer shall inform its affected employees in a suitable manner of the processing of their personal data by KOOS and shall make the information and notes described in the data protection declaration available to them.

15. Severability Clause

If any provision is invalid or becomes invalid, the validity of the remaining provisions shall remain unaffected. The Parties shall replace the invalid provision with a valid one that comes as close as possible to the economic purpose of the invalid provision.

16. Choice of Law, Jurisdiction

16.1. KOOS may amend these GTC with a notice period of two months in text form. Consent shall be deemed given if the Contractual Partner does not object before the proposed date of effectiveness; KOOS shall draw separate attention to this.

16.2. These GTC shall be governed by the law of the Federal Republic of Germany, excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods.

16.3. The place of jurisdiction for all disputes arising out of or in connection with this contractual relationship shall, to the extent legally permissible, be the registered office of KOOS.

16.4. The English version of the Terms and Conditions is only a translation. In the event of a dispute, the German version shall prevail.

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