



## **HABA FAMILYGROUP Conditions of Purchasing**

Date: 1. May 2021

### **Preamble**

The HABA FAMILYGROUP is composed of HABA Group B.V. & Co. KG, HABA Supply Chain GmbH & Co. KG, HABA Project GmbH, and HABA Sales GmbH & Co. KG i.a. with their brands HABA, Wehrfritz, HABA education, Fit-z, Jako-o. They are companies operating at international level, manufacturing or buying top-quality babies' and children's toys, children's games and furniture, textiles and other products and selling them all over the world.

We shape the future for children. To achieve this, we use everything that makes us what we are: our imagination, our passion and our skills. We follow our own path because we truly believe in it. We create lasting values. We do everything with the next generation in mind. We combine vibrant creativity with the prudence and strength of a family business. This is what makes the HABA FAMILYGROUP unique, energizing our brands and all the people who work for us. We know from over 80 years of experience:

### **CHILDREN CAN DO ANYTHING. SUPPORTING THEM IN THIS IS OUR MISSION.**

The entire HABA FAMILYGROUP (hereinafter referred to as HABA) adheres to the principle of this mission. In addition to the quality and reliability of the products, for which HABA must itself take responsibility, HABA prioritises environmentally-conscious trading and the quality of services to be delivered by third-party businesses. When HABA purchases products from suppliers, there must be a guarantee that HABA's company philosophy is respected and that its high requirements are totally fulfilled.

The General Terms and Conditions below serve to regulate the relationship with the contractors and commercial suppliers (suppliers, below), in the interest of both parties.

### **1) Area of applicability**

- a) These General Terms and Conditions apply to all purchasing and other contracts concerning the ordering of products and goods from other suppliers, unless something other is prescribed in a legally binding sense. They also apply to contracts of the same kind to be concluded in future with the particular suppliers.
- b) Unless nothing else has been expressly agreed, all orders are placed by us exclusively on the basis of our Conditions of Purchase.
- c) Our suppliers' own terms and conditions are not entertained if we have not expressly agreed to them in writing. This also applies if the supplier's General Terms and Conditions contain additional items not covered in our General Terms and Conditions.
- d) If nothing else is prescribed in a legally binding sense, these General Terms and Conditions apply to the purchase of all goods and products from our suppliers throughout the world.



## **2) Applicable components and rank order**

- a) In addition to these General Terms and Conditions, our Packing Instructions apply. All our suppliers and their subcontractors are bound by the latter. These regulations can be obtained on the Internet at any time or requested separately from us.
- b) With regard to the order of applicability, the General Terms and Conditions have priority of application in relation to the dispatch regulations.

## **3) Formation of the Individual Contract**

- a) If a General Purchase Agreement exists between the contract partners, the individual contracts are formed exclusively according to the contents of this General Agreement.
- b) We make individual contracts in written text form, with electronic communication (especially e-mail) and faxed communication being sufficient. A contract is formed only as a result of written confirmation by our supplier, with the inclusion of these Conditions of Purchase. Changes and additions to our orders must be clearly made known here. Unless otherwise agreed, acceptance by the supplier may occur only within a period of five working days after receipt of our bid. The actual processing and execution of an order without separate notification of acceptance, within the above-mentioned acceptance period, also counts as acceptance of a bid under the conditions named by us.

## **4) Payment**

- a) As long as there is a general contract between our suppliers and ourselves, pricing is based solely on the contents of this General Contract. If no prices are specified in the order, the suppliers list prices apply, taking into account any discount granted to us. In the case of the list price not yet been fixed at the time the order is placed, it must be announced on acceptance of the order, at the latest. In this case we may cancel any orders within eight working days of receiving the prices from the supplier, at no cost to ourselves.
- b) The agreed prices are fixed prices and extra charges of any kind are ruled out. As long as general contracts are concluded, the prices for the goods and products ordered in each case are taken as firmly agreed, for at least 12 months from the date of the initial order.
- c) Unless otherwise agreed between the parties, the supplier, when required and without charge, supplies samples for the testing of quality and performance standards, as well as display pieces, and is also responsible for the particular freight costs. On request, he provides us with advertising images for mutually agreed advertising processes, without additional charge.

## 5) Minimum wage

- a) The supplier is obliged to pay its workers the statutory minimum wage. At our request, the supplier is to provide the appropriate documentation to prove the fulfilment of this obligation within 14 days (esp. documents according to § 17 (1) of the minimum wage law, certificate of no objection from the responsible social security benefits office or leave funds, etc.) during the entire contract period and up to six months after the termination of this contract.
- b) The supplier shall indemnify us against all third party claims (esp. by employees of the contractor, contractors of the contractor, the German Federal Employment Agency) in connection with the breach of the obligation to pay the legal minimum wage at the first request.
- c) The supplier is obliged to ensure that any possible subcontractors are to work under the same conditions regarding payment of the statutory minimum wage and of our indemnifications in the same way he himself is under obligation according to litera a) and b), and must provide proof of this. If the subcontractor for its part uses subcontractors, the supplier must ensure that all subcontractors are required to oblige.
- d) The supplier is liable to us for all claims made by third parties arising from the breach of the obligation to pay the statutory minimum wage by subcontractors.

## 6) Delivery dates, periods, quantity and quality

- a) The agreed delivery periods and dates are binding. The parties consider a delivery to have been made on time only if the goods are received in perfect condition, in the amount ordered by us, at the time agreed between the parties, at the receipt address given by us and are handed over to the recipient. Unless otherwise agreed, the delivery periods begin on the date of placing the order.
- b) Our supplier is bound to inform us immediately, when he realises that an agreed deadline cannot be kept or that only a partial amount can be delivered. Our supplier must compensate us for damages caused by culpably omitted or delayed notice. We hereby make it clear that acceptance of the delayed delivery/service or of a partial delivery does not imply any waiver of compensation claims.
- c) As soon as it is apparent that an agreed deadline cannot be met, we are bound to minimise any loss incurred and are entitled to demand of our supplier an alternative delivery by another mode of shipment (e.g., other means of transport, express delivery, etc.). Any additional costs arising from the use of this other mode of shipment are borne by our supplier, in this case.
- d) If the goods delivered are not perfect in respect of packaging and/or quality and thus necessitate expenses for sorting, repacking or labelling the goods or for remedying a qualitative defect, the resulting costs of the actual expenses incurred (at 40.00 euros net per hour) may be charged to the supplier. This does not exclude the possibility of further claims.
- e) If our supplier does not deliver the goods under contract in the agreed amount, at the agreed time and of the agreed quality, we may set an extension period of 14 days. After this extension period has expired without any result, we are entitled to charge our supplier for every

additional working day (five-day week) a penalty in the amount of 1% of the net goods value on which the order is based (a maximum, however, of 15% of the net goods value of the particular order) and the costs of utilising alternative transport, particularly dispatch by air freight. Our supplier reserves the right to prove that in fact no damage has occurred to us, or only less damage than would justify the above-named penalty in the amount of 1% of the net goods value based on the order, for every further working day.

- f) Drawings specified by us in individual cases including stipulated tolerances are binding. By accepting the purchase order, the supplier acknowledges that it has ascertained the type, execution and scope of the performance to be rendered by perusal of the available plans. In the case of obvious mistakes, typographical and calculatory errors in the documentation, drawings, formulations and designs supplied by us, these may not be interpreted as binding upon us. The supplier is obliged to inform us of any such errors to permit our purchase order to be corrected and revised. This applies also in the event of missing documents, drawings, formulations and designs.
- g) Drawings, formulations, designs, models or similar which are supplied by us or are manufactured on our behalf shall remain our property and may only be supplied to third parties with our express written consent. Our supplier will tell us, therefore, if he intended and / or it is foreseeable that drawings, designs, models, formulations and related components in the formulations, or similar could be change, or is intended to make such changes. Evidence shall be in writing or text form. The actual declaration of changes introduced by the supplier drawings, designs, models, formulations and related components in the formulations or similar is not permitted without our prior agreement.

## **7) Dispatch**

- a) Unless otherwise agreed between the parties, costs of packaging and transport to the receipt address (place of consignment), specified by us according to the contents of the order, and of discharging customs formalities, are contained in the agreed prices.
- b) Our supplier bears the transport risks up to delivery to our desired receipt address and up to the point of handover to the particular receiver. The above-mentioned regulation covering acceptance of the transport risk applies irrespective of which party engages the carrier and pays his invoice. Even in cases in which HABA undertakes appointment and payment of the carriers, our supplier bears the transport risk.
- c) Our supplier is bound to compile a separate delivery slip for each order. It must be handed over with the shipping and/or dispatch and other papers. The following must be stated in particular: the weight, type and quantity of the dispatch units (pallets, loose parts, etc.) a list of all items ordered, in the sequence of our order, the text name, the customer's article number, our article or parts number, the delivery slip number, the supplier number, the order number the complete receipt address specified by us, and our supplier's name, domicile and ID number.

## **8) Packaging**

- a) Our supplier promises to pack the ordered goods and products in such a way as to prevent transit and/or storage damage. Packaging materials must only be used in the amount necessary for achieving this objective. As far as possible, our supplier will use only environmentally friendly and recyclable packaging materials. Regarding the packagings, our supplier ensures compliance with waste regulations at the destination and refunds us for any damage compensation or costs. This particularly applies to sales packagings.
- b) Our supplier promises to ensure that any delivery is made on exchangeable, standard loading equipment, unless expressly agreed otherwise. On no account must there be any side-mounted superstructure. Any costs and damages arising from our supplier's culpably ignoring this regulation must be met by him.
- c) Our supplier ensures that the sales packaging of his goods is licensed under a dual system, so that proper disposal is guaranteed.

## **9) Labelling obligations**

- a) Our supplier promises to label each article with an EAN code, in accordance with our Packing Instructions. This service is contained in the agreed prices or charged additionally. In the case of clear price labelling being agreed in addition to this labelling, it is carried out according to our specifications.

## **10) Invoice**

- a) Our supplier's invoice must contain in particular the address of the place receiving the delivery (place of consignment), the name of our person in charge of purchasing, the supplier number, the order number, the delivery slip number, the invoice date and the list of all articles supplied in sequence of our order, with the delivery quantities, the net unit prices per article or unit and the supplier information. The supplier information particularly includes the trade name, the legal form, the domicile, the VAT ID number, the bank details and the tax number.

If an invoice does not meet the requirements mentioned, we charge our supplier a set amount of 50.00 € per incorrect invoice, to compensate for our additional costs. Our supplier reserves the right to prove that we have actually sustained no or little damage.

- b) Our supplier promises to submit the invoices in auditable form, particularly with all relevant documents and information, to the purchasing department placing our order.

## **11) Payment**

- a) Unless otherwise agreed between the parties, payments are made through normal commercial channels within a period of 14 days after receipt of invoice with 3% discount, or strictly net after 30 days following receipt of invoice. In the interest of speedy settlement of invoices received, payments made are not considered as acceptance of proper delivery/service or of settlement of the debt.

- b) In the case of refund terms being agreed with our supplier, we are entitled to monthly settlement. The following particularly apply: rebates, advertising costs, bonuses, special discounts, and payments of logistics costs. In the case of the amount of the refund depending on the annual sales of a particular supplier, the latter is calculated in advance on the basis of the monthly sales already achieved in the particular calendar year.
- c) Our supplier promises to immediately inform us of changes in his bank details. If he does not fulfil his duty to inform us, payments are made to the old accounts, the debt thus being regarded as settled.
- d) Our supplier is solely and exclusively with prior written consent entitled to transfer debts, which are due by us, to a third party. Section 354a HGB is not waived by this regulation.

## **12) Guarantee**

- a) The statutory guarantee and recourse regulations apply. In the case of movable goods, our claims under the guarantee expire two months at the earliest after the time at which we have met any claim under the guarantee from our customer. In the case of claims, the supplier supports us with his skills even outside the period covered by the guarantee. In the case of justified claims on the basis of a product defect, our supplier promises to meet the costs of the processing or to make a reasonable one-off payment, the amount being negotiated for individual cases.
- b) We usually only accept consignments under the condition of checking them. We register a complaint about any defects and/or missing quantities, as soon as it comes to our notice. It is agreed that a complaint is not considered late if it is made within two weeks after delivery. In the case of the defects or missing quantities already being noted at the time of delivery, we are entitled to refuse to accept the entire consignment. In such a case, we grant our supplier the opportunity of inspecting, having the goods examined or collecting them at the dispatch address, within 14 days after the complaint has been received. If no notification in writing or statement in reaction to the complaint is made within the above-mentioned period or the above-mentioned opportunities are not taken, the complaint is considered accepted. If our supplier does not contest our complaint after we have set an extension of another eight days, we are entitled to remove the goods at the supplier's expense or to send them back at the customer's risk. Storage costs are charged separately to the supplier.

## **13) Obtaining spare parts**

- a) Also, after the expiry of the guarantee period, our supplier promises to supply spare parts, as long as this is feasible for him and necessary for us. In the case of complaints being received, our supplier promises to obtain spare parts within a maximum period of two weeks after receipt of the complaint and to carry out rectifications/repairs within three weeks from the day of receiving the complaint.

#### **14) Product liability and third-party proprietary rights**

- a) Our supplier guarantees to us that the sale, use or other form of disposal of the goods or services do not infringe the rights of a third party, particularly patents, licences, brands etc., when they are delivered to the destination. Our supplier further guarantees that statutory regulations are also observed and that all supplies and services correspond to the latest state of technology and to the currently applicable version of the relevant regulations. He also guarantees that the product does not cause any risks, that all the sample's properties are present (in the case of purchase on the basis of a sample) and that the information on condition and manufacturer is accurate. If changes in the sample are cleared, this must be stated in writing.
- b) Our supplier promises to guarantee at his own expense the existence of all necessary legal conditions for the sale of the goods at their destination, especially necessary permits, licences, test certificates and certificates etc. covering the observance of technical safety standards and design regulations and covering correct labelling, especially batch labelling specified by the customer, directions for use, packaging etc. As far as possible, our supplier promises to use environmentally friendly products and processes.
- c) If it should turn out to be the case that it is not possible to market the goods at the destination for legal reasons, the supplier will take back the particular goods from us free of charge, refunding the purchase price and all costs. If it should turn out to be the case that there is infringement of the rights of a third party which result in damages or costs, or if there are cases of product liability, or damages or costs occur, resulting from the infringement of statutory regulations or from the risks caused by defective goods, the supplier is bound to compensate us for these damages and costs. If the supplier has information on defects in his goods, he must immediately inform us of same. We hereby make it clear that this obligation also covers any necessary recall campaigns. Our supplier promises to indemnify us from third-party claims on the first demand, as far as they are justified.
- d) Our supplier promises to take out a product-liability insurance policy, including cover for recall costs risk, for a minimum premium, which is reasonable and normal for Germany, and to maintain the policy for the total duration of the business relationship. Without notice being given, proof of taking out the policy must be given at the time and proof of it being maintained must be presented on the expiry of the particular period of validity. Notification of any changes must be given without notice from us.
- e) Both contractual partners are bound to immediately inform the other party of risks of injury and alleged cases of injury, product-liability risks etc. and to give themselves the opportunity of settling claims jointly.

**15) Origin verification, supplier's long-term declaration; production for an Authorised Economic Operator (AEO)**

- a) The supplier commits to provide an annual long-term declaration naming the country of origin of the articles supplied by him (ISO ALFA II code).
- b) In the case of an article's country of origin changing during the course of the existing business relationship, a negative declaration must be compiled, with a separate copy sent to our Customs department.
- c) The supplier is obliged to produce, warehouse and handle all items in secured facilities and to guard them against unauthorized access of other people.  
The supplier ensures that the personnel in charge of production, warehousing, processing, loading, transport and transfer is reliable and was chosen carefully. Furthermore, the supplier ensures that business partners, who work on his behalf also take proper measurements themselves to assure the aforementioned supply chain.

**16) Confidential nature of the business relationship**

- a) Both parties promise to treat in confidence, and not to make available to a third party, all commercial or technical details which are not common knowledge and become known to them as a result of or because of the business relationship. Any third-party businesses included in delivery obligations, and subcontractors, must also be bound accordingly. In the case of culpable infringement of the duty of confidentiality, a contractual penalty in the amount of 25,000.00 € is due for each individual case of contravention, irrespective of all other rights.

**17) Final Clauses**

- a) We are entitled to use and save data, which we have received as part of the business relationships with suppliers, for the purposes of the German Federal Data Protection Act.
- b) Only the law of the Federal Republic of Germany shall apply, to the exclusion of the international purchasing law, in particular the United Nations Convention on Contracts for the International Sale of Goods (CISG). As far as it is legally permissible, Bad Rodach is determined as the exclusive place of jurisdiction.
- c) Should individual parts of these General Terms and Conditions prove not to be binding in law, the effectiveness of the contract concluded between the parties and that of the other clauses is not thereby affected. In this case, the partners to the contract promise to replace the ineffective clause by a clause which is as close as possible to their financial intention.

Tim Steffens  
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