

General Terms and Conditions of Sale of Heinrich Bauer GmbH & Co. KG

1. Scope of Application

- 1.1. These General Terms and Conditions of Sale (hereinafter: "GTC") shall apply to all - also future - agreements concluded on goods between us, Heinrich Bauer GmbH & Co. KG (hereinafter: "Heinrich Bauer" or "we"), and companies, entrepreneurs, legal entities under public law and special funds under public law (hereinafter: "you" or "Purchaser").
- 1.2. The relevant version of the GTC applicable upon conclusion of the agreement shall be authoritative. The GTC can be retrieved on our website www.bauer-spielwaren.de/ and saved in a reproducible form.
- 1.3. Heinrich Bauer herewith explicitly objects to any general terms and conditions of the Purchaser, where they conflict with these GTC. Such general terms and conditions shall not become part of the agreement even if they are not objected to again upon receipt or the Purchaser places orders referring to the Purchaser's general terms and conditions. General terms and conditions of the Purchaser shall be accepted only if this was confirmed in writing.

2. Conclusion of Agreements, Scope and Content of Agreements

- 2.1. The presentation and promotion of items in our catalogue or in our online shop shall not constitute a binding offer for the conclusion of a purchase agreement, but an invitation to you to order the products described in the catalogue and online shop. Orders may be placed in the online shop only by customers who have registered as customer beforehand and/or were created as customer by Heinrich Bauer in its systems.
- 2.2. By sending an order by fax to our fax number, by electronic message (e.g. e-mail or WhatsApp), by phone or by personal contact, you submit a legally binding offer for the conclusion of a purchase agreement. This shall also apply if you click on the "Send order" button in the online shop. You shall be bound to the order for two (2) weeks upon receipt of the order by us.
- 2.3. You may select goods for purchase in our online shop by clicking on the relevant button and placing them in a shopping cart, where you may change the desired quantity or remove the selected goods completely. When you wish to complete the order, go to the shopping cart, where you will be guided through the further ordering process. Following selection of the items in the shopping cart and confirming the "Go to checkout", a page indicating all necessary order and address data will open. If the Purchaser has stored several delivery addresses, the Purchaser may make a choice on this page. This page also serves to summarise the essential item details again. By the time an order is placed, you may correct your order-related entries, including, in particular, input errors, or refrain from ordering. Modifications in created address data, etc. shall be effected by our back office upon the Purchaser's demand. If you want to cancel the ordering process completely, you may also simply close your browser window. A binding offer is placed only by subsequently pressing the "Order and Pay" button. If you have placed an order via our online shop, we shall confirm receipt of your order immediately by e-mail. The confirmation shall not represent a binding acceptance of the Purchaser's offer yet, unless it includes a confirmation of both receipt and acceptance at the same time.
- 2.4. An agreement shall be concluded only if we accept your order by an order confirmation or by delivering the items ordered. The Purchaser shall receive the agreement text (comprising the order, GTC and, if any, order confirmation) on a permanent data carrier (e-mail or hard copy) with the order confirmation or upon delivery of the goods at the latest. The agreement text shall be saved with due regard to data protection. The agreement shall be concluded in the German or English language.
- 2.5. Scope and content of any agreement shall be governed by the arrangements made, including price list, declaration of acceptance, order confirmation, if any, and these GTC.

3. Product Descriptions & Modifications

Illustrations and descriptions of goods in catalogues or in the online shop shall only apply approximately and shall be binding only in case of an explicit written agreement. We reserve the right to make modifications regarding materials and design of the delivery objects within reasonable limits.

4. Delivery terms and Reservation of Advance Payment

- 4.1. Unless agreed otherwise, the goods shall basically be shipped EXW Incoterms 2010 at the seat of Heinrich Bauer.
- 4.2. For orders by new customers, customers having their place of business abroad or for reasonable indications for any risk of non-payment, we reserve the right, following prior notification, to deliver only after receipt of the purchase price along with potential shipping charges (reservation of advance payment).

5. Prices and Price Changes

Unless agreed otherwise in writing, prices shall be in EUR plus the relevant statutory VAT and arising shipping charges. The conditions in the price list and additionally agreed with you, if any, applicable upon conclusion of the agreement shall apply. We shall be entitled at any time to change the prices giving two weeks' advance notice. Shipping charges shall depend, i. a., on the shipping method and the quantity, size and weight of the ordered good(s).

6. Shipping, Passage of Risk, Partial Deliveries

- 6.1. Any risk of accidental loss, destruction or deterioration of goods, also for carriage paid or free-domicile deliveries, shall pass to the Purchaser upon provisioning of the goods and corresponding notification of the readiness for collection or shipping, but no later than upon handover to the carrier or the other person specified for perform transport. If the Purchaser declares non-acceptance of the delivery already prior to its handover to the freight forwarder, the accidental loss, destruction or deterioration of goods shall pass to the Purchaser at the time of refusal.
- 6.2. Assumption of the transport costs for any legal reason and to any extent whatsoever shall not affect the place of performance for the delivery (cl. 15.1.).
- 6.3. We shall be entitled to partial deliveries, where this is reasonable for the Purchaser, especially where the partial delivery is usable for the Purchaser, the remaining delivery is ensured and no considerable extra expenditure or additional costs will incur for the Purchaser.

7. Deadline for Deliveries, Default in Delivery

- 7.1. Unless explicitly agreed in writing, delivery deadlines and dates shall only apply approximately. Apart from that, Heinrich Bauer shall endeavour to execute deliveries as quickly as possible. Adherence to an agreed delivery date shall require that the Purchaser for its part meets all obligations assumed vis-à-vis Heinrich Bauer in due time, especially hands over to Heinrich Bauer in time any necessary documents to be provided by the Purchaser, if any. If these conditions are not met in time, the delivery deadline shall be reasonably extended.
- 7.2. Heinrich Bauer's delivery obligation shall be subject to correct and timely self-delivery, unless incorrect or delayed self-delivery is the fault of Heinrich Bauer. Heinrich Bauer shall immediately inform the Purchaser of any non-availability; in this case, all payments already effected by the customer shall be immediately reimbursed. If Heinrich Bauer is prevented from delivering or complying with the agreed delivery date for reasons, for which Heinrich Bauer is not responsible, or where this is attributable to events of force majeure, e.g. mobilisation, war, riot, strike, lockout, export restrictions or occurrence of other unforeseeable or unavoidable obstacles (regardless of whether such fact affects Heinrich Bauer or our suppliers), the delivery date shall be extended for a reasonable period. If the adjustment of the delivery date is economically unreasonable for either contracting party, the respective party shall have the right to withdraw from the relevant agreement. The party intending to make use of the right of withdrawal must immediately notify the other contracting parties thereof in writing, providing evidence of the unreasonableness of adherence to the agreement.

8. Payment Terms and Offsetting

- 8.1. Unless agreed otherwise, payments shall be effected within thirty (30) days after the invoice date at the latest.
- 8.2. Maturity deadlines shall be calculated from the date of the relevant invoice. Decisive for the payment shall be the receipt of the payment by us. In the event of late payment, default interest amounting to nine percentage points above the base interest rate are to be paid.
- 8.3. If the Purchaser is in default of payment and the Purchaser's pecuniary circumstances materially deteriorate, or if judicial or extra-judicial settlement or insolvency proceedings or comparable proceedings under a foreign legal system are applied for or initiated against the Purchaser, all our claims shall become immediately due and we shall have the right, without setting any further grace period, to withdraw from all our purchase agreements with the Purchaser that have not yet been fulfilled. If we intend to make use of such right of withdrawal, we must immediately notify the Purchaser thereof.
- 8.4. The Purchaser may offset against our claims only with legally established or undisputed counterclaims and may exercise rights of retention only if the counterclaim derives from the same purchase agreement.

9. Retention of Title

- 9.1. The objects of the deliveries (goods subject to retention of title) shall be delivered under extended and expanded retention of title and shall thus remain the property of Heinrich Bauer until all claims due against the Purchaser from the business relationship have been fulfilled, including, in particular, from any current account balance. This shall also apply if individual or all claims of Heinrich Bauer have been included into an open account and the balance has been struck and accepted. The Purchaser shall be entitled to sell the goods subject to retention of title in the ordinary course of business under the Purchaser's customary sales conditions, as long as the Purchaser is not in default of payment, has ceased payments or an application for initiation of insolvency proceedings or comparable proceedings of a foreign legal system have been filed against the Purchaser. If our legal title expires by combination or processing, it shall already be agreed now that the Purchaser's title to the uniform item shall pass to us proportionately to the value (invoice value). The Purchaser shall keep our joint ownership free of charge. Goods in which we are entitled to co-ownership, shall hereinafter be referred to as 'goods subject to retention of title'.

- 9.2. The Purchaser shall be prohibited from any pledge or transfer by way of security as long as the retention of title is effective. We must be immediately notified of seizures, attachments or other disposals or interventions by third parties.
- 9.3. In case of breaches of duties by the Purchaser, especially default of payment, Heinrich Bauer shall be entitled to take back and the Purchaser shall be obliged to return the goods subject to retention of title. Take-back without any explicit statement by us shall not constitute withdrawal from the agreement.
- 9.4. To secure our rights, the Purchaser shall assign to us in full or in the amount of our potential co-ownership share all (future) receivables and collaterals from the resale of the goods subject to retention of title already upon conclusion of any purchase agreement; the same shall apply to other receivables relating to the goods subject to retention of title (e.g. insurance benefits). The Purchaser shall be entitled to collect the assigned receivables in the Purchaser's own name for our account. We may revoke the collection authorisation and disclose the Purchaser's assignment to its customers if the Purchaser is in default of payment.
- 9.5. Upon our request, the Purchaser shall provide all information and hand over all documents required to enable us to enforce our rights vis-à-vis the Purchaser's customers. To enforce our claims arising from the retention of title, we shall be entitled to inspect the Purchaser's business books and, where this serves to enforce claims assigned, to make transcripts and copies.
- 9.6. If the regulations above regarding the retention of title are not (fully) effective pursuant to the relevant legal system of any other country, the Purchaser shall be obliged to assist to ensure that we will be granted equivalent security interests in line with the regulations of such country, where possible.

10. Warranty

Heinrich Bauer shall be liable for material defects within the meaning of Section 434 BGB (German Civil Code) as follows:

- 10.1. The goods are free from material defects if, upon passage of risk, they have the agreed quality or do not significantly deviate therefrom.
- 10.2. Warranty claims shall not exist for only slight deviation from the agreed quality (nature, structure, colour, etc.), for only insignificant impairment of usability or for only minor optical or technical deviations from underlying samples, descriptions, illustrations or previous deliveries. The Purchaser must immediately examine the received goods in terms of quantity and quality. The Purchaser must assert transport damage vis-à-vis the freight forwarder immediately after receipt of the shipment. Other obvious defects are to be immediately notified to Heinrich Bauer by written notice; the same shall apply to any defects identified later that have not yet been obvious upon delivery.
- 10.3. In case of notices of defects, the Purchaser must immediately give Heinrich Bauer the opportunity to examine the queried goods; upon Heinrich Bauer's request, the goods concerned or parts thereof are to be provided to us at our expense. If the notice of defect is given wrongfully, we shall be entitled to demand reimbursement of the expenses incurred by us (including freight, processing and examination costs) from the Purchaser.
- 10.4. Any goods delivered by Heinrich Bauer to the Purchaser that show a material defect must, at Heinrich Bauer's discretion, taking into account the Purchaser's interests, be subsequently repaired or replaced (cure) free of charge within a reasonable period of time, provided that the defect or its cause already existed upon passing of risk and had been properly notified to Heinrich Bauer. If the subsequent cure fails, the Purchaser shall set us a reasonable grace period to remedy the defect. Where such deadline expires unsuccessfully or is dispensable pursuant to the statutory provisions, the Purchaser may withdraw from the agreement or reasonably reduce the purchase price, irrespective of any damages claims pursuant to cl. 10.6. in conjunction with cl. 11.
- 10.5. Claims for material defects shall become statute-barred in twelve months. The deadline shall commence upon passage of risk. Such deadline shall not apply (i) where longer deadlines are prescribed by law pursuant to Section 445b BGB (recourse claims) and (ii) to damages claims of the Purchaser resulting from the violation of life, body or health or from breaches of duty by Heinrich Bauer or its vicarious agents by wilful intent or gross negligence, which shall each become statute-barred pursuant to the legal regulations.
- 10.6. Further claims than those governed by this cl. 10. of the Purchaser against Heinrich Bauer and its vicarious agents for a material defect shall be excluded. If the defect is based on any fault by Heinrich Bauer, however, the Purchaser may claim damages pursuant to the regulations of cl. 11. below.
- 10.7. Recourse claims of the Purchaser against Heinrich Bauer pursuant to Sections 445a to 445f, 478 BGB shall exist only to the extent of the third-party claims for defects asserted against the Purchaser and shall imply that the Purchaser has duly met its own obligations to give notice of existing defects against Heinrich Bauer by law and pursuant to cl. 10.2. both properly and timely.

11. Liability

- 11.1. If and as far as liability is subject to fault, Heinrich Bauer shall be liable for damages for any legal reason whatsoever, especially from impossibility, default, defective or incorrect delivery, violation of an agreement and tortious act, only for wilful intent and gross negligence, for lack of warranted characteristics, assumption of guarantees and fraudulent intent.
- 11.2. In case of ordinary negligence, Heinrich Bauer shall be liable only for damages arising from the violation of a major contractual obligation (obligation whose fulfillment is a prerequisite for enabling proper implementation of the agreement in the first place and on the fulfillment of which the Purchaser regularly relies and may regularly rely, 'cardinal obligations', *Kardinalspflichten*); in this case, however, the liability of Heinrich Bauer shall be limited to compensation for the foreseeable, typically occurring damage.
- 11.3. Where liability is excluded or limited in terms of reason or amount, this shall also apply to the personal liability of the employees, legal representative and vicarious agents of Heinrich Bauer. In cases of gross negligence by ordinary vicarious agents and non-executive employees, Heinrich Bauer shall be liable for compensation for the typical, foreseeable damage.
- 11.4. The aforementioned limitations of liability of this cl. 11. shall apply to neither any liability pursuant to the German Product Liability Act nor due to any violation of life, body or health.

12. Copyrights

Any use of the images, films and texts published in our catalogue or in our online shop shall not be permitted without our explicit consent.

13. Data Protection Notice

We collect, process and use your personal data, especially your contact details, if and as far as it is necessary to handle your order, thus including your e-mail address, phone and fax number, where you use them for the order. For credit assessment purposes, we may use information (also including a 'score value') from external service providers as a decision-making support and make the payment method and acceptance of your offer dependent on it. Such information shall also include information about your address and delivery address.

14. Assignment

Claims of the Purchaser resulting from the transactions performed with Heinrich Bauer may not be assigned. We shall be entitled to assign to third parties all our claims against the Purchaser and to transfer the data to the assignee for claim collection purposes only.

15. Place of Performance, Applicable law, Place of Jurisdiction

- 15.1. Place of performance for all arising out of or in connection with this agreement shall be the seat of Heinrich Bauer.
- 15.2. These GTC and the entire legal relationships between the Purchaser and Heinrich Bauer shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Sales Convention.
- 15.3. Legal recourse to ordinary courts shall apply. Place of jurisdiction for all disputes arising out of or in connection with this agreement shall be Nuremberg. Heinrich Bauer shall be entitled, at its discretion, however, to also sue the Purchaser at any other legally permitted place of jurisdiction.

16. Final Provisions

- 16.1. Arrangements deviating herefrom shall require written form.
- 16.2. If any provision of these GTC is or becomes invalid, this shall affect neither the relevant agreement nor the remaining terms. The ineffective regulation shall be replaced by another regulation, which shall come closest to the intended economic purpose. Where these GTC contain gap, those legally effective regulations shall be deemed to be agreed to fill such gap which the parties would have agreed on according to the economic objectives and the purpose of these GTC if they had been aware of the loopholes.
- 16.3. The Purchaser undertakes to not disclose the data arising under the business relationship to unauthorised third parties, to securely protect it against access and misuse by unauthorised persons and to keep it safe.
