

Terms and conditions of purchasing for baby-walz GmbH

1. Scope

1.1 The following conditions apply exclusively for all contracts concluded for the delivery of goods and the resulting legal relationships established between baby-walz GmbH (hereinafter "WALZ") and the supplier:

- these terms and conditions of purchasing (EKB)
- the packaging – identification – shipping procedures (VKV)
- the condition framework contract

The respective current versions can be accessed in the supplier area of WALZ at www.versandhauswalz.de/Lieferantenportal.html. WALZ will inform the supplier in text form (e.g. by e-mail) immediately about any changes/amended versions.

1.2 Divergent, conflicting or supplementary general terms and conditions of the supplier shall only become part of the contract if WALZ has expressly agreed to their validity in writing. This approval requirement applies in all cases, including, for example, cases where WALZ accepts the deliveries without reservation in the knowledge of the supplier's general terms and conditions.

1.3 The above conditions also apply to all future business relationships, and even if they are not expressly agreed upon again.

1.4 In individual cases, written agreements between the contracting parties (including ancillary agreements, supplements and changes) shall have priority over these terms and conditions in each case.

2. Orders and conclusion of the contract

2.1 Quotations for the conclusion of a purchase contract (order) will be submitted by WALZ using the order forms provided by WALZ. In case of obvious errors (such as typing errors and miscalculations) or incompleteness of the order, including the order documents, the supplier must notify WALZ for the purpose of correction or completion before accepting the order; otherwise the contract shall be considered not to have been concluded.

2.2 The acceptance of the offer by the supplier must be confirmed immediately by signing and returning it. The quotations submitted by WALZ are valid for 14 days. A late acceptance shall be considered as a new quotation and shall require acceptance by WALZ.

2.3 Drawings, plans and other documents associated with the order shall remain the property of WALZ, which reserves all rights to these documents. If the supplier does not accept the quotations from WALZ within the period specified in 2.2, these documents shall be returned to WALZ without delay.

3. Prices / invoices / payments

3.1 The prices stated by WALZ in the order are net prices; they are binding for the supplier and include free delivery to the WALZ location, unless otherwise agreed in writing between the parties. They include packaging and labelling in accordance with the applicable packaging – identification – shipping procedures (VKV). The prices also include the delivery of the necessary instructions for use, installation and care as well as repair instructions and spare parts lists. The invoice must specify the unit price stated in the order.

3.2 The supplier is liable for the proper customs duty and tax payments for goods of foreign origin imported by the supplier.

3.3 Invoices must always be addressed exclusively to "baby-walz GmbH, Rechnungskontrolle, Steinstraße 28, D-88339 Bad Waldsee" and be sent as a simple PDF file by e-mail to invoice@walz.de. Only one invoice should be sent per e-mail. If this is not possible, each PDF invoice must contain the term "Rechnung" or "invoice". Invoices must not be attached to the goods themselves. Each invoice must contain all legal mandatory information, in particular in accordance with § 14 German VAT Act (UStG) or R185 German VAT Guidelines (UStR). The invoice must specify the supplier, order or RUN number and article number as well as the quantity for each colour number and size. The invoice items must be listed in the order specified by WALZ. The e-mail address of the WALZ employee who placed the order must be included. Deliveries from other EU countries to the Federal Republic of Germany are exempt from VAT, unless the supplier calculates the statutory VAT for the Federal Republic of Germany and states its German VAT identification number. In the case of VAT exemption, this must be confirmed on the invoice. In addition, the VAT identification numbers of the supplier and of WALZ must be indicated. For goods subject to different rates of VAT, separate invoices must be issued.

Should one or more of these details be missing, thereby delaying the invoice processing by WALZ within the framework of normal business transactions, the payment deadlines set out in the condition framework contract shall be extended by the period of the delay.

3.4 The payment terms and types of payment are based on the condition framework contract concluded separately between the parties. Payment and discount deadlines shall begin from the day on which the delivery was completed without defects, and at the earliest on the day of receipt of the invoice.

- 3.5 For bank transfers, the payment shall be deemed on time if the transfer order from WALZ arrives at the bank nominated by WALZ before the expiration of the payment deadline; WALZ is not responsible for any delays caused by the banks involved in the payment transaction.
- 3.6 The payment of a supplier's invoice does not constitute an acknowledgment that the delivered goods are free from defects, or that the goods have the warranted or agreed characteristics/quality features, or that the delivery is complete.
- 3.7 An assignment or pledge of receivables against WALZ is excluded; this shall not apply if WALZ has been informed in advance in writing that the supplier is a processing company and an extended retention of title has been agreed with the supplier.
- 3.8 WALZ has rights of set-off and retention as well as the right of objection to non-fulfilled contracts to the extent permitted by law. In particular, WALZ is entitled to withhold due payments in the event that WALZ is still entitled to assert claims against the supplier due to incomplete or defective services.
- 3.9 The supplier has a set-off or retention right only on the basis of legally established or undisputed counterclaims.

4. Manufacture / procurement / product requirements / samples

- 4.1 The supplier hereby gives assurance that the delivered goods were not produced using health-damaging labour practices, child labour, forced labour or prison labour that is exploitative or otherwise demeaning to human dignity. In addition, the supplier shall ensure that its processes, including those relating to product development, work organisation, production and distribution, are as environmentally friendly as possible and shall comply with the applicable environmental protection regulations.
- 4.2 The supplier warrants that the goods, packaging and any installation and operating instructions supplied by it comply with all relevant regulations regarding their placement on the market and sale in all countries of the European Union and Switzerland, as well as all recognised rules of technology. This includes, in particular, all DIN regulations as well as applicable safety, substance and trademark regulations for the countries of the European Union and Switzerland (e.g. product safety laws, the European chemical regulation REACH, CE markings, textile labelling, energy consumption labelling, toy regulations, etc.), as well as limit values and the related information obligations. The supplier hereby indemnifies WALZ against all third-party claims (including costs, claims for damages, fines, interest and other expenses) arising due to breaches of this section 4.2 for which it is responsible, upon first request.
- 4.3 In the event that the supplier fails to comply with its obligations under section 4.2, WALZ shall be entitled to retrofit the goods as agreed at the supplier's expense, or to return the goods and demand compensation for the damages incurred.
- 4.4 To the extent that this is standard industry practice, each item of the goods must be accompanied by instructions for its use as well as installation and care instructions in German, English and, where applicable, other languages agreed separately with the supplier.
- 4.5 If agreed by the contracting parties, the company name and/or brand names requested by WALZ shall be affixed to the goods ordered by WALZ. The goods marked in this way may only be delivered to WALZ. Accordingly, the company name of WALZ and its trademarks must be removed from all goods returned by WALZ for free use by the supplier before their subsequent use.
- 4.6 Models, samples, printing plates, templates, tools and the like which have been made available to the supplier by WALZ shall remain the property of WALZ and may only be utilised/used, passed on to third parties or made available to third parties within the framework of this contract. The aforementioned materials must be secured against unauthorised inspection or use and must be returned by the supplier unscathed at its own expense as part of the supplier's final delivery to WALZ.

5. Delivery / deadlines / arrears / transfer of risk

- 5.1 Deliveries shall be carried out within Germany to the place specified in the order. If the destination has not been specified and nothing else has been agreed, the delivery shall be made to the registered office of WALZ in Bad Waldsee. The respective destination is also the place of performance (debt to be discharged at creditor's domicile).
- 5.2 The delivery time (delivery date or delivery period) specified by WALZ in the order is understood as "delivery to the ramp" and must be confirmed by the supplier as the delivery date (date) immediately in writing. Once confirmed, the delivery dates are binding. Notwithstanding the aforementioned requirement, if the supplier confirms a calendar week instead of a delivery date, and WALZ accepts this, the last working day in the confirmed calendar week shall be deemed the binding delivery date. Early deliveries are not permitted. The supplier shall inform WALZ immediately in writing should circumstances occur or become apparent under which the agreed delivery time cannot be met.
- 5.3 The supplier is not entitled to make partial deliveries. Exceptions to this require the prior written consent of the responsible dispatcher at WALZ.

- 5.4 Precise adherence to the bindingly agreed delivery deadlines and the confirmed delivery date is indispensable for WALZ, in particular for reasons relating to WALZ's internal logistics processes and the avoidance of damages due to customer cancellations. The right of WALZ to assert claims for damages caused by delays shall not be excluded in the event that WALZ agrees a new delivery date with the supplier.
- 5.5 In the case of late delivery (delay in delivery), the supplier shall, in addition to performance of the contract, pay the following contractual penalty for each item of the goods that is delivered late.

Delay in delivery (in calendar days)	Contractual penalty as % of the net purchase price of the product to be paid by WALZ
4 to 7	2 %
8 to 14	5 %
15 to 21	10 %
from 22	15 %

A contractual penalty shall not be applied if the delay in delivery is less than four calendar days.

WALZ is entitled to demand the contractual penalty in addition to the contractual performance as well as a minimum amount of compensation from the supplier in accordance with the statutory provisions. The right of WALZ to assert further claims for damages (e.g. for the costs of subsequent deliveries, delivery failures, cover purchases, additional storage and handling costs) shall remain unaffected.

If WALZ accepts the delayed delivery, WALZ will apply the contractual penalty at the latest during timely payment of the supplier's respective invoice by WALZ.

- 5.6 In the event of non-fulfilment, the supplier shall, as a contractual penalty for each non-delivered item of the goods, pay 15% of the net purchase price that is to be paid by WALZ for the respective item of the goods. The contractual penalty shall be due as a minimum amount of damages owed by the supplier in accordance with the statutory provisions. The assertion of claims for further damages by WALZ (for example, for delivery failures, cover purchases, etc.) shall remain unaffected.
- 5.7 The contractual penalty pursuant to sections 5.5 and 5.6 shall not apply if the supplier is able to prove that it is not responsible for the failure to meet the delivery deadline or the non-performance.
- 5.8 The risk of accidental loss and accidental deterioration of the goods shall pass to WALZ upon delivery of the goods at the place of performance.

6. Warranty / guarantee / liability

- 6.1 For the rights of WALZ in the case of materially and legally defective goods (including incorrect and underdelivery as well as improper assembly, as well as faulty assembly/operating instructions) and other breaches of duty by the supplier, the statutory provisions shall apply, unless otherwise stated below.
- 6.2 In accordance with the statutory provisions, the supplier is liable in particular for ensuring that the goods have the agreed quality at the time of transfer of risk to WALZ. In any case, the product descriptions/samples that are the subject matter of the respective contract, or which are included in the contract in the same way as these conditions of purchase — in particular, the designations and references in the order submitted by WALZ — shall be deemed to be an agreement on the characteristics of the products — regardless of whether the product description was provided by WALZ, the supplier or the manufacturer.
- 6.3 In the event that the delivered goods do not conform to the submitted samples or to the product description, WALZ shall be entitled, while retaining all its statutory rights, to have the defects remedied at the supplier's expense, provided that the supplier permits WALZ to do so and chooses not to remedy the defects itself.
- 6.4 In contrast to § 442 (1) P. 2 German Civil Code (BGB), WALZ shall also be entitled to assert claims for defects without restriction even if WALZ was unaware of the defect upon conclusion of the contract as a result of gross negligence.
- 6.5 The statutory provisions (§§ 377, 381 German Commercial Code (HGB)) apply with regard to the commercial obligation to inspect goods and report defects, subject to the following proviso: WALZ's inspection obligation is limited to defects that are identifiable during the incoming goods inspection at WALZ on the basis of external inspection (including the delivery documents), and also during quality control via random sampling (e.g. transport damage, incorrect delivery and underdelivery). Moreover, these obligations depend on the extent to which an investigation, taking into account the circumstances of the individual case in the ordinary course of business, is feasible. Complaints for obvious defects shall be deemed timely if they are sent to the supplier by WALZ within two weeks of delivery of the goods by the supplier. Complaints relating to concealed defects shall be deemed timely if WALZ sends them within two weeks of their discovery. Beyond this, any further obligations to inspect the goods upon their delivery and to report defects do not exist.

- 6.6 In the event that the delivered goods are defective, the supplier shall, on first request, indemnify WALZ against all costs, warranty claims and claims for damages, which are asserted against WALZ by third parties on the basis of a statutory provision due to the defect.
- 6.7 Unless otherwise agreed, the supplier shall, in the event of a warranty, make the spare parts required by WALZ within the framework of the settlement of warranty cases available free of charge and in appropriate quantities without delay.
- 6.8 Goods returned to the supplier due to a complaint shall remain the property of WALZ pending resolution of the complaint or withdrawal from the purchase contract, and until a refund of the purchase price has been received.
- 6.9 The limitation period for claims for defects is 36 months from the transfer of risk, unless otherwise agreed, and begins with the delivery of the delivered item to WALZ's customer.
- 6.10 In the event that, due to a defect, WALZ is unable to place the delivered goods on the market due to a law, other legal regulation or standard, WALZ shall be entitled to demand the return of existing stock pending reimbursement of the full purchase price, even if the respective warranty rights have lapsed.
- 6.11 Moreover, WALZ shall be entitled to reduce the purchase price or to withdraw from the contract in the event of a defect in quality or title in accordance with the statutory provisions. In addition, WALZ shall be entitled to damages and reimbursement of expenses in accordance with the statutory provisions.

7. Product liability / product liability insurance

- 7.1 In the event that, due to a defect in the goods delivered by the supplier, damage prevention measures (e.g. recall actions) are required, the supplier shall reimburse WALZ for all costs and expenses resulting from or in connection with the damage prevention measures carried out by WALZ and the supplier's breach of the German Product Safety Act (Produktsicherheitsgesetz). WALZ will, as far as it is possible and reasonable to do so, inform the supplier about the content and extent of the damage prevention measures and give the supplier the opportunity to comment. The right of WALZ to assert further legal claims shall remain unaffected.
- 7.2 The supplier shall notify WALZ immediately in the event of a product liability case, and shall inform WALZ of all measures taken by the supplier to rectify the defect and prevent damages.
- 7.3 The supplier shall conclude and maintain product liability insurance with adequate coverage for the goods. This does not affect WALZ's right to assert further legal claims. Any conflicting liability limitations on the part of the supplier shall not apply.

8. Rights / third-party rights

- 8.1 The supplier hereby warrants that the promotion and distribution of the contractual articles in all countries of the European Union, as well as in Switzerland, does not violate the rights of third parties, in particular commercial, copyright and patent rights as well as trademarks and personal rights of third parties.
- 8.2 The supplier hereby authorises WALZ to use all article information provided by the supplier, including article texts, product photos, logos, business names, trademarks, graphics and video material (hereinafter "Content") for the presentation, promotion and sale of the supplier's articles via print media, in specialist shops, on the website of baby-walz and on third-party sales portals (amazon, eBay, etc.), and to allow third parties to do likewise, in particular the companies affiliated to WALZ, advertising partners and operators of sales platforms (e.g. Amazon, eBay, etc.). This also applies to all advertising measures via any kind of media, e.g. advertisements, package inserts, brochures, flyers, catalogues, TV adverts, banners, teasers, social media portals (e.g. Facebook, Twitter, YouTube, etc.), price search engines, affiliate marketing and newsletters.

For this purpose, the supplier grants WALZ a royalty-free, non-exclusive, unlimited, irrevocable and sub-licensable right to use the Content. The granting of rights of use covers all currently known and unknown types of use that are or will be required to achieve the purpose of the contract, even if they only subsequently arise from the contractual content or become known later on the basis of new legislation or for other reasons. This includes, in particular, the right to reproduce, distribute, play back, present and display the Content, and to make it publicly available, broadcast it and make it available on demand.

Furthermore, the supplier grants WALZ the right to edit the content provided for the purpose of optimising its presentation in print and digital media, in particular to shorten it or link it with other works.

- 8.3 The supplier expressly assures WALZ that it is entitled to grant the aforementioned rights in the aforementioned scope. It further assures WALZ that the content provided complies with all applicable laws and does not violate any third-party rights, e.g. copyright, trademark or design rights, privacy rights, etc.
- 8.4 Should claims be asserted against WALZ by third parties due to a violation of the aforementioned rights for which the supplier is responsible (sections 8.1 to 8.3), the supplier shall indemnify WALZ against all such claims (including costs, claims for damages, fines and other expenses) on first request. This shall not apply in the case of third-party claims for infringement of their rights, insofar as, and to the extent that, such claims are based on changes to the content that were made by WALZ.

In addition, the supplier shall reimburse WALZ for all reasonable expenses and costs incurred in connection with the third-party claim, including its defence, and shall take back the goods upon request. WALZ shall not be obliged to seek a judicial clarification of the alleged infringement. WALZ's right to assert further claims for damages shall remain hereby unaffected.

9. Confidentiality / customer data

- 9.1 Both during the business relationship and following its termination, the supplier shall treat all information related to the business operations of WALZ, in particular business and trade secrets shared with the supplier in the context of the collaboration, as strictly confidential and shall neither exploit them nor make them accessible to third parties in any form. This also includes orders placed by WALZ, in particular prices and quantities.
- 9.2 In the context of order processing, customers' personal data, which is in WALZ's possession, will be processed by the supplier. The supplier shall comply with the data protection provisions of the EU General Data Protection Regulation (GDPR) and other data protection regulations when processing customer data (customer addresses and other customer data). In particular, the supplier shall take technical and organisational measures in accordance with Art. 32 GDPR to ensure the protection and security of the data. The data provided may only be stored and used for the purpose of performing the respective task. In particular, the customer data may not be used for the supplier's own purposes (e.g. rental or sale) and may not be disclosed to third parties.

For each breach of the above obligations (section 9.1 and section 9.2 para. 1), the supplier undertakes to pay an appropriate contractual penalty to WALZ, which may be determined by WALZ at its reasonable discretion and reviewed by the competent court in the event of a dispute. WALZ expressly reserves the right to assert further claims for damages.

10. Place of performance / jurisdiction / applicable law

- 10.1 The place of performance and jurisdiction for deliveries and payments (including claims related to cheque payments), as well as all disputes between the supplier and WALZ arising from the contracts concluded between the parties, is Bad Waldsee / Baden Württemberg, insofar as the supplier is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law and acts as such. WALZ is also entitled to sue the supplier within a different, legally permissible jurisdiction.
- 10.2 The relationships between the contracting parties are governed exclusively by the applicable law in the Federal Republic of Germany. The UN Convention on the International Sale of Goods (CISG) does not apply.

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