

# GENERAL TERMS AND CONDITIONS

## Definitions

In these General Terms and Conditions the following terms shall have the following meanings, except where stated otherwise:

**Consumer:** the natural person who does not act for purposes related to his/her commercial, trade, craft or professional activities;

**Day:** calendar day;

**Digital Content:** data produced and delivered in digital form;

**Distance Contract:** a contract concluded by Online Babyplants and the Consumer within the scope of an organized system for distance selling products, Digital Content and/or services, whereby exclusive or additional use is made of one or more technologies of distance communication up to the conclusion of the contract;

**Reflection Period:** the period during which the Consumer may use his right of withdrawal;

**Sustainable Data Carrier:** any means, including email, that allow the Consumer or Online Babyplants to store information directed to him/her personally in such a manner that makes future consultation and use possible during a period that matches the purpose for which the information is destined and which makes unaltered reproduction of the stored information possible;

**Standard Form for Withdrawal:** the European standard form for withdrawal included in Appendix;

**Online Babyplants** the company Kwekerij Mostert Nieuwerkerk B.V., located at 2e Tochtweg 98, in Nieuwerk aan den IJssel and registered with the Trade Register of the Dutch Chamber of Commerce under number 24382557; and

**Website:** name of the website of Online Babyplants, being [www.onlinebabyplants.com](http://www.onlinebabyplants.com).

## Applicability

1. These General Terms and Conditions apply to any offer from Online Babyplants and to any Distance Contract concluded by Online Babyplants and the Consumer.
2. Before concluding a Distance Contract, the text of these General Terms and Conditions shall be made available to the Consumer by electronic means in such a way that the Consumer can store it in an accessible manner on a Sustainable Data Carrier. If this is reasonably impossible, Online Babyplants shall indicate in what way the General Terms and Conditions can be inspected and that they will be sent if so requested by electronic means or otherwise without charge, before the Distance Contract is concluded.
3. In the event that specific product or service conditions apply in addition to these General Terms and Conditions, the second paragraph of this Article shall apply accordingly, and in the event of contradictory terms and conditions, the Consumer may always appeal to the applicable provision that is most favourable to him/her.

## The offer

1. Obvious errors or mistakes in the offer are not binding for Online Babyplants.
2. All offers contain such information that it is clear to the Consumer what rights and obligations are attached to accepting the offer.

## The contract

1. The contract becomes valid when the Consumer has accepted the offer and fulfilled the terms and conditions set.
2. If the Consumer accepted the offer via electronic means, Online Babyplants shall promptly confirm receipt of having accepted the offer via electronic means.

## Right of withdrawal

1. The Consumer can repudiate a purchase contract for a product without giving reasons for a Reflection Period of 14.
2. The Reflection Period referred to in paragraph 1 of this Article starts on the Day the product is received by the Consumer or by a third party appointed by him in advance and who is not the carrier, or:
  - a. if the Consumer ordered several products in the same order: the Day on which the Consumer or a third party appointed by him received the last product. Online Babyplants may refuse an order of several products with different delivery dates provided that it clearly informs the Consumer prior to the order process, or
  - b. in case the delivery of a product consists of several batches or parts: the Day on which the Consumer or a third party appointed by him received the last batch or the last part, or
  - c. in case of an agreement about regular delivery of products during a given period: the Day on which the Consumer or a third party appointed by him received the first product.
3. The Consumer can terminate an agreement for services or an agreement for delivery of Digital Content that is not delivered on a physical carrier without giving reasons during 14.
4. The Reflection Period referred to in Article 3 starts on the Day following the conclusion of the agreement.

### **Consumer's obligations during the Reflection Period**

1. During this period, the Consumer shall handle the product and the packaging with care. The Consumer shall only unpack or use the product to the extent necessary for establishing the nature, the characteristics and the effect of the product. The guiding principle is that the Consumer may only handle and inspect the product in the manner in which one is allowed to handle a product in a shop.
2. The Consumer is liable for the decrease in value of the product that is caused by the way of handling the product which went further than allowed in paragraph 1 of this Article.

### **Exercising the consumer's right of withdrawal**

1. If the Consumer exercises his right of withdrawal he shall notify Online Babyplants unambiguously with the Standard Form for Withdrawal within the Reflection Period.
2. The Consumer shall return the product or deliver it to (the authorized representative of) Online Babyplants as soon as possible but within 14 Days. This need not be done if Online Babyplants offered to collect the product himself. The Consumer observed the period of returning the product in any event if the product is returned before the expiration of the Reflection Period.
3. The Consumer shall return the product with all delivered accessories and if reasonably possible in the original state and packing and in conformity with reasonable and clear instructions given by Online Babyplants.
4. The risk and the burden of proof for the correct and timely exercise of the right of withdrawal fall on the Consumer.
5. The Consumer shall bear the direct costs of returning the product.
6. If performance of the service has been started during the Reflection Period, the Consumer shall pay Online Babyplants an amount that is equal to the part of the obligation already performed at the time of withdrawal as compared with the full compliance of the obligation.

### **Obligations of Online Babyplants in case of withdrawal**

1. If Online Babyplants makes the notification of withdrawal by electronic means possible, he shall promptly send a return receipt.
2. Online Babyplants shall reimburse all payments made by the Consumer, including any delivery costs that Online Babyplants may charge for the returned product, as soon as possible but within 14 Days following the Day on which the Consumer notified him of the withdrawal. Unless Online Babyplants offers to collect the product himself, he can wait with paying back until having received the product or until the Consumer proved that he returned the product, whichever occurs first.

3. Online Babyplants shall make use of the same means of payment that the Consumer used, unless the Consumer consents to another method. The reimbursement is free of charge for the Consumer.
4. If the Consumer opted for a more expensive method of delivery instead of the cheapest standard delivery, Online Babyplants need not reimburse the additional costs for the more expensive method.

## **Pricing**

1. The prices of the products and/or services provided shall not be raised during the validity period given in the offer, subject to changes in price due to changes in VAT rates.
2. Contrary to paragraph 1 of this Article, Online Babyplants may offer products or services whose prices are subject to fluctuations in the financial market that are beyond the control of Online Babyplants, at variable prices. The offer will state the possibility of being subject to fluctuations and the fact that any indicated prices are target prices.
3. Price increases within 3 months after concluding the contract are permitted only if they are the result of new legislation.
4. Price increases from 3 months after concluding the contract are permitted only if Online Babyplants has stipulated it and
  - a. they are the result of legal regulations or stipulations, or
  - b. the Consumer has the authority to cancel the contract before the Day on which the price increase starts.
5. All prices indicated in the provision of products or services are including VAT.

## **Performance agreement and extra guarantee**

1. Online Babyplants guarantees that the products and/or services comply with the contract, with the specifications listed in the offer, with reasonable requirements of usability and/or reliability and with the existing statutory provisions and/or government regulations on the Day the contract was concluded. If agreed, Online Babyplants also guarantees that the product is suitable for other than normal use.
2. In any event no claim can be made on paragraph 1 of this Article (i) in case of damage caused deliberately or with gross negligence, (ii) in case of normal wear and/or (iii) in case of damage from improper care or handling.
3. An extra guarantee offered by Online Babyplants, his supplier, manufacturer or importer shall never affect the rights and claims the Consumer may exercise against Online Babyplants about a failure in the fulfilment of the obligations of Online Babyplants if Online Babyplants has failed in the fulfilment of his part of the agreement.
4. 'Extra guarantee' is taken to mean each obligation by Online Babyplants, his supplier, importer or manufacturer in whom he assigns certain rights or claims to the Consumer that go further than he is legally required in case he fails in the compliance with his part of the agreement.

## **Delivery and execution agreement**

1. Online Babyplants shall exercise the best possible care when booking orders and executing product orders and when assessing requests for the provision of services.
2. The place of delivery is the address which the Consumer has provided to Online Babyplants
3. The Consumer shall provide Online Babyplants with the correct delivery address and mail address. Any changes need to be reported immediately to Online Babyplants. If the Consumer has entered a wrong address for delivery, then the additional shipping costs will be for the account of the Consumer.
4. Delivery takes place while supply lasts.
5. The ownership of delivered products will be transferred to the Consumer upon payment of the sum due. The risk of the products passes upon delivery to the Consumer.
6. Online Babyplants shall execute accepted orders with convenient speed but at least within 30, unless another delivery period was agreed on. If the delivery has been delayed, or if an order cannot be filled or can be filled only partially, the Consumer shall be informed about this

within 30 after ordering. In such cases, the Consumer is entitled to repudiate the contract free of charge and with the right to possible compensation.

7. After repudiation in conformity with paragraph 6 of this Article, Online Babyplants shall promptly return the payment made by the Consumer.
8. The risk of loss and/or damage to products will be borne by Online Babyplants until the time of delivery to the Consumer or a representative appointed in advance and made known to Online Babyplants, unless explicitly agreed otherwise.

## **Payment**

1. Unless otherwise stipulated in the agreement or in the additional conditions, the amounts to be paid by the Consumer must be settled within 14 Days after the Reflection Period, or, if there is no Reflection Period, within 14 Days, after concluding the agreement. In case of an agreement to provide a service, this period starts on the Day that the Consumer received the confirmation of the agreement.
2. The Consumer has the duty to inform Online Babyplants promptly of possible inaccuracies in the payment details that were given or specified. Payment orders at the bank or giro institute are for the account and risk of the party giving (or authorizing) the payment order.

## **Accounts and registration**

1. The Consumer can create an account or otherwise register on the Website. Online Babyplants reserves the right to refuse or cancel any such registration, for example in the event of irregularities.
2. The login details are strictly personal and must not be disclosed to third parties. The Consumer is responsible for his login details, even if this is done without his knowledge.
3. The Consumer shall immediately alert Online Babyplants if he suspects that his login details are known by an unauthorized third party or in the event of irregularities.
4. The Consumer may not create or manage more than one account. Moreover, the Consumer shall not be allowed to register or manage an account (again) after Online Babyplants has denied the request of the Consumer to create an account or after cancellation of the registration.

## **Force majeure**

Online Babyplants and the Consumer are not obliged to fulfill any obligation, if they are prevented from doing so due to a circumstance not attributable to fault and which is not regarded as their responsibility, nor by virtue of the law, a legal action or a generally accepted notion.

## **Complaints procedure**

1. Online Babyplants shall have a sufficiently notified complaints procedure in place, and shall handle the complaint in accordance with this complaint procedure.
2. Complaints about the performance of contracts shall be filed as soon as possible once the Consumer has noticed the defects, comprehensive and clear with Online Babyplants.
3. The complaints submitted to Online Babyplants shall be replied within a period of 7 dagen after the date of receipt. Should a complaint require a foreseeable longer time of handling, Online Babyplants shall respond within 7 dagen with a notice of receipt and an indication when the Consumer can expect a more detailed reply.

## **Privacy and security**

1. Online Babyplants respects the privacy of the Consumer. Online Babyplants treats and processes all personal data transmitted to it in accordance with the applicable legislation, in particular the Personal Data Protection Act. The Consumer agrees to this processing. For the purpose of protecting the Consumer's personal data, Online Babyplants observes appropriate security measures.
2. For more information about privacy, reference is made to the Website of Online Babyplants.

## **Additional provisions**

1. Any possible derogations in respect of these General Terms and Conditions may be agreed upon only in writing. No rights can be derived from these deviations with regard to future agreements.
2. The administration of Online Babyplants serves as proof of purchase orders and requests of the Consumer, unless the Consumer proves otherwise. The Consumer acknowledges that electronic communication can serve as proof.
3. Online Babyplants is entitled to transfer the rights and obligations under the contract with the Consumer to a third party, by a single notification to the Consumer.
4. In case and to the extent that any provisions of these General Terms and Conditions are cancelled or declared invalid, Online Babyplants shall draw up a new provision to replace the null/nullified provision, duly observing as much as possible the object and purpose of the annulled provision.

## **Applicable law**

These General Terms and Conditions, and any non-contractual obligations arising thereto, between Online Babyplants and the Consumer are governed exclusively by the laws of The Netherlands.

## **Appendix**

### **Standard Form for Withdrawal**

To: Kwekerij Mostert Nieuwerkerk B.V., 2e Tochtweg 98, domiciling at Nieuwerk aan den IJssel.  
Email address: jesse@kmn.nl

I hereby inform you that I wish to revoke our agreement on the following order:

Order number:

Ordered/received on (dd-mm-yyyy):

*Fill in the date on which you received your order or the date of your order.*

First name and surname:

Street name + house number:

ZIP code:

Place of domicile:

Email address:

Date:

Signature

*Sign this form only if you will not send this form by e-mail or ordinary post.*

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