

GENERAL TERMS AND CONDITIONS OF SALE

<https://heywinky.com>

Date of entry into force: 29 September 2022

1. Purpose

These general terms and conditions of sale apply to all online sales offered on the website <https://heywinky.com> (the "**Site**") to the exclusion of other products or services sold by Mainbot SAS, a company registered with the Paris Companies Register under the number 824 611 800, the registered office of which is located at Tour Maine Montparnasse - 33 Avenue du Maine, Tour Maine Montparnasse, 45eme étage, 75755 Paris Cedex 15 ("**Mainbot**").

Educational products are offered on the Site, in particular an educational and evolving robot called "Winky", intended for children aged 5 to 12 (the "**Products**"). Winky has educational content with games that stimulate cognitive abilities, skills, knowledge and/or social interaction in children ("**Winky**").

The purpose of these general terms and conditions is to define the terms and conditions of the online sale and delivery of the Products to buyers (the "**Buyers**"), as well as to define the rights and obligations of the parties in this context.

They are accessible and printable at any time via a direct link at the bottom of the Site.

The version in force of the general terms and conditions is the one that can be consulted online on the Site at the date of the Buyer's order, corresponding to the copy sent with the order confirmation.

These general terms and conditions of sale prevail over any other general or special terms and conditions not expressly approved by Mainbot.

They may be supplemented, if necessary, by special terms of use specific to certain services offered on the Site, which supplement these general terms and conditions and, in the event of contradiction, take precedence over them.

2. Contact

The Products presented on the Site as well as their detailed descriptions comply with Article L. 111-1 et seq. of the French Consumer Code, with regard to the pre-contractual information obligation.

Mainbot is the Buyers' point of contact for Product compliance, quality and after-sales service. Buyers are requested to contact Mainbot with any questions or complaints at the following address:

Postal address:

Tour Maine Montparnasse - 33 Avenue du Maine, 75015 Paris - France
E-mail address: administration@Mainbot.me

Or Customer support in French

3. Legal capacity and acceptance of the general terms and conditions

3.1 Legal capacity

The Site is accessible:

- To any natural person with full legal capacity to enter into commitments under these general terms and conditions. A natural person who does not have full legal capacity may only access the Site with the consent of their legal representative;
- To consumers, understood as any natural person who acts for purposes that do not fall within the scope of their professional activity, as defined by Law no. 2014-434 of 17 March 2014.

3.2 Acceptance of the general terms and conditions

The acceptance of these general terms and conditions by the Buyer is materialised by a box to be ticked in the order form. This acceptance can only be full and complete. Any conditional acceptance is considered null and void.

A Buyer who does not agree to be bound by these terms and conditions should not place an order on the Site.

4. Product characteristics

Prior to any online order and in application of the provisions of article L111-1 of the French Consumer Code, the Buyer is informed, on the Site, of the characteristics of the Products they wish to order.

The Products are offered for sale online to private individuals, non-professionals, within the limit of available stocks, or subject to the possibility of ordering them subject to the deadline indicated, if applicable.

The photographs and descriptions of the Products offered for sale online are as accurate as possible. They are only binding on Mainbot to the extent specifically stated. The Buyer is however informed and accepts that certain characteristics of the Products and in particular their colour may not correspond exactly to the photographs presented on the Site, due to technical constraints.

5. Ordering

5.1 Placing an order

To place an order, the Buyer must select the Product of their choice and place it in their cart.

They can access the summary of their cart at any time as long as the order has not been definitively confirmed and can correct any errors in the information entered.

The order is deemed to be received by Mainbot when it can access it.

As part of the ordering process, the Buyer is asked to provide their contact details for delivery and billing purposes. They must fill in all the fields marked as mandatory in the form provided. Orders that do not contain all the required information cannot be confirmed.

The Buyer warrants that all information given in the order form is accurate, up-to-date and truthful and is not misleading.

They are informed and accept that this information is proof of their identity and is binding on them as soon as it is validated.

Finally, the Buyer declares that they have read these general terms and conditions of sale before placing their order. Confirmation of the order implies acceptance of the general terms and conditions of sale.

5.2 Order confirmation

After placing their order, the Buyer receives a confirmation email of it which:

1. summarises the information of the order and the expected delivery time,
2. includes the general terms and conditions of sale in force on the day of the order,
3. includes the invoice for the order.

By accepting these terms and conditions, you agree that your invoice will be made available to you in electronic form.

The Buyer must ensure that the contact details provided at the time of ordering are correct and that they allow them to receive the order confirmation email. If this is not received, the Buyer should contact Mainbot using the contact details mentioned in article 2.

The Buyer is advised to retain the information contained in the order confirmation.

The order confirmation shall be deemed to have been received by the Buyer when it can be accessed by them.

6. Prices and payment terms

6.1 Prices

The sale prices of the Products are displayed on the Site.

They are expressed in euros, including all taxes (French VAT and other applicable taxes).

For deliveries outside metropolitan France and Monaco, the provisions of the French General Tax Code relating to VAT are applicable.

Mainbot reserves the right, at its own discretion and on terms to be determined by it, to offer promotional offers or discounts. Mainbot also reserves the right to change its prices at any time, but products will be invoiced on the basis of the prices in effect at the time of order confirmation.

The prices do not include any delivery charges that may apply to the delivery of the Products, which are invoiced to the Buyer in addition to the price of the Products. The amount of the applicable delivery charges will be indicated before the order is confirmed by the Buyer.

The applicable price is the one displayed on the Site at the time of confirmation of the Buyer's order.

Important: Outside the European Union and in the French overseas departments and territories, customs duties or local taxes may be payable and may be charged upon receipt of the package by the Buyer, in addition to the price paid to [Mainbot](#). These duties and taxes, which [Mainbot](#) cannot determine in advance, shall be borne by the Buyer, who is solely responsible for the proper completion of any related declarations and/or formalities.

6.2 Terms of payment and invoicing

The full price of the Products is due at the time of ordering.

Payment can be made online by bank card, through the secure online payment service indicated on the Site, or by any other means that will be offered on the Site at the time of the order.

The Buyer warrants to Mainbot that they have the necessary authorisations to use the chosen payment method.

Mainbot reserves the right to suspend or cancel any order and/or delivery in the event of non-payment of any amount due by the Buyer, in the event of a payment incident, or in the event of fraud or attempted fraud relating to the use of the Site.

Penalties of an amount equal to 1.5 times (one and a half times) the French legal interest rate will be applicable by operation of law to unpaid amounts from the first presentation of a formal notice by email or by registered letter with acknowledgement of receipt.

Purchase invoices will be sent to the Buyer by any useful means.

7. Retention of title

The Buyer becomes the owner of the purchased Products once the price has been received in full by Mainbot, including delivery charges.

8. Delivery

8.1 Delivery territories

Buyers are expressly informed that the Site only offers delivery of Products to the following countries: Metropolitan France and Corsica, Germany, Andorra, Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark, Spain, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, Czech Republic, Romania, San Marino, Slovakia, Slovenia, Sweden and Turkey.

A Buyer who wishes to have their order delivered to another country can contact Mainbot at the address mentioned in Article 2. Mainbot will then contact the customer as soon as possible to indicate whether or not the desired delivery is possible and, if so, under what terms and conditions, including timeframes and cost. The Buyer's order can then be placed and confirmed by email.

8.2 Delivery methods

The Products ordered on the Site are delivered to the address indicated at the time of the Buyer's order as the "delivery address" (which may be different from the billing address), provided that it is located within the possible delivery territory for the Products concerned (unless specifically agreed otherwise between the parties).

Different delivery methods may be possible. The Buyer is informed before the confirmation of their order of the possible delivery methods for the ordered Product as well as the timeframes and costs corresponding to each of these methods.

The Buyer must select the desired delivery method and provide all the information necessary for the effective delivery of the Product by this method.

8.3 Delivery times

Delivery is made within the time period indicated in the order confirmation email.

The Site mentions, for each Product offered for sale, indicative delivery times according to the territories and delivery methods.

The delivery time will be confirmed to the Buyer in the order confirmation email.

If delivery is not made within the above period, the Buyer may cancel the order by registered letter with acknowledgement of receipt or in writing on another durable medium, if, after having contacted Mainbot, in the same manner, to make delivery within a reasonable additional period, it has not done so within that period.

The contract is considered cancelled upon receipt of the letter or writing informing of this cancellation, unless Mainbot has executed the delivery in the meantime.

In the event of cancellation of the contract as described above, the Buyer will be reimbursed for all sums paid, including delivery costs, within 14 days of the date on which the contract was cancelled.

Mainbot reserves the right in any case to contact the Buyer to propose alternative solutions for the reimbursement of the price of the Products and the delivery costs.

The Buyer shall expressly and on a durable medium express their acceptance of the choice of an alternative method of reimbursement.

9. Right of withdrawal

The Buyer has a period of 14 (fourteen) days, from the date of receipt of the ordered Products, to withdraw from the contract without having to give any reasons or pay any penalties, with the exception of the cost of returning the Products, which shall be borne by the Buyer. If the order is for several Products delivered separately, the above time limit shall be counted from the date of receipt of the last Product.

The Buyer who wishes to exercise their right of withdrawal must send to Mainbot, using the contact details mentioned in Article 2 hereof, before the expiration of the above-mentioned period, the withdrawal form available [here](#) or in the appendix duly filled in, or a statement clearly expressing their wish to withdraw and including their order number.

The Products must be returned to Mainbot in their original packaging, without undue delay and no later than 14 calendar days following the Buyer's communication of their wish to withdraw. They must be accompanied by a copy of the relevant purchase invoice. The Buyer is deemed responsible for any damage to the Products during their return to Mainbot.

The Buyer will be reimbursed as soon as possible and at the latest within 14 days from the date of effective receipt by Mainbot of the withdrawal request for the full amount paid for the order, minus any return shipping costs, which remain at the Buyer's expense. However, Mainbot reserves the right to defer this reimbursement until the Products have been recovered.

In the event of a dispute, it is the Customer's responsibility to prove that they have exercised their right of withdrawal within the legal time limit.

10. Legal warranties

The Buyer benefits from the legal warranties of non-conformity as well as hidden defects of the sold item, including the conformity defects resulting from the packaging of the Products ordered on the Site.

If the Buyer finds that the Product delivered to them has a defect, is non-compliant or is damaged, they must inform Mainbot without delay at the contact details mentioned in article 2 hereof, indicating the nature of the defect, non-compliance or damage found and sending any useful proof, in particular in the form of photographs.

Products must be returned in their original packaging with accessories and instructions. They must be accompanied by a copy of the relevant purchase invoice.

Returns of Products that do not comply with the terms and conditions described above will not be accepted.

Mainbot will make the necessary checks and offer the Buyer a replacement Product if possible. If the replacement of the Product is not possible, Mainbot will refund the Buyer the full price paid for the Product as well as the corresponding delivery costs, by any useful means, as soon as possible and at the latest within 14 (fourteen) days after Mainbot has informed the Buyer of the impossibility of replacing the Product.

Note that, when acting under the legal warranty of conformity, all consumers:

- **have a period of 2 (two) years from the delivery of the goods to act;**
- **may choose between repairing or replacing the goods, subject to the cost conditions set out in Article L217-9 of the French Consumer Code;**
- **are exempted from proving the existence of the lack of conformity of the goods during the 24 (twenty-four) months following their delivery.**

It is also recalled that the legal warranty of conformity applies independently of any commercial warranty that may have been granted.

A consumer may also decide to invoke the warranty against hidden defects of the item sold within the meaning of Article 1641 of the French Civil Code. In this case, they can choose between the cancellation of the sale or a reduction of the sale price in accordance with Article 1644 of the French Civil Code.

11. Support

For any question related to the use of the Product, Mainbot provides the Buyer with an after-sales service accessible [here](#).

12. Obligations of Buyers

Buyers are solely responsible for the use they make of the Products. It is their responsibility to verify the suitability of the Products for their specific needs prior to purchasing the Products.

Finally, it is the Buyers' responsibility to take all appropriate measures to protect their own data and/or software stored on their IT equipment against any attack.

13. Liability

- 13.1 Mainbot undertakes to carry out regular checks to ensure the functioning and accessibility of the Site. In this respect, Mainbot reserves the right to temporarily interrupt access to the Site for maintenance purposes. Similarly, Mainbot cannot be held liable for temporary difficulties or impossibilities to access the website due to circumstances beyond its control, force majeure, or due to disruptions of the telecommunication networks.
- 13.2 Mainbot makes no warranty to the Buyer that the Products will meet the Buyer's needs, expectations or constraints.

13.3 Mainbot cannot be held liable for the non-performance or delay in the performance of sales contracts due to circumstances beyond its control or to a case of force majeure, it being expressly specified that the following are considered as cases of force majeure, in addition to those usually retained by the case-law of French courts: exceptional weather conditions, natural disasters, fires and floods, lightning, attacks, breakdown or blockage of telecommunication networks, means of transport or postal services, including as a result of strikes, damage caused by viruses that cannot be eradicated by the security measures available on the market, as well as any legal or regulatory obligation or public order imposed by the competent authorities having the effect of substantially modifying these general terms and conditions.

14. Intellectual property

The systems, software, patents, trademarks, structures, infrastructure, databases and content of any kind (texts, images, visuals, music, logos, trademarks, databases, etc.) available on the Site, in the Product and in the Winky code and My Winky applications are protected by all intellectual property rights or the rights of database producers. Any disassembly, decompilation, decryption, extraction, reuse, copying and, more generally, any act of reproduction, representation, distribution and use of any of these elements, in whole or in part, is strictly prohibited and may be subject to legal action.

15. Personal data

Mainbot has a privacy policy, the characteristics of which are explained in the document titled "Privacy Policy [1]", which the Buyer is expressly requested to read.

Thus, personal information is collected for the purpose of processing orders and managing the commercial relationship.

It may be transmitted to companies that contribute to this relationship, such as those responsible for the execution of services and orders for their management, execution, processing and payment. This information and data is also kept in accordance with the regulations in force for security purposes, to comply with legal and regulatory obligations and to enable us to improve and personalise the services we offer you and the information we send you.

In accordance with the French Data Protection Act of 6 January 1978, you have the right to access, rectify and object to any personal data concerning you.

Our site is also designed to be particularly attentive to the needs of our customers. This is one of the reasons why we use cookies. The purpose of the cookie is to indicate your visit to our site. Cookies are only used to improve the personalised service to you and you have the possibility to object to them.

16. Links and third-party sites

Mainbot is not responsible for the technical availability of websites or mobile applications operated by third parties (including its partners, if any) which the Buyer accesses through the Site.

Mainbot is not responsible for the content, advertising, products and/or services available on such third-party websites and mobile applications, which are governed by their own terms of use.

Mainbot is not responsible for any transactions between the Buyer and any advertiser, professional or merchant (including any of its partners) to whom the Buyer may be directed through the Site, and is not a party to any disputes with such third parties regarding the delivery of products and/or services, warranties, representations or other obligations of such third parties.

17. Prohibited behaviours

The following are strictly prohibited: (i) any behaviour that interrupts, suspends, slows down or prevents the proper functioning of the Site, (ii) any intrusions or attempted intrusions into the systems of Mainbot or WinkyMainbot, (iii) any misappropriation of the system resources of the Site or Winky, (iv) any action that imposes a disproportionate burden on the infrastructure of the latter, (v) any infringement of the security and authentication measures (vi) any acts that may be detrimental to the financial, commercial or moral rights and interests of Mainbot or its Products or the users of its Site, (vii) any practice that misuses the Site, Products or Winky for purposes other than those for which it was designed, and more generally (viii) any breach of these terms and conditions or of applicable laws and regulations.

It is also strictly forbidden to monetize, sell or license access to the Site or any part of it, as well as the information it contains.

Any commercial exploitation of the Products by the Buyers is prohibited, and in particular any resale or distribution for consideration.

In the event of a breach of any of the provisions of this article or, more generally, of laws and regulations, Mainbot reserves the right to take all appropriate measures and to initiate any legal action.

19- Amendments

These general terms and conditions of sale may be amended at any time. In this case, the applicable conditions will be those in force at the date of the Buyer's order.

20- Language

In the event of a translation of these general terms and conditions into one or more languages, the language of interpretation shall be French in the event of a contradiction or dispute over the meaning of a term or provision.

21- Mediation

The Buyer has the right to have recourse, free of charge, to a consumer ombudsman for the amicable resolution of any dispute with Mainbot concerning the execution of this contract. To this end, they may contact the following consumer ombudsman:

Centre de médiation de la consommation de conciliateurs de justice (CM2C)

Postal address: 14 rue Saint Jean 75017 Paris

Telephone: 06 09 20 48 86

<https://www.cm2c.net>

If the Customer is a foreign consumer but located in the European Union, they can visit the European consumer law dispute resolution platform accessible here.

22- Applicable law

These general terms and conditions are governed by French law.

In the event of a dispute concerning the validity, interpretation and/or execution of these general terms and conditions, the parties agree to try to find an amicable solution.

In the absence of an amicable solution, any dispute will be submitted to the competent courts under the conditions of common law. In accordance with Article R631-3 of the French Consumer Code: "The consumer may bring proceedings either before one of the courts having territorial jurisdiction under the French Code of Civil Procedure or before the court of the place where they lived when the contract was signed or when the harmful event occurred".

Withdrawal form

Please fill out and return this form only if you wish to withdraw from the contract.

For the attention of:

Mainbot Address: 33 Avenue du Maine Tour Maine Montparnasse 45th floor 75755 Paris
Cedex 15

E-mail address: support@winkyrobot.zendesk.com

I hereby wish to notify you of my withdrawal from the contract for the products: [Winky Robot], [Winky Bag]

I am enclosing a copy of my invoice.

I expressly agree that the refund can be made by bank transfer.

Name of the buyer: _____

Address of the buyer: _____

Signature of the buyer (only if this form is sent in paper format):

Date: _____

CUSTOMER SERVICE CONTACT