General Sales and Delivery Terms and Conditions

of the Vereniging van Fabrikanten en Groothandelaren in Sportbenodigdheden (F.G.H.S.)

Article 1. Definitions

For the purpose of these General Terms and Conditions the following is understood as:

F.G.H.S.:	the Vereniging van Fabrikanten en Groothandelaren in Sportbenodigdheden (F.G.H.S.) ('*Association of Manufacturers and Wholesalers in Sports Supplies*'), having its corporate seat in Utrecht;
Seller:	W.Th. Zandstra BV
Buyer:	the natural person or legal person who is a party to an agreement or another legal relationship with the Seller or to whom the Seller made a proposal or offer;
working days:	all calendar days, with the exception of Saturdays, Sundays, 1 January, Easter Monday, Ascension Day, Whit Monday, Christmas Day, Boxing Day, the days that are or were designated as national public holidays by the official authorities, and the day when the birthday of His Royal Highness The King is celebrated officially;
days:	all calendar days;
in writing:	also including electronic / digital (email) messages;
Intellectual Property Rights:	any and all intellectual property rights and thereto-related rights, e.g. copyrights, trademark rights, patent rights, model rights, trade name rights, database rights, and related rights as well as rights on know-how.

Article 2. Applicability and validity

2.1
These General Terms and Conditions are exclusively applicable to any and all proposals and offers of the Seller to the Buyer and to any and all agreements between the Seller and the Buyer - of any nature whatsoever - and to any and all (other) legal acts, legal relationships, and agreements whether or not deriving from or related to the same. The applicability of general terms and conditions of the Buyer is expressly excluded and rejected.

2.2
The Seller is always entitled to change and/or supplement these General Terms and Conditions. In case of a material change the Seller shall notify the Buyer in writing at least one month prior to the entry into force of the relevant change of addition. Unless the Buyer objects within two weeks after the date of despatch of the written notification, the Buyer is deemed to have agreed implicitly with the change or addition. Potential purchase and other terms and conditions of the Buyer are only applicable if it was

expressly stipulated in writing with the Seller that they are applicable to the agreement with the exclusion of these General Terms and Conditions.

2.3
In case of invalidity of one or more provisions of these General Terms and Conditions or a part thereof, the other provisions remain in full force and effect.

Article 3. The conclusion of agreements

3.1
Any and all proposals, offers, quotations, and the like of the Seller are subject to contract, unless the contrary is expressly indicated by the Seller in writing. Proposals, offers, quotations, and the like are also understood to include price lists, brochures, and other supplied data.

3.2
The (sale and purchase) agreement is concluded when the Buyer places an order with the Seller and the said order is accepted by the Seller. The placing of an order has no prescribed form. Acceptance of an order takes place through written or electronic (by email) confirmation of the order by a relevantly competent person on behalf of the Seller or through delivery to the Buyer of the content of the order. If the agreement is concluded through unauthorised representation of the Seller then the potential consequences of it are at the risk and expense of the Buyer.

3.3
The Buyer guarantees that the person who places an order on behalf of the Buyer is authorised to enter into the agreement with the Seller. The Buyer is not entitled to rely on unauthorised representation in respect of the Seller.

3.4
Termination of an agreement is not possible, unless the Seller consents to it in writing and the relevant goods have not been delivered yet. The Seller is entitled to impose further conditions on the consent. Termination shall not affect payment obligations of the Buyer for already delivered performances and already incurred costs.

3.5
Changes of and additions to agreements are only valid if they were expressly stipulated in writing by and between the Seller and the Buyer.

3.6
There shall only be question of a delivery obligation on the part of the Seller after acceptance of an order as intended in article 3.2 of these General Terms and Conditions and without prejudice to the provisions set forth in article 13 of these General Terms and Conditions.

Article 4. Materials and data supplied by the Seller

4.1
Design drawings, work and detailed drawings, models, computer programming, photographic recordings, samples, designs, logos, specified dimensions, quantities, patterns, colours, materials, technical specifications and/or other materials and data supplied to the Buyer by the Seller and related to the goods that are offered by the Seller

are only applicable as an approximate description of the goods. Hence, the Seller does not guarantee the correctness and completeness of the said materials and data.

4.2
The Seller shall not be liable with regard to the use by the Buyer of the aforementioned materials and data, unless expressly stipulated otherwise in writing.

4.3
The materials and data as intended in this article, or any right to the same, remain the property of the Seller. On demand of the Seller, the Buyer must at its own expense return the aforementioned materials and data to the Seller.

4.4
Any and all Intellectual Property Rights that are established on, incorporated in or derive from the materials and data as intended in this article are (remain) vested in the Seller and/or its licensors. Nothing in these General Terms and Conditions is intended to transfer an Intellectual Property Right to the Buyer.

4.5
The Buyer can only use the materials and data as intended in article 4 in the context of the implementation of the agreement. Without prejudice to the above, nothing of the goods or the materials and data as intended in article 4 can be offered for inspection or be made available to third parties, whether or not for reuse, without prior written consent of the Seller. The Buyer guarantees that this obligation is also imposed on all its employees and the Buyer is responsible for compliance with the same.

Article 5. Data supplied by the Buyer

5.1
The Seller assumes that design drawings, work and detailed drawings, models, computer programming, photographic recordings, samples, designs, logos, specified dimensions, quantities, patterns, colours, materials, technical specifications and/or other materials and data supplied to the Seller by the Buyer are adequate, correct and complete, without the Seller being held to conduct any further examination.

5.2
The Buyer indemnifies the Seller against any and all damages and costs that are related to a claim, in and/or out of court, of third parties, who allege that use of the materials and data as intended in this article by the Seller infringes an Intellectual Property Right, or any other right of the said third parties.

Article 6. Delivery and risk

6.1
The goods shall be delivered or shall be shipped for delivery by the Seller to the stipulated location or locations in the manner determined in the order or stipulated (afterwards) in writing.

6.2
Unless expressly stipulated otherwise in writing, transport takes place at the risk and expense of the Buyer.

6.3
The Buyer is held to, when first offered, take delivery of the goods at the stipulated location / locations at the moment that the Seller delivers them or has them delivered or at the moment that they are, according to the agreement, made available to the Buyer. If the Buyer fails to comply with the above then the damages and costs deriving from the same shall be at its expense.

6.4
The Seller makes an effort to package the goods in a proper and manageable manner.

Article 7. Delivery periods / delivery on-call

7.1
The Seller makes an effort to deliver the goods at the time / times or immediately after the end of the delivery period / periods as determined in the order. If a delivery period was stipulated then it shall take effect on the date when the Seller accepted the order in writing. The Seller is, if a delivery period is exceeded, entitled to, without being held to pay any compensation for damages, yet deliver the goods at the latest 20 workings days after the expiry of the delivery period.

7.2
If ordered goods are available to the Buyer but are not accepted by the Buyer then the Seller is authorised to, at its sole discretion and without a notice of default being required:

- either deliver the goods through a written notification to the Buyer, in which instance the goods are, from the moment of despatch of the said notification, stored at the Seller and/or the carrier, the latter at the risk and expense, also including the risk of reduction in quality, of the Buyer;

- or rescinding the agreement with the Buyer, either in whole or in part, in the manner as outlined below in article 10 and sell and deliver the goods to a third party (third parties). The Buyer shall be liable for any and all damages consequently incurred by the Seller.

7.3
If a third party objects to delivery by the Seller and the said objection can be blamed on the Buyer then the Seller shall, without prejudice to the foregoing, be entitled to suspend the said delivery and/or immediately discontinue it and require compensation for the incurred costs and damages from the Buyer, without the Seller being liable to pay any compensation for damages to the Buyer.

7.4
If, in case of a delivery on-call, payment terms were not imposed for the calls then three months after the order the Seller shall be entitled to payment in full of the entire order.

7.5
In case of delivery on-call the Buyer commits in respect of the Seller to call the total quantity of the goods ordered by the Buyer at the latest within 3 months after the order. The goods not called within the said term shall be stored at the Seller and/or the carrier during a maximum period to be specified by the Seller, the latter at the risk and expense

of the Buyer - including the risk of reduction in quality and depreciation in value. Article 9.1 is equally applicable.

After expiry of the aforementioned maximum storage period to be specified by the Seller, the Seller shall be authorised to, at its sole discretion and without a notice of default being required, rescind the agreement with the Buyer, either in whole or in part, in the manner as indicated below in article 10 and to sell and deliver the goods to a third party (third parties). As the occasion arises, the Buyer shall be liable for any and all damages consequently incurred by the Seller.

Article 8. Prices, invoicing and payment

8.1
Any and all prices offered to the Buyer by the Seller are net and exclusive of turnover tax, insurance, and transport charges, unless expressly indicated otherwise. The Seller is always entitled to change the offered prices prior to the conclusion of the agreement as intended in article 3.2.

8.2
The Seller has the right to modify the price after conclusion of the agreement if the price increase is a result of one of the following factors: i) increases of taxes or other levies and/or duties by the authorities, ii) fluctuating exchange rates, iii) increases in wages, transport costs and/or purchase prices. In that case, the Buyer is entitled to rescind the agreement within 14 days of being informed of the price modification in writing, in accordance with article 10. The Seller is not liable to pay any compensation.

8.3
The Seller is entitled, if the invoice amount of a delivered shipment is less than € 250, to charge a surcharge exclusive of turnover tax, for administration costs.

8.4
The Seller is entitled to invoice and to request payment in full or in part prior to the delivery. Payment must take place within 30 days after the date of the invoice, unless indicated otherwise on the invoice. Payment can also be requested in case of partial deliveries. The Seller is always entitled to suspend the delivery until the Buyer has made a down payment.

8.5
The Buyer is, if the Buyer did not pay the payable amounts within the stipulated term, in default after the said term has expired - or 30 days after the date of the invoice -, without any notice of default being required. As the occasion arises:
a) the Buyer shall, from the date that the payable amount fell due up to the moment of payment, be liable to pay interest on the outstanding amount equal to the statutory commercial interest rate pursuant to Section 119a of Book 6 of the Dutch Civil Code; and
b) any and all costs incurred by the Seller, e.g. procedural expenses and extra-judicial costs, including the costs for legal assistance, bailiffs, and collection agencies, incurred in connection with the late payment shall be at the expense of the Buyer. The extra-judicial costs (also minimum costs) are calculated on the basis of the Dutch Collection Costs (Standardisation) Decree.
all without prejudice to the other legal remedies of the Seller pursuant to these General Terms and Conditions and/or the applicable law, including the right to claim compensation.

8.6
In case of full and partial allocation of claims for payment enforced by the Seller in court, the Buyer must compensate the Seller for any and all procedural costs incurred by the Seller, including the costs of legal assistance, also including amounts not allocated by the court, unless the costs of the proceedings were solely awarded to the Seller.

8.7
Payments made by the Buyer are always first applied to payment of any and all outstanding interest and costs and then to claimable invoices that are outstanding the longest, even if the Buyer specifies that the payment is related to a (later) invoice.

8.8
The Buyer is not entitled to suspend its payment obligations, unless it was confirmed by the Seller that the complaints of the Buyer with regard to an invoice are well-founded and the said complaints affect the level of the invoice amount. The Buyer is not entitled to set off.

8.9

Any and all periods mentioned in this article are fatal deadlines within the meaning of Section 83(a) of Book 6 of the Dutch Civil Code.

Article 9. Reservation of title and other securities

9.1
Without prejudice to the provisions set forth in these terms and conditions, any and all goods at any time delivered by the Seller remain the property of the Seller until all the claims of the Seller in respect of the Buyer, which fall within the scope of Section 92 of Book 3 of the Dutch Civil Code, on any account whatsoever and irrespective of the exigibility, including interest and costs, were settled through payment of the same. Prior to payment in full the Buyer is not authorised to pledge the goods to third parties or to transfer the relevant possession, barring the goods delivered by the Seller that the Buyer transfers in the course of its normal business operations. In case of a violation of the same, as also in case of full or partial applicability of article 10 of these General Terms and Conditions, the Seller shall be entitled to take back or to have taken back any and all goods delivered by the Seller, without any authorisation of the Buyer or the court being required, from the location where the said goods are located. In addition, as the occasion arises, each and every claim of the Seller immediately falls due in full.

9.2
The Buyer is held to store the goods delivered subject to reservation of title with the necessary diligence and as recognisable and distinctive property of the Seller. The Buyer is held to insure the goods for the duration of the reserved title against fire, water, and explosion damages as also against theft and to, on demand, provide the Seller insight into the policies of these insurances.

9.3
In the event that the Seller intends to enforce its rights as intended in paragraph 1, the Buyer hereby, as the occasion arises, already gives the Seller or a third party to be designated by the same unconditional and irrevocable consent to access all the locations

where properties of the Seller are (may be) located and to take back the said properties. Potential costs that derive from this are at the expense of the Buyer.

9.4
If the financial position and/or the payment conduct of the Buyer gives, at the discretion of the Seller, cause to this then the Seller is entitled to require of the Buyer that for initial or later deliveries security is forthwith provided in a form to be determined by the Seller and/or to require of the Buyer that an advance is paid. If the Buyer fails to provide the required security then the Seller is entitled, without prejudice to its other rights, to immediately suspend the further implementation of the agreement or to rescind it, without being liable to pay any compensation for damages to the Buyer and with everything that the Buyer is liable to pay to the Seller on any account whatsoever immediately falling due.

Article 10. Rescission and suspension

10.1
Rescission of the agreement can only take place in writing. Rescission of the agreement on account of an imputable shortcoming due to an overstepping of a fatal deadline is possible instantly after expiry of the said deadline. In any other instance, when default is still out of the question, rescission shall only be authorised after a written notice of default that is as detailed as possible in which a reasonable period is granted for compliance.

10.2
In case the Buyer or the Seller was granted or threatens to be granted suspension of payment, a winding-up petition is filed for the Buyer or the Seller, the Buyer or the Seller is declared to be insolvent, discontinues its business or a resolution regarding liquidation of the legal person is adopted, or the Seller or the Buyer obtains information that indicates, to a reasonable degree of certainty, that the Buyer or the Seller shall probably not be able to comply with its obligations, the Seller or the Buyer shall be entitled to rescind any and all agreements existing at that time, without judicial intervention being required, either in whole or in part with immediate effect by registered letter.

10.3
In case of rescission of the agreement the deliveries already carried out by the Seller, and the corresponding payment obligation, shall not be undone, unless the Buyer evidences that the Seller is in default in respect of the essential part of the relevant performances. Amounts that the Seller invoiced prior to the rescission in connection with the performances already delivered or the deliveries already performed for the implementation of the agreement remain, in consideration of the provisions set forth in the previous sentence, payable in full and immediately fall due at the time of the rescission.

10.4
The said rescission can, at the discretion of the Seller, also extend to goods that have already been delivered pursuant to the same agreement if the said goods should, according to the said agreement (order confirmation), have been delivered as a set. In the said situation(s) the Buyer shall be authorised to return the goods to the Seller at the risk and expense of the same and can claim the amounts that the Buyer paid for the said goods back from the Seller.

10.5
In case the Buyer does not comply with an obligation pursuant to any agreement whatsoever in respect of the Seller, the Seller shall be entitled to suspend any and all agreements in place between them at that time, without judicial intervention being required, all without prejudice to the other statutory rights of the Seller in this kind of instance.

Article 11. Complaints

11.1
The Buyer observes the rules regarding the manner of storage and treatment of the delivered goods. The Buyer inspects the goods upon delivery or within 3 working days thereafter.

11.2
Complaints regarding the deliveries of the Seller must be submitted by the Buyer in writing and directly to the Seller within 5 working days after delivery, failing which the right to complain expires and the delivery is deemed to be accepted. This shall only be different if the Buyer can demonstrate that it regards a defect that had already been present at the time of delivery but that had only manifested itself 3 working days after delivery and that the defect was or could not have been detectable during the inspection as intended in paragraph 1 of this article. The complaint must be submitted by means of a written (or emailed) accurate specification of the nature and the ground of the complaints, including, in any case, dated photos from which the defects become apparent and upon submission of the packing slip and (where available) specification of the relevant invoice number. Following the submission of a complaint the payment obligation in respect of the disputed goods in question shall be suspended. The Buyer must, on demand of the Seller, send the defective goods to the Seller in a properly packaged manner within 10 working days after submission of a complaint.

11.3
If a complaint is well-founded then the Seller is held, at its sole discretion, to repair the defective good or to replace it by other goods in conformity with the order, provided that the new delivery or the repair takes place within a reasonable period after the validity of the complaint has been established. As the occasion arises, the Buyer shall not be entitled to compensation.

11.4
The Seller reserves the right, when determining the consequences of a well-founded complaint, to take potential depreciations in value in respect of the goods into account. The foregoing is not applicable if the Buyer demonstrates that the depreciation in value can entirely be blamed on the Seller.

11.5
Return shipments in connection with a complaint, which were not preceded or accompanied by the information as intended in the second sentence of paragraph 2, are not allowed. If the Buyer nonetheless, in violation with this rule, returns goods, or returns goods in an unfounded manner, they are, to the extent that they were not rejected by the Seller, kept at the disposal of the Buyer at the risk and expense of the Buyer, without it being possible to deduce any acknowledgement of the correctness of

the potential claim for warranty from this. The costs of unfounded return shipments are at the expense of the Buyer.

Article 12. Warranty and Liability

12.1
Communications by or on behalf of the Seller regarding the quality, composition, application options, features, and treatment of delivered goods are of an indicative nature and only apply as a warranty if they were expressly confirmed by the Seller in writing in the form of a warranty.

12.2
If the Buyer performs or has performed repairs or alterations on the delivered goods during the warranty period without prior consent of the Seller then the warranty obligation expires immediately.

12.3
The Seller shall not be liable for any damages due to a shortcoming, unlawful act or any other act of the Seller, barring to the extent that there is question of intent or intentional recklessness of the Seller, personally or by managerial subordinates pertaining to the business management of the Seller.

12.4
If, despite the provisions set forth in article 12.3, the Seller would nonetheless be subject to liability then the compensation for the direct damages incurred by the Buyer shall be limited to at most the invoice amount for the relevant (partial) agreement or order. However, in no instance whatsoever shall the total liability of the Seller for direct damages, on any account whatsoever, exceed € 50,000.

12.5
Direct damages are exclusively understood as:
a. reasonable costs that the Buyer would need to incur to have the performance of the Seller comply with the agreement; the said alternative damages are, however, not compensated if the agreement is rescinded by or at the request of the Buyer.
b. reasonable costs, incurred to establish the cause and the scope of the damages, to the extent that the establishment is related to direct damages within the meaning of this agreement;
c. reasonable costs, incurred to prevent or limit damages, to the extent that the Buyer demonstrates that the said costs resulted in limitation of direct damages within the meaning of this agreement.

12.6

Barring intent or intentional recklessness, the liability of the Seller for consequential damages shall be excluded. Consequential damages are also understood as lost profit and losses due to business interruptions. The provisions set forth in article 12.4 are equally applicable.

12.7
Condition for the occurrence of any entitlement to compensation is always that the Buyer reports the damages to the Seller in writing as soon as possible after the occurrence of the same. Each and every claim for compensation against the Seller expires following the

mere lapse of 6 months after the occurrence of the knowledge of the damages / claim. Knowledge is understood as the moment that the Buyer knew or should have known that there is question of damages.

Article 13. Force majeure

13.1
None of the parties is held to comply with an obligation if the said party is prevented from doing so as a result of force majeure.

13.2
Force majeure is understood as each and every circumstance, including but not limited to floating ice, extreme weather conditions, terrorist attacks, flooding, legal restrictions, shortcomings of suppliers and auxiliary persons of the Seller, industrial action, official intervention, including official measures in case of pandemics, including but not limited to lockdowns, closing of factories and borders, delay in the supply, export ban, riots, war, mobilisation, transport difficulties, defects of machinery, failures in the supply of energy, import restrictions, fire, and all other circumstances beyond the control of the Seller or the Buyer, as a result of which the normal implementation of the agreement can reasonably not be required by the Seller or the Buyer.

13.3
The party where the force majeure occurs shall forthwith inform the other party accordingly in writing.

13.4
In case of force majeure, the other party cannot claim any compensation.

13.5
If an instance of force majeure results in an overstepping of a stipulated date or period, including a potential compliance period of 20 working days, then the other party shall be entitled to rescind the relevant agreement in writing, without the rescinding party consequently being held to pay compensation for any damages.

Article 14. Return shipments of non-defective goods

14.1
Non-defective goods can only be returned to the Seller after express written consent of the Seller and in conformity with its return instruction.

14.2
Unless instructed otherwise by the Seller, the Buyer must return shipments of non-defective goods carriage paid and accompanied by a written explanation. This explanation must, in any case, contain the date when the Buyer purchased the relevant goods from the Seller as well as the date and the number of the relevant invoice of the Seller.

14.3
Crediting of returned goods shall only take place if the relevant goods are still suitable for sale, the latter at the discretion of the Seller.

14.4

Without prejudice to the provisions set forth in the previous paragraphs crediting shall take place on condition that the returned goods are packaged in original, undamaged packaging and free from price and/or other indicative labels or stickers.

14.5
In case of a return shipment after delivery, the Seller can, depending on the marketability and the type of the returned good - the latter at the discretion of the Seller - partly credit the net invoice amount.

14.6
The Buyer remains liable to pay the amount that remains after the crediting, unless expressly stipulated otherwise in writing by and between the parties.

Article 15. Disputes and applicable law

15.1
Any and all disputes regarding an agreement or the implementation of an agreement by and between the Buyer and the Seller, which cannot be solved amicably between the parties, shall be brought to the cognisance of the competent court in the district within which the Seller holds its corporate seat. The Seller is entitled, in derogation from the above, to bring a dispute to the cognisance of the competent court in the district within which the Buyer holds its corporate seat.

15.2
Any and all agreements and legal relationships on any other account by and between the Buyer and the Seller are governed by Dutch law, with the exclusion of the Vienna Sales Convention (CISG).

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