

General terms and conditions of Sale and Delivery

Of the 'Vereniging van Fabrikanten en Groothandelaren in Sportbenodigdheden' (F.G.H.S.)
[Dutch Association of Sport Product Manufacturers and Wholesalers]

Article 1. Definitions

In these General Terms and Conditions, the following definitions apply:

The F.G.H.S.:	The 'Vereniging van Fabrikanten en Groothandelaren in Sportbenodigdheden (F.G.H.S.) [Dutch Association of Sport Product Manufacturers and Wholesalers], with its registered office in Utrecht (the Netherlands);
Seller:	Zandstra Sport BV
Buyer:	natural person or legal entity that is party to an agreement or another legal relationship with the Seller or to whom the Seller has made an offer or quote;
working days:	all calendar days except for Saturdays, Sundays, 1 st of January, Easter Monday, Ascension Day, Whit Monday, Christmas Day and Boxing Day, the days declared national holidays by the Government, and the day on which Her Majesty the Queen's birthday is officially celebrated;
days:	all calendar days
Intellectual Property Rights:	all rights ensuing from intellectual property and related rights such as copyrights, trademark rights, patent rights, design rights, trade name rights, database rights and related rights, as well as rights to know-how and performances on a par with a patentable invention.

Article 2. Applicability and validity

2.1

These General Terms and Conditions are exclusively applicable to all the Seller's offers to the Buyer and all agreements of whatever nature concluded between the Seller and the Buyer, as well as to all (other) legal acts, legal relationships and agreements whether or not they ensue from or are related to the former agreements.

2.2

The Seller has the right to amend and/or supplement these General Terms and Conditions at any time. The Seller will notify the Buyer of any substantive amendment in writing and at least one month before the relevant amendment or supplement comes into force. Unless the Buyer complains in writing and within two weeks of the date of the written notification being sent, the Buyer is deemed to have tacitly approved of the amendment or supplement. Any purchase conditions and other conditions of the Buyer are only applicable if it has been agreed expressly and in writing that these conditions are applicable to the agreement, to the exclusion of these General Terms and Conditions.

2.3

In the event of nullity of one or more provisions of the General Terms and Conditions, the other provisions remain in force.

Article 3. The establishment of the agreements

3.1

All offers, quotes, proposals etc. made by the Seller are without engagement unless the contrary has been stated expressly and in writing. Offers, quotes, proposals etc. also include price lists, brochures and other information provided.

3.2

The (sales) agreement is formed if the Buyer places an order with the Seller and if the Seller accepts this order. An order can be placed in any form. The order is accepted by means of a written or an electronic confirmation (e-mail) sent to the Buyer or by delivering the goods stated on the order.

3.3

The Buyer guarantees that the person placing an order on behalf of the Buyer is authorised to conclude an agreement with the Seller.

3.4

Cancelling an agreement is not possible unless the Seller consents to this in writing and if the relevant goods have not been delivered yet. The Seller has the right to attach further terms and conditions to this consent.

3.5

Amendments of and additions to agreements concluded will only be valid if these have been expressly agreed by Seller and Buyer in writing.

Article 4. Materials and data provided by the Seller

4.1

Design drawings, working and detailed drawings, models, computer software, photographic recordings, samples, designs, logos, quoted dimensions, quantities, drawings, colours, materials, technical specifications and/or other materials and data, provided by the Seller to the Buyer, can only be considered as an approximate description of the goods. The Seller does not guarantee the correctness and completeness of these materials and data.

4.2

The Seller is not liable for the Buyer using the abovementioned materials and data unless expressly agreed otherwise in writing.

4.3

The ownership of the materials and data mentioned in this article, or any related right thereto, does not transfer to the Buyer. On the Seller's demand, the Buyer has to return the abovementioned materials and data to the Seller, at the Buyer's expense.

4.4

The Seller and/or his licensors own all Intellectual Property Rights in relation to the materials and data mentioned in this article. Nothing in these General Terms and Conditions implies the transfer of any Intellectual Property Right to the Buyer.

4.5

The Buyer can only use the materials and data referred to in article 4, in accordance with the execution of the agreement. Without prejudice to the above, none of the goods or the materials and data referred to in article 4 may be given for inspection or be transferred to third parties, for reuse or otherwise, without prior written approval from the Seller.

Article 5. Data provided by the Buyer

5.1

The Seller assumes that the design drawings, working and detailed drawings, models, computer software, photographic recordings, samples, designs, logos, quoted dimensions, quantities, drawings, colours, materials, technical specifications and/or other materials and data provided by the Buyer to the Seller, are adequate, correct and complete without the Seller having to verify this.

5.2

The Buyer indemnifies the Seller against all judicial and extra-judicial claims from third parties who argue that an Intellectual Property Right or any other right of those third parties is infringed by the Seller using the materials and data referred to in this article.

Article 6. Delivery and risk

6.1

The Seller will deliver or organise delivery of the goods at the agreed location or locations in the way stated in the order or (subsequently) agreed upon in writing.

6.2

The goods are transported at the expense of the Seller, unless the order amount is less than an amount to be determined by the Seller, in which case transport is at the expense of the Buyer. The aforementioned amount depends on price levels and volume but will not exceed 500 Euros.

6.3

The Buyer is obliged to receive the goods at the agreed location/locations on first presentation when the Seller delivers or organises delivery or at a time that is stated in the agreement. If the Buyer fails to fulfil his obligations, the resulting damage and costs will be at the Buyer's expense.

6.4

The risk of the goods transfers to the Buyer as soon as the goods are in the control of the Buyer or a third party to be commissioned by the Buyer. This is also the case if the Seller organises the transport at the request and expense of the Buyer.

6.5

The Seller ensures the goods are packed correctly and manageably.

Article 7. Delivery times/ delivery on demand

7.1

The Seller endeavours to deliver the goods at the time(s) or immediately after the end of the delivery time(s) set out in the order. If a delivery time has been agreed upon, it starts on the date on which the Seller has accepted the order in writing. If a delivery time is exceeded, the Seller has the right to deliver the goods up to 15 working days after the delivery time without being obliged to pay any compensation.

7.2

When the ordered goods are available to the Buyer but are not accepted by the Buyer, the Seller is authorised, without having an obligation to notify the Buyer, to:

- Deliver the goods by means of a written notification to the Buyer, in which case the goods will be stored on the Seller's or transporter's premises, as from the time that notification is sent, at the Buyer's expense and risk, including the risk of quality loss, or
- Partially or entirely dissolve the agreement with the Buyer in the way mentioned in article 10 below, and sell and deliver the goods to (a) third party/parties. In that case, the Buyer is liable for all damage or loss suffered by the Seller.

7.3

If a third party raises objections against delivery by the Seller, the Seller, without prejudice to the above, has the right to postpone and/or suspend that delivery and demand compensation for the costs incurred and an indemnity from the Buyer, without the Seller being obliged to pay the Buyer any compensation.

7.4

If no time has been defined for calling the delivery on demand, the Seller is entitled to full payment of the total order, three months after ordering.

7.5

If a delivery on demand is not called for (partially or entirely) within three months, the Buyer will notify the Seller in writing, within 5 working days of the Seller's demand, of the time when the total order will be called. This time, to be specified by the Buyer, may not exceed a period of three months. The items that are not called as from the first day following that three-month period will be stored by the Seller or transporter at the expense and risk of the Buyer, including the risk of quality loss. The stored items remain the property of the Seller until the goods are delivered to the Buyer.

Article 8. Prices, invoicing and payment

8.1

All prices stated by the Seller and Buyer are net prices excluding VAT, unless expressly mentioned otherwise. The Seller is entitled to modify the indicated prices at any time, before the conclusion of the agreement referred to 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

If the invoice amount of the delivered items is less than 350 Euros, the Seller will be entitled to charge a maximum of 10 Euros in administration costs.

8.4

The Seller is entitled to invoice and request payment before delivery. Payment has to be made within 30 days of the invoice date unless stated otherwise on the invoice. Payment can also be demanded in the event of split orders. The Seller has the right, at all times, to postpone delivery until the Buyer has made a payment.

8.5

In the event that the Buyer fails to pay all of the amounts owed within the agreed term, he is in default upon expiry of that term, without any notice of default being required. In that case:

- a) the Buyer owes interest equal to the statutory commercial interest rate by virtue of article 6:119a of the Dutch Civil Code (*BW*) from the date on which the amount due becomes payable until the date on which payment is made; and
- b) all costs incurred by the Seller, such as legal costs and extrajudicial costs, including the costs for legal aid, bailiffs and collection agencies incurred because of the overdue payment, are payable by the Buyer.

The extrajudicial costs are set at at least 15% of the invoice amount, subject to a minimum of € 100.00 excluding VAT, all this without prejudice to the Seller's other means of redress under these General Terms and Conditions and/or the applicable law, including the right to compensation.

8.6

If the Seller's legally valid claims for payment are fully or partially allowed, the Buyer will have to pay the Seller's legal fees, including costs for legal assistance and amounts not granted by the judge, unless the Seller is the only party ordered to pay legal costs.

8.7

The payments made by the Buyer will first be applied to pay all interest and costs payable and subsequently the due and payable invoices that have been outstanding for the longest period, even if the Buyer states that the payment relates to a later invoice.

8.8

Complaints in relation to invoices or goods do not suspend the Buyer's payment obligation. The Buyer is not entitled to credit.

Article 9. Reservation of ownership and other securities

9.1

Without prejudice to these terms and conditions, all delivered goods remain the Seller's property until the Buyer has paid all amounts due to the Seller that fall within the scope of article 92 Book 3 of the Dutch Civil Code, on all accounts and regardless of the liability for payment, including interest and costs. The Buyer is not allowed, before having paid in full, to pledge the goods to third parties or to transfer their ownership, except the goods delivered by the Seller that the Buyer transfers in accordance with normal enterprising. In the event of infringement of this article, as well as in the event of full or partial applicability of article 10, the Seller has the right to recall the goods delivered by the Seller at the location where the goods are kept, and this without authorisation from the Buyer or the judge. At the same time, each claim from the Seller becomes immediately and fully due and payable.

9.2

The Buyer has an obligation to store the goods, delivered under reservation of ownership, with care and as the recognizable property of the Seller. For the duration of the reservation of ownership, the Buyer is obliged to insure the goods against fire, water and explosion damage and theft and must be able to produce policies of these insurances for inspection, on the Seller's demand.

9.3

If the Seller wishes to exercise his rights, referred to in subsection 1, the Buyer unconditionally and irrevocably authorises the Seller or a third party assigned by the Seller to access all locations where the Seller's properties may be/are kept, and to repossess the goods. Any costs resulting from this action are at the expense of the Buyer.

9.4

If the Seller considers the Buyer's financial position and/or payment history questionable, the Seller is entitled to demand any form of security from the Buyer, for example a deposit, for the first or subsequent deliveries. If the Buyer fails to provide this security, the Seller is entitled, without prejudice to his other rights, to immediately postpone or cancel the further execution of the agreement without having to pay any compensation, while all that the Buyer owes the Seller on any account, becomes immediately due and payable.

Article 10. Dissolution and suspension

10.1

The agreement can be dissolved in writing only. Dissolution of the agreement based on non-compliance is only permitted after an as detailed as possible, written formal notice has been sent stating a reasonable term to fulfil the obligation(s).

10.2

If the Buyer or the Seller has applied for or is about to be granted a suspension of payments, the Seller or Buyer's bankruptcy has been requested or he has been declared bankrupt, discontinues his business, or the decision is made to dissolve the legal entity, or the Seller or Buyer receives reasonably reliable information indicating that the Buyer or Seller is probably not able to comply with his obligations, the Seller or Buyer has the right to send a registered letter to immediately, in full or in part, dissolve all agreements existing at the time without legal intervention.

10.3

In case the agreement is dissolved, the goods already delivered by the Seller and the

payment obligation in relation to this delivery are not cancelled, unless the Buyer proves that the Seller has failed to fulfil his obligations. Amounts invoiced by the Seller before dissolution, in connection with what the Seller has executed or delivered correctly and in compliance with his obligations in the agreement, remain payable in full with due observance of the previous sentence and become immediately due and payable as soon as the agreement is dissolved.

10.4

The Seller can choose to extend this dissolution to goods that have been delivered already, under the same agreement, if these goods were supposed to be delivered as a set according to that agreement (order confirmation). In the abovementioned situation(s), the Buyer is entitled to return the goods to the Seller, at his expense and risk, and to claim the payments, made for these goods, back from the Seller.

10.5

If the Buyer does not comply with an obligation towards the Seller, in any agreement, the Seller will have the right to suspend all current agreements between the two parties without any legal intervention and without prejudice to the Seller's other legal rights in such a situation.

Article 11. Complaints

11.1

The Buyer observes the instructions with regard to storage and handling of the delivered goods. The Buyer inspects the goods upon delivery or within 2 working days of delivery.

11.2

The Buyer has to submit complaints about the deliveries within 3 working days of delivery, in writing and directly addressed to the Seller. The complaint has to be made in writing (or by e-mail), stating the precise nature and cause for the complaint(s), including dated photographs proving the defects, the order form and (if known) the relevant invoice number. When submitting a complaint, the payment obligation relating to the disputed goods is suspended. The faulty goods need to be in the possession of the Seller within 10 working days of delivery.

11.3

Every right the Buyer may exercise in connection with faulty, delivered goods expires 1 month after delivery, unless the Buyer can prove that the defect was already present at the time of delivery and manifested itself only more than 1 month after delivery.

11.4

If a complaint is justified, the Seller is obliged to repair the faulty good or replace the good with other goods, in accordance with the order, on condition that the repair or replacement takes place within a reasonable time of the justness of the complaint having been determined. The Buyer cannot claim any compensation in this situation.

11.5

When assessing the consequences of a justified complaint, the Seller reserves the right to take any decrease in value of the goods into account. This does not apply if the Buyer demonstrates that the decrease in value can be fully attributed to the Seller.

11.6

Returns in relation to complaints, not accompanied or preceded by the data mentioned in the second sentence of section 2, are not allowed. If the Buyer returns the goods anyway, contrary to this provision, or returns goods ungrounded, then the goods are kept at the disposal of the Buyer, at his expense and risk, insofar as the Seller does not refuse the returned goods. No acknowledgment of correctness of any warranty claim can be derived from this action. The costs of ungrounded returns are at the expense of the Buyer.

Article 12. Warranty and Liability

12.1

Notifications from or on behalf of the Seller concerning the quality, composition, application possibilities, features and handling of the delivered goods can only be considered a guarantee if they are confirmed expressly and in writing by the Seller in the form of a warranty.

12.2

If the Buyer carries out or asks to carry out repair or modifications on the goods, without prior approval from the Seller, the warranty commitment lapses immediately.

12.3

The Seller is not liable for any damage due to non-compliance, illegitimate handling or any other action by the Seller, except if it concerns intent or wilful recklessness by the Seller personally or the managers working for the Seller.

12.4

If, despite the provisions in 12.3, the Seller is liable in any way, this liability is limited to compensation of the damage of loss suffered by the Buyer up to a maximum of the invoice amount for the relevant (partial) agreement or order. The Seller's liability for direct damage can never exceed € 50,000.

12.5

Direct damage is exclusively taken to mean:

reasonable costs which the Buyer would have to incur in order to get the Seller to comply with his obligations; this alternative damage or loss is not reimbursed however if the agreement has been dissolved on demand of or by the Buyer.

b. reasonable costs incurred in order to determine the cause and extent of the damage of loss, insofar as the determination relates to direct damage within the meaning of this agreement;

c. reasonable costs incurred in order to avoid or limit damage or loss, insofar as the Buyer proves that these costs have resulted in limitation of direct damage within the meaning of this agreement.

12.6

Condition for the applicability of any right to compensation is always that the Buyer has to inform the Seller in writing as soon as possible after the damage has occurred. Every claim for compensation against the Seller lapses 6 months after the claim is filed.

Article 13. Force majeure

13.1

None of the parties is obliged to comply with any obligation if he is unable to do so due to force majeure.

13.2

Force majeure includes any circumstance, including but not limited to floating ice, extreme weather conditions, terrorist attacks, flooding, legal restrictions, suppliers and Seller's auxiliaries' failure to fulfil obligations, strikes, government measures, import delays, export bans, uproar, war, mobilisation, transport obstructions, faulty machines, power cuts, import obstructions, fire and all other circumstances that cannot be influenced by the Seller and Buyer, as a result of which the normal execution of the agreement cannot be reasonably expected by the Seller or Buyer.

13.3

The party that experiences the force majeure will notify the other party immediately in writing.

13.4

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

13.5

If a case of force majeure results in exceeding the agreed date or time, including a possible additional delivery time of 15 working days, the other party has the right to dissolve the relevant agreement in writing. The rescinding party is not obliged to pay any compensation.

Article 14. Disputes and applicable law

14.1

All disputes in relation to an agreement or the execution of an agreement between the Buyer and Seller that cannot be solved in an amicable way between parties will be submitted to the competent court in the court district where the Seller has his place of business. The Seller has the right, notwithstanding the above, to submit a dispute to the competent court in the court district where the Buyer has his place of business.

14.2

Dutch law, to the exclusion of the Vienna Sales Convention (CISG), is applicable to all other agreements and legal relationships between the Buyer and Seller.

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