

## **GENERAL DELIVERY TERMS AND CONDITIONS FOR BOLSTER SOFTGOODS B.V.**

Established at Veerpolder 1D, 2361 KV Warmond, The Netherlands

Registered at the Chamber of Commerce under number 66039002

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### **Article 1. Definitions**

In these general terms and conditions, the following terms have the following definitions, unless expressly stated otherwise:

1. Bolster Softgoods B.V.: the other party to the Contract with the Client and user of these general terms and conditions in the sense of article 6:231 sub b Civil Code.
2. Client: every natural or legal person purchasing a Product from Bolster Softgoods B.V. and other party to the Contract with Bolster Softgoods B.V. in the sense of article 6:231 sub c Civil Code.
3. Product(s): the item(s) manufactured and/or supplied by Bolster Softgoods B.V. as commissioned by the Client.
4. Contract: the agreement between Bolster Softgoods B.V. and the Client for the manufacture and/or delivery of the Products.
5. Parties: Bolster Softgoods B.V. and Client jointly.
6. Written: in these general terms and conditions, communication by email, fax or digitally (for example via an online interface) falls under "written" if the identity of the sender and integrity of the content have been adequately confirmed.

### **Article 2. Applicability**

1. These general terms and conditions apply to all offers, quotations and Contracts to which Bolster Softgoods B.V. has declared that these terms and conditions apply, unless the applicability has been



expressly excluded in writing in part or its entirety or explicitly agreed otherwise.

2. Any terms and conditions from the Client are expressly excluded. Deviations from and additions to these terms and conditions only apply if and to the extent that they have been expressly accepted by Bolster Softgoods B.V. in writing.
3. When deviations from these general terms and conditions have been permitted by Bolster Softgoods B.V. for a short or a longer time, whether tacit or not, this does not affect its right to demand an immediate and strict compliance with these terms and conditions. The Client can never assert any right on the grounds of the fact that Bolster Softgoods B.V. flexibly applies these terms and conditions.
4. If by Client more than one person (legal or natural) or company is meant, each of the persons (legal or natural) or companies are jointly and severally liable to fulfill all obligations from the Contract concluded with Bolster Softgoods B.V.
5. These terms and conditions apply equally to all Contracts with Bolster Softgoods B.V. for which third parties are involved in the implementation.
6. If one or more of the stipulations in these general terms and conditions or any other Contract with Bolster Softgoods B.V. happens to conflict with a mandatory provision of the law or any applicable legal regulation, the stipulation in question lapses and a new, legally permissible and comparable provision to be prepared by Bolster Softgoods B.V. will replace it.
7. Client with whom a contract using these terms and conditions was concluded once shall be deemed to tacitly agree with the applicability of these terms and conditions to a later Contract concluded with Bolster Softgoods B.V.
8. In case of a conflict between the content of a Contract concluded between the Client and Bolster Softgoods B.V. and these general terms and conditions, the content of the Contract takes precedence.
9. Bolster Softgoods B.V. retains the right to amend these terms and conditions at any time. The amended terms and conditions take effect on the announced date of entry into force and apply also to already concluded Contracts. Bolster Softgoods B.V. will promptly forward the amended terms and conditions to the Client. If no date of entry into force is communicated, the amendment takes effect for the Client as soon as the latter is informed of the amendment.

### **Article 3. Offers and quotations**

1. All offers and quotations from Bolster Softgoods B.V. may be withdrawn and are made without engagement, unless otherwise indicated in writing.
2. The Client is responsible for the correctness and completeness of the requirements, specifications and other data provided by or on behalf of it to Bolster Softgoods B.V., upon which Bolster Softgoods B.V. bases its offer.
3. Obvious errors or mistakes in the offer of Bolster Softgoods B.V. do not bind Bolster Softgoods B.V.
4. A prepared quotation does not oblige Bolster Softgoods B.V. to deliver part of the Products or carry out part of the commission for a proportional part of the contracted price.
5. The prices stated in the offers and quotations from Bolster Softgoods B.V. are based, unless stated otherwise, on implementation in normal work hours and exclude transport, packaging, delivery and installation costs, VAT and other government charges.
6. Offers do not apply automatically to back orders or future orders.
7. If Bolster Softgoods B.V. agrees a certain price with the Client, Bolster Softgoods B.V. is nevertheless justified in raising the price if Bolster Softgoods B.V. can demonstrate that between the time of making the offer and delivery, significant price changes have occurred in raw materials, currencies and/or wages or other unanticipated conditions. If the price increase exceeds 10%, the Client has the right to terminate the Contract.



#### **Article 4. Conclusion of the Contract**

1. Subject to the following, a Contract is first concluded with Bolster Softgoods B.V. after Bolster Softgoods B.V. has accepted or confirmed a commission in writing. The confirmation of the commission shall be deemed to accurately and fully reflect the Contract, unless the Client protests against that immediately in writing.
2. If the Client agrees verbally with the quotation and thus assents to Bolster Softgoods B.V. carrying out the tasks that fall within the scope of the commission, or gives that impression, then the quotation is considered accepted and the Contract is concluded from the time that Bolster Softgoods B.V. begins to carry out its tasks. This also applies when Client requests Bolster Softgoods B.V. to carry out specific tasks without waiting for a formal quotation.
3. Any supplementary agreements or amendments done later only bind Bolster Softgoods B.V. if they have been confirmed by Bolster Softgoods B.V. in writing.
4. For tasks for which no written quotation or confirmation of commission is issued due to their nature and scope, the invoice is deemed to accurately and fully reflect the Contract, unless a written objection is received within 7 work days after the date of the invoice.

#### **Article 5. Implementation of the Contract**

1. The Contract will be carried out by Bolster Softgoods B.V. to the best of its knowledge and ability, in accordance with the requirements of good craftsmanship.
2. Bolster Softgoods B.V. determines the manner in which and by whom the Commission will be carried out. Bolster Softgoods B.V. is justified to have certain tasks carried out by third parties. The application of article 7:404, 7:407 par. 2 and 7:409 of the Civil Code is expressly excluded.

#### **Article 6. Implementation and delivery deadlines**

1. If a deadline has been agreed or indicated for the implementation or delivery of the Contract (or part of it), then this deadline is purely indicative and never to be considered a fixed deadline, unless expressly agreed otherwise in writing.
2. Bolster Softgoods B.V. is not liable for any negative consequences for the Client due to exceeding deadlines for implementation or delivery, unless this is a matter of deliberate intent or gross negligence by Bolster Softgoods B.V.
3. If Bolster Softgoods B.V. requires data, materials or instructions from the Client that are essential for the implementation or delivery, the implementation or delivery deadline starts becoming applicable after the Client has provided these things to Bolster Softgoods B.V.
4. Regarding the agreed implementation or delivery deadline, it does not follow that Bolster Softgoods B.V. shall be in default by operation of law after the expiry of that period. For this to apply, a further written notice of default is required each time, and Bolster Softgoods B.V. is allowed a period of grace of at least 14 days to fulfill its obligations.
5. A notice of default is not required if the implementation has become indefinitely impossible or it otherwise becomes evident that Bolster Softgoods B.V. will not fulfill its obligations under the Contract. If Bolster Softgoods B.V. does not carry out the Contract within this deadline, the Client has the right to annul the Contract in conformance with article 265 Book 6 Civil Code.

#### **Article 7. Amendments and additional work**

1. If during the implementation of the Contract it becomes apparent that it is necessary to amend or add to the Contract for a proper implementation, Bolster Softgoods B.V. shall inform the Client of this as soon as possible. Parties will then promptly and in mutual consultation decide on amending the Contract.



2. If the parties agree that the Contract is to be amended/supplemented, the deadline for completing the implementation can be affected. Bolster Softgoods B.V. will inform the Client of this as soon as possible.
3. If the amendment or supplement of the Contract will have financial, quantitative and/or qualitative consequences, Bolster Softgoods B.V. will inform the Client of this in advance.
4. If a fixed rate or fixed price has been agreed, Bolster Softgoods B.V. will also indicate the extent to which the amendment/supplement of the Contract will affect that rate/price. In this case, Bolster Softgoods B.V. will try to prepare a quotation in advance – as far as possible.
5. Bolster Softgoods B.V. will not impose additional costs if the amendment/supplement is a consequence of conditions that can be attributed to Bolster Softgoods B.V.
6. Amendments in the original Contract concluded between the parties only become valid from the time that these amendments have been accepted in a supplemented or amended Contract by both parties.

#### **Article 8. Delivery**

1. Unless otherwise agreed, delivery is done from the factory or company based in Warmond. The risk with regard to the Products is transferred when the items are made available to the Client. When one of the 'Incoterms' has been agreed as a delivery condition, the valid Incoterms apply from the time that the Contract is concluded. The Incoterms that are declared applicable take precedence in that case over what has been determined in these general terms and conditions for delivery and risk transfer.
2. The Client is obliged to accept the purchased Products when they are delivered to him/her or at the time that they are made available to him/her in accordance with the Contract.
3. If the Client refuses to accept the delivery or is negligent in supplying information or instructions that are required for the delivery, the Products will be stored at the Client's risk. The Client will in that case owe all additional costs, definitely to include storage fees.
4. Bolster Softgoods B.V. is permitted to deliver the ordered Products in part deliveries. This does not apply if a part delivery has no independent value. If the Products are delivered in part deliveries, Bolster Softgoods B.V. is entitled to invoice each part delivery separately.

#### **Article 9. Approval period and right of withdrawal**

All Products manufactured by Bolster Softgoods B.V. are made according to the Client's specifications. For example, Products are supplied at the Client's request in a specific (not standard) size or colour. The Products and the Contract are therefore excluded from the right of withdrawal.

#### **Article 10. Technical requirements**

1. If the delivered Products are used outside the Netherlands, Bolster Softgoods B.V. is not responsible for ensuring that the Products comply with the technical requirements, norms and/or stipulations set by legislation in the country where the Products will be used. This does not apply if notification is given of the use abroad when concluding the Contract and all required information, data and specifications for the applicable legislation with which the Products must comply are supplied.
2. All other technical requirements specified by the Client for the Products to be delivered which deviate from the normally valid requirements should be expressly notified by the Client when concluding the Contract.



#### **Article 11. Conformity**

1. If Bolster Softgoods B.V. presents or provides a model, sample or example, it is presumed to have been shown or given by way of indication only: the characteristics of the Products to be supplied can deviate from the sample, model or example, unless expressly stated that they would be supplied in conformance with the presented or provided sample, model or example. Deviations in the delivered Product, which fall within a reasonable margin, including any differences in colour, must be accepted by the Client and do not give the Client the right to annulment, compensation or replacement.
2. The Products supplied by Bolster Softgoods B.V. may deviate in size, unless expressly stated otherwise in the order confirmation, by a maximum of two percent in either direction of the dimensions specified in the quotation or order confirmation. A deviation in the delivered Products that falls within the specified tolerance limits does not give the Client the right to not accept delivery of the purchased Products, nor to annulment, compensation or replacement.

#### **Article 12. Guarantee**

1. Bolster Softgoods B.V. guarantees that the Products it supplies are free from design, material and manufacturing flaws for a period specified in the quotation, order confirmation, delivery documents, or invoice for the delivered Product(s).
2. If a Product demonstrates a design, material or manufacturing flaw, the Client is entitled to repair of the Product. This does not apply to the entire batch if only 1 product demonstrates a design, material or manufacturing flaw. Bolster Softgoods B.V. can choose to replace the Product if repair encounters objections. The Client is only entitled to demand a replacement if repair of the Product is not possible.
3. The guarantee does not apply if the damage is a consequence of incorrect handling or not properly following any described instructions. Incorrect handling definitely includes the following:
  - a. assembly of the delivered Products in a manner that deviates from the instructions supplied by Bolster Softgoods B.V. or the assembly manual;
  - b. inadequate maintenance of the Products or maintenance that was not carried out in a timely manner;
  - c. maintenance with maintenance products not prescribed by Bolster Softgoods B.V. as well as maintenance and cleaning with aggressive/overly aggressive agents or equipment;
  - d. exposure to excessively high temperatures;
  - e. processing of the Products, including adjustments to the form or dimensions, or having adjustments made.
4. If the guarantee covers a Product that has been produced by a third party, the guarantee is limited to the guarantee issued by the relevant producer for that Product.
5. Buyer cannot derive any right to the specified guarantee stipulations, as stated in this article, before payment in full of the delivered Products has been made, in conformance with the invoice from Bolster Softgoods B.V.

#### **Article 13. Retention of title**

1. All Products supplied by Bolster Softgoods B.V. remain the property of Bolster Softgoods B.V. until the Client has fulfilled all obligations arising from all Contracts concluded with Bolster Softgoods B.V., including claims relating to the collection of unpaid invoices (and their costs).
2. Products supplied by Bolster Softgoods B.V. that fall under the retention of title as per par. 1 may only be resold within the framework of normal business activity and never used as a means of payment.
3. The Client is not authorised to pledge the Products falling under the retention of title or encumber



them in any other manner.

4. Buyer hereby unconditionally and irrevocably authorises Bolster Softgoods B.V. or a third party specified by it, in all instances when Bolster Softgoods B.V. wishes to exercise its proprietary rights, to enter all the places where the property of Bolster Softgoods B.V. is placed and take those Products away.
5. If third parties seize the Products supplied under retention of title or establish or assert any rights over them, Client is obliged to inform Bolster Softgoods B.V. as soon as can reasonably be expected.
6. The Client commits to insuring the Products supplied under retention of title and keep them insured against fire, explosion and water damage as well as against theft and present the policy document of this insurance for inspection upon request.

#### **Article 14. Defects and time limits for bringing a complaint**

1. 1. The Client must inspect/have the purchased Products inspected upon delivery or as soon as possible thereafter. The Client must check whether the delivery matches the Contract, namely:
  - the correct Products have been delivered;
  - whether the delivered Products match what was agreed in terms of quantity (for example, the amount and the number);
  - whether the delivered Products match the agreed quality requirements or, if there aren't any, the requirements that could be required for normal use and/or trade purposes.
2. If after receipt the Client ascertains that there are visible defects or shortcomings, then the Client must inform Bolster Softgoods B.V. of this in writing within 2 days after delivery.
3. The Client must report invisible defects in writing within 1 work day after identifying them, but by the latest within 1 week after delivery, to Bolster Softgoods B.V.
4. Even if the Client submits a claim promptly, its obligation to pay for and accept the ordered Products remains.
5. Products can only be returned to Bolster Softgoods B.V. after receiving prior written permission from Bolster Softgoods B.V.

#### **Article 15. Invoicing**

1. For commissions with an invoice amount of up to € 10,000 excl. VAT, Bolster Softgoods B.V. requires a downpayment from the Client of 50% of the total invoice amount when presenting the commission. The remaining 50% will be invoiced after delivery of the Products.
2. For commissions with an invoice amount exceeding €10,000 excl. VAT, Bolster Softgoods B.V. invoices the Client as follows:
  - 20% when commission is awarded
  - 35% when starting the work associated with the commission
  - 35% halfway through the work
  - 10% when the commission is complete

#### **Article 16. Payment**

1. Payment must be made within 15 days after the date on the invoice in a manner specified by Bolster Softgoods B.V. in the currency in which the invoice was prepared. Payment must be made without applying any discount or settlement. Bolster Softgoods B.V. is entitled to send the invoice digitally.
2. Once the payment deadline has expired, the Client shall be in default by operation of law, without any further notice of default being required. From that moment Bolster Softgoods B.V. is justified to suspend its activities or postpone delivery.
3. From the moment of being in default, Client owes interest on the amount payable of 1% per month,





unless the statutory commercial interest rate is higher, in which case the statutory commercial interest rate applies. Parts of a month are considered full months. All judicial and extra-judicial expenses incurred by Bolster Softgoods B.V. to obtain payment – both in and out of court – will be charged from that moment to Client. In that case Client owes a compensation of at least 15% of the unpaid amount, with a minimum of € 150. If the actual costs incurred and to be incurred by Bolster Softgoods B.V. exceed this amount, they are also eligible for reimbursement.

4. In the above cases, Bolster Softgoods B.V. is also entitled to terminate or suspend or retire the Contract or the not yet implemented part of it without providing notice of default or legal intervention, without Client being entitled to demand compensation for any damage that may have been incurred by it.
5. If Client feels that an invoice is incorrect, Client must notify Bolster Softgoods B.V. of its complaints in writing within 5 work days after the date on the invoice. The payment obligation always remains in force. Payment may not be suspended as a result. Any excess paid will be settled with a credit note, after it has been confirmed.
6. If reasonable doubt exists about whether Client can meet his/her payment obligations based on facts and circumstances, Bolster Softgoods B.V. is entitled to demand financial security from Client in the form of a guarantee for the invoice amount.
7. In case of liquidation, bankruptcy or suspension of payment of the Client, the claims of Bolster Softgoods B.V. and the Client's obligations towards Bolster Softgoods B.V. will be immediately payable.

#### **Article 17. Liability**

1. The liability of Bolster Softgoods B.V. for culpable shortcomings in the performance of the Contract or defects in Products supplied by Bolster Softgoods B.V. is limited to fulfillment of the guarantee terms and conditions as described in article 11 of these terms and conditions. Once Bolster Softgoods B.V. has complied with its guarantee obligations towards the Client, Bolster Softgoods B.V. cannot be held liable for any (further) liability or compensation.
2. The liability of Bolster Softgoods B.V. for indirect damage, including consequential damage, loss of profit, missed savings, physical injury and damage due to business stagnation, is excluded.
3. Bolster Softgoods B.V. is not liable for damage, of any kind, arising because Bolster Softgoods B.V. worked on the basis of incorrect and/or incomplete data and information supplied by or on behalf of Client.
4. The liability of Bolster Softgoods B.V. is always limited to the amount of the benefit to be paid out in the case in question by Bolster Softgoods B.V.'s insurance.
5. If the insurance in a particular case does not offer coverage or will not proceed to payment, and Bolster Softgoods B.V. is liable, the liability of Bolster Softgoods B.V. is limited to twice the invoice amount of the transaction, or that part of the transaction to which the liability applies.
6. Bolster Softgoods B.V.'s liability due to attributable failure to implement the Contract exists only if Client immediately and properly gave Bolster Softgoods B.V. notice of default in writing and set a reasonable deadline for correcting the shortcoming, and Bolster Softgoods B.V. continued to fail imputably in the fulfilment of its obligations even after expiry of the deadline.
7. Bolster Softgoods B.V. can exclusively be held liable for damage to the products and/or product adjustments it produced and/or delivered itself. The liability for damage is limited exclusively to the cost price of the products. Products of Client on which Bolster Softgoods B.V. carried out a partial processing are excluded from any liability. Liability will be determined on the basis of reasonableness and fairness.
8. The limitations to liability incorporated in these general terms and conditions do not apply in cases of intentional or gross negligence by Bolster Softgoods B.V.



#### **Article 18. Force majeure**

1. Force majeure is defined in these general terms and conditions as all external causes, foreseen and unforeseen, over which Bolster Softgoods B.V. cannot exercise any influence, in addition to what is understood by it in law and jurisprudence, but which leads to Bolster Softgoods B.V. not being able to fulfil its obligations, including strikes taking place at Bolster Softgoods B.V.
2. During force majeure the delivery and other obligations of Bolster Softgoods B.V. are suspended. If the period during which force majeure prevents fulfilment of its obligations by Bolster Softgoods B.V. lasts longer than 3 months, both parties are entitled to annul the Contract, without any obligation to provide compensation arising in that case.
3. If Bolster Softgoods B.V. had already fulfilled some of its obligations when the force majeure took effect, or can only partially fulfil its obligations, it is entitled to invoice the already delivered or deliverable part separately, and the Client is obliged to pay this invoice as if it were a separate contract. This does not apply if the already delivered or deliverable part does not have any independent value.

#### **Article 19. Termination of the Contract**

1. A Contract between Bolster Softgoods B.V. and a Client can be immediately terminated in the following cases:
2. if after concluding the Contract, Bolster Softgoods B.V. becomes aware of circumstances that give Bolster Softgoods B.V. good reason to fear that the Client will not be able to fulfil his/her obligations;
3. if Bolster Softgoods B.V. asked the Client for payment security when concluding the Contract and this security is not forthcoming or is inadequate despite a demand being made.
4. In the above cases, Bolster Softgoods B.V. is entitled to suspend the further implementation of the Contract, or to terminate the Contract, neither of which affects Bolster Softgoods B.V.'s right to compensation.
5. If conditions arise with regard to people and/or materials that Bolster Softgoods B.V. employs or intends to employ to carry out the Contract, which are of such a nature that the implementation of the Contract becomes impossible or so objectionable and/or disproportionately expensive that compliance with the Contract can no longer reasonably be required, Bolster Softgoods B.V. is entitled to terminate the Contract.

#### **Article 20. Limitation period**

The period within which Client can submit a claim for compensation to Bolster Softgoods B.V. is in all cases limited to 1 year after the damage manifests, or the time at which the damage could reasonably have been discovered. The liability of Bolster Softgoods B.V. lapses in every case 12 months after delivery of the Products in which the damage manifests.

#### **Article 21. Applicable law, explanation of the terms and conditions and choice of forum**

1. Dutch law applies to all Contracts concluded in the past and to be concluded in the future by Bolster Softgoods B.V.
2. In case of explanation of the content and scope of these general terms and conditions and in case of conflict between the content or explanation of any translations of these general terms and conditions and the Dutch version, the Dutch text will prevail.
3. All disputes – including those that only one of the parties considers a dispute – arising as a result of a Contract to which these terms and conditions apply entirely or partially, or as a result of other Contracts that are a response to such a Contract, will be decided by the competent court in the district of the place of establishment of Bolster Softgoods B.V., unless a mandatory provision of the





law opposes it. This does not affect the possibility that Bolster Softgoods B.V. can agree with the Client to have the dispute decided by independent arbitration.

**Article 22. Intellectual property**

All pattern drawings and technical data are the property of Bolster Softgoods B.V. and may be used solely for the purpose of this Agreement. It is expressly prohibited for the Client to modify and use this data itself or to offer it to third parties without the written permission of Bolster Softgoods B.V.