

# General Terms and Conditions of Business and Delivery

## Section 1 Scope of Application

**1.1** These General Terms and Conditions of Business and Delivery are valid for all sales and services.

**1.2** Deviating, conflicting or supplemental General Terms and Conditions of Business, to include those we are aware of, do not comprise part of the contract unless we agree to their validity in writing.

## Section 2 Merchandise presentation, configuration of the desired bicycle

**2.1** The presentation of products on our website ([www.m1-sporttechnik.de](http://www.m1-sporttechnik.de)) constitutes neither a binding offer by us to deliver goods nor represents a warranty. Rather, such presentation serves only as a non-binding suggestion for the configuration of the desired bicycle by the customer.

**2.2** This configuration shall be reviewed by us following its receipt. We shall subsequently make the customer a non-binding offer which shall remain valid until receipt of the customer's declaration of acceptance. Acceptance can only be effected within 4 weeks, with the customer concomitantly required to make a deposit of 10% of the value of the order. A declaration of acceptance shall be invalid if the deposit is not made within 1 week, at the latest.

**2.3** The right to make reasonable technical changes is reserved.

**2.4** We exclusively sell individually configured bicycles that are only made in response to orders. Consequently, the customer does not retain the right of cancellation/right of withdrawal.

## Section 3 Performance of the delivery/service

**3.1** We have the right, within reasonable limits, to effect partial delivery/partial performance. Deadlines for our goods and services are only binding if they have been expressly agreed as binding and the customer has provided all necessary information and met all payment and other obligations with respect to ourselves.

**3.3** In the event that we fail to meet a delivery or performance date, prior to exercising its rights the customer shall set a reasonable grace period for us to effect remedy.

**3.4** In the event of delivery and performance delays due to events which are unforeseeable for us and which are beyond our control (e.g. strikes or lockouts, work stoppages, delays in the procurement of materials due to circumstances outside our control), the agreed delivery or performance periods shall be extended by the duration of the hindrance. Should we be unable to make delivery or effect performance due to an extended period of force majeure, nevertheless for a period of at least three months, we shall be released from our delivery obligation and/or obligation to perform. In such event, the customer shall be entitled to withdraw from the contract.

**3.5** We are entitled to withdraw from the contract if we do not receive the intended delivery item despite previous conclusion of the corresponding purchase contracts. Our liability for intent or negligence remains unaffected in accordance with item 7 of these Terms and Conditions. We will inform the customer immediately of the non-availability of the intended delivery item and, should we elect to withdraw from the contract, will immediately exercise our right of withdrawal. In the event of withdrawal, we will immediately refund any corresponding consideration.

**3.6** If the customer's financial circumstances significantly deteriorate following conclusion of the contract or we become aware of facts relating to the customer which may jeopardize our claim for compensation, we are entitled to refuse to fulfill our obligations under the contract until the customer complies with its obligations under this contract or has furnished appropriate security for said obligations. We are entitled to set a reasonable period of time for the customer during which its must, at its discretion, elect to fulfill his performance obligations under the contract or provide security in exchange for each stage of our services. In the event that this period expires without success, we are entitled to withdraw from the contract.

**3.7** If the customer does not accept the goods, after the expiration of a reasonable grace period (at least 2 weeks) we are entitled to demand, at our discretion, damages for non-performance or demand 20% of the invoice amount as liquidated damages. In the event of the latter, the customer retains the right to prove that we incurred smaller damages or that no damage was incurred by us.

## Section 4 Sale involving the carriage of goods

**4.1** Except where expressly agreed otherwise, all deliveries are at the risk of the customer. All risk shall pass to the buyer upon presentation of the article to the shipping company duly selected by us.

**4.2** Insurance of any goods takes place only upon written instruction by, and at the expense of, the customer.

## Section 5 Terms of Payment

**5.1** Our prices are final and include German VAT.

**5.2** Unless otherwise agreed, invoices are due immediately.

**5.3.** In the event that an installment payment plan is agreed to, late payment of a single installment shall result in default of the entire invoice amount.

**5.4** Payment can only be made by bank transfer. Shipping takes place immediately, nevertheless only following receipt of payment.

The claim for damages for culpable breach of essential

**5.5** The customer may only offset amounts due by way of undisputed or legally enforceable claims, or assert a right of retention in respect of such claims or rights.

**5.6** In the event of payment default, and notwithstanding the assertion of additional damages caused by delayed performance, we are entitled to charge interest at the rate of 8 percent per annum above the prevailing base interest rate. The customer shall retain the right to prove lesser damages.

## **Section 6 Retention of title**

We reserve the right to retain title to the delivered goods until full payment of all claims, to include claims which become due in the future/conditional claims, arising from the commercial relationship with the customer, including any ancillary claims. The customer shall, at any time, grant us access to the goods in its possession which are subject to the right of retention. The customer may not assign said goods as a security nor pledge them.

## **Section 7 Defects**

**7.1** To identify possible deficiencies, the customer shall examine the goods immediately upon receipt and shall, in the event of an obvious defect, communicate this to us in written form within one week. The customer shall notify us of non-obvious defects no later than one year from the date of delivery. In the event that the customer fails to comply with the above-mentioned exclusion periods, the goods shall be deemed accepted, with the result that the customer shall forfeit its statutory warranty rights.

**7.2** Customary or minor technical deviations in quality, color, smell, etc. which are unavoidable do not constitute defects within the meaning of Section 6 of the Contract.

**7.3** We assume statutory warranty. However, claims are excluded in the event of:

- improper use or accidents
- improper modifications (e.g. improper attachments and conversions)
- parts subject to wear and tear (e.g. chains, hoses, brake pads, brake and derailleur cables, sources of illumination etc.) to the extent that the defect is caused by wear and tear.

## **Section 8 Liability**

**8.1** We are liable in cases of intent or gross negligence (to include intent or gross negligence committed by a representative or agent) and for injury to life, limb or health, as set forth in statutory provisions. In addition, we are only liable under the German Product Liability Act or for culpable breach of essential contractual obligations.

contractual obligations is limited to the contract-typical, foreseeable damage to the extent that no case listed in sentence 1 or 2 is present.

**8.2** The provisions of the foregoing Section 1 shall apply to all claims for damages (especially for damages in addition to performance and damages in lieu of performance), irrespective of their legal basis, in particular for defects, breach of obligations under the debtor relationship or tortious acts. They shall also apply to the claim for *compensation for wasted expenditures*.

**8.3** The above provisions do not constitute any change in the burden of proof to the disadvantage of the buyer.

## **Section 9 Final Provisions**

**9.1** Changes to these Terms and Conditions shall not be effective unless made in writing. This also applies to any waiver of this written form clause.

**9.2** It is agreed that legal relations between ourselves and the Customer shall be governed exclusively by the law of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

**9.3** Should any provisions of these General Terms and Conditions of Business be, or become, invalid in whole or in part, the validity of the remaining provisions shall not be affected. The invalid provision(s) shall be replaced by valid provisions that come as close as possible to the General Terms and Conditions as a whole as well as the other contractual agreements in factual, legal and economic effect. Any gaps or omissions in the General Terms and Conditions of Business shall be rectified in like manner.

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