

## **BICYCLE RENTAL TERMS AND CONDITIONS**

### **1. Scope and applicability**

- 1.1. These General Conditions regulate the relationship established between those who, as a consumer pursuant to art. 1469 et seq. of the Italian Civil Code and art. 3 of Legislative Decree 206 of 2005 (hereafter “**Renter**” or “**Customer**”), concludes a bicycle rental contract with Swapfiets Italia s.r.l. (Tax Code 11356680964), based in Milan, via Adda 16, 20090 Opera MI, (hereinafter “**Swapfiets**” and, together with the “Renter”, the “**Parties**”).
- 1.2. These General Terms and Conditions prevail over all the other terms and conditions previously or subsequently agreed between Swapfiets and the Renter, except as provided by the following art. 1.4.
- 1.3. The legally relevant declarations and communications that you will provide to us after the conclusion of the rental contract (e.g. setting deadlines, reminders, cancellation declarations from the contract), must be made at least in text form in order to be valid, unless expressly provided otherwise in these General Terms and Conditions.
- 1.4. Arrangements between Swapfiets and the Renter varying from or supplementary to these General Terms and Conditions will be valid only if they have been explicitly confirmed in writing via e-mail by a regional manager of Swapfiets.

### **2. Subscription**

- 2.1. The Renter will have a Bicycle at their disposal for the term of the Subscription.
- 2.2. The Bicycle comes with a ring lock and a chain lock with one key.
- 2.3. Under the Subscription, the Renter is entitled to free Swapping (please refer to Article 5 for more details). This is understood to mean:
  - free of charge repairing of defects to the Bicycle caused by wear and tear and normal use of the Bicycle. Examples of such defects include a flat tyre, a broken chain or chain guard, a torn saddle and broken lighting;
  - if necessary, free of charge exchanging of the Bicycle, but only in the cases better specified in the following article 4 and within the limits of the city where Swapfiets operates.
- 2.4. Swapfiets always has a spare key to the Bicycle. If the key gets lost or damaged, the Renter must request a new key from Swapfiets. The costs involved amount to EUR 15 per key.
- 2.5. The Renter will not be allowed to have copies made of the key or to have more than one key in their possession, also on account of the risk of theft. A key that was previously reported lost that is recovered must immediately be returned to Swapfiets.
- 2.6. The Bicycle may contain advertisements. The Renter must immediately contact Swapfiets if the advertisement has been damaged or if an advertisement completely disappears from the Bicycle.

### **3. Renter’s obligations and conditions for the conclusion of the contract and for the use of the bicycle**

- 3.1. The Renter makes normal use of the Bicycle and takes due care of the Bicycle.
- 3.2. The Bicycle is intended exclusively for personal use by the Renter and for leisure activities. The Renter cannot use the bicycle for his professional and / or entrepreneurial activity (i.e. using the



Bicycle for e.g. the professional delivery of goods is prohibited). In the event of a breach of this obligation the Renter shall pay a contractual penalty in an adequate amount, however not more than EUR 2.000. The precise amount of such contractual penalty shall be determined by Swapfiets. Such contractual penalty shall be without prejudice to any other rights of Swapfiets, including but not limited to a right to claim damages and to terminate the subscription in accordance with Clause 14 of the General Terms and Conditions.

- 3.3. The Renter is required to provide Swapfiets with either the references of his credit card or, alternatively, a SEPA bank account number.
- 3.4. The Bicycle will at all times remain the property of Swapfiets. The Renter will not be allowed to create or grant any security interest or other right in respect of the Bicycle for a third party's benefit.
- 3.5. The Renter will be personally liable for compliance with the General Terms and Conditions.
- 3.6. The Renter will be responsible for passing on changes to the data known to Swapfiets, such as a new address, in good time.
- 3.7. The Renter may not make any changes to the Bicycle that cannot be removed without damaging the Bicycle and is not permitted to manipulate in any way the electronics and/or software of the Bicycle.
- 3.8. The renter must be at least 18 years old and able to enter into legally binding contracts to be able to subscribe for a Swapfiets. Minors may subscribe under the supervision of an adult.
- 3.9. A digital verification process of the correct identification document could be part of the order process upon delivery. Product will not be delivered when renter is not able to handover the correct identification documents. Swapfiets will report to the police when verification of the identity documents shows that there is a possibility of fraud.

#### 4. Swapping

- 4.1. Free repairs of bicycle parts are allowed only if their deterioration was caused by wear and tear and due to the normal use of the good.
- 4.2. Free exchanging of the bicycle is allowed only:
  - in the event of deterioration of the vehicle, for reasons not attributable to the Customer, such as to make it impossible to use the asset even through partial repairs of the vehicle or if partial repairs would still be more expensive than the full replacement of the bicycle;
  - in the event of theft or loss of the goods, except, in any case, as provided for in the following art. 6.
- 4.3. Swapfiets has the objective of repairing or replacing a bicycle within 24 hours from the moment the Customer has contacted Swapfiets by phone, by e-mail, WhatsApp or the Swapfiets App; however, if the repair or replacement does not take place within 24 hours after the Customer has contacted Swapfiets, no claim can be made by the Customer against Swapfiets.
- 4.4. Repair or replacement takes place upon setting an appointment with the Customer and will be carried out exclusively within the borders of the city chosen by the customer, among those in which Swapfiets operates, at the time of the order request.
- 4.5. If the customer requests a repair or replacement in cases that are not among those for which repair or replacement is allowed (see art. 4.1 and art. 4.2 above) makes an unjustified request (hereafter also an '**Unjustified Swap**') and Swapfiets will have the right to charge EUR 20 to the Customer by way of call charges. If the Customer does not come to an appointment set for



repair or replacement, the request must also be considered unjustified in this case and Swapfiets will have the right to charge the Customer 20 EUR by way of call costs.

4.6. When Swapfiets replaces a bicycle, the Customer, except in the event of theft or loss, is required to return the bicycle to Swapfiets as well as the relative key provided at the time.

## **5. Term of the Subscription and cancellation**

5.1. The term of the Subscription (“Subscription Period”) is agreed upon in the order process. To the extent agreed in the Order Process, Swapfiets may charge Renter with a one-time fee.

5.2. In case of a monthly Subscription, the Subscription Period is one month from the date stated in the order process and automatically extends on a month-by-month basis, unless terminated in accordance with these Terms & Conditions. Both Swapfiets and Renter may terminate a monthly Subscription at any time with a notice period of one month.

5.3. In case of a Subscription with a minimum term, the Subscription Period begins on the date stated in the order process and remains in effect for the minimum term agreed in the order process, early termination will not be possible. Upon expiry of the minimum Subscription Period, the Subscription turns into a monthly Subscription, as specified in clause 6.2.

5.4. Every notice of cancellation or termination must be given in text form (email is sufficient)

5.5. From the day that the written cancellation of the Subscription by the Rental Renter has been received by Swapfiets, the Subscription will continue for one more month, which means that the Subscription ends one month after the day on which Swapfiets has received the cancellation (the ‘End Date’).

5.6. The Renter has the right to use the Bicycle until the End Date of the Subscription after termination notice. The Renter has the obligation to meet the costs of Subscription until the End Date.

5.7. The Bicycle and key are to be submitted to Swapfiets no later than the End Date.

5.8. If the Renter hands in the Bicycle before the End Date, this will end all rights of the Renter under the Subscription, without prejudice to the Customer’s obligation to pay the full Subscription costs until the End Date.

5.9. Prior to returning the Bicycle on the End Date the Renter can cancel the termination free of charge by sending an e-mail to Swapfiets. The e-mail must be received by Swapfiets on the day preceding the End Date.

5.10. If the Renter wishes to enter another Subscription within three months of the End Date, a startup cost of EUR 30 is applicable.

5.11. When the Bicycle is not returned on or before the End Date Swapfiets reserves the right to apply a daily fine of EUR 5 every day from the End Date until return of the Bicycle, with a maximum of 7 days.

5.12. If the Bicycle is not returned within seven days of the End Date to Swapfiets and the Subscription is not reactivated, subsequently Swapfiets will report a theft by the Renter. In that case, the Rental Customer will also be obliged to compensate Swapfiets for the loss suffered, which will be established for each type of Subscription and can be found in Table 1, without prejudice of the right of Swapfiets to request full compensation of the loss suffered by it, to the extent that it exceeds the sum of the established compensation, depending on the type of Subscription.



Type of Subscription	Established compensation
Original Subscription	EUR 350
Deluxe Subscription	EUR 450
Power 7 Subscription	EUR 2.000

Table 1: Amount of compensation for each type of Subscription

5.13. The Renter is aware that the Bicycle could be owned by a leasing company. If the Bicycle is owned by a leasing company, the Renter will be obliged, on the leasing company's demand, to either hand in the Bicycle to the leasing company (subject to reimbursement for the remainder of the rental period) or to be discharged from their obligations by paying the leasing company the future rent, as the leasing company may choose.

## 6. Theft or loss

6.1. In the event of the loss or theft of the Bicycle and/or the battery, the Renter will be obliged to report this to Swapfiets within 24 hours, to hand over to Swapfiets the key to the Bicycle, and to report this loss or theft to the police together with an employee of Swapfiets. In that event, the Renter will owe an deductible, which is different for each type of Subscription. The applicable deductible for each type of Subscription is included in Table 2. After the report has been completed, the Renter will receive a replacement Bicycle from Swapfiets.

Type of Subscription	Established deductible
Original Subscription	EUR 40
Deluxe Subscription	EUR 60
Power 7 Subscription	EUR 220
Power 7 battery	EUR 500

Table 2: Amount of deductible for each type of Subscription

6.2. If the Renter does not, or not in good time, report a loss or theft of the Bicycle, or if the Renter cannot hand over the Bicycle key to Swapfiets, the Renter will owe Swapfiets the compensation established in Table 1.

6.3. In order to prevent incidents such as loss, theft and damage, the Bicycle must always be double locked with the provided ring lock and chain lock. Where possible, the Bicycle must be secured to an object using the chain lock. In addition, when connected to the Bicycle, the battery must always be secured with the provided lock.

6.4. If the Bicycle is not double locked/secured and an incident occurs, including vandalism, loss or theft, the Renter will owe a negligence surcharge. This sum will be in addition to the deductible and can be found in Table 3, depending on the type of Subscription. In addition, when connected to the Bicycle, the battery must always be secured with the provided lock.



Type of Subscription	Established negligence surcharge
Original Subscription	EUR 60
Deluxe Subscription	EUR 90
Power 7 Subscription	EUR 300

Table 3: Amount of negligence surcharge for each type of Subscription

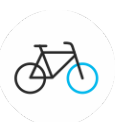
- 6.5. If a missing or stolen Bicycle is recovered within the term of the Subscription, the Renter will be credited no more than the deductible paid. Swapfiets will determine this amount on the basis of the condition of the Bicycle and any other costs.
- 6.6. If it turns out that the Renter has provided incorrect information that disadvantages Swapfiets, Swapfiets will be entitled to add an unfairness surcharge of EUR 100. This amount will be in addition to the deductible and any negligence surcharge.
- 6.7. If parts of the Bicycle are missing or stolen, Swapfiets will be entitled to charge this to the Renter up to the amount of the deductible at most. A price list of the parts of each type of Bicycle and Subscription may be requested from Swapfiets.
- 6.8. If the Bicycle has been removed by the municipality, Swapfiets will contact the Renter regarding the collecting process. Any costs for obtaining the Bicycle or other costs will be payable by the Renter. If the Bicycle is removed by the municipality, this will be regarded as an Unjustified Swap. Swapfiets will be entitled to charge costs for this to the Renter, such as any costs for obtaining the Bicycle and the costs of an Unjustified Swap.

## 7. Damage and servicing

- 7.1. The Renter will report damage to the Bicycle caused by vandalism to Swapfiets within 24 hours.
- 7.2. Swapfiets reserves the right to check the condition of the Bicycle. Customer shall cooperate with any necessary servicing or maintenance, on demand by Swapfiets.
- 7.3. In the event of damage and wear and tear to the Bicycle other than what can be expected from normal use, such at the discretion of Swapfiets, Swapfiets reserves the right to recover the associated costs from the Renter.
- 7.4. If there is any damage caused by the contributory fault or fault of a third party, the Renter will be obliged within 24 hours to submit to Swapfiets the contact details of this third party as well as a sketch of the scene signed for approval by both parties. An accident report form is available on [here](#). If the contact details of the third party are not submitted, the damage will be charged to the Renter.

## 8. Accessories

- 8.1. Renter may add-on an Accessory Subscription to the Bicycle Subscription, provided the relevant Accessory is available in the city where Renter subscribed for a Bicycle.
- 8.2. The Accessory Subscription is a separate subscription and can be terminated independently of the Bicycle subscription.
- 8.3. Except for Clauses 2, 5.7, 6, 7, and 10, the provisions set out in the General Terms & Conditions apply mutatis mutandis to the Accessory Subscription, so that e.g. where “Bicycle” is used in these relevant provisions, this should instead be understood as “Accessories”. The amounts shown in Table 1, 2 and 3 of the General Terms & Conditions should be replaced by the amount shown in Table 4



8.4. In the event of the loss or theft of the Accessory, the Renter will be obliged to report this to Swapfiets within 24 hours. In that event, the Renter will owe a deductible, which is different for each type of Accessory. The applicable deductible for each type of Accessory is included in Table 4.

Type of Accessory	Deductible
Basket, Child seat	EUR 12,50

Table 4: Amount of compensation for each type of Accessory

8.5. The Renter must report damage to the Accessory as a result of vandalism (in case the Accessory has become unusable) to Swapfiets within 24 hours of the Renter's knowledge of the vandalism. Swapfiets reserves the right to charge the Renter for the damage.

8.6. The Renter will receive a replacement Accessory from Swapfiets in case of theft of damage (referred to in paragraph 4).

8.7. Any usage of the Accessory is at the sole risk and responsibility of Renter. Swapfiets is not liable for damages of any kind resulting from the use of the Accessory.

## 9. Payments

9.1. When taking out a Subscription, the Renter will also be obliged to give or the references of his credit card or, alternatively, a direct debit mandate to have the monthly Subscription costs and other costs owed debited to the stated bank account number. The monthly Subscription costs will be charged to the Renter on the first day of the month following the delivery of the bicycle.

9.2. In the event of additional costs charged, such as the deductible and surcharges, Swapfiets will be entitled to first require payment thereof before providing a new Bicycle to the Renter. If the Renter indicates that they are able to pay the outstanding amount and this turns out not to be the case, this constitutes an Unjustified Swap, and costs may be charged for this.

9.3. If Subscription costs or other costs cannot be debited or are wrongly reversed, the Renter will be in default by operation of law. In that case, the Renter will receive a demand to pay the amount due within fourteen days. Swapfiets may engage a collection agency if the amount due has not been paid within the period of fourteen days. All additional administrative costs and extrajudicial collection costs will be payable by the Renter.

## 10. Liability

10.1. If the Renter puts a Bicycle into use, this will be construed as evidence that it functions properly and does not show any defects.

10.2. If the Renter doubts the safety of the Bicycle, they must immediately contact Swapfiets.

10.3. The Customer uses the bicycle with assumption of risks and related responsibilities. Swapfiets will not be liable for any damage or harm suffered by the Renter as a result of using the Bicycle, save in the case of wilful conduct or gross negligence on the part of Swapfiets.

10.4. The Renter will be responsible for communicating any defects and/or damage to the Bicycle in good time.

## 11. Force majeure and third party facts

11.1. Swapfiets shall not be liable for cases of force majeure, unavailability of means of transport, acts of third parties, unforeseeable or unavoidable events causing a delay in delivery and/or making deliveries difficult or impossible or causing a significant increase in the delivery cost for Swapfiets.



## 12. Amendments

- 12.1. Swapfiets reserves the right to change the costs of a Subscription. Changes will be communicated to the Renter via e-mail at least two months before the effective date.
- 12.2. Changes in the General Terms and Conditions will be communicated at least one month before the effective date by means of an announcement on the website [www.swapfiets.nl](http://www.swapfiets.nl) and an e-mail to the Renter.
- 12.3. Swapfiets will at all times be entitled to transfer its claims against the Renter, of any nature whatsoever, to third parties.
- 12.4. The Renter may change the Subscription into a more expensive Subscription free of charge, in which case Swapfiets will make an appointment and arrange the exchanging of the Bicycle for a Bicycle that is in line with the new Subscription. If the Renter wishes to downgrade their Subscription within six months of commencement of a Subscription, Swapfiets will be entitled to charge the costs of an Unjustified Swap for this.

## 13. Express termination clause

- 13.1. The parties agree and stipulate the following express termination clause pursuant to Article 1456 of the Italian Civil Code. This contract must be considered automatically terminated in the event that:
  - the Customer does not fulfill the payment [obligations](#) deriving from the signing of the rental contract;
  - the Customer uses the bicycle outside the city limits chosen by the Customer, among those in which Swapfiets operates, at the time of the order request;
  - the Customer uses the bicycle in contrast with the obligations assumed by the same pursuant to art. 3 of these General Conditions;
  - the Customer deliberately provides incorrect information to Swapfiets;
  - the Customer uses the service offered by Swapfiets in defiance of the principles of correctness and good faith and voluntarily damages the bicycle covered by the contract.

## 15. Privacy

- 15.1. Swapfiets considers the protection of your personal data to be important. How we protect your personal data is explained in our Privacy Policy. This can be consulted [here](#). Questions or remarks in this regard may be addressed to [privacy@swapfiets.it](mailto:privacy@swapfiets.it).

## 16. Exclusion of the right of withdrawal

- 16.1. Since Swapfiets offers the Customer services relating to leisure activities and the contract stipulated with the Customer provides for a specific execution period, the right of withdrawal reserved for the consumer for distance contracts, or negotiated outside the business premises, is allowed to the Renter only before the bicycle is delivered to him, subsequently the right of withdrawal is excluded pursuant to 'art. 59 lett. n) of the Italian Consumer Code.

## 17. Applicable Law. Disputes

- 17.1. This contract is governed by Italian law, being understood that the Customer cannot be deprived of the protection guaranteed by the mandatory provisions of the law of his place of residence.
- 17.2. The Customer action against Swapfiets may be brought before the courts of the Member State in which Swapfiets is domiciled, i.e. in Italy, in Milan, via Adda 16, 20090 Opera MI, or, regardless of the domicile of Swapfiets, before the courts of the place in which where the Customer is domiciled.
- 17.3. The action of Swapfiets against the Customer can only be brought before the courts of the Member State in whose territory the Customer is domiciled.





Your bike subscription

17.4. Any disputes related to the interpretation or execution of this contract will be resolved by the Court pursuant to Italian law, being understood that the consumer cannot be deprived of the protection guaranteed to him by the mandatory provisions of the law of his place of residence.

17.5. The Customer also has the right to make use of the online dispute resolution procedure available on <https://ec.europa.eu/consumers/odr/>

Swapfiets Italia s.r.l.

Milano

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