

General Terms and Conditions of Amada Sport b.v.

Article 1 Definitions and application

1. These General Terms and Conditions are applicable to all legal relationships, including agreements and offers, between AmadaSport and the other party. Unless otherwise provided for below, all such legal relationships are hereinafter referred to as 'agreements'.
2. In these General Terms and Conditions the 'other party' is taken to be the party who, as buyer, principal, hirer or in any capacity whatsoever, engages in a transaction with AmadaSport
3. No General Terms and Conditions of the other party are applicable or binding on AmadaSport
4. These General Terms and Conditions are also applicable to all legal relationships between the other party and any party affiliated to AmadaSport, such as subsidiary, sister or parent companies. In that case in these General Terms and Conditions AmadaSport is taken to be that affiliated party.
5. Any derogation from the present terms and conditions is permissible only in so far as it is expressly agreed in writing. Those terms and conditions from which there is no written and express derogation remain fully in force. Unless expressly provided otherwise in writing, any derogation from the present terms and conditions applies only in respect of the cases specifically determined by that agreement.
6. If one of the provisions of these General Terms and Conditions is null and void, a provision that resembles as closely as possible the null and void provision and that is considered valid will be deemed to have taken its place. The same applies to provisions that AmadaSport is unable to invoke for other reasons.
7. In the event that these General Terms and Conditions are drawn up in a language other than Dutch, then in the event of conflict between that translation and the Dutch text in any part, the Dutch text will prevail for the part in question.

Article 2: Agreement

1. All offers by AmadaSport are without obligation. The mere provision of a price quotation, estimate, advance calculation or similar communication by AmadaSport, whether or not designated as an offer, does not oblige AmadaSport to conclude an agreement. An agreement comes into being only when the acceptance of the offer without obligation reaches AmadaSport, unless AmadaSport revokes its offer without obligation immediately following receipt of the acceptance.
2. If any reservation or any alteration of the offer is made in the acceptance, then, notwithstanding the provisions of the previous paragraph, the agreement will only become effective if and when AmadaSport confirms in writing to the other party that it consents to this derogation from its offer. Such consent will, however, never be deemed to relate to the applicability of any General Terms and Conditions observed by the other party.
3. Juristic acts of the other party with employees of AmadaSport are not binding on

AmadaSport, unless and in so far as such juristic acts are accepted by AmadaSport expressly and in writing.

Article 3: Derogations

1. Price quotations in the agreement are always made on the basis of the prices applicable at the time of the offer. Unless expressly indicated otherwise, prices are always quoted exclusive of turnover tax and other government levies.
2. AmadaSport is entitled to increase the agreed price if one or more of the following circumstances occur after the conclusion of the agreement: increases in exchange rates, an increase in the costs of raw materials, materials, semi-manufactures or services that are necessary for the performance of the agreement, increase in despatch costs, wages and salaries, employer's charges, social insurance, costs involved in other conditions of employment, transport, introduction of new and/or increase in existing government levies, import and export duties or other levies and/or taxes in the Netherlands and abroad, or, in general, such circumstances as are comparable to any of the above. If such a circumstance should occur, then AmadaSport is entitled to increase the agreed price in proportion with the increase in question.
3. AmadaSport is permitted to differ from specified weights, quantities, delivery times, technical details, sizes, capacities, etc. in so far as such a difference is of only minor significance. Differences of 10% or less in the total weight, quantities, delivery times, and so forth, and differences which, taking account of all the circumstances, can reasonably be said to have no influence or only a minor influence on the value of the goods sold or supplied will always be deemed to be differences of minor significance.
4. If in the performance of the agreement extra costs have to be incurred and/or extra risks are present, then AmadaSport may add a surcharge onto the agreed prices that is proportionate to those extra costs and extra risks.
5. AmadaSport is authorised at all times to have this agreement performed by third parties.

Article 4: Prices and rates

1. Prices and/or rates (together referred to below as prices) will be agreed by parties for all goods and, where applicable, activities, failing which the price normally charged by AmadaSport or a fair price (if this is higher) will apply.
2. Previously agreed or charged prices will not be binding on AmadaSport, unless they are expressly confirmed in writing in a subsequent agreement.

Article 5: Termination of agreement

1. If the other party does not fulfil his obligations towards AmadaSport, or does not fulfil them on time or properly, or if he is declared bankrupt, applies for suspension of payment or statutory debt rescheduling, or if he offers his creditors or some of his creditors an arrangement or settlement, including in the event of seizure of all or part of his assets, or if he proceeds with the sale or liquidation of his business, including in the case of decease or placement under guardianship, or if in any other manner he loses the control or direction of all or part of his business or property, then, without notice of default, AmadaSport is entitled to

suspend further performance of the agreement, or to dissolve it in full or in part. AmadaSport is then entitled at all times to demand compensation from the other party as well as to take back any goods supplied.

2. In the event that the other party wishes to dissolve the agreement, he will first always give AmadaSport prior written notice of default, and allow a reasonable period of time for this in order to enable AmadaSport still to fulfil its obligations, or to rectify shortcomings, which shortcomings the other party must specify precisely.

Article 6: Payment and security

1. Unless agreed otherwise, payment of the purchase price, remuneration or other form of consideration for which AmadaSport provides a performance should be made before delivery of the date on which the goods or services sold are made available to the other party, and will then be claimable, without deduction of any discount, compensation or set-off against any (other) claim which the other party may have on AmadaSport. Set-off or suspension of payment by the other party, on any grounds whatsoever and by whatever name it may be known, is excluded.

2. Every supply, including supply of part of a combined order, can be invoiced separately if part of a combined order is separately of value.

3. If AmadaSport has two or more claims on the other party, then a payment by the other party will be used first of all to pay off any costs that may be owed, subsequently the interest and thereafter the oldest claim, regardless of which claim or which component the other party designates.

4. If the payment period intended in paragraph 1 is exceeded, then contractual interest at a rate of 12% a year will be owed from the due date, without any notice of default being necessary, together with reimbursement of any judicial and/or extra-judicial costs incurred in collecting the claim, in accordance with the report "Voor Werk II", subject to a minimum of €200,00 irrespective of whether those costs have actually been incurred. If the statutory interest in a given period exceeds the contractual interest, then the statutory interest will be owed for that period instead of the contractual interest. Judicial costs include all costs for the collection of the claim, such as the costs of seizure, litigation costs and the costs of an application for bankruptcy.

5. Before making delivery or continuing the delivery or (otherwise) starting performance of the agreement, AmadaSport is entitled to require sufficient security for the prompt fulfilment of the payment obligations of the other party. In the case of any default, the other party is obliged to provide sufficient security, including pledging, (this being a matter for the assessment of AmadaSport) in order to secure fulfilment of the payment obligations. The security provided must be such that the claim and any interest and costs due in respect of it are duly covered. In the event of any default, the other party will be obliged at the first request of AmadaSport, to fulfil his payment obligations to it in some other way acceptable to AmadaSport. AmadaSport will always be entitled to refuse the mode of payment proposed by the other party as referred to in the previous sentence.

6. The other party hereby grants AmadaSport in advance a right of pledge on all property that may be transferred to the control of AmadaSport by the other party within the framework of the agreement, as additional security for everything which the other party, in any capacity and on any grounds whatsoever, may owe to AmadaSport, including non-claimable and conditional debts.

7. The refusal by the other party to provide the requested security will entitle AmadaSport to dissolve the agreement, without prejudice to its right to claim compensation for any loss or damage suffered by it.

Article 7: Carriage and insurance

1. Unless expressly agreed otherwise, AmadaSport will be entitled to designate the carrier of the goods sold or other goods to be supplied, regardless of who is liable to bear the costs of carriage.

2. Unless expressly agreed otherwise, the costs of carriage will be borne by the other party.

3. The other party will be obliged to take out all necessary, customary and/or desirable insurance in relation to the goods supplied or yet to be supplied, including carriage insurance, in any event from the place or moment of delivery as referred to in article 8, paragraph 1, or, as the case may be, article 8, paragraph 2.

Article 8: Delivery and risk

1. Unless expressly agreed otherwise in writing, delivery of goods to the other party will occur at the place where AmadaSport carries on its business or has obtained those goods ("ex works"). Delivery will be deemed to have taken place by AmadaSport advising the other party that the goods have been or are being delivered.

2. From the time of delivery at the agreed place the delivered goods fall fully to the account and risk of the other party. The other party is obliged to co-operate fully in the delivery. The other party will be in default, even without a warning to this effect, if he does not collect goods to be delivered after the first request of AmadaSport, or refuses to take receipt of goods to be delivered.

3. Carriage of goods to be delivered, irrespective of under whose instruction or in whose name this takes place, always falls to the account and risk of the other party, not only when free delivery was agreed, but in all other cases.

4. The acceptance of goods by the carrier from or on behalf of AmadaSport will serve as proof that they have been received in externally good condition, unless the contrary is evident from the consignment note or proof of receipt.

Article 9: Complaints

1. Following supply and/or other performance by AmadaSport, the other party will check without delay whether AmadaSport has properly fulfilled the agreement and will also be obliged to notify AmadaSport in writing immediately if he finds that this is not the case. The other party should in any event carry out the investigation referred to in this paragraph and make the relevant notification within no more than two calendar days after delivery or completion.
2. In the event of non conforming goods or performance, AmadaSport will always be entitled to replace such goods or performance with new goods or performance that are/is sound or, at the discretion of AmadaSport, to reimburse the difference in value between a sound performance and the performance actually supplied, without prejudice to that provided for in article 3, paragraph 3. Fulfilment of the agreement will then be deemed to be fully sound. In this case the other party may not dissolve the agreement.
3. Fulfilment of the agreement will be deemed to be sound if the other party has continued to fail to carry out the investigation referred to in paragraph 1 of this article in good time.
4. The invoice of AmadaSport will be deemed to be correct if the other party has not submitted a written protest to AmadaSport within no more than eight calendar days of the date of the invoice.
5. If the periods referred to in paragraphs 1 and 4 must be deemed to be unacceptably short according to manifest criteria of reasonableness and fairness, even for a careful and attentive other party, then these periods will be automatically extended until no later than the first opportunity when the investigation or, as the case may be, notification to AmadaSport may reasonably be deemed possible for the other party.
6. Performance by AmadaSport will in any event be deemed to be sound if the other party has used supplied goods or part thereof, or has treated or processed them, supplied them to third parties, or has caused them to be used, treated or processed or supplied to third parties, unless the other party has observed the provisions of the first paragraph of this article.

Article 10: Reservation of title

1. All goods supplied or yet to be supplied by, on behalf of or for the account and risk of AmadaSport under the terms of any agreement whatsoever remain the inalienable property of AmadaSport or the party who is the owner of such goods until the other party fulfils all claims relating to the consideration to be provided for goods supplied or yet to be supplied by AmadaSport pursuant to such an agreement in favour of the acquirer, or for activities performed or yet to be performed by AmadaSport pursuant to an agreement, or relating to claims for a failure to perform such agreements, including claims in respect of penalties, interest and costs.
2. As long as the other party is not in any default in relation to the fulfilment of any agreement with AmadaSport, he will be entitled to use and/or process the supplied goods in such a way as is normal in his business. To provide for the eventuality that the right of ownership of AmadaSport is lost because the goods are used in the creation of new goods, amalgamated

with other goods, become a component of other goods or otherwise, the other party hereby transfers in advance the ownership or co-ownership of the new goods thus created to AmadaSport in proportion to the invoice value. The other party will from then on act free of charge as holder and depositary of the relevant goods to which AmadaSport accrues ownership or co-ownership.

3. If the other party is in default, then AmadaSport will be entitled to claim the goods immediately from anyone holding them.

Article 11: Intellectual property

AmadaSport reserves the right at all times to the intellectual property rights in respect of everything that it has supplied to the other party, and in respect of everything connected directly or indirectly with it. The other party shall therefore respect the trade name, mark or any other intellectual property right of AmadaSport and shall not use them or the name of AmadaSport without the express written consent of AmadaSport with the intention of associating with AmadaSport in any way whatsoever other goods or services than those of AmadaSport, either directly or indirectly.

Article 12: Warranty

1. AmadaSport warrants that the goods supplied by it satisfy the purpose for which they are manifestly supplied and which is known to AmadaSport.

2. If AmadaSport is not given adequate opportunity to remedy any imperfection in or connected with goods supplied, all costs resulting from this will be borne by the other party.

3. The warranty does not apply if the other party or third parties have - without the express written consent of AmadaSport - performed work on the goods supplied, further treated or processed them or stored them without due care and, in general, in all cases in which the other party acts without the care that AmadaSport is entitled to expect of an attentive and careful other party.

4. The warranty will also not apply if it transpires that the goods supplied are not used in accordance with the directions for use supplied on commissioning or are not used for the purpose for which they were bought.

5. Amada Sport offers a five years warranty on the bike frames.

In the event a frame requires replacement and the Amada Sport bike remains under warranty, Amada Sport will be responsible for the entire cost of the frame replacement, shipping and service fee.

6. Amada Sport offers a two year warranty on all non-rotating parts which include but not limited to the PC system and interface unit. In the event a non-rotating part requires replacement and the Amada Sport bike remains under warranty, Amada Sport will be responsible for the entire cost of all non-rotating parts replacement, shipping and service fee.

7. Amada Sport offers a one year warranty on all rotating parts which include be not limited to the belt, pedalling system, saddle, wheel and motorbrake system. In the event a rotating part requires replacement and the Amada Sport bike remains under warranty, Amada Sport will be responsible for the entire cost of all non-rotating parts replacement, shipping and service fee.

Article 13: After-sales and inspections

1. AmadaSport should be given the opportunity, if desired, to take measures to mitigate damage if it fails in the fulfilment of any obligation residing with it.
2. If AmadaSport is not given sufficient opportunity to remedy any defect that occurs, all costs resulting from this will be borne by the other party.
3. If it is agreed that inspections will be made or if this is desirable, at the discretion of AmadaSport, the other party shall co-operate in any way desired by AmadaSport for this purpose.
4. Unless agreed otherwise, inspections will be carried out for the account of the other party.

Article 14: Liability

1. AmadaSport is not obliged to pay compensation as a consequence of failure in fulfilment of any obligation or as a consequence of an unlawful act if it cannot be imputed to AmadaSport. This is the case where the failure is not imputable to its fault and is not attributable to some cause for which it is responsible by law, by juristic act or in accordance with standard practice. In this case the other party cannot dissolve the agreement.
2. Non-imputability as referred to in paragraph 1 exists, inter alia, in the event of extreme and/or unsuitable weather conditions, war or risk of war, infection or danger of infection, staff sickness, extreme or unexpected stagnation of traffic, obstruction of the transport route, disruption of the business of AmadaSport or in that of one of the suppliers or third parties involved in performing the agreement, breakdowns of machines used by AmadaSport or third parties involved, any failure on the part of suppliers or third parties involved, delay in the supply of parts, government measures and any delay or shortage of capacity at AmadaSport that is caused by the above-mentioned circumstances.
3. AmadaSport accepts no liability of any kind for defects in the performance of the agreement due to the fault or involvement of the other party or third parties for whom the other party is responsible. AmadaSport is also not liable for loss or damage caused by the implementation by employees of AmadaSport of instructions, advice or directions of the other party which fall outside the scope of the activities resulting from the order, unless the other party proves that this is attributable to intent or gross negligence.
4. AmadaSport is liable for non-performance or incorrect or partly incorrect performance of the agreement and for advice given or studies made only if and in so far as this is a direct consequence of intent or gross negligence on the part of people working in positions of authority at AmadaSport.
5. Without prejudice to that provided for elsewhere in this article, if on the grounds of an attributable failure AmadaSport is bound to compensate the other party for loss, then AmadaSport shall have the opportunity, at its discretion, either to remedy in kind, in other words to replace those goods not correctly supplied, or to compensate in money.
6. The obligation to compensate loss or damage incurred may not in any case relate to any loss of turnover or any other business loss and/or consequential loss.
7. In no case will the obligation to compensate loss or damage ever exceed an obligation to credit the amount of the invoice (excluding turnover tax) in respect of the part not performed or incorrectly performed.

8. In no case will AmadaSport ever be liable for loss or damage on any account whatsoever, in so far as such loss or damage exceeds €10,000.00.

9. Persons in positions of authority, partners, managers, employees and others involved at AmadaSport can invoke the same defences against the other party in order to refute or limit liability if they are sued by the other party.

Article 15: Indemnification

If AmadaSport is sued by a third party for any loss or damage or for part of the amount of loss or damage for which it would not be liable under the agreement or these terms and conditions if the loss or damage had been suffered by the other party, then the other party shall fully indemnify AmadaSport in this respect and shall compensate AmadaSport for everything which AmadaSport must pay to that third party. The other party is also obliged to indemnify AmadaSport against loss or damage consisting of and/or caused by fines, claims, periodic penalty payments or other measures imposed by the authorities. These indemnification obligations are also valid for persons in positions of authority, partners, managers, employees and others involved at AmadaSport.

Article 16: Two or more other parties; two or more signatories

If two or more other parties have together entered into an agreement, or two or more people have signed an agreement with AmadaSport, then each of them will be jointly and severally liable for each obligation of the other parties resulting from that agreement.

Article 17: Jurisdiction and application of Dutch law

1. All disputes, including those concerning the applicability of the present terms and conditions, will be exclusively adjudicated by the competent civil court in the Netherlands, namely the court in the judicial district in which AmadaSport has its registered office. AmadaSport will, however, be entitled, if it so desires, to submit duly qualified disputes to another court that has jurisdiction at law.

2. Quotations, offers, acceptances and agreements are governed by the law of the Netherlands.

3. The UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 (Dutch Treaty Series 1986, 61) does not apply and is hereby expressly excluded.