

## BICYCLE RENTAL GENERAL TERMS AND CONDITIONS

### 1. Scope and applicability

- 1.1 These General Conditions regulate the relationship established between those who conclude a bicycle rental contract (hereafter **“Renter”** or **“Customer”**) and 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, in accordance with the chosen Subscription. “Bicycle” means the bicycle or e-bike made available by Swapfiets to the Renter under the Subscription for use by the Renter in accordance with these General Terms and Conditions.
- 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 commercial purposes, such as the delivery of goods and/or food. 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 13 of the General Terms and Conditions.
- 3.3 In deviation from Article 3.2, if the Renter chooses the Subscription Power 7 Heavy Use, the Renter is entitled to use the Bicycle also for commercial purposes, such as the delivery of goods and/or food. This does not apply to the Subscription Power 7 Normal Use.  
“Power 7 Heavy Use” means: a Subscription for the electric bicycle (Power 7), whereby the Renter may ride an unlimited amount of kilometres per month, and “Power 7 Normal Use” means: a Subscription for the electric bicycle (Power 7), whereby the Renter may ride less than 1,000 km per month in total.
- 3.4 Swapfiets reserves the right to check the mileage of the e-bike during the Swapping and/or other contact moments. During the check, the average usage per 30 days is examined, calculated from the moment of the first delivery or the last appointment made for the Swapping until the moment of the check. If during the check it appears that the average use in this period is more than is permitted under the Subscription, Swapfiets is entitled to retroactively charge the difference in price between the Subscription chosen by the Renter and the higher Subscription that does allow a higher average use over the deviated period, plus an amount of EUR 25 for administration costs. The foregoing shall be without prejudice to any other rights of Swapfiets, including but not limited to the right to claim damages and to terminate the subscription in accordance with Clause 13 of these General Terms and Conditions.
- 3.5 The Renter is required to provide Swapfiets with either the references of his credit card or, alternatively, a SEPA bank account number.
- 3.6 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.
- 3.7 The Renter will be personally liable for compliance with the General Terms and Conditions.
- 3.8 The Renter will be responsible for passing on changes to the data known to Swapfiets, such as a new address, in good time.
- 3.9 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.
- 3.10 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.
- 3.11 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 48 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 48 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 If the Subscription is concluded by completing the registration form on the website [www.swapfiets.it](http://www.swapfiets.it) and Renter is a consumer, the Renter has the right to terminate the Subscription during the 14-day withdrawal period without giving reasons. The foregoing does not apply insofar as the Subscription was carried out during the withdrawal period with the explicit consent of the Renter and insofar as the Renter has waived his right to terminate the Subscription.
- 5.3 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.
- 5.4 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, subject to the provisions of Clause 13 of these Bicycle Rental Terms and Conditions. Upon expiry of the minimum Subscription Period, the Subscription turns into a monthly Subscription, as specified in clause 6.2.

- 5.5 Every notice of cancellation or termination must be given in text form (email is sufficient)
- 5.6 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’).
- 5.7 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.
- 5.8 The Bicycle and key are to be submitted to Swapfiets no later than the End Date.
- 5.9 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.
- 5.10 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.
- 5.11 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, which is entitled, from the moment in which it receives notice of the loss or theft of the Bicycle and/or the battery, to track down the Bicycle and confiscate it immediately. In the case of an e-bike, Swapfiets may use the GPS tracker to track the location of the Bicycle.

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 Subscription is terminated and the Renter will owe Swapfiets the compensation established in Table 1, without prejudice to any other rights of Swapfiets.

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 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.
- 6.6 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.
- 6.7 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 mileage and 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 <https://swapfiets.nl/assets/europeanclaimform.pdf>. 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 deliberate recklessness on the part of Swapfiets or for damages that cannot be excluded on the grounds of mandatory statutory provisions.
- 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 one month before the effective date. The Renter will not be permitted to terminate the Subscription due to a price change, unless the change takes place within three months of the conclusion of the Subscription and the Renter is a consumer.

12.2 Swapfiets has the right to unilaterally amend these General Terms and Conditions. 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 and an e-mail to the Renter. If the amendment results in the Renter being provided with a performance which materially differs from the original performance, the Renter, who is a consumer, will have the right to terminate the Subscription as of the date on which the amended terms and conditions come into effect.

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.

### 14. Privacy

14.1 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 at [swapfiets.com/en-IT/privacy](https://swapfiets.com/en-IT/privacy). Questions or remarks in this regard may be addressed to [privacy@swapfiets.it](mailto:privacy@swapfiets.it).

### 15. Applicable Law. Disputes

15.1 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.

15.2 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.

15.3 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

- 15.4 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.
- 15.5 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  
Version: April 2021

## E-KICK RENTAL TERMS AND CONDITIONS (“E-KRT”)

Version: January 2021

### 1. General | Scope

- 1.1 These e-Kick Rental Terms (“*e-KRT*”) apply between you as a consumer within the meaning of article 1469 and following of the Italian Civil Code and article 3 of Legislative Decree 206 of 2005 (“and Swapfiets Italia s.r.l. (“*we*” or “*us*”). They regulate the rental of an electric kick scooter (“*e-Kick*”) provided to you by us at any given time.
- 1.2 These e-KRT apply to the exclusion of all others. Terms which deviate from, conflict with or supplement these e-KRT shall only become part of the contract if we have expressly consented to them in writing.
- 1.3 Legally relevant declarations and notices which you would like to give to us after the conclusion of the contract (e.g. setting deadlines, reminders, declarations of withdrawal from the contract), must be made at least in text form in order to be valid, unless expressly provided otherwise in these e-KRT.
- 1.4 Agreements between you and us varying from or supplementary to these e-KRT will be valid only if they have been explicitly confirmed in writing via e-mail by a regional manager of Swapfiets.

### 2. Subject Matter of the Contract | Conclusion of the Contract | e-Kick Territory

- 2.1 During the contract term we will make an e-Kick available to you by means of renting it to you. The details of the contract concluded between you and us (“*Subscription*”) and of the e-Kick arise from the online ordering process on our website. These e-KRT form an integral part of your Subscription.
- 2.2 When you fully complete the online ordering process on our website, this is an offer to take out a Subscription made by you to us. After the online ordering process is complete, we will send you a confirmation of the order by email. This order confirmation is at the same time the acceptance of your offer to enter into a contract. Therefore, a Subscription comes into existence when you receive the confirmation. Following that, we will agree the time and location for the delivery of the e-Kick.
- 2.3 When we deliver the e-Kick, we will check your personal details with you (e.g. by you producing an official identity document). At the time of delivery, you are obliged to confirm to us in writing the receipt of the e-Kick, the payment method chosen by you (e.g. by giving references of your credit card or issuing the direct debit mandate in accordance with Clause 6.4) and that the personal details you have provided are correct. You are obliged to notify us without undue delay, of any changes in your personal details during the Subscription period (e.g. if your address changes).
- 2.4 You may only use the e-Kick in the territory / the city which is specified in your Subscription (“*e-Kick Territory*”). A change of the e-Kick Territory is only possible after our express consent to this.

### 3. Provision of the e-Kick | Advertising

- 3.1 You do not have any right to a particular e-Kick or to a particular design, fit-out or configuration of the e-Kick.
- 3.2 The e-Kick and all objects provided to you in connection with the e-Kick (e.g. the key) shall remain in our ownership or in the ownership of our partner companies at all times. You do not become the owner of the e-Kick or of any objects provided to you in connection with the e-Kick.

- 3.3 After giving prior notice, we are entitled to inspect the e-Kick at any time, to wholly or partially replace it, and to carry out maintenance and repairs to the e-Kick.
- 3.4 We reserve the right to put advertisements on the e-Kick at any time and at our discretion. If an advertisement attached to the e-Kick or printed on it is damaged, removed, unreadable or otherwise no longer visible, you are obliged to inform us of this immediately.

#### 4. Usage Rules | Non-Commercial Use Only

- 4.1 Certain rules apply to you in relation to the use of the e-Kick, which you must comply with at all times:
- The use of the e-Kick shall be in your sole responsibility.
  - Prior to using the e-Kick, you are obliged to familiarise yourself with how the e-Kick functions.
  - Prior to each use of the e-Kick, you must check the e-Kick for road safety, proper functioning and defects. For that purpose, in particular you must check that all screws which are of relevance to safety are tightened, the proper condition of the frame, the handlebar, the tyre pressure, the functionality of the lights, the computer and the braking system. If a defect exists at the start of use or occurs while you are using it, you are obliged to refrain from using the e-Kick or to cease using it.
  - You must ensure that the e-Kick's insurance plate is not removed from the e-Kick and is clearly visible when in use.
  - The e-Kick is intended solely for your personal use. Consequently, you must not entrust the e-Kick to third parties, you must not allow third parties the use of the e-Kick in another form or sell it, hire it out, sub-let it, pledge it or otherwise encumber the e-Kick with security interests or rights of third parties.
  - The e-Kick is a high-quality object. Consequently, you must not damage or destroy the e-Kick and you must not carry out any modifications, lacquering, painting or other changes to the e-Kick or the computer including the software.
  - You must secure the e-Kick effectively against theft (Clause 7).
  - You may only use the e-Kick in the generally accepted customary manner, avoiding unusual strain on it and only on paved routes and streets.
  - You must use and take care of the e-Kick and the computer including the software in accordance with the instructions given by us.
  - You must not use the e-Kick whilst under the influence of drugs, medication or alcohol.
  - You may only use the e-Kick in accordance with its maximum weight limit of 100kg.
  - You must not transport any persons on it / them.
  - You may only use the e-Kick in the territory / the city which is specified in your Subscription ("**e-Kick Territory**").
- 4.2 When using the e-Kick, you are obliged to always comply fully with all applicable legal provisions, in particular all road traffic rules (including but not limited to the "Codice della strada" (Italy Road Traffic Regulation) .In addition, you must always make sure that the e-Kick is not detrimental to road

safety, that other road users and pedestrians are not endangered, harmed or impeded and that the use of the e-Kick does not interfere with, damage or endanger other vehicles or other property of third parties or other rights of third parties.

- 4.3 For the purposes of these e-KRT, use of the e-Kick shall be deemed to also include pushing, parking and storing the e-Kick.
- 4.4 You are obliged to fully compensate us for and indemnify us from any and all fees, fines or other payments imposed on us by third parties (e.g. by public traffic authorities) on grounds of a breach of any of your obligations under your Subscription. In this context we may provide your name and address to such third parties.
- 4.5 The e-Kick is intended exclusively for personal use by you and for leisure activities. You cannot use the e-Kick for your professional and / or entrepreneurial activity (i.e. using the e-Kick for e.g. the professional delivery of goods is prohibited). In the event of a breach of your obligation under this Clause 4.5, you shall pay to us a contractual penalty in an adequate amount, however not more than **EUR 550**. The precise amount of such contractual penalty shall be determined by us at our discretion, whereby, in case of a dispute, the adequacy of the amount shall be reviewed by a competent court upon your request. Such contractual penalty shall be deducted from any damage actually suffered by us and shall be without prejudice to any other rights we may have under your Subscription, including but not limited to a right to claim damages and to terminate your Subscription in accordance with Clause 13 of these e-KRT.

## 5. Swapping

- 5.1 In accordance with the terms of this Clause 5, you have a right to “**Swapping**” free of charge. By Swapping or a “**Swap**”, we mean:
  - Repairing defects in the e-Kick free of charge within your e-Kick Territory.
  - Exchanging the e-Kick free of charge within your e-Kick Territory.
- 5.2 The type and extent of the Swap is determined by us according to our discretion. During your Subscription period you can request an unlimited number of Swaps. You do not incur any additional costs for Swapping. Swapping is covered by payment of the e-Kick Rent. However, we can refuse a Swap until such time as you have paid any outstanding e-Kick Rent, fees or other sums to us or should the request for repair or exchanging be considered unjustified.
- 5.3 If there is a defect in the e-Kick, you are entitled to a Swap provided that the defect has arisen in the course of your use of the e-Kick in accordance with the terms of the contract.
- 5.4 If the e-Kick is stolen or lost, you are only entitled to a Swap if you are not responsible for the theft or loss. Clause 8 applies.
- 5.5 You can request a Swap by telephone, email or WhatsApp (“**Swap Request**”). We will agree the place and time of the Swap on an individual basis with you.
- 5.6 We make every effort to carry out a Swap within 24 hours after receipt of your Swap Request. However, if we do not meet this target time, you cannot use this as the basis for any claims for compensation or any other claims.
- 5.7 If we exchange the e-Kick, you are obliged to hand over the previous e-Kick and the key to us.

5.8 If you make a Swap Request without being entitled to a Swap, declaring to possess the required conditions, we reserve the right to charge you a fee of **EUR 20** for this. This also applies if you fail to attend an agreed Swap appointment.

## 6. Rent | Time for payment | Payment Terms

6.1 In return for the use of the e-Kick, you owe us the monthly rent agreed with us ("**e-Kick Rent**"). The e-Kick Rent is due for payment in advance at the beginning of each calendar month for the whole calendar month. If your Subscription starts or ends during a calendar month, the e-Kick Rent will be charged by us on a pro rata basis in each case for such a month.

6.2 In the event that any upfront payment payable by you to us has been agreed in the Order Process, you are obliged to pay such upfront payment to us after the completion of the Order Process without undue delay.

6.3 We reserve the right to adjust the e-Kick Rent during your Subscription period with effect for the future. We will inform you in text form about changes in the e-Kick Rent in good time prior to changes taking effect.

6.4 Payment of the e-Kick Rent as well as any other fees arising shall be made, depending on the choice you made, by debit on credit card or by means of the direct debit authorisation scheme (SEPA direct debit scheme). Consequently, you are obliged to give references of your credit card or to issue us a corresponding direct debit mandate in advance, giving details of your IBAN and BIC numbers. The payment of the e-Kick Rent will be collected monthly and, except as provided for in the previous art. 6.2, is generally charged from the first day of the month following the delivery of the e-Kick. We may also request during the Subscription period that you pay the e-Kick Rent not to us, but instead to one of our partner companies.

6.5 If a direct debit payment is not made due to a lack of funds or for other reasons for which you are responsible or a direct debit is subsequently cancelled by you, you will be in default in relation to the relevant payment. You will receive a reminder from us to settle the payment due within 14 days. If the amount due is not paid within 14 days, we reserve the right to instruct a collection agency to recover the debt. All additional administration costs and out of court debt collection costs will be borne by you.

## 7. Securing the e-Kick against Theft | Key

7.1 We provide the e-Kick to you together with one lock (e.g. chain lock).

7.2 In order to prevent the loss or theft of the e-Kick or damage to it, you are obliged to always secure the e-Kick with the lock which has been provided to you. The e-Kick should always be stored indoors. To the extent that indoor storage is not possible, you are obliged to secure the e-Kick to a fixed object (e.g. bicycle stands).

7.3 If you do not secure the e-Kick in the way described in Clause 7.2 above and as a consequence of this the e-Kick is damaged, lost or stolen, you are obliged to pay us a fee in the amount of **EUR 80**. This fee arises in addition to any deductible under Clauses 8.5 and 8.6.

7.4 We will also provide you with a key to use with the e-Kick lock. You are not allowed to make any additional keys or have them made (e.g. replacement key, copy, duplicate key). We can keep additional keys for the e-Kick lock in our possession.

7.5 You are obliged to protect the key for the e-Kick against loss, theft and unauthorised use at all times and you are not allowed to pass the key on to third parties.

7.6 If your key gets lost, stolen or damaged, you must inform us immediately. In these circumstances we will deliver a new key to you within the e-Kick Territory and will charge you a fee of **EUR 15** per key for this. On delivery of the new key, you must confirm receipt of it to us. If you find a key which has been notified to us as having been lost, you must send it to us immediately by post at your own cost.

## 8. Damage | Theft and Loss

8.1 You are obliged to inform us of any damage to the e-Kick within 24 hours of becoming aware of the damage occurring. This applies regardless of the extent of the damage and of whether you have caused the damage or not.

8.2 If you have caused the damage to the e-Kick or it otherwise results from your breach of the usage rules in these e-KRT (in particular of Clause 4), we reserve the right to claim compensation from you.

8.3 In the event of damage to the e-Kick due to the fault or contributory fault of a third party, you are obliged within 24 hours to give us the identity and contact details of this third party. If the damage has occurred in connection with an accident, you are obliged to send us an accident diagram sketch signed by you and the third party. You can use the accident form at <https://swapfiets.de/europeanclaimform> for that purpose. If you do not send us the contact details of the third party, although you have them, we reserve the right to invoice you in full for the losses which we incur.

8.4 You are obliged to inform us of the theft or loss of the e-Kick or of individual components of the e-Kick within 24 hours of you becoming aware of it. In the event of the theft or loss of the e-Kick, you must hand over or send to us the key(s) for the e-Kick which you have received from us. You are obliged to support us, to the extent that is reasonable, in relation to reports to the police or bringing any other legal action.

8.5 In the event of the theft or loss of the e-Kick we can charge you a deductible in the sum of **EUR 80**. If, during your Subscription period, the e-Kick which has been notified to us as lost or stolen is found again, at our own discretion and subject to the condition of the e-Kick which has been found again, we may reimburse you these deductibles.

8.6 In the event of the theft or loss of individual components of the e-Kick, we can charge you a deductible in the sum of the value of the stolen or lost components up to a maximum amount of **EUR 80**. You can request a list giving details of the value of individual components of the e-Kick from us.

8.7 If you do not fulfil your obligations under Clause 8.4 for any reason, in particular, if you (i) do not inform us about the theft or loss of the e-Kick, or (ii) unless you have informed us in accordance with Clause 7.6, do not hand over or send to us the key(s) for the e-Kick which you have received from us, we will charge you a sum of **EUR 550**.

8.8 If it turns out that you have made false statements to the detriment of us, we can charge you a dishonesty supplement in the sum of **EUR 100**. This sum must be paid in addition to any amounts due under Clauses 8.5 to 8.7.

8.9 The right of Swapfiets to compensation for any greater damage suffered is reserved.

## 9. Subscription period | Termination | Return

- 9.1 Your Subscription period arises from the online ordering process on our website. Unless otherwise stated there, to begin with your Subscription period is one month from the date stated in the online ordering process and extends automatically by a further month each month unless it is terminated in accordance with these e-KRT.
- 9.2 Without stating reasons for doing so, you or we can terminate your Subscription by giving notice of one month prior to the end of any monthly period calculated under Clause 9.1
- 9.3 Every notice of termination must be given in text form (email is sufficient).
- 9.4 When the termination of your Subscription takes effect, you are obliged to return the e-Kick and any other objects provided by us (in particular the key(s)) at your own cost and risk to us or, if we notify you thereof, to one of our partner companies. If you return the e-Kick to us prior to the termination of your Subscription taking effect, your rights under your Subscription end at that time; however, we reserve the right to charge the e-Kick Rent accruing up until when the termination of your Subscription takes effect.
- 9.5 If you do not return the e-Kick to us in good time when the termination of your Subscription takes effect, we will charge you a late fee in the sum of **EUR 5** per day, up to a maximum of **EUR 35** until you return the e-Kick to us or take out a new Subscription in accordance with Clause 9.9. You are at liberty to prove that we have not suffered any loss or that such loss is significantly lower than the late fee. We reserve the right to claim more extensive damages.
- 9.6 If you do not return the e-Kick to us within 7 days after the termination of your Subscription taking effect and you do not take out a new Subscription in accordance with Clause 9.9 either, we reserve the right to take legal action. In these circumstances, we will charge you a retention fee in the sum of **EUR 550**. You are at liberty to prove that we have not suffered any loss or that such loss is significantly lower than the retention fee. We reserve the right to claim more extensive damages.
- 9.7 If you want to take out a new Subscription within 6 months after terminating your Subscription, we will charge you a start fee in the sum of **EUR 60** for this.

## 10. Prohibition on Set-off

- 10.1 You are only allowed to set off your own claims against ours to the extent that your claims against us have been finally determined in a binding judgment which is not subject to appeal, are undisputed or are accepted by us.

## 11. Liability

- 11.1 If you put a e-Kick into use, this will be construed as evidence that it functions properly and does not show any defects.
- 11.2 If you doubt the safety of the e-Kick, you must immediately contact us.
- 11.3 You use the e-Kick with assumption of risks and related responsibilities. We will not be liable for any damage or harm suffered by you as a result of using the e-Kick, save in the case of wilful conduct or gross negligence on the part of us.
- 11.4 You will be responsible for communicating any defects and/or damage to the e-Kick in good time.

## 12. Force majeure and third-party facts

12.1 We 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 us.

## 13. Express termination clause

13.1 The parties agree and stipulate the following express termination clause pursuant to art. 1456 of the Italian Civil Code. This contract must be considered automatically terminated if:

- you do not fulfill the payment obligations deriving from the signing of the rental contract;
- you use the e-Kick outside the city limits chosen by the customer, among those in which we operate, at the time of the order request;
- you violate the obligations under art. 4 of these General Conditions;
- you use the e-Kick in contrast with the rules of use referred to in art. 5 of these General Conditions;
- you have made false declarations or repeatedly make use of the services offered in an improper way (e.g. by making intentionally false declarations or requests for repair and/or replacement completely unjustified);
- you use the service offered by us in defiance of the principles of correctness and good faith and voluntarily damages the e-Kick covered by the contract.

## 14. Privacy

14.1 We consider 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 at <https://swapfiets.com/it-IT/privacy>. Questions or remarks in this regard may be addressed to [privacy@swapfiets.com](mailto:privacy@swapfiets.com).

## 15. Exclusion of the right of withdrawal

15.1 Since we offer you services relating to leisure activities and the contract stipulated with you 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 you only before the e-Kick is delivered, subsequently the right of withdrawal is excluded pursuant to 'art. 59 lett. n) of the Italian Consumer Code.

## 16. Applicable Law. Disputes

16.1 This contract is governed by Italian law, being understood that you cannot be deprived of the protection guaranteed by the mandatory provisions of the law of your place of residence.

16.2 Your action against us may be brought before the courts of the Member State in which we are 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 you are domiciled.

16.3 The action of us against you can be brought by us only before the courts of the Member State in whose territory you are domiciled.

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





Your bike subscription

16.5 You also have 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

Version: January 2021

## E-SCOOTER RENTAL TERMS AND CONDITIONS (E-SRT)

Version: July 2020

### 1. General | Scope

- 1.1 These Swapfiets e-Scooter Rental Terms (“**e-SRT**”) apply between you as a consumer within the meaning of article 1469 and following of the Italian Civil Code and article 3 of Legislative Decree 206 of 2005 and Swapfiets Italia s.r.l. with registered office in Milan (“**we**” or “**us**”). They regulate the rental of an electric scooter (“**e-Scooter**”) provided to you by us at any given time.
- 1.2 These e-SRT form part of the contract concluded between you and us (“**Subscription**”) and apply to the exclusion of all others. Terms which deviate from, conflict with or supplement these e-SRT shall only become part of the contract if we have expressly consented to them in writing.
- 1.3 Legally relevant declarations and notices which you would like to give to us after the conclusion of the contract (e.g. setting deadlines, reminders, declarations of withdrawal from the Subscription), must be made at least in text form in order to be valid, unless expressly provided otherwise in these e-SRT.
- 1.4 Agreements between you and us 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. Subject Matter of the Subscription | Conclusion of the Subscription | Swapfiets Territory

- 2.1 During the Subscription Period, we will make an e-Scooter available to you. The details of your Subscription and of the e-Scooter are agreed as part of the online ordering process on our website (“**Order Process**”).
- 2.2 Completing the Order Process results in an offer made by you to us to enter into a Subscription. After the Order Process is complete, we may send you a confirmation of your order by email. This order confirmation is the acceptance of your offer to enter into the Subscription. Following that, you and we will mutually agree the time and location for the delivery of the e-Scooter.
- 2.3 When we deliver the e-Scooter, we will check your personal details together with you (e.g. by you presenting an official identity document). At the time of delivery, you are obliged to confirm to us in writing (i) the receipt of the e-Scooter, (ii) the payment method chosen by you (e.g. by giving references of your credit card or issuing the direct debit mandate in accordance with Clause 7.5), and (iii) the correctness of the personal details provided by you to us. You are obliged to notify us of any changes in your personal details during the Subscription Period (e.g. if your address changes) without undue delay.
- 2.4 You may only use the e-Scooter in the territory/the city which is specified in your Subscription (“**Swapfiets Territory**”). A change of the Swapfiets Territory is only possible after our express consent to this.

### 3. Making Available the e-Scooter | Advertising

- 3.1 You are not entitled to a particular e-Scooter or to a particular design, fit-out or configuration of the e-Scooter.
- 3.2 The e-Scooter and all objects provided to you in connection with the e-Scooter (e.g. the key and the battery) shall remain in our ownership or in the ownership of our partner companies at all times.



Your bike subscription

- 3.3 After giving prior notice, we are entitled to inspect the e-Scooter at any time, to wholly or partially replace it, and to carry out maintenance and repairs to the e-Scooter.
- 3.4 We reserve the right to put advertisements on the e-Scooter at any time and at our discretion. If an advertisement attached to the e-Scooter or printed on the e-Scooter is damaged, removed, unreadable or otherwise no longer visible, you are obliged to inform us thereof immediately.

#### **4. Driving License**

- 4.1 You confirm that you have attained 18 years of age and are in possession of a valid driving license allowing you to drive the e-Scooter in the Swapfiets Territory.
- 4.2 Upon our request, you are obliged to provide an evidence of your valid driving license together with your identity card (or passport). If it turns out that you have provided false evidence (e.g. a forged driving license), we reserve the right to report this to the police.
- 4.3 In the event that (i) your driving license is permanently or temporary revoked, (ii) you are banned from driving by a court or administrative decision, (iii) your driving license is permanently or temporary confiscated or suspended, or (iv) your permission to drive and/or hold the e-Scooter is otherwise restricted, you are obliged to inform us thereof immediately.
- 4.4 You are obliged to carry your driving license during every drive.

#### **5. Usage Rules | Non-Commercial Use Only**

- 5.1 Certain rules apply to you in relation to the use of the e-Scooter, which you must comply with at all times:
  - The use of the e-Scooter shall be in your sole responsibility.
  - Prior to using the e-Scooter, you are obliged to familiarize yourself with how the e-Scooter functions.
  - Prior to each use of the e-Scooter, you must check the e-Scooter for road safety, proper functioning and the absence of defects. For that purpose, you must, in particular, check the tightness of all screws which are of relevance to safety, the proper condition of the frame, the handlebars and saddle, the tire pressure, the functionality of the lights, the battery, the computer and the braking system. If a defect exists at the start of your use of the e-Scooter or a defect occurs while you are using it, you must refrain from using the e-Scooter or cease using it.
  - The e-Scooter is intended solely for your personal use. Consequently, you must not entrust the e-Scooter to third parties, you must not allow third parties the use of the e-Scooter in another form or sell it, hire it out, sublet it, pledge it or otherwise encumber the e-Scooter with security interests or rights of third parties.
  - The e-Scooter is a high-quality object. Consequently, you must not damage or destroy the e-Scooter or carry out any modifications, lacquering, painting or other changes to the e-Scooter, its battery or the computer including the software.
  - You must secure the e-Scooter effectively against theft (Clause 8).
  - You are only allowed to use the e-Scooter in the generally accepted customary manner, avoiding unusual strain on it and only on paved routes and streets.

- You must use and take care of the e-Scooter, its battery and the computer including the software in accordance with the instructions given by us.
- You must not use the e-Scooter whilst under the influence of drugs, medication or alcohol.
- You must always wear an appropriate helmet while driving the e-Scooter.
- You are only allowed to use the e-Scooter/luggage carrier in accordance with its maximum weight limit of 100kg.
- You must not transport any persons on the e-Scooter.
- You must park the e-Scooter only in such public spaces where parking is permitted.
- You are only allowed to use the e-Scooter in the Swapfiets Territory.

For the purposes of these e-SRT, use of the e-Scooter shall be deemed to also include pushing, parking and storing the e-Scooter.

- 5.2 When using the e-Scooter, you are obliged to always comply fully with all applicable legal provisions, in particular with all road traffic rules (e.g. the “Codice della Strada” (Italian Road Traffic Regulation)). In addition, you must always make sure that (i) the e-Scooter is not detrimental to road safety, (ii) other road users and pedestrians are not endangered, harmed or impeded, (iii) and the use of the e-Scooter does not interfere with, damage or endanger other vehicles or other property of third parties or other rights of third parties.
- 5.3 You are obliged to fully compensate us for and indemnify us from any and all fees, fines or other payments imposed on us by third parties (e.g. by public traffic authorities) on grounds of a breach of any of your obligations under your Subscription. In this context, we may provide your name and address to such third parties. Without prejudice to compensation for any other further damage, for the administrative handling of such incidents we reserve the right to charge you a fee in the amount of **EUR 25** per incident.
- 5.4 The e-Scooter is intended exclusively for personal use by you and for leisure activities. You cannot use the e-Scooter for your professional and / or entrepreneurial activity (e.g. using the e-Scooter for the professional delivery of goods is prohibited). In the event of a breach of your obligation under this Clause 5.4, you shall pay to us 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 us at our discretion, whereby, in case of a dispute, the adequacy of the amount shall be reviewed by a competent court upon your request. Such contractual penalty shall be deducted from any damage actually suffered by us and shall be without prejudice to any other rights we may have under your Subscription, including but not limited to a right to claim damages and to terminate your Subscription in accordance with Clause 15..

## 6. Swapping

- 6.1 In accordance with the terms of this Clause 6, you have a right to “**Swapping**” free of charge. By Swapping or a “**Swap**”, we mean:
- repairing defects in the e-Scooter free of charge within the Swapfiets Territory; and/or
  - exchanging the e-Scooter free of charge within the Swapfiets Territory.

The type and extent of the Swap is determined by us at our discretion.

- 6.2 During your Subscription Period you can request an unlimited number of Swaps. You will not incur any additional costs for Swapping. Swapping is covered by payment of the e-Scooter Rent. However, we can refuse a Swap until you have paid any outstanding e-Scooter Rent, fees or other sums to us or should the request for repair or exchanging be considered unjustified.
- 6.3 You can request a Swap by telephone, email or WhatsApp (“*Swap Request*”). You and we will agree the place and time of the Swap on an individual basis with you.
- 6.4 We make every effort to carry out a Swap within 24 hours after receipt of your Swap Request. However, if we do not meet this target time, you may not use this as the basis for any claims for compensation or any other claims.
- 6.5 If we exchange the e-Scooter, you are obliged to hand over the present e-Scooter, the battery and the key to us.
- 6.6 If there is a defect in the e-Scooter, you are entitled to a Swap provided that the defect has arisen in the course of your use of the e-Scooter in accordance with the terms of the Subscription including these e-SRT.
- 6.7 If the e-Scooter is stolen or lost, you are only entitled to a Swap if you are not responsible for the theft or loss. Clause 10 applies.
- 6.8 If you make a Swap Request without being entitled to a Swap, we reserve the right to charge you a fee of **EUR 20** per incident. This also applies if you fail to attend an agreed Swap appointment.

## **7. Rent | Fees | Time for Payment | Payment Terms**

- 7.1 In return for us making the e-Scooter available to you, you owe us the monthly rent agreed with us in the Order Process (“*e-Scooter Rent*”). The e-Scooter Rent is due for payment in advance at the beginning of each calendar month for the whole calendar month. If your Subscription starts or ends during a calendar month, the e-Scooter Rent will be charged by us on a pro rata basis for such a month.
- 7.2 In the event that any upfront payment payable by you to us has been agreed in the Order Process, you are obliged to pay such upfront payment to us after the completion of the Order Process without undue delay.
- 7.3 To the extent agreed in the Order Process, we may also charge you a one-time fee.
- 7.4 We reserve the right to adjust the e-Scooter Rent during your Subscription Period with effect for the future. We will inform you in text form about any changes in the e-Scooter Rent in good time prior to changes taking effect.
- 7.5 Payment of the e-Scooter Rent as well as any other fees shall be made, depending on the choice you made, by debit on credit card or by means of SEPA direct debit scheme. Consequently, you are obliged to give references of your credit card or to issue us a corresponding direct debit mandate in advance, giving details of your IBAN and BIC numbers. The payment of the e-Scooter Rent will be collected monthly and, except as provided for in the previous art. 7.2, is generally charged from the first day of the month following the delivery of the e-Scooter. We may also request that you pay the e-Scooter Rent not to us, but instead to one of our partner companies.
- 7.6 If a direct debit payment is not made due to a lack of funds or for other reasons for which you are responsible or if a direct debit is subsequently cancelled by you, you will be in default in relation to the relevant payment. You will receive a reminder from us to settle such payment within 14 days. If

the amount due is not paid within 14 days, we reserve the right to instruct a collection agency to recover the debt. All additional administration costs and out of court debt collection costs will be borne by you.

## **8. Securing the e-Scooter against Theft | Key**

- 8.1 We provide the e-Scooter together with one or more locks (e.g. chain lock) to you.
- 8.2 In order to prevent the loss/theft of the e-Scooter or any damage to it, you are obliged to always secure the e-Scooter with all locks which have been provided to you. When connected to the e-Scooter, the battery (if any) must always be secured with the lock provided.
- 8.3 If you do not secure the e-Scooter in the way described in Clause 8.2 above and as a consequence of this the e-Scooter is damaged, lost or stolen, you are obliged to pay us a fee in the amount of **EUR 2000**. This fee arises in addition to any deductible under Clause 10.
- 8.4 We will also provide you with a key to use with the locks. You are not allowed to make any additional keys or have them made (e.g. replacement key, copy, duplicate key). We may keep additional keys for the locks in our possession.
- 8.5 You are obliged to protect the key for the e-Scooter against loss, theft and unauthorized use at all times and you are not allowed to pass the key on to third parties.
- 8.6 If your key gets lost, stolen or damaged, you must inform us immediately. In these circumstances we will deliver a new key to you within the Swapfiets Territory and will charge you a fee of **EUR 30** per key. In addition, Clause 10.6 may apply. Upon delivery of a new key, you must confirm to us receipt thereof. If you recover a key which you had previously notified to us as lost, you must send such key to us immediately by mail at your own cost.

## **9. Damage to the e-Scooter | Accidents**

- 9.1 You are obliged to inform us of any damage to or accident with the e-Scooter within 24 hours of you becoming aware of the damage or the accident. This applies irrespective of the extent of the damage or the accident and of whether you have caused the damage or the accident or not.
- 9.2 If you have caused a damage to or an accident with the e-Scooter or such damage or accident otherwise results from your breach of the usage rules in these e-SRT (in particular of Clause 5), we reserve the right to claim compensation from you.
- 9.3 In the event of damage to the e-Scooter due to the fault or contributory fault of a third party, you are obliged within 24 hours to provide us with the identity and contact details of this third party. If you do not provide us with the contact details of the third party, although available to you, we reserve the right to invoice you in full for the losses and damages which we incur due to this.
- 9.4 In case of an accident with the e-Scooter, you must not accept any liability to a third party (e.g. by acknowledgement of a debt or by giving a comparable statement) without our prior consent. Otherwise, you alone will bear the consequences of such (accepted) liability and you will be obliged to indemnify us from any third-party claims in connection with your acceptance of liability. Besides, you are not allowed to accept any liability on our behalf or on behalf of our insurer.
- 9.5 You are obliged to notify all third parties involved in any accident with the e-Scooter that all compensation payable for the physical damages occurred to the e-Scooter shall be made directly to us. If such payments have been made to you, you are obliged to fully forward them to us without undue delay.

9.6 In the event of an accident with the e-Scooter, you are obliged to send us the accident form (available under <https://swapfiets.de/europeanclaimform>) signed by you and the third party within 7 days after the accident, irrespective of whether the accident was caused by you or not. If we do not receive such accident form within 7 days after the accident, we reserve the right to charge you all costs incurred by us as a result of a breach of your obligations under this Clause 9.6.

9.7 All accident with the e-Scooter must be reported to and registered with the police by you without undue delay. In the event that the police refuse to register the accident and to carry out appropriate police measures in connection with such accident, you are obliged to report this to us and to provide the relevant evidence without undue delay. This applies irrespective of whether the accident was caused by you or not.

## 10. Theft/Loss of the e-Scooter

10.1 In the event of a theft/loss of the e-Scooter or of any individual components of the e-Scooter (e.g. its battery), you are obliged to inform us thereof within 24 hours of you becoming aware of it.

10.2 In the event of theft/loss of the e-Scooter, you must hand over to us all of the key(s) for the e-Scooter without undue delay, however at the latest at the Swap appointment which is scheduled to replace the stolen/lost e-Scooter (if any). To the extent reasonable, you are obliged to support us in our efforts to recover the stolen/lost e-Scooter, including but not limited to by submitting reports to the police or by bringing any other legal action.

10.3 In the event of theft/loss of the e-Scooter and/or the battery we may charge you a deductible in the sum of **EUR 250** for the e-Scooter and **EUR 500** for the battery per incident. If the e-Scooter and/or the battery which has been notified to us as lost or stolen is/are found again, we may reimburse the deductibles paid by you at our discretion and subject to the technical and optical condition of the relevant e-Scooter and/or the battery.

You are free to prove that we have not suffered any loss or that such loss is significantly lower than the deductible under this Clause 10.3. We reserve the right to claim more extensive damages.

10.4 In the event of theft/loss of individual components of the e-Scooter other than the battery, we may charge you a deductible in the sum of the value of the stolen or lost components up to a maximum amount of **EUR 260**.

You are free to prove that we have not suffered any loss or that such loss is significantly lower than the deductible under this Clause 10.4. We reserve the right to claim more extensive damages.

10.5 If you do not secure the e-Scooter as described in Clause 8 and, as a consequence, the e-Scooter is damaged, lost or stolen, we will charge you a sum of **EUR 300**, in addition to any other deductibles due under this Clause 10.

You are free to prove that we have not suffered any loss or that such loss is significantly lower than the deductible under this Clause 10.5. We reserve the right to claim more extensive damages.

10.6 If you do not fulfil your obligations under Clause 10.1 or 10.2, in particular, if:

- you do not inform us about the theft/loss of the e-Scooter; or
- you do not hand over to us all of the keys for the e-Scooter without undue delay, however at the latest at the Swap appointment which is scheduled to replace the stolen/lost e-Scooter (if any),

we will charge you a sum of **EUR 1.750** for the e-Scooter and **EUR 500** for the battery.

You are free to prove that we have not suffered any loss or that such loss is significantly lower than the deductible under this Clause 10.6. We reserve the right to claim more extensive damages.

10.7 If it turns out that you have provided false information with regard to the theft/loss of the e-Scooter, we shall be entitled to charge you an unfairness surcharge in the sum of **EUR 100**. This sum must be paid in addition to any other amounts due under this Clause 10.

10.8 In any case, we reserve the right to claim compensation for any greater damage.

## 11. Subscription Period | Termination | Return

11.1 The term of your Subscription (“*Subscription Period*”) is agreed upon in the Order Process.

11.2 If you and we have agreed on 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 e-SRT. You or we may terminate a monthly Subscription at any time for convenience with a notice period of one month.

11.3 If you and we have agreed on a minimum Subscription, 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 with effect prior to the end of the minimum term will not be possible. Upon expiry of the minimum Subscription Period, the Subscription turns into a monthly Subscription specified in Clause 11.2.

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

11.5 If you have terminated your Subscription, prior to returning the e-Scooter to us you can revoke your termination at any time and reactivate your Subscription by email free of charge. After returning the e-Scooter to us, free of charge reactivation is not offered.

11.6 When the termination of your Subscription takes effect, you are obliged to return the e-Scooter and any other objects provided by us (in particular the keys) at your own cost and risk to us or, if we notify you thereof, to one of our partner companies. If you return the e-Scooter to us prior to the termination of your Subscription taking effect, your rights under your Subscription end at the time of return; however, we reserve the right to charge the e-Scooter Rent accruing up until when the termination of your Subscription takes effect.

11.7 If you do not return the e-Scooter to us in good time when the termination of your Subscription takes effect, we will charge you a late fee in the sum of **EUR 5** per day, up to a maximum of **EUR 35** until you (i) return the e-Scooter to us, (ii) reactivate your Subscription in accordance with Clause 11.5.

You are free to prove that we have not suffered any loss or that our loss is significantly lower than the late fee. We reserve the right to claim more extensive damages.

11.8 If you do not return the e-Scooter to us within 7 days after the termination of your Subscription taking effect and you do not reactivate your Subscription in accordance with Clause 11.5, we reserve the right to take legal action. In these circumstances, we may charge you a retention fee in the sum of **EUR 2.250**. You are at liberty to prove that we have not suffered any loss or that such loss is significantly lower than the retention fee.

You are free to prove that we have not suffered any loss or that such loss is significantly lower than the retention fee under this Clause 11.8. We reserve the right to claim more extensive damages.



## 12. Prohibition on Set-off

12.1 You are only allowed to set off any claims against our claims to the extent that your claims (i) have been finally determined in a binding judgment which is not subject to appeal, (ii) are undisputed, or (iii) are accepted by us.

## 13. Liability

13.1 If you put a e-Scooter into use, this will be construed as evidence that it functions properly and does not show any defects.

13.2 If you doubt the safety of the e-Scooter, you must immediately contact us.

13.3 You use the e-Scooter with assumption of risks and related responsibilities. We will not be liable for any damage or harm suffered by you as a result of using the e-Scooter, save in the case of wilful conduct or gross negligence on the part of us.

13.4 You will be responsible for communicating any defects and/or damage to the e- Scooter in good time.

## 14. Force majeure and third-party facts

14.1 We 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 us.

## 15. Express termination clause

15.1 The parties agree and stipulate the following express termination clause pursuant to art. 1456 of the Italian Civil Code. This contract must be considered automatically terminated if:

- you do not fulfill the payment obligations deriving from the signing of the rental contract;
- you use the e-Scooter outside the city limits chosen by the customer, among those in which we operate, at the time of the order request;
- you violate the obligations under art. 4 of these General Conditions;
- you use the e-Scooter in contrast with the rules of use referred to in art. 5 of these General Conditions;
- you have made false declarations or repeatedly make use of the services offered in an improper way (eg by making intentionally false declarations or requests for repair and/or replacement completely unjustified);
- you use the service offered by us in defiance of the principles of correctness and good faith and voluntarily damages the e-Scooter covered by the contract.

## 16. Privacy

16.1 We consider 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 at <https://swapfiets.com/it-IT/privacy> . Questions or remarks in this regard may be addressed to [privacy@swapfiets.com](mailto:privacy@swapfiets.com).

## 17. Exclusion of the right of withdrawal

17.1 Since we offer you services relating to leisure activities and the contract stipulated with you 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 you only before the e-Scooter is delivered, subsequently the right of withdrawal is excluded pursuant to 'art. 59 lett. n) of the Italian Consumer Code.

## **18. Applicable Law. Disputes**

- 18.1 This contract is governed by Italian law, being understood that you cannot be deprived of the protection guaranteed by the mandatory provisions of the law of your place of residence.
- 18.2 Your action against us may be brought before the courts of the Member State in which we are 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 you are domiciled.
- 18.3 The action of us against you can be brought by us only before the courts of the Member State in whose territory you are domiciled.
- 18.4 Any disputes related to the interpretation or execution of this contract will be resolved by the Court pursuant to Italian law, being understood that you cannot be deprived of the protection guaranteed to you by the mandatory provisions of the law of yourplace of residence.
- 18.5 You also have 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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