



Milltag Cycling Limited.  
211 Westbourne Studios  
242 Acklam Road  
London W10 5JJ  
United Kingdom

+44 (0)20 7138 3592  
www.milltag.cc

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## **MILLTAG CYCLING LIMITED STANDARD CONDITIONS OF SALE**

1.1 "The Company" means Milltag Cycling Limited.

1.2 "The Buyer" means the person, firm or company to who, goods are supplied subject to these conditions

1.3 "The Goods" means the items goods or materials supplied by the Company to the Buyer subject to these conditions.

1.4 "The Contract" means an agreement for the purchase of Goods by the Buyer.

### **2 EXISTENCE OF CONTRACT**

2.1

(a) No binding contract shall be created by the placing of an order by the Buyer, unless and until the Company sends written confirmation of acceptance.

(b) Any variation of the conditions shall not be valid unless expressly accepted by a director of the Company in writing.

(c) No verbal representation by any employee or agent of the Company shall form part of the contract between the Company and the Buyer nor shall they be treated as constituting a representation on the part of the Company.

(d) Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.

2.2 These Conditions shall also apply to the future contract for the supply of goods by the Company to the Buyer save to the extent that the Company shall from time to time advise the Buyer in writing that it has adopted revised conditions in substitution for these Conditions.

### **3 PRICE**

3.1 Unless otherwise stated, prices quoted are exclusive of value added tax or any similar taxes or duties levied by any government on the value of the Goods, Carriage, packing and delivery charges will be payable by the Buyer and added to the invoice as a separate item.

3.2 The price to be paid for the Goods shall be listed on the Company's price list current at the date of despatch of the Goods from the Company's premises.

### **4 PAYMENT**

4.1 The price of the Goods shall be paid by the date stated for payment in the invoice sent by the Company. The Buyer will reimburse to the Company all costs and expenses (including legal costs) together with interest thereon at the rate 2% per annum above (Barclays Bank) base rate, incurred in the collection of any overdue amount.



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4.2 The Company may in its discretion require the buyer to pay all or part of the Contract price at any time before delivery by way of deposit.

4.3 For the purposes of the provisions contained in this Condition 4 only, time shall be of the essence of the contract.

## **5 DELIVERY**

5.1 Delivery of the Goods shall take place at the Buyer's premises or at such other location as may be agreed.

5.2 Times quoted for delivery of the Goods are intended as estimates only and are not therefore to be treated as being of the essence of the contract.

5.3 The Company shall not be liable in any way for any direct or indirect loss, damage or expense (including loss of profits and liability to third parties) suffered or incurred by the Buyer as a consequence of any delay in delivery.

5.4 The Company reserves the right to deliver the goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. Where the Goods are delivered by instalments, the Contract shall become severable and each instalment shall be deemed to be the subject of a separate contract. No default or failure by the Company in respect of any or more instalments shall entitle the Buyer to treat the Contract as repudiated or to damages.

5.5 Deviations in the quantity of the Goods delivered (representing not more than 10% by value) from that stated in the acceptance of order shall not give the buyer any right to reject the Goods or to claim damages and the Buyer shall be obliged to accept and pay at the Contract rate for the quantity of Goods delivered.

## **6 STORAGE OF UNDELIVERED GOODS**

If the Company has been unable without default on its part to effect delivery of the Goods fourteen days after notification by the Company that the Goods are ready for despatch, the Company shall be entitled to arrange storage either at its own premises or elsewhere on the Buyer's behalf and at the Buyer's risk and expense. The Goods shall be invoiced on the day on which they are put into storage and such Goods shall be thereupon be deemed to have been delivered.

## **7 FORCE MAJEURE**

The Company shall not be liable for failure to deliver the Goods or for failure to comply with the Contract in any other respect by reason of force majeure or any circumstance howsoever arising outside the reasonable control of the Company including, but without limitation to the generality of the foregoing, any industrial action, strikes, lock-outs, shortages of labour, breakdown of machinery, non availability of supplies of stock, materials or parts, delay in delivery to the Company of goods or materials, civil commotion, riots, war, breaking off of diplomatic relations, fire, explosion, accident, sabotage, storm, flood, earthquake, fog, subsidence, pestilence or epidemics or compliance with any directive, request or order of any person with actual or apparent governmental (or other public) authority, Government action or legislation or regulation of any Act of God and inability to obtain fuel, power or transportation. Such failure shall not affect the obligation of the Buyer to pay for Goods already delivered. In the event that such circumstances shall continue for an unbroken period of sixty days the Company shall have the right by notice in writing to terminate the Contract or Contracts in question to the extent that they shall not already have been performed.



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## 8 DAMAGE, SHORTAGE AND LOSS IN TRANSIT

8.1 The Buyer shall carefully inspect the Goods on delivery.

8.2 No liability in respect of Goods found to be damaged on delivery, or, had a careful inspection been carried out by the Buyer on delivery, which would have found to be damaged, or for shortages, or for non-compliance with their description, will be accepted by the Company unless (a) a senior Manager of the Company is contacted by telephone at the time of delivery and (b) the delivery note is clearly marked with such damage or shortage and (c) written notice thereof is received by the Company within three days of delivery or, in the case of non-delivery, within seven days of the notified date of delivery and (d) the Company is given an opportunity to inspect the Goods within a reasonable time before any use is made thereof by the Buyer and (e) the Buyer was not aware of the damage to, or shortages in the Goods at the time of entering into the Contract.

8.3 Subject to Conditions 8.2 above the Company shall make good any shortage in the Goods and where appropriate replace any Goods damaged in transit as soon as it is reasonably able to do so but otherwise shall be under no liability whatsoever for such shortage or damage.

## 9 PROPERTY, TITLE AND RISK

9.1 Risk of loss or damage in the Goods shall pass to the Buyer at the time of delivery.

9.2 Property and ownership in the Goods shall, notwithstanding delivery, not pass for the Company until (a) the Buyer shall have paid in full therefor pursuant to condition 4 and (b) no other sums are then outstanding from the Buyer to the Company on any account whatever whether or not such sums have become due for payment.

9.3 Until payment pursuant to Condition 4 is made to the Company, the Buyer shall hold the Goods on a fiduciary basis only as bailee only for the Company and the Buyer shall store the Goods without cost to the Company separately from its own goods or those of any person and marked in such a way that they are clearly identifiable as the property of the Company.

9.4 The Buyer shall, while property in the Goods remains with the Company insure the Goods to their full value against "All Risks" to the reasonable satisfaction of the Company and whenever reasonably required to do so shall produce to the Company a copy of the policy or policies of such insurance and a receipt for the current premium. The interest of the Company shall be noted on the policy and a certificate to this effect shall be produced to the Company on request.

9.5 In the event that the Company is entitled to exercise any of its rights under Condition 11:-

9.5.1 The Company shall (without prejudice to any of its other rights and remedies) have the right to re-possess the Goods and for that purpose to sever, detach or unmix, the Goods from anything to which they are attached or in which they are installed or mixed without being responsible for any damage reasonably caused thereby and may enter upon any land or building, vehicle or vessel or other place upon which the Goods are reasonably thought to be situated: and

9.5.2. Any right of the Buyer to sell, dispose of, deal or in any way use the Goods shall cease forthwith.

9.6 Notwithstanding the above, the Buyer, before payment pursuant to Condition 4 has been made by the Buyer shall be entitled to sell the Goods at full market value for the account of the Company provided that such sale shall



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constitute and be a sale of the Company's property. Until title passes the entire proceeds of sale of the Goods shall be held in trust for the Company and shall not be mixed with other monies or paid into any overdrawn bank account and shall be at all time identifiable as the Company's money.

9.7 The Company shall be entitled to maintain an action for the price of any Goods notwithstanding that title in them not passed to the Buyer.

## **10 WARRANTY**

10.1 The Company's liability to the Buyer for any breach of its obligations shall not in any event exceed the Contract price and the Company shall be under no liability for any consequential or indirect loss suffered, or liability to third parties incurred, by the Buyer. The Buyer shall handle the Goods as directed by the Company from time to time and shall use its best endeavours to ensure that users observe and comply with any warnings, directions and instructions contained or supplied with the Goods (including packaging) Without prejudice to any other provisions of this Agreement the Company shall not be liable for any failure by the users of the Goods to observe and comply with the aforesaid warnings, directions and instructions for any unauthorised use by users.

10.2 The Company warrants that if the Buyer notifies the Company in writing within 21 days of delivery that the Goods are defective where such defects were not disclosed and accepted by the Buyer prior to delivery and the buyer at the request of the Company and at the Buyer's expense returns the Goods to such an address as the Company may notify the Buyer or, alternatively, at the Company's option, makes the Goods available for inspection by the Company at a time convenient to the Company at the Buyer's premises, then, if the Company is satisfied that the Goods are defective and that the defects had not been disclosed by the Company (whether specifically, or by general description) and would not have been evident to the Buyer on delivery and that there has been no misuse or neglect on the Buyer's part or failure to follow strictly any instructions supplied by the Company relating to the Goods the Company will issue a credit note to enable the Buyer to order new Goods free of charge. Payment for allegedly defective Goods shall be withheld by the Buyer pending investigation by the company.

10.3 subject to the provisions of this Condition 10, all warranties and conditions whether applied by statute or otherwise are hereby excluded.

10.4 Notwithstanding the provisions of Condition 10.2 and 10.3 above, nothing in this condition 10 or in any other provisions of these Conditions shall: - 10.4.1 restrict or exclude any liability for death or personal injury caused by negligence of the Company; or the Company's liability as Seller under Section 12 of the Sale of Goods Act 1979; or

10.4.2 affect the statutory rights of a buyer under dealing as a consumer (as defined in Section 12 of the Unfair Contract Terms Act 1977)

10.4.3 restrict or exclude and liability of the Company arising under Part 1 of the Consumer Protection Act 1987.

## **11 EFFECT OF DEFAULT BY BUYER**

11.1 In the event that; -

11.1.1 the Buyer fails to make payment for the Goods in accordance with Condition 4;

11.1.2 the Buyer fails to pay any other debt due and payable to the Company;



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11.1.3 the Buyer fails to take delivery of any Goods or any other goods supplied by the Company (except in accordance with the Buyer's contractual rights);

11.1.4 any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with his creditors or commits and act of bankruptcy or if any petition in bankruptcy be presented against the Buyer or the buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if bankruptcy proceedings shall be commenced in respect of the Buyer or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business; or

11.1.5 the Buyer otherwise commits a breach of these conditions then all sums outstanding in respect of Goods shall become payable immediately and the Company may in its absolute discretion and without prejudice to any other rights which it may have:

11.1.6 suspend all future deliveries of Goods to the Buyer under the Contract in question or under an other contract and or terminate and such Contact(s) without liability upon its part; and/or

11.1.7 require payment or interest on all amounts due at the rate of 2% per annum above the base rate of (HSBC Bank) for the time being prevailing from the date when the payment for the Goods in question became due to the date of actual payment (such interest to run from day to day and to accrue after as well as before and judgement); and/or

11.1.8 exercise any of its rights pursuant to Condition 9.

11.2 In addition to any right of lien which the Company may have the Company shall, in any event described in Condition 11.1 above or breach by the Buyer of the terms of these Conditions, have a general lien over all Goods of the Buyer then in the possession of the Company for the unpaid price of the Goods and any other Goods sold and delivered by the Company to the Buyer under these Conditions or any other contract.

11.3 The Buyer shall pay the whole costs (including legal costs on a full indemnity basis) incurred by the Company in the enforcement of its rights hereunder and all such costs as be incurred by it as a consequence (direct or indirect) of a breach by the Buyer of any of these Conditions.

## 12 INTELLECTUAL PROPERTY

No right or licence is granted under the Contract to the Buyer under any patent, trademark, copyright, registered design or other intellectual property right to except the right to us or to resell the Goods but no warranty is given as to whether such use or resale will infringe the rights of any third party

## 13 INDEMNITY

The Buyer shall indemnify the Company against all claims, costs and expenses in respect of any actual or alleged loss or damage arising out of the use of the Goods at any time after delivery of the Goods to the Buyer (except where the Buyer is dealing as a consumer and such indemnity would, according to the test of reasonableness laid down in Section 11 of the Unfair Contract Terms Act 1977, be unreasonable).



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#### **14 LAW AND JURISDICTION**

These Conditions and the Contract shall be governed in all respects by the Laws of England and any dispute hereunder shall be subject to the non-exclusive jurisdiction of the English Courts.

#### **15 NOTICES**

Any notice required to be served pursuant to these conditions shall be served as follows; -

15.1 on the Company - Actua International Limited, Nicholas House, The Riverfront, Enfield, Middlesex, EN1 3TR or such other addresses as the Company may from time to time notify to the Buyer;

15.2 office. A properly addressed notice sent by first class post to destinations in the UK shall be deemed to have been received two days after the date of its despatch. A notice sent to any other destination shall be sent by registered airmail and be deemed to have been received seven days after the date of its despatch.

#### **16 SEVERANCE**

Any provision or term hereof which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision hereof.

#### **17 WAIVER**

No waiver or forbearance by the Company, whether express or implies, enforcing any of its rights hereunder shall prejudice its rights to enforce such rights in the future.

#### **18 ASSIGNMENT**

The Company may assign, licence or sub-contract all or any of its rights and obligations under the Contract without the Buyer's consent. The Buyer must not assign or in any way dispose of its rights or obligations under the Contract without the prior consent of the Company.