

## TERMS OF SERVICE OF THE "MALINIAK SPEEDWAY AKCESORY" ONLINE STORE

The Maliniak Speedway Akcesory Online Store operating on the domain <http://maliniak.net> is a website operated by the Entrepreneur operating under the firm Micek Rafał Maliniak Speedway Akcesory, ul. Dworcowa 7, 64-100 Leszno (Poland), NIP: PL6971096939, REGON 410342200 entered into CEIDG (Central Repository and Information on the Entrepreneurship).

**Mailing address:** Maliniak Speedway Akcesory, ul. Dworcowa 7, 64-100 Leszno (Poland)

**E-mail:** [shop@maliniak.net](mailto:shop@maliniak.net)

**Phone:** +48 516 088 114

### § 1. Definitions

Within these Terms of Service the following definitions are utilized:

**ADDRESSEE** - the entity indicated by the Service Recipient as competent to receive the shipment;

**REGISTRATION FORM** - a form available at the Online Store that allows creation of an Individual Account;

**ORDER FORM** - interactive form available at the Online Store that allows placing an Order, in particular via adding the Products to the Shopping Cart and defining the terms of the Purchase Contract, including the means of delivery and payment;

**WARRANTY** - a voluntary obligation of the manufacturer, granted on the basis of a warranty statement that defines the rights and obligations of the Purchaser or Entrepreneur acting in the consumer capacity, in case the goods do not have the properties declared in the aforementioned statement.

**CIVIL CODE** - the Polish Civil Code, i.e. ustawa Kodeks Cywilny z dnia 23 kwietnia 1964 (Dz.U. z 2014, poz. 121 ze zm.);

**CONSUMER** - a natural person who - pursuant to the Article 22(1) of the Civil Code performs a legal transaction with the entrepreneur that is not directly related to their business or professional activity;

**INDIVIDUAL ACCOUNT** - a panel ascribed individually to a Customer after the completion of the registration of the data in the Online Store system, marked by the e-mail address and password inputted by the Customer in the seller's digital system, that is used to collect data inputted by the Customer as well as information pertaining to the Orders placed by the Customer at the Online Store;

**SHOPPING CART** - a feature of the Online Store system that enables placing of Orders;

**PURCHASER** - a Consumer, an Entrepreneur or an Entrepreneur acting in the consumer capacity who concludes a sales contract at the Online Store. The Purchaser is simultaneously a Service Recipient;

**ENTREPRENEUR** - a natural person, a legal person or organizational unit without legal personality that, pursuant to the Article 43(1) of the Civil Code, conducts in their own name an economic or professional activity in connection with the legal transactions that are subject to these Terms of Service;

**ENTREPRENEUR ACTING IN THE CONSUMER CAPACITY** - a natural person concluding a legal transaction directly related to their business activity, when the content of the contract shows that it does not have a professional character for this person, resulting in particular from the subject of their business activity made available on the basis of the regulations pertaining to the CEIDG;

**TERMS OF SERVICE** - these Terms of Service;

**PLEDGE** - the procedure for pursuing liability by a consumer or a natural person concluding a contract directly related to their business activity, when the content of this contract shows that it does not have a professional character for this person, resulting in particular from the subject of their business activity, in connection with the disclosed defect physical or legal nature of the purchased goods, specified in the provisions of the Civil Code.

**ONLINE STORE/STORE** - the Online Store operated by the Seller on the domain <http://maliniak.net>;

**SELLER** - Entrepreneur operating the Online Store to which these Terms of Service pertain, i.e. Rafał Micek, under the firm Micek Rafał Maliniak Speedway Akcesory, ul. Dworcowa 7, 64-100 Leszno (Poland), NIP: PL6971096939, REGON 410342200 entered into CEIDG (Central Repository and Information on the Entrepreneurship);

**GOODS** - all items offered for sale at the Online Store;

**SALES CONTRACT/CONTRACT** - a contract in which the Seller - an Entrepreneur - pledges to transfer the ownership of an item(s) (Goods) to the Customer and hand over said item(s) and the Customer pledges to collect the item(s) (Goods) and pay the price to the Seller;

**CONTRACT CONCLUDED AT A DISTANCE** - a Sales contract concluded between the Seller and the Purchaser, concluded without the simultaneous physical presence of the parties to the contract, using one or more means of long-distance communication, up to and including the moment of the conclusion of the contract;

**SERVICE RECIPIENT** - a natural person, a legal person or organizational unit without legal personality that enjoys the services provided by the Service Provider online; a Service Recipient may also be a Purchaser;

**SERVICE PROVIDER** - Entrepreneur operating the Online Store to which these Terms of Service pertain, i.e. Rafał Micek, under the firm Micek Rafał Maliniak Speedway Akcesory, ul. Dworcowa 7, 64-100 Leszno (Poland), NIP: PL6971096939, REGON 410342200 entered into CEIDG (Central Repository and Information on the Entrepreneurship);

**ORDER** - a declaration of will of the Purchaser or Entrepreneur acting in consumer capacity, the purpose of which is conclusion of a Sales contract for goods by indicating the Goods, their type and quantity.

## **§ 2. General provisions and rules of use of the Online Store**

1. Every Customer [Service Recipient?] may access these Terms of Service at any moment. The access to the Terms of Service is available via the "Regulamin Sklepu" link at the webpage of the Online Store <http://maliniak.net>
2. Information pertaining to the Goods published at the Online Store such as: price, photographs and images as well as descriptions constitute an invitation to conclude a contract in accordance with the Terms of Service, pursuant to the Article 71 of the Civil Code.
3. Photographs and descriptions of the Goods at the Online Store are published in order to present particular models and types of said Goods.
4. Browsing through the list of Goods available at the Online Store does not require creation of an Individual Account.
5. The Seller, in the broadest scope provided by the law, is not liable for interference, in particular disruption of the functioning of the Online Store, caused by the vis major, third parties' illegal activity or the technical incompatibility of the Online Store with the Customer's [Service Recipient's] technical infrastructure.
6. Placing of an Order for Goods listed by the Store is possible either after creation of an Individual Account or via inputting the required personal data and address data permitting the realization of the Order without creation of an Individual Account.
7. The creation of an Individual Account is conducted in accordance with the Terms of Service.
8. While creating an Individual Account the Customer [Service Recipient] fills out the Registration Form in which they list a self-selected e-mail, self-created password and phone number (optional and voluntary information). Upon registering the Customer [Service Recipient] is required to accept the Terms of Service. Upon completion of the registration at the Online Store, a confirmation of registration is sent to the e-mail provided by the Customer [Service Recipient] in the Registration Form.
9. Registration at the Online Store as well as using the functionalities of the Store are free of charge.
10. The Service Provider utilizes cookies in order to gather all information pertaining to the use of the Online Store by the Service Recipients, in order to maintain the logged-in session of the Service Recipient.
11. The Service Recipient may, at any moment, delete the cookies or block their use via the settings of their Internet browser.
12. The Service Recipient who has an Individual Account (has registered an Individual Account) at the Online Store ran by the Service Provider terminates the contract of providing services electronically by lodging a demand to delete their Individual Account by sending the appropriate demand via e-mail or to the Service Provider's mailing address. The Service Provider deletes the Individual Account and removes their e-mail from the subscribers list without undue delay.
13. The Service Recipient who has an Individual Account may delete said account at any moment, without stating any reasons and without any fees.

### **§ 3. The terms of Sales**

1. All information pertaining to the Goods listed at the Online Store constitutes an invitation to conclude a sales contract pursuant to the Article 71 of the Civil Code.
2. The subject of the sales contract is brand new Goods, free of defects and listed at the Online Store at the moment of placement of Order by the Customer.
3. All prices of Goods offered by the Online Store are quoted in PLN. Said prices are gross prices, i.e. they include the relevant taxes, inter alia the tax on the goods and services (VAT).
4. The prices of Goods offered by the Online Store do not include the shipping costs.
5. The shipping costs depend on the delivery method selected by the Customer, as well as their value and features such as weight and size. The shipping costs are stated upon the Customer's selection of the delivery method.
6. The total cost of the Order encompassing the total price of all selected Goods, including the shipping costs is indicated in the Shopping Cart before the placement of the Order by the Customer. The total cost of the Order also includes any additional fees, such as the shipping, delivery or postal services or any other costs.
7. If the subject of the Sales contract does not reasonably permit the prior calculation of the total cost, the information pertaining to the means of calculating the price and fees (such as shipping, delivery or postal services) as well as other costs, is indicated at the Online Store in the description of the Goods.
8. In order to conclude a Sales contract it is required to:
  - 8.1. place an order online at the webpage of the Online Store via the Shopping Cart (by "add to Cart" button);
  - 8.2. confirm one's awareness that the Order incurs the obligation to make a payment by clicking the "Place an Order" button;
  - 8.3. fill out the Addressee's address data, such as address to which the delivery of the purchased Goods is to be made as well as the phone number for contact with the Customer in matters pertaining to the placed Order;
  - 8.4. if the Customer wishes to receive an invoice - fill out the relevant data. The Customer may consent to receive the invoice in a digital form. In such a case, the invoice will be sent to the e-mail listed by the Customer in their Individual Account;
  - 8.5. confirm the Order by clicking the "order and make payment" button;
  - 8.6. make a payment via one of the available means of payment.

### **§ 4. Available means of delivery and payment**

1. The Customer may select one of the following methods of delivery of the ordered Goods:
  - 1.1. courier delivery;
  - 1.2. inPost parcel delivered via the inPost parcel locker;
  - 1.3. collection in person at the address: ul. Dworcowa 7, 64-100 Leszno (Poland).
2. If the Customer selects a delivery method other than collection in person, the ordered Goods will be sent by the Seller within 7 business days via the method selected by the Customer during the placement of the Order.

3. Counting of the delivery term of the Order:
  - 3.1. in case of selection of payment via bank transfer, digital payment or payment with a debit/credit card - begins on the day of funds flowing into the Seller's bank account;
  - 3.2. in case of cash of delivery payment - begins on the day of the conclusion of the Sales contract;
  - 3.3. in case of the collection in person - within one business day. The Customer will be notified by the Seller about the readiness of the Order to be collected via e-mail provided during the placement of the Order;
  - 3.4. in case of ordering of Goods with different terms of readiness for collecting, the longest term listed is the term of readiness for collecting of the entire Order.
4. The costs of delivery are paid by the Customer unless the Sales contract states otherwise. The costs of delivery are presented to the Customer during the placement of the Order.
5. Collection in person is free of charge.
6. The Customer may utilize the following payment methods:
  - 6.1. cash on delivery payment - the Customer is required to make the payment at the collection of the delivery;
  - 6.2. payment via the bank transfer to the Seller's bank account - the Customer is required to make the payment within 3 calendar days pending since the conclusion of the Sales contract. In case of failure to make a payment within that period the Order is cancelled;
  - 6.3. digital payment: the Przelewy24 system, Google Pay, Apple Pay - the Customer is required to make a payment within 3 calendar days pending since the conclusion of the Sales contract. In case of failure to make a payment within that period the Order is cancelled;
  - 6.4. payment with a debit/credit card at the moment of making the purchase.

## **§ 5. Delivery of Orders**

1. The delivery takes place in Poland or abroad.
2. The Customer is required to provide a true and detailed address to which the ordered Goods are to be delivered.
3. The place of performance is the address provided by the Purchaser as the delivery address for the ordered Goods.
4. At the time of delivery, the Seller delivers the Goods by transferring physical possession to the Purchaser, without undue delay, within the period specified in § 4 of the Terms of Service.
5. At the time of delivery of the Goods, the Seller provides the Purchaser with a fiscal receipt, either digitally or as a physical copy delivered with the Goods. On Purchaser's demand the Seller issues an invoice in a digital or physical form. The Seller provides an Entrepreneur acting in the consumer capacity only with an invoice.

## **§ 6. Consumer complaints**

1. The Seller is liable to the Consumer and the Entrepreneur acting in the consumer capacity for the compliance of the goods with the concluded Sales contract, to the extent specified in the Civil Code.

2. If the Goods are found to be inconsistent with the contract before the expiry of the Seller's liability period, i.e. 2 years from the release of the Goods, the Consumer or Entrepreneur acting in consumer capacity is obliged to notify the Seller of the situation, at the choice between:
  - 2.1. filling out a Complaint Form available online;
  - 2.2. sending a notification or delivering it in person at the mailing address;
  - 2.3. sending a notification via e-mail;
  - 2.4. orally for the record at the Seller's headquarters.
3. The Consumer or Entrepreneur acting in consumer capacity may, for the purpose of notification, use the template of notification that constitutes an Appendix to the Terms of Service. Both Consumer and Entrepreneur acting in consumer capacity may, however, submit any other unambiguous notification that contains at least: name and surname of one who makes the complaint, the demand of the person making the complaint, the date of filing in the complaint, handwritten signature of the person making the complaint. If the notification is made via e-mail, it should also contain the consent to process the complaining party's e-mail.
4. In order to enable the Seller to hear the complaint, the Consumer or Entrepreneur acting in consumer capacity is obliged to send the Goods that the complaint pertains to back to the Seller's mailing address, or to release them to the Seller or person authorized by the Seller to collect the Goods, without undue delay.
5. If the Seller accepts the complaint, he reimburses the Purchaser for the costs of sending the Goods back to the Seller.
6. If the Goods are not in compliance with the Sales contract, the Purchaser may demand either lowering of the price or to terminate the contract, unless the Seller promptly and without undue inconvenience for the Purchaser, replaces the faulty Goods with Goods free of flaws or will remove the flaw.
7. The restriction stated in Section 6 above does not apply if the Goods have already been replaced or repaired by the Seller, or the Seller has not make good on the obligation to replace the flawed Goods with Goods free of flaws.
8. The lowered price should be in such a proportion to the price stated in the Sales contract as the value of the faulty Goods is proportional to the value of the Goods free of faults.
9. The Consumer or Entrepreneur acting in consumer capacity may, in lieu of the manner of removing of the flaw proposed by the Seller, demand the replacement of the faulty Goods with Goods free of flaws, or to demand removal of flaws in lieu of replacement of the Goods, unless the manner of causing the Goods to compliance with the Sales contract chosen by the Purchaser is impossible or would cause excessive costs when compared to the manner proposed by the Seller. When evaluating the excessiveness of costs, the value of the Goods in compliance with the Sales contract, the kind and degree of the detected incompliance are taken into consideration; the inconveniences that the Consumer or Entrepreneur acting in consumer capacity may be in danger of by use of the manner of satisfying their claim other than one demanded by them.
10. The Purchaser cannot terminate the Sales contract if the fault is insignificant.
11. The Consumer or Entrepreneur acting in consumer capacity may access extrajudicial procedures for hearing the complaints and appeals regardless of the pending complaint procedures.
12. In case a complaint filed in by a Consumer or Entrepreneur acting in consumer capacity is not accepted by the Seller, they may request mediation or a settlement of the dispute by a court of arbitration.

13. In case a complaint is not accepted by the Seller, an avenue for an extrajudicial settlement of the disputes pertaining to the Sales contracts concluded online between an entrepreneur and consumers and entrepreneurs at a EU level, via the ODR Platform that constitutes an access point for consumers and entrepreneurs wishing to extra-judicially settle disputes that are governed by the Regulation (EU) of the European Parliament and of the Council of 21st May 2013 No 524/2013. The ODR Platform at <http://ec.europa.eu/consumers/odr> is an interactive webpage that may be accessed free of charge in all official languages of the European Union institutions.

#### **§ 7. Return of the Goods and right to terminate the contract**

1. The Consumer and Entrepreneur acting in consumer capacity has the right to terminate the contract concluded at a distance within 14 days without any requirement to state the reasons and free of charge.
2. The deadline is pending since the day the Customer or Entrepreneur acting in consumer capacity or a third party other than the carrier and named by the Consumer or Entrepreneur acting in consumer capacity has acquired the physical possession of the Goods.
3. The Consumer or Entrepreneur acting in consumer capacity is required to notify the Seller before lapsing of the 14-day period about their decision in that regard.
4. The Consumer's or Entrepreneur acting in consumer capacity's statement does not require any particular form. It is sufficient to use a termination of contract sample form that constitutes an Appendix to the Terms of Service or making any statement that is unambiguous in its contents.
5. It is presumed that the deadline to terminate the contract has been met when the Consumer or Entrepreneur acting in consumer capacity has sent the statement on termination of the contract before the lapse of the deadline. The burden of proof in this regard rests with the Consumer or Entrepreneur acting in consumer capacity.
6. In case of termination of the contract, the Seller returns, without an undue delay, all sums received from the Consumer or Entrepreneur acting in consumer capacity, not later than within 14 days pending since he was notified about the Consumer's or Entrepreneur acting in consumer capacity's decision to terminate the contract. The refund also encompasses the shipping costs incurred by the Purchaser; however, the refund in this regard is limited to the cost of the cheapest ordinary method of the delivery of the Goods.
7. The Seller may withhold the refund until he receives the Goods or the Consumer or Entrepreneur acting in consumer capacity provides a proof of having the Goods shipped.
8. The Seller makes the refund via the same payment method as was used by the Consumer or Entrepreneur acting in consumer capacity, unless they explicitly consented to a different payment method that does not incur any expenses on their part.
9. The Consumer or Entrepreneur acting in consumer capacity who has terminated the contract is obligated to return the Goods by shipping or to return them to the Seller or a person duly authorized by the Seller without an undue delay, not later than within 14 days pending since the day on which they notified the Seller about their decision to terminate the contract. The deadline is presumed to have been met if the Consumer or Entrepreneur acting in consumer capacity ships the Goods before the lapse of the deadline.
10. The returned Goods are to be in an unaltered condition, unless the alternation was necessary within the bounds of proper familiarization with the Goods. The Consumer or Entrepreneur

acting in consumer capacity is liable for the diminished value of the Goods caused by its use exceeding the bounds imposed by the necessity to ascertain the nature, features and functioning of the Goods. The Consumer or Entrepreneur acting in consumer capacity is liable for the diminished value of the Goods that has occurred since they have acquired the physical possession of the Goods or since a third party other than the deliverer and appointed by the Consumer or Entrepreneur acting in consumer capacity has acquired the physical possession of the Goods, as well as for the diminished value of the Goods resulting from the improper use of said Goods in a degree greater than necessary for ascertaining the nature, properties or functioning of the Goods.

11. In case the nature of the Goods prevents it from being shipped via the postal services, the information pertaining to the means of delivery and costs of the return of the Goods are listed in the Goods description at the webpage of the Online Store.
12. The Consumer or Entrepreneur acting in consumer capacity does not have the right to terminate the contract if the Contract:
  - 12.1. pertains to the Goods that are not pre-fabricated, that are manufactured in accordance with the specifications provided by the Consumer or Entrepreneur acting in consumer capacity, or that are tailor-made to suit the individualized, particular needs;
  - 12.2. pertains to the provision of services if the Seller has performed the services fully with an explicit consent of the Consumer or Entrepreneur acting in consumer capacity, who has been notified before the commencement of the performing of the services that they will forfeit the right to terminate the contract;
  - 12.3. pertains to such Goods that by their very nature are inseparately merged with other items.

## **§ 8 GDPR Information**

On the basis of Article 13 of the Regulation (EU) of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119/1) (hereinafter referred to as GDPR) the Seller informs that it is Entrepreneurship operating under the firm Micek Rafał Maliniak Speedway Akcesory, ul. Dworcowa 7, 64-100 Leszno (Poland), NIP: PL6971096939, REGON 410342200 entered into CEIDG (Central Repository and Information on the Entrepreneurship).

## **§ 9 Final provisions**

1. In matters not regulated in the Terms of Service the provisions of the Civil Code as well as Consumers' Rights Act of 30th May 2014 (ustawa o prawach konsumenta z dnia 30 maja 2014 r., Dz. U. z 2014 r., poz. 827) and Services Provided Digitally Act of 18th July 2002 (ustawa o świadczeniu usług drogą elektroniczną z dnia 18 lipca 2002 r., Dz.U. z 2002 r., Nr 144 poz. 1204).
2. All names of the Goods listed at the website of the Online Store are used for identification purposes and may be protected and copyrighted on the basis of the Industrial Property Act (ustawa Prawo o własności przemysłowej z dnia \_\_\_\_, Dz.U.2003 r., Nr 119, poz. 1117).



3. The Terms of Service are available free of charge, at any time, accessible via a link published at the Main Page [Home Page] of the website of the Online Store, as well as in the Shopping Cart (before the conclusion of the contract). It is printable and downloadable as a file.
4. The Seller reserves the right to amend the Terms of Service. Amending of the Terms of Service does not violate the rights of such entities that have placed an Order or concluded a Sales contract before the implementation of the amendment.