

General Terms and Conditions

1. Definitions

In the below General Terms and Conditions, the stated terms will have the following meaning:

Subscription:	the agreement between Swapfiets and the Renter for the use of the Bicycle by the Renter, as well as any other agreement between Swapfiets and the Renter;
General Terms and Conditions:	these general terms and conditions of Swapfiets that apply to any Subscription;
End Date:	the date on which the Subscription ends by means of cancellation by the Renter as explained in Article 6.5;
Bicycle:	the bicycle or e-bike made available by Swapfiets to the Renter under the Subscription for use by the Renter in accordance with the General Terms and Conditions;
Renter:	any natural person or legal entity who takes out a Subscription with Swapfiets;
Unjustified Swap:	has the meaning given to it in Article 5.4;
Power 7 Heavy Use:	Subscription for the e-bike (Power 7), whereby the Renter may ride an unlimited amount of kilometres per month;
Power 7 Normal Use:	Subscription for the e-bike (Power 7), whereby the Renter may ride less than 1,000 km per month in total;
Swapfiets:	Swapfiets B.V., having its registered office in Amsterdam and its principal place of business at Molukkenstraat 200, 1098 TW Amsterdam, Chamber of Commerce number 65958713;
Swapping:	Swapfiets' solving of a problem for the Renter concerning the Bicycle by either repairing the Bicycle or exchanging it for another Bicycle.

2. Applicability

- 2.1 These General Terms and Conditions apply to any Subscription between Swapfiets and the Renter.
- 2.2 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.



Your bike subscription

2.3 All amounts stated by Swapfiets include VAT.

3. Subscription

3.1 The Renter will have a Bicycle at their disposal for the term of the Subscription, in accordance with the chosen Subscription.

3.2 The Bicycle comes with a ring lock and a chain lock with one key.

3.3 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 within the limits of the city where Swapfiets operates.

3.4 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.

3.5 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.

3.6 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.

4. Conditions

4.1 The Renter makes normal use of the Bicycle and takes due care of the Bicycle.

4.2 The Bicycle is intended exclusively for personal use by the Renter. The Renter is not allowed to 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 the right to claim damages and to terminate the subscription in accordance with Clause 14 of the General Terms and Conditions.

4.3 In deviation from Article 4.2, 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.

4.4 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 14 of the General Terms and Conditions.

- 4.5 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.
- 4.6 The Renter will be personally liable for compliance with the General Terms and Conditions.
- 4.7 The Renter will be responsible for passing on changes to the data known to Swapfiets, such as a new address, in good time.
- 4.8 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.
- 4.9 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.
- 4.10 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.

5. Swapping

- 5.1 Swapfiets aims to Swapping a Bicycle within 48 hours after the Renter has contacted Swapfiets by telephone, via e-mail, WhatsApp or the Swapfiets App. Swapping takes place by appointment with the Renter.
- 5.2 If this target time is not achieved, the Renter cannot claim any compensation or payment.
- 5.3 Swapping will only take place in case of a defect, loss or theft of the Bicycle, and only within the city limits in which Swapfiets is active.
- 5.4 If the Renter unjustly requests a Swapping (an 'Unjustified Swap'), Swapfiets will be entitled to charge EUR 20 in call-out charges. If the Renter fails to appear at an appointment that was made for Swapping, this will also be regarded as an Unjustified Swap.
- 5.5 When Swapfiets exchanges a Bicycle, the Renter will transfer the Bicycle to Swapfiets including the battery (if relevant) corresponding key.

6. Term of the Subscription and cancellation

- 6.1 The term of the Subscription (the '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.
- 6.2 If the Subscription is concluded by completing the registration form on the website www.swapfiets.nl and Renter is a consumer, the Renter has the right to terminate (*ontbinden*) 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 (*ontbinding*) the Subscription.
- 6.3 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.
- 6.4 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 14 of these General Terms and Conditions. Upon expiry of the minimum Subscription Period, the Subscription turns into a monthly Subscription, as specified in Clause 6.3.
- 6.5 From the day that the written cancellation of the Subscription by the Rental Renter has been received by Swapfiets, the Subscription will continue for one more month, which means that the Subscription ends one month after the day on which Swapfiets has received the cancellation (the 'End Date').
- 6.6 The Renter has the right to use the Bicycle until the End Date of the Subscription after termination notice. The Renter has the obligation to meet the costs of Subscription until the End Date.
- 6.7 The Bicycle and key are to be submitted to Swapfiets no later than the End Date.
- 6.8 If the Renter hands in the Bicycle before the End Date, this will end all rights of the Renter under the Subscription, without prejudice to the Customer's obligation to pay the full Subscription costs until the End Date.
- 6.9 Prior to returning the Bicycle on the End Date the Renter can cancel the termination free of charge by sending an e-mail to Swapfiets. The e-mail must be received by Swapfiets on the day preceding the End Date.
- 6.10 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.

- 6.11 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

- 6.12 Swapfiets is at all times entitled to terminate the Subscription in the event of theft or on one of the grounds stated in Article 14.1, 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.
- 6.13 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.

7. Theft or loss

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

Type of Subscription	Established deductible
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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

- 7.2 If the Renter does not, or not in good time, report a loss or theft of the Bicycle, or if the Renter cannot hand over the Bicycle key to Swapfiets, the Renter will owe Swapfiets the compensation established in Table 1.
- 7.3 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.
- 7.4 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

- 7.5 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.
- 7.6 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.

7.7 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.

8. Damage and servicing

8.1 The Renter will report damage to the Bicycle caused by vandalism to Swapfiets within 24 hours.

8.2 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.

8.3 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.

8.4 If there is any damage caused by the contributory fault or fault of a third party, the Renter will be obliged 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.

9. Accessories

9.1 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.

9.2 The Accessory Subscription is a separate subscription and can be terminated independently of the Bicycle subscription.

9.3 Except for Clauses 3, 6.9, 7, 8 and 11, 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.

9.4 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

- 9.5 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.
- 9.6 The Renter will receive a replacement Accessory from Swapfiets in case of theft of damage (referred to in paragraph 4 and 5 of this Article).
- 9.7 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.

10. Payments

- 10.1 When taking out a Subscription, the Renter will also be obliged to give a direct debit mandate to have the monthly Subscription costs and other costs owed debited to the stated bank account number.
- 10.2 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.
- 10.3 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.

11. Handing in an old bicycle

- 11.1 Upon the start of the Subscription, the Renter may hand in their old bicycle in exchange for compensation in the form of a discount on the Subscription.
- 11.2 The discount will be determined for each individual bicycle and has to be approved by both the Renter and Swapfiets. Swapfiets will not take possession of the bicycle if the Renter and Swapfiets cannot agree on the amount of the compensation.
- 11.3 If a Renter deliberately wants to hand in a bicycle that the Renter does not own, the Subscription will be terminated immediately and the police will be notified.

12. Liability

- 12.1 If the Renter puts a Bicycle into use, this will be construed as evidence that it functions properly and does not show any defects.
- 12.2 If the Renter doubts the safety of the Bicycle, they must immediately contact Swapfiets.
- 12.3 The Renter uses the Bicycle at their own risk.
- 12.4 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.
- 12.5 The Renter will be responsible for communicating any defects and/or damage to the Bicycle in good time.

13. Amendments

- 13.1 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 (*ontbinden*) the Subscription due to a price change, unless the change takes place within three months of the conclusion of the Subscription and the Renter a consumer is.
- 13.2 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 www.swapfiets.nl 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 (*ontbinden*) the Subscription as of the date on which the amended terms and conditions come into effect.
- 13.3 Swapfiets will at all times be entitled to transfer its claims against the Renter, of any nature whatsoever, to third parties.
- 13.4 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.

14. Failure to fulfil obligations

- 14.1 Swapfiets will be entitled to terminate the Subscription with immediate effect, either wholly or partially, or to cancel the Subscription by means of a written notice to the Renter if:

- the Renter fails to fulfil their obligations under the Subscription;
- the Renter applies for a provisional or definitive suspension of payments or is granted a provisional or definitive suspension of payments;
- bankruptcy or a winding-up petition is filed for in respect of the Renter or if they are put into bankruptcy or liquidation;
- the Renter is placed under guardianship or is allowed to participate in the debt restructuring scheme for natural persons;
- the Renter uses the Bicycle contrary to the provisions in the General Terms and Conditions (e.g. the provisions in Clause 4);
- the Bicycle or other goods of the Renter are attached, and this negatively influences the fulfilment of their obligations under the Subscription;
- the Renter, in the opinion of Swapfiets, abuses the service offered by Swapfiets;
- the Renter deliberately provides incorrect information to Swapfiets, or
- the Renter otherwise should no longer be deemed able to fulfil the obligations under the Subscription.

14.2 The Renter has the right to immediately terminate the Subscription if Swapfiets has repeatedly and/or seriously failed to fulfil its obligations described in the General Terms and Conditions. The foregoing does not affect the right of termination (*ontbinding*) of the Renter who is a consumer.

15. Privacy

15.1 Swapfiets considers the protection of your personal data to be important. How we protect your personal data is explained in our Privacy Statement. This can be consulted at www.swapfiets.com/en-NL/privacy. . Questions or remarks in this regard may be addressed to privacy@swapfiets.nl.

16. Applicable law. Disputes

16.1 Dutch law applies exclusively to the Subscription and the General Terms and Conditions.

16.2 All disputes arising from or connected with the Subscription will only be submitted to the competent court of Amsterdam, except insofar as another court is competent pursuant to any mandatory provision.