

# **BOAH Bikes General Terms & Conditions**

These General Terms and Conditions of Two-Wheel Companies have been drawn up in consultation with the Consumers' Association and the ANWB in the context of the Coordination Group Self-regulation Consultation (CZ) of the Social and Economic Council and will come into effect in September 2006. The CZ would appreciate it if this is stated with a quote from these General Terms and Conditions.

## **DEFINITIONS**

In these General Terms and Conditions the following terms have the following meanings:

- two-wheeler: all types of bicycles, mopeds, motorcycles (including motor scooter) and scooters (including moped scooter), with or without sidecar;
- the two-wheeler to be purchased: a two-wheeler that is sold by the buyer to the seller by means of purchase under the agreement;
- the agreement: the agreement for the purchase and sale of a new or used two-wheeler or parts and accessories therefor;
- the seller: the person who, under the agreement, sells a new or used two-wheeler or parts and accessories for it;
- the buyer: the person who, under the agreement, buys a new or used two-wheeler or parts and accessories for it;
- the assignment: the agreement to perform assembly, disassembly, repair or maintenance work, voluntary or statutory inspections and damage assessments, each individually or together referred to as work;
- the repairer: the person who carries out or has carried out an order with regard to a two-wheeler and / or parts and accessories;
- the client: the person who orders the repairer to carry out work or have work carried out;
- the guarantee:
  - a. the warranty provided by the manufacturer, importer or seller on new two-wheelers, parts and accessories;
  - b. the warranty described in the Warranty leaflet for a used motorcycle / scooter / moped / light moped / bicycle

## **BUY AND SELL**

### **Article 1 The offer**

The offer of the seller is issued orally, in writing or electronically and is – if a term for acceptance has been set – in effect during the term indicated there. The acceptance of the offer by the buyer is only valid if it takes place within the set term. Furthermore, electronic acceptance of the offer by the buyer is only valid if it has been confirmed by the seller. If no term for acceptance has been set, the offer will remain in force for two working days, provided the two-wheeler has remained unsold.

### **Article 2 The agreement**

The agreement must always be recorded in writing or electronically. A copy of a written agreement must be provided to the buyer. However, the absence of a written or electronically recorded agreement does not make this agreement null and void.

### **Article 3 The content of the agreement**

The agreement, recorded in writing or electronically, will in any case include: – the description of the two-wheeler and any two-wheeler to be purchased, both with any accessories;

the price of the two-wheeler at the time of purchase and sale, with the indication whether the price is a fixed or a non-fixed agreed price is;

- the price of any two-wheeler to be purchased at the agreed time of delivery of that two-wheeler;
- the presumed or explicitly fixed delivery date;
- a reference to the warranty provisions in which the seller or a third party acts as guarantor (if possible, access is given to the warranty provisions of this third party);
- the method of payment.

### **Article 4 Price changes / increases**

1. Changes in taxes, excise duties and similar government levies will be passed on at all times in both the fixed and the non-fixed agreed price of both new and used two-wheelers.
2. Without prejudice to the provisions of Article 5 paragraph 1, in addition to the aforementioned changes, price increases as a result of changes in factory and / or importer prices and in exchange rates may also be passed on in the non-fixed agreed price of two-wheelers. After notification of this change, the buyer

has the right to dissolve the agreement if the increase of the stipulated price by the seller takes place after the conclusion of the agreement. The dissolution must take place within ten days after that notification.

#### **Article 5 Exceeding the delivery period**

1. If the expected delivery period for the two-wheeler is exceeded, the buyer can give the seller written notice of default. If the seller has not yet delivered the two-wheeler within three weeks, the buyer has the right to declare the agreement dissolved, preferably by letter, without judicial intervention. If the seller still delivers the sold item within the set period of three weeks, any price increase within this period will not be passed on.
2. If the seller fails attributably with regard to exceeding the probable delivery term, the buyer may demand compensation for the damage suffered. If a fixed agreed delivery period for the two-wheeler is exceeded, the buyer has the right to declare the agreement dissolved by letter and / or to demand compensation for the damage suffered without notice of default or judicial intervention.
3. If the delivery term has been exceeded as a result of force majeure on the part of the seller, both the buyer and seller have the right to dissolve the agreement. The right to dissolution arises as soon as the agreed fixed term has been exceeded. As soon as a presumed delivery period has been exceeded, the parties have the right to terminate three weeks after the notice of default referred to in paragraph 1 or at the moment that the seller notifies that he cannot deliver within three weeks.
4. In all cases in which the seller can invoke a situation of force majeure with a permanent character, both parties are authorized to immediately dissolve the agreement.

#### **Article 6 Cancellation**

The buyer has the authority to cancel the purchase agreement. This cancellation can only take place in writing, within eight days after the conclusion of this agreement, but not after the delivery has taken place. The buyer is obliged to compensate the seller for all damage he suffers as a result of the cancellation within ten days of this cancellation. This damage has been determined at 15% of the purchase price of the canceled two-wheeler, unless the parties agree on a lower percentage when concluding the agreement. If the buyer has not paid this compensation after ten days, the seller has the right to notify the buyer in writing that he requires compliance with

the concluded agreement. In that case, the buyer can no longer invoke the cancellation. The buyer's obligation to pay this compensation is a debt within the meaning of article 15 of these General Terms and Conditions for which a moment of payment has been expressly agreed. The right to cancel lapses if the buyer sells a two-wheeler in the context of the agreement for the purchase and sale of a new or used two-wheeler (or parts and accessories therefor) by way of purchase to the seller, if the two to be purchased – the bicycle has been delivered to the seller by the buyer.

#### **Article 7 Retention of title**

The delivered two-wheeler remains the property of the seller as long as the buyer has not fully paid all that he owes on the basis of the purchase agreement. As long as ownership of the two-wheeler has not passed to the buyer, the buyer is obliged to take out the legally prescribed insurance with regard to the use of the two-wheeler, as well as insurance against total or partial loss (hull cover). The buyer is also obliged to have the delivered two-wheeler serviced at his expense. The seller will not be obliged to indemnify the buyer against his liability as holder of the two-wheeler. On the other hand, the buyer indemnifies the seller against claims that third parties may have on the seller that can be associated with the retention of title made.

#### **Article 8 The risk of the two-wheeler**

The two-wheeler is at the expense and risk of the seller until the time of actual delivery. Any two-wheeler to be purchased does not become the property of the seller until it has actually been delivered to him and the two-wheeler has been paid for in full. This payment can be made by settlement with the purchase price of the purchased two-wheeler. Until that time, the two-wheeler to be purchased is at the expense and risk of the buyer and all costs are for his account. This also includes the costs of maintenance and any damage caused by whatever cause, including damage as a result of not being able to hand in the complete registration certificate.

### **REPAIR AND MAINTENANCE**

#### **Article 9 Quotation and term**

Before or when the assignment is given, the client may require a statement of the price of the work, as well as the term within which the work will be performed. The assignment is preferably recorded in writing or electronically. The stated price and term are approximate, unless the client and the repairer agree on a fixed price and / or term. If the repair amount for a bicycle exceeds the amount of € 20 and is also exceeded by more than 20% or is in danger of being exceeded, the repairer must contact the client to discuss the additional costs. If the repair amount for two-wheelers other than bicycles exceeds the amount of € 50 and the approximate price quoted also:

- \* for repair amounts between € 50 and € 150 are exceeded by more than 20% or threatened to be exceeded; or
- \* for repair amounts from € 150, – is exceeded by more than 10% or is in danger of being exceeded, the repairer must contact the client to discuss the additional costs.

The client is entitled to terminate the agreement, with due observance of a notice period of two weeks, with compensation from the repairer for the work already performed by him.

If the approximate term specified is exceeded or threatened to be exceeded, the repairer must immediately notify the client of this, stating the new date of delivery. If a fixed term is exceeded, the client is entitled to reasonable compensation, except in the case of force majeure on the part of the repairer.

#### **Article 10 The account**

An itemized invoice is issued for the work performed.

#### **Article 11 Right of retention**

The repairer can exercise the right of retention on the two-wheeler, if and for as long as:

- the client does not pay the costs of the work on the two-wheeler or does not pay it in full;
- the client does not pay the costs of previous work carried out by the repairer on the same two-wheeler or does not pay in full;
- the client does not or not fully pay other claims arising from the contractual relationship with the repairer / seller. The repairer can also exercise the right of retention if the dispute with regard to the work has been brought before the Disputes Committee for Two-wheelers referred to in Article 17 or before the court. The repairer cannot exercise the right of retention if the client has provided sufficient (replacement) security, for example by means of a deposit with the Disputes Committee.

### **WARRANTY**

#### **Article 12 WARRANTY**

Due to the guarantees stated in this article and in articles 13 and 14, the legal rights (including the right under Book 7 of the Dutch Civil Code that the good complies with the agreement on delivery) that a buyer / client, not acting in the exercise of a profession or business on that account, is not affected. During a company visit in connection with the guarantee referred to in this article and in articles 13 and 14, the seller will ensure that the buyer's transport needs are adequately met.

#### **Article 13 Warranty on two-wheelers**

1. New two-wheelers and new parts are exclusively subject to the warranty provided by the manufacturer or importer and the statutory rights as referred to in Article 12.

2. Unless the buyer has explicitly stated in writing that he waives the Warranty, on used two-wheelers, the seller grants 3 months Warranty. Barring written exclusion in accordance with the first sentence, the seller grants a Warranty on the sale of a used bicycle if the purchase price of the used two-wheeler is € 800 or more.

The Warranty is never provided on used parts delivered separately. The warranty does not cover defects that have arisen outside the European Economic Area, unless the buyer demonstrates that the aforementioned defects were not caused by the circumstances there deviating from the European Economic Area (inferior roads, etc.).

#### What Is Never Covered By The Warranty On A Bicycle?

- Water damage to battery and display
- Wearing parts, such as tires, chain, chainrings, freewheel, rear sprockets, bearings, cables and brake pads and rust
- In case of neglect of goods by the customer
- Items purchased from the clearance / sale
- If the customer has made changes to the goods or has had them made. This also includes repairs that have not been carried out by or on behalf of the seller
- In case of injudicious or careless use, incorrect assembly, incorrect use, competition purposes, damage caused by moisture (such as rust) or other external causes or disasters
- If the device has not been maintained in the usual manner or as described in the manual
- Light scratches as a result of transport (transport damage)
- If the appliance is used with unsuitable or incorrect accessories
- If the customer has handled the goods in another way negligently
- Free promotional items
- In case the bike is delivered with a new electric motor and battery, the seller grants 1 year warranty provided directly from the manufacturer. In case of need please get in touch by written with the seller that will deal directly with the manufacturer or reseller.

## **Article 14 Repair and maintenance warrant**

1. The repairer warrants within the European Economic Area the proper execution of the orders accepted or outsourced by him with regard to all bicycles, mopeds, scooters and mopeds and materials used for a period of three months and for all motorcycles and the materials for a period of six months, in both cases to be determined from the time the two-wheeler is made available to the client again. The guarantee includes the proper performance, within a reasonable period of time and without serious inconvenience, of the assignment not or not properly executed. The warranty does not cover firstly wear and tear (eg to tires, gears), secondly defects due to incorrect maintenance, such as maintenance that was not in accordance with manufacturer's instructions. If the work to be performed by the repairer is no longer possible or useful, the client is entitled to reasonable compensation.
2. No warranty is provided on commissioned emergency repairs.

The claims to the warranty lapse if:

3. The client does not notify the repairer as soon as possible after the defects are discovered;
4. The repairer is not given the opportunity to remedy the defects;
5. Third parties have carried out work in connection with the repairer's work without foreknowledge or permission from the repairer activities performed in respect of which a claim is made under the guarantee. However, the guarantee does apply if the need for immediate repair has occurred elsewhere and can be demonstrated by the client on the basis of the information provided by the other repairer and / or on the basis of the broken parts.

The above under 14.4.1. and 14.4.2. stated does not apply if repairs abroad are necessary. In that case, reimbursement of the costs of the repair will take place on the basis of a maximum of the price level as applicable in the repairer's company. This compensation will never exceed the actual costs incurred.

## **GENERAL PROVISIONS**

15.1 BOAH BIKES is not responsible for damages resulting from:

- a) Defects The BOAH BIKE that have arisen as a consequence of not (strictly) complying with the installation, operation and maintenance instructions;
- b) Defects in the BOAH BIKE, which have been caused as a result of exposure of the Products to abnormal, unforeseeable conditions or as a result of otherwise careless and/or handling of the Products;
- c) Defects The BOAH BIKE resulting from the usual wear on the product;
- d) Defects in the BOAH BIKE caused by the application of any governmental regulations relating to the nature or quality of the applied materials used;
- e) Defects in the BOAH BIKE caused as a result of the use of products, materials, goods, works and/or constructions, which are manufactured on the basis of the materials used Constructions explicit request/instructions from the Purchaser;
- f) Defects The BOAH BIKE that have arisen after a third party or the Buyer has carried out repairs or maintenance himself ;
- g) Defects to the BOAH BIKE that have occurred as a result of the use of parts obtained from third parties

15.2 Any legal commitment until compensation from BOAH BIKES towards Buyer is to all time limited until compensation from the direct damage and until maximum it in front of the concerning with the Buyer Closed Agreement billed amount (ex tax).

### **Article 16 Payment**

1. The debts of the buyer / client to the seller / repairer are considered as delivery debts.
2. Unless explicitly agreed otherwise in writing, payment must be made in cash or digital payment when the goods are delivered or ordered.
3. If nonetheless payment is not made in cash and no other time of payment has been expressly agreed, or if a different time of payment has been agreed upon and payment is not made at that agreed time, then the seller / mechanic is entitled to charge statutory interest on the amount due, to be calculated one month after the agreed time of (cash) payment. The remaining part of the month from the moment when payment should have been made is regarded as a whole month. This increase in the amount due is regarded as a condition under which we have granted deferment of payment, without the obligation to pay cash or payment at the agreed time being canceled.
4. If the buyer / client fails to pay the amount due after a summons, the seller / mechanic is entitled to increase this amount by the collection costs. These



collection costs include both judicial and extrajudicial costs. Extrajudicial costs are all costs that are charged to the seller / repairer by lawyers, attorneys, bailiffs and anyone else they use for the collection of the amount due. The extrajudicial costs are set at 15% of the amount owed, unless the buyer can demonstrate that the seller suffers less damage.

5. If, after execution of the work ordered by the seller / repairer and notification thereof to the client, the object in question is not collected within two weeks after the latter time, the repairer is entitled to charge storage costs or storage costs in accordance with the company or site. local rate.
6. Replaced materials or goods will only be made available to the client if this has been expressly requested in the repair order. In the other case, these materials will become our property without the client being able to claim any compensation in this respect.

#### **Article 17 Mediation scheme**

A buyer / client who has complaints against a seller / repairer about the sale of a used two-wheeler, must first contact this seller / repairer. If this has not resulted in a solution to his complaints, he can turn to the Disputes Committee Tweewielers of the Stichting Geschillencommissies, PO Box 90600, 2509 LP in Den Hague (visiting address Bordewijklaan 46, 2591 XR in The Hague).

The Disputes Committee Tweewielers of the Stichting Geschillencommissies will mediate in the dispute and try to resolve the dispute amicably in accordance with regulations that will be notified to the parties to the dispute in advance. In this mediation, an opinion can be given about the number of working hours charged and the price of processed materials, all this with due observance of the equipment of the relevant workshop. The workshop rate is not taken into account.

#### **Article 18 Dispute settlements**

1. This dispute settlement only applies to complaints or disputes between the buyer / client and the seller. Furthermore, it only applies to:
  - a. The agreement for the purchase and sale of a new two-wheeler, unless the buyer acts on the basis of an agreement by the manufacturer importer of the two-wheeler issued warranty.
  - b. the agreement for the purchase and sale of a used two-wheeler, whereby the buyer has not expressly stated in writing that he is not doing so

The purchase price of the used bicycle may not be less than € 250.

c. the agreement to which the repair and maintenance guarantee referred to in article 14 of these General Terms and Conditions applies.

The buyer / client must submit the dispute to the Disputes Committee no later than three months after submitting the complaint to the seller / mechanic.

2. Any mediation that has taken place does not stand in the way of the buyer / client's choice to have the dispute settled by the court. Once an appeal has been made to the Disputes Committee for Two-wheelers, however, this choice will no longer be permitted, unless the Disputes Committee declares itself incompetent or inadmissible. If the buyer / client has submitted the case to the Two-wheelers Disputes Committee, the parties will only have the option of submitting the decision of the Two-wheelers Disputes Committee for marginal review to the ordinary court.
3. The Disputes Committee will render its decision with due observance of the provisions of its applicable regulations. The decisions of the Disputes Committee are made pursuant to those regulations by way of binding advice. The regulations will be sent on request. A fee is payable for the handling of a dispute. For more information, consult [www.sgc.nl](http://www.sgc.nl) or ask the Stichting Geschillencommissie voor Consumentenzaken, the address of which is stated in paragraph 2. If necessary, the binding advice may determine the amount of the costs required for the performance of work elsewhere. These costs can be charged to the seller / repairer for payment if the Two-Wheelers Disputes Committee finds that the quality of the work performed by the seller / repairer is insufficient.
4. The buyer / client must pay a fee for the handling of the dispute by the Two-wheelers Disputes Committee.
5. A decision of the Disputes Committee for Two-wheelers will not be invoked in law if more than two months after the shipment of these have expired and no appeal has been made to the ordinary courts (see last sentence, paragraph 3).

### **Article 19 Deviations**

Deviations, including additions or extensions to these General Terms and Conditions, are only valid if both parties have laid them down in writing.

## **Article 20 Processing of personal data**

The personal data of the buyer / client mentioned on this agreement are processed by the seller / repairer within the meaning of the Personal Data Protection Act. On the basis of this processing, the seller / repairer can: execute the agreement, fulfill the warranty obligations towards the buyer / client, provide the buyer / client with optimal service, provide product information and make personalized offers. Any objection to be lodged with the seller / repairer by the buyer / client against processing for direct mailing will be honored.