

Bösendorfer

GENERAL TERMS AND CONDITIONS

(B2B, issued in June 2013)

I. General

1. The following GTC shall apply to all deliveries and services performed by L. Bösendorfer Klavierfabrik GmbH (hereinafter referred to as "Bösendorfer") excluding any possible GTC of the Contracting Partner. Any GTC communicated by the Contracting Partner shall not apply.
2. Agreements or undertakings contradicting the present GTC shall only be valid if made in writing.
3. Specifications from leaflets, price lists, offers and similar materials are non-binding. We reserve the right to make price changes due to technical progress or errors.
4. The present GTC also apply exclusively to all future agreements concluded between the Contracting Partner and Bösendorfer, unless otherwise agreed in writing on an individual basis.

II. Offers, Prices

1. Offers made by Bösendorfer are non-binding. Cost estimates are prepared according to the best of Bösendorfer's professional knowledge. Bösendorfer, however, assumes no liability for their correctness. Cost estimates are made free of charge and without obligation and can be accepted within 90 days of the date of the offer being made. Should cost increases of over 15% arise following placement of the order, we will inform the Contracting Partner without delay.
2. Unless otherwise stated, prices do not include VAT at the level stipulated by law and are ex works.
3. Maintenance, repair and tuning works requested by the Contracting Partner shall be charged separately according to the price list applicable at the given time.
4. The costs of delivery, assembly and installation are not included in our prices. Such services can be performed on request against separate payment.

III. Placing of Orders

1. Orders are only deemed valid once we have sent a written order confirmation.
2. If after conclusion of the agreement circumstances become known that give rise to reasonable doubt concerning the Contracting Partner's solvency or willingness to pay, Bösendorfer is entitled to withdraw from the agreement or to request securities, advance payment, the provision of a deposit or payment upon delivery.

IV. Deadlines

1. As far as possible, Bösendorfer shall adhere to confirmed or agreed delivery dates. However, Bösendorfer reserves the right to exceed delivery dates by up to 10 weeks. The Contracting Partner shall be given reasonable advance notice of such late delivery.
2. Should the delay exceed the period specified in IV.1 and no obstacle as per IV.3 is present, the Contracting Partner is entitled to withdraw from the agreement after the expiry of an appropriate period of notice. The withdrawal is only legally valid if made by registered mail.
3. Special circumstances, such as malfunctions, inadequate performance or non-performance by Bösendorfer's suppliers or forwarders, labour market disputes, occurrences of force majeure and generally all circumstances beyond Bösendorfer's responsibility shall release Bösendorfer from its obligation to deliver and to pay compensations or any mutually agreed default penalties for the duration of the disturbance and its effects. In such cases, Bösendorfer is entitled to delay delivery or performance for the duration of the hindrance including a reasonable restarting time, or to withdraw in part or in whole from the agreement. If the hindrance to performance lasts longer than four weeks in addition to the period specified in IV.1, the Contracting Partner has the right after a reasonable period of notice to withdraw from the agreement with regard to the part of the service not yet fulfilled.

V. Delivery

1. Bösendorfer's plant located in Wiener Neustadt shall be the place of performance for all deliveries. Loading and shipping of goods to the installation site shall be carried out at the Contracting Partner's expense and risk.
2. If the Contracting Partner is delayed in taking receipt, we are entitled either to store the goods for the Contracting Partner for a fee (we charge a storage fee of EUR 5 per day) and to insist on fulfilment of the contract or to withdraw from the contract after the expiry of a reasonable period of notice (3 months).

VI. Terms of Payment

1. Unless stated otherwise, invoices issued by Bösendorfer are payable net cash within 30 days of the invoice date. Deductions are not allowed, unless expressly agreed to in writing.
2. If, in the case of payment by instalments, the Contracting Partner is late with the payment of one instalment, the total remaining amount shall fall due for payment.
3. Bills of exchange and cheques are not recognised by Bösendorfer as means of payment.
4. If the Contracting Partner is late in making payments, Bösendorfer is entitled to charge default interest on the amount due. The rate of the

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Bösendorfer

default interest amounts to 1% for each month begun of the delay. Bösendorfer reserves the right to claim interest costs exceeding the above, late payment charges, legal fees and other default damages.

5. The Contracting Partner may not offset claims against counterclaims.

VII. Title Retention, Usage Fee

1. All deliveries shall be effected under reservation of ownership in the goods delivered until the purchase price and all additional costs have been paid in full.

2. The Contracting Partner may only resell the retained goods in the ordinary course of business, and provided that the Contracting Partner is not in default. Resale is only permitted if Bösendorfer is informed promptly of the name and address of the resale customer and Bösendorfer gives its approval. Further, the Contracting Partner's customer must not exclude the assignment of receivables arising from the resale. The Contracting Partner may not pledge retained goods or assign them as a security.

3. In the event of resale or renting out retained goods, the Contracting Partner shall hereby assign all outstanding accounts against the end buyer to Bösendorfer. The Contracting Partner and the end buyer shall both remain liable, and the due date shall remain unchanged. The Contracting Partner shall inform the end buyer of this assignment in writing at the latest when concluding a purchase or rental agreement with the end buyer. The Contracting Partner shall also notify Bösendorfer of the assignment by forwarding a copy of the information sent to the end buyer. If, regardless of the above provision, the Contracting Partner receives payments from the end buyer, the Contracting Partner shall forward these payments to Bösendorfer without delay. Such amounts are to be kept separately for remittance and cannot be assigned under any circumstances. Bösendorfer must be promptly informed in writing of any changes to the installation site of retained goods.

4. If the Contracting Partner is late in fulfilling its obligations, Bösendorfer shall be entitled to reclaim the retained goods irrespective of their location at that time, and to collect them at the Contracting Partner's expense and risk. It is agreed that the claim for retention of title does not constitute withdrawal from the agreement, unless we expressly declare withdrawal from the agreement. In this case, a usage fee amounting to 2% of the purchase price shall be charged for each calendar month begun, counted as of delivery and ending with the collection of the instrument. The total amount of the usage fee may not exceed approx. 20% of the agreed purchase price at the level of depreciation usual in the trade. Bösendorfer is also entitled to such usage fee if a purchase agreement is terminated for any other reason after delivery of the goods. Bösendorfer reserves the right to enforce additional claims for compensation.

5. Bösendorfer should be notified immediately of any imminent or actual confiscation or seizure of the retained goods by a third party. The Contracting Partner shall inform the third party of Bösendorfer's title to such goods. All expenses arising from legal proceedings, including any expenses related to the release of pledge shall be borne by the Contracting Partner.

VIII. Warranty

1. In the case of a timely payment of the invoice by the Contracting Partner, Bösendorfer warrants to the Contracting Partner for a period of 5 years starting with the invoice date that the instruments delivered are free from defects in materials, manufacturing and construction (as per the warranty conditions); a 2-year warranty applies to electronic components. The statutory warranty periods apply to used and restored Bösendorfer instruments and in the case of merchandise.

2. Bösendorfer assumes no warranty for defects or damages arising from incorrect storage or improper use of the goods by the Contracting Partner (e.g. excessive humidity or dryness) or from normal wear and tear. Differences in form and tone are possible owing to our instruments being individually manufactured, such as the veneer grain, tone differences, touch; these do not constitute a reduction in quality.

3. Defects that are not claimed immediately should be claimed in writing with a precise description of the defect within 8 days of taking receipt of the goods at the latest or in case of hidden defects, upon discovery of the latter. Claiming a defect does not relieve the Contracting Partner of its payment obligation.

IX. Liability

1. Unless intentional or grossly negligent actions by Bösendorfer or its agents are involved, no claims for compensation of the Contracting Partner shall be admitted, particularly those arising from delayed performance, incapacity or impossibility of performance, positive claim violation, fault at conclusion of the agreement or tortious acts.

2. General recourse claims directed against us by the Contracting Partner or a third party under the Austrian Product Liability Act are not admitted.

X. Repair

1. Repairs shall be carried out at the rates specified in the applicable price list.

2. All repair costs are to be paid immediately upon completion of the repair or return of the instrument.

3. For repairs carried out at Bösendorfer's plant, the provisions of Article XII regarding storage apply. Should instruments not be collected or returned to the Contracting Partner in some other way within 14 days after completion of the works carried out by Bösendorfer, Bösendorfer may charge a storage fee as per XII.2.

4. Due to repair costs that may arise and eventual storage costs, Bösendorfer has a pledge and a right of retention with respect to the Contracting Partner's goods in its possession.

XI. Renting

1. The rental fee is to be paid monthly and in advance. Rental fees do not include any maintenance or tuning services. The responsibility for such tasks is borne by the Contracting Partner. They shall be carried out by Bösendorfer on the Contracting Partner's request and charged separately.

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2. The Contracting Partner shall bear all risk for the rental property. The Contracting Partner is obliged to insure the rental property in an appropriate manner, in particular against fire, water, theft and damage, and to provide Bösendorfer with proof thereof on request. The Contracting Partner may only sublet the rental property with the permission of Bösendorfer.

3. Bösendorfer shall not be liable for any damage arising from use of the rental property. The Contracting Partner shall hold harmless and indemnify Bösendorfer from any claims made by third parties for such damage. The rental property shall serve solely the purpose of playing music and no other use.

4. If the Contracting Partner is late in paying the rental fee, Bösendorfer shall be entitled to reclaim the rental property, and to collect it at the Contracting Partner's expense and risk. In the case of imminent or actual seizure of the rental property, Article VII.5 shall apply.

5. Leasing agreements concluded for an indeterminate period of time may be terminated by either party by a one-month notice at the end of each quarter. Leasing agreements may only be terminated without notice for a serious reason. Fixed-term leasing agreements may only be terminated prematurely for a serious reason. Serious reasons include, in particular, the following: (1) the Contracting Partner is more than six weeks late in paying the rental fee and does not pay the outstanding amount in spite of a warning that the agreement will be terminated and a two-week notice period set by Bösendorfer; (2) the Contracting Partner's financial situation has deteriorated significantly, especially if insolvency proceedings have been instituted with respect to the Contracting Partner's assets; (3) the Contracting Partner loses its legal capacity or transfers its residence or registered office to a foreign country; (4) the Contracting Partner violates any other provision of the agreement and fails to correct the violation within a 14-day notice period; (5) the rental property becomes unusable for reasons attributable to Bösendorfer and Bösendorfer fails to rectify the defect that renders it unusable within a four-week period set by the Contracting Partner by way of registered mail or to replace the rental property with another comparable item.

6. Any fees related to the rental agreement that are required by law shall be borne by the Contracting Partner.

XII. Storage

1. Unless otherwise stipulated by the present GTC, the provisions of the Austrian Commercial Code on warehousing shall apply to the storage of objects owned by the Contracting Partner as performed by Bösendorfer.
2. The Contracting Partner shall pay a fee to Bösendorfer for the storage. Payments shall be made monthly in advance according to the price list applicable at the given time.
3. Bösendorfer may decide at his own discretion to store the objects either in its own storage spaces or in external storage spaces.
4. Bösendorfer shall insure the stored objects to the usual extent against damage and theft. However, Bösendorfer shall only be held liable for loss of or damage to goods owned by the Contracting Partner and stored by Bösendorfer if the Contracting Partner proves that the loss or damage arose as a result of deliberate actions or gross negligence on the part of Bösendorfer. The period of limitation for such claims against Bösendorfer shall be 6 months.
5. Bösendorfer may terminate the storage agreement at any time with one month's notice by registered mail to the last address given by the Contracting Partner.
6. To the value of its claims against the Contracting Partner, Bösendorfer shall have a pledge and a right of retention with respect to the Contracting Partner's goods in its possession.

XIII. Miscellaneous

1. Bösendorfer may send written notifications to the last address given by the Contracting Partner.
2. The Contracting Partner agrees to the computer-assisted processing of its data by Bösendorfer. Bösendorfer shall use such data only within the company and not pass them on to third parties.
3. The exclusive place of jurisdiction and place of performance shall be Vienna. This present GTC are governed by Austrian law.

(Date and signature of the Contracting Partner)

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