

General Terms and Conditions of the loan agreement between The Netherlands Musical Instrument Foundation and user

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These general terms and conditions constitute a part of every loan agreement concluded with the Netherlands Musical Instrument Foundation (hereinafter referred to as: the foundation). The latest version of these general terms and conditions applies from the moment the version is placed on the website and insofar as the changes are reasonable.

The term 'user' is understood to mean all natural persons or representatives of foundations, funds and institutions that have an instrument on loan, whether on a long-term or project basis.

The term 'instrument' is understood to mean all musical instruments provided on loan to the user by the foundation including bows and accessories, among other things.

A. Obligations of the user

General obligations and duty of care

Art. A 1 The user accepts full responsibility and liability for the instrument for the entire duration of the loan. The user has a general duty of care with respect to the instrument: the user is required to exercise all possible care to prevent the occurrence of damage, theft or wear and tear with regard to the instrument under all circumstances (including during use, transport and storage of the instrument, for instance). This includes, but is not limited to, the obligation to ensure the safest possible protection of the instrument in the form of a transport cover or box. If damage or loss occurs as a result of failure to fulfil this duty of care, the user will be liable therefor.

Good condition and maintenance

Art. A 2 The user undertakes to keep the instrument in good condition and to preserve and maintain it with all due and reasonable care.

Use by third parties

Art. A 3 The user is not permitted to make the instrument available for use by third parties or to place it at the disposal of third parties, except in the case of inspection by an expert, as referred to below in Article B 3, or with explicit written permission from the foundation. Only in situations and moments that this is clearly in the interests of the instrument's safety may the user temporarily place the instrument in the custody of a third party.

Notification obligation

Art. A 4 The user is obliged to immediately notify the foundation and the police of any loss, theft or misappropriation of the instrument as well as any other damage resulting from a crime or suspected crime, and to immediately send a copy of the police report to the foundation.

Obligation to report loss or damage

Art. A 5 The user is obliged to notify foundation immediately of any complete or partial loss of or damage to the instrument, and to provide the foundation or a third party designated by the foundation with all relevant information.

Use in a non-EU country

Art. A 6 The user is prohibited from travelling with the instrument to or within a country outside the European Union (EU) without prior, explicit written permission from the foundation. Permission can only be given if the user has submitted a request to that effect no later than 14 days prior to departure. If the user travels with the instrument to a non-EU country without permission from the foundation, the user will be liable for all associated risks.

Contribution towards foundation collection expenses

Art. A 7 The user is obliged to pay the foundation an annual contribution towards the foundation's collection expenses. The rates charged on concluding a new loan agreement are stated in the appendix to these General Terms and Conditions and are publicised on the foundation website. The amount of the contribution may reasonably be revised and is indexed every year. The contribution invoice will be drawn up and sent during the month of January each year. The user gives permission to send this invoice to his/her e-mail address. The contribution amount is calculated on the basis of the number of days the instrument is available to the user, including any periods during which the instrument is in the possession of third parties with the foundation's permission. By signing the loan agreement, the user authorises the foundation to automatically deduct the amount owed from the user's bank account by direct debit mandate. The amount owed will be deducted on a quarterly basis, always during the first month of each quarter. The user is required to ensure that there are sufficient funds in his/her account. If on three successive occasions the foundation is unable to deduct the amount owed, the foundation is entitled to reclaim the instrument with immediate effect.

Administration charge

Art. A 8 Upon applying for an instrument, new users are required to pay a one-off administration charge. This amount will be determined on a yearly basis. This administration charge will be reimbursed in the event that the user's application is rejected. A specification of this charge is listed in the appendix to these General Terms and Conditions and publicised on the foundation website.

Change of various personal details

Art. A 9 The user is obliged to immediately notify the foundation of any change in his/her personal details, if possible via the digital platform 'My Account'. This is in any case (but not exclusively) understood to mean: any change with regard to postal address, telephone numbers (mobile or landline), email address and bank account number. This also equally applies to: any changes with regard to study (including conclusion or termination of study due to graduation or other reasons), any change of employment, departure abroad for a period exceeding three months and any change of nationality. The user is also obliged to immediately notify the foundation of any circumstances mentioned in Article E 6.

Digital Platform

Art. A 10 1. Prior to signing the loan agreement, the user is required to fill in his or her personal details and profile page under "My account" on the foundation's website and upload a recent photograph.

2. The user is obliged to keep the personal details and profile page up to date under 'My account' on the foundation's website. If personal details and profile page are not kept up to date (at the discretion of foundation), the loan agreement may be terminated by foundation.

Contact with the foundation

Art. A 11 The user is obliged to respond to all requests by the foundation for information as quickly as possible, but in any case within one week, whether made via post, email, telephone or any other medium, insofar as this concerns matters related to the instrument on loan to the user or any matter pertaining to the loan agreement or the general terms and conditions. Persistent failure to respond to the foundation's questions or comments, or failure to respond in a timely fashion (as determined at the foundation's discretion) may result in the immediate reclaiming of the instrument by the foundation.

foundation Information

Art. A 12 By signing a loan agreement the user declares that he/she agrees to periodically receive general information produced by the foundation, including but not limited to magazines, bulletins and digital or printed newsletters.

Not having the financial resources

Art. A 13 The user (or, if a minor, the parents/guardian of the user) declares, when applying for an instrument, when the loan agreement is concluded, when applying for a grant and at the interim request of the foundation, that he/she is financially incapable of purchasing an instrument of comparable quality.

Specific obligations for user of keyboard instruments

Art. A 14 The user of a keyboard instrument is subject to additional obligations which have been included in the Supplementary Conditions for Keyboard Instruments.

B. Care, Maintenance and Repairs

Inspection

Art. B 1 The foundation is entitled to inspect the instrument or arrange for its inspection at any time. If requested to do so, the user is obliged to immediately make the instrument available to this end.

Costs of regular maintenance

Art. B 2 The costs of maintenance arising from regular use of the instrument are for the account of the user.

Permission for repairs

Art. B 3 The user is obliged to notify the foundation immediately and in advance of all intended repairs to the instrument and/or accessories. No repairs may be carried out until the foundation has given written permission for them. The repairs may only be carried out by an expert designated by the foundation.

Inspection by expert and maintenance report

Art. B 4 The user is obliged to hand the instrument over to the foundation or an expert designated by the foundation for purposes of inspection at least once a year, at a time specified by the foundation. This expert will then also assess the instrument's current value, which will serve as the basis for the value to be insured. The

instrument's state of repair and assessed value will be recorded on a form, the so-called maintenance report, which the foundation will provide to the user. In the case of instruments valued at €250.000 or more, an assessment is to be carried out annually by two experts (to be designated by the foundation). Administration costs may be charged in the event of failure to have the maintenance inspection and/or assessment carried out on time. In the case of persistent failure to have the maintenance inspection and/or assessment carried out on time the foundation is entitled to terminate the loan agreement and immediately reclaim the instrument.

Specific rules maintenance and repair

Art. B 5 The user of a keyboard instrument is subject to additional rules in respect of maintenance and repair which have been included in the Supplementary Conditions for Keyboard Instruments.

C. Insurance

Insurance and policy conditions

Art. C 1 The foundation has taken out insurance for the instrument on the basis of worldwide covering all damage to or loss of insured interests due to external causes. The policy conditions stipulate the following exceptions from cover:

- wilful recklessness or gross negligence on the part of the insured party
- gradual effects of the weather
- damage caused by normal wear and tear, oxidation and other gradual causes
- damage caused by vermin
- confiscation or seizure by customs or other lawful authorities
- damage caused by excrement
- damage, loss, costs or liability caused by contagious disease
- damage, loss, cost or liability caused by cybercrime

Damage or loss for the account of the user

Art. C 2 Any damage or loss that is not covered by the insurance policy will be for the account of the user.

Amendment to policy conditions

Art. C 3 In the event of an interim amendment to the policy conditions, the foundation will immediately notify the user in writing. The user will be bound to the new conditions. The current insurance and policy conditions will also be publicised on the foundation's website.

Insurance premium and excess

Art. C 4 The user is obliged to pay the annual insurance premium, the excess reduction fee plus costs and premium tax. The foundation will notify the user in advance of the annual rates applicable to the user. The foundation will charge the user for the premium. If necessary, the premium will be adjusted annually to the current assessed value of the instrument. Any change to the rates charged by the insurance company will be passed on to the user. The user is obliged to pay the insurance premium that has been adjusted accordingly. The insurance premium and the excess reduction fee will be charged and deducted from the user's bank account by direct debit mandate together with and in the same manner as the user's contribution to the collection expenses. These matters are specified in detail in Article A 7.

Insured value

Art. C 5 The foundation will have the insured value annually adjusted by the insurance company in accordance with the annually assessed value of the instrument. This value is assessed by an expert designated by the foundation.

D. Promotional obligations and miscellaneous provisions**Participation in a recital or concert**

Art. D 1 The user undertakes, at the foundation's request, to give a recital or participate in a concert organised by or on behalf of the foundation once every two years during the loan period. Dates and works to be performed will be determined by the user and the foundation in mutual consultation. The foundation pays an expenses allowance for the user's participation, the amount of which will be determined by the foundation.

Text of Acknowledgment with regard to concerts

Art. D 2 The user undertakes to ensure that his/her biography in the programme booklet for every performance includes an acknowledgment that he/she plays on an instrument provided by the The Netherlands Musical Instrument Foundation. The user is to make mention of this in the following way: [naam gebruiker] heeft een [soort instrument] gebouwd door [bouwer (bouwplaats, bouwjaar)] in bruikleen uit de collectie van Het Muziekinstrumentenfonds. In the case of English biographies or websites, the Dutch name 'Het Muziekinstrumentenfonds' is to be replaced by 'The Netherlands Musical Instrument Foundation'.

Text of Acknowledgment with regard to website

Art. D 3 If the user has his/her own website, he/she is obliged to ensure that the website makes mention of The Netherlands Musical Instrument Foundation, with due observance of the provisions of Article D 2. Furthermore, the foundation's current logo is to be depicted (as it can be downloaded via 'My account' – 'Documents') and a link to the homepage of the foundation's website is to be included. The above-mentioned clause also applies if the user has a page of a third party's website, or part thereof, at his/her disposal.

Text of Acknowledgment with regard to CD/DVD and other audio-visual productions

Art. D 4 If the user participates in a CD/DVD or other audio-visual production, the user is obliged to make mention of 'The Netherlands Musical Instrument Foundation' on the sound-recording medium concerned, in the manner described in Article D 2.

Report of musical and promotional activities

Art. D 5 At the foundation's request, the user is obliged to provide information with regard to his or her musical and promotional activities.

Promotional activities in general

Art. D 6 The user is obliged, at any public occasion where musical activities are developed by the user or where the user talks about musical activities or the user communicates about music and/or instrument in any other way, to state verbally and in writing (or in any other way) that the instrument has been made available by the National Musical Instruments Foundation.

Compliance with promotional obligations

Art. D 7 Any failure to comply with one or more of the obligations as mentioned in Articles D 1-6, such failure as determined at the foundation's discretion, may result in the instrument being reclaimed and the loan agreement being terminated, and/or a surcharge of a minimum of €250 and a maximum of €2,500 excluding VAT, and/or the exclusion from entering into a new agreement.

E. End of the agreement

Return before the end date

Art. E 1 The user is entitled to give notice of termination of the agreement on an earlier date than the set end date. The agreement shall then terminate when the instrument has been returned to the foundation and all outstanding accounts have been settled with the foundation. Moreover, the user undertakes to act in accordance with the provisions of Article E 2 with regard to the return of the instrument.

Rules governing the return of the instrument

Art. E 2 When returning the instrument to the foundation, the user or his/her representative is to comply with the following conditions:

- The loan period

The loan period of an instrument or accessory takes effect as of the first day that the instrument or accessory is put at the user's disposal and ends at the moment the following have been placed at the foundation's disposal:

the instruments and accessories: in a good state of repair, as determined at the foundation's discretion,

the relevant return reports, mentioned hereinafter, completed and signed, and also after:

all outstanding invoices have been settled with the foundation.

- Termination

Notice of termination of the agreement is to be submitted in writing (by email).

- Return report

The instrument must be accompanied by a return report. A return report is available from the foundation office upon request. This return report must be completed and signed by an expert designated by the foundation, the user requests this from the expert. The return report must indicate that the instrument is in a good state of repair and ready for use by the following player.

Death of the user

Art. E 3 This agreement will end by operation of law upon the user's death. The user's surviving relatives/legal successors are obliged to return the instrument to the foundation as soon as possible.

Reclaiming of instrument by the owner

Art. E 4 This agreement may pertain to an instrument made available on loan to the foundation by a third party. In that case, the user accepts the possibility that the owner may reclaim the instrument during the term of the agreement. The foundation guarantees that the user may continue to use the instrument for another six months after any notice given in this regard. The user is obliged to return the instrument to the foundation in a complete state and in good condition following this period of six months. The agreement will then end on that date.

Moreover, the user undertakes to act in accordance with the provisions of Article E 2 with regard to the return of the instrument.

User residing abroad

Art. E 5 The user may only have the instrument in his/her possession so long as his/her principal place of residence is in the Netherlands. This agreement will end without judicial intervention on the date upon which the user takes up residence abroad. The user is obliged to return the instrument to the foundation as of that date. Moreover, the user undertakes to act in accordance with the provisions of Article E 2 with regard to the return of the instrument.

Termination of the agreement by the foundation due to special or changed circumstances

Art. E 6 The foundation expressly reserves the right to ascertain whether the facts or circumstances applicable at the time of the agreement's conclusion have changed to such an extent during the term of the agreement as to no longer reasonably justify use of an foundation instrument by the user. Such circumstances may include (but are not limited to) the following:

- if the loan no longer meets the objectives of the foundation, for example due to the termination of or changes to the user's activities as a performing musician;
- withdrawal of the instrument from musical practice;
- transference of the user's musical activities abroad;
- unsatisfactory study results;
- long-term occupational disability;
- bankruptcy, debt rescheduling, moratorium or guardianship of or an administration order levied against the user.
- failure to comply with any obligation as described in the General Terms and Conditions of the foundation.

In all these cases the foundation executive board will be entitled to terminate this agreement prematurely.

Difference of opinion

Art. E 7 If the foundation and the user have any difference of opinion regarding the application of these General Terms and Conditions, the user can lodge a written objection with the foundation Supervisory Board. In certain cases, the Supervisory Board may obtain advice, including soliciting a medical opinion. The Supervisory Board shall endeavour to mediate and, where possible, propose a solution. If a dispute cannot be resolved by consultation, the District Court of Amsterdam shall in the first instance have exclusive jurisdiction to take cognisance of disputes. The loan agreement (of which these general terms and conditions form part) is governed by Dutch law.

Confidential counsellor

Art. E 8 In the event that the user is of the opinion that he/she has experienced discrimination, sexual intimidation, aggression and violence or bullying in his/her contact with the foundation office, the user can report this to the to the external confidential counsellor of the foundation, committed by contract, the Gimd company since June 2020. The reporting procedure is available on the foundation's website.

Acts or omissions in contravention of these conditions

Art. E 9 If the user infringes or fails to comply with any provision of this agreement, the foundation may terminate this agreement with immediate effect without judicial intervention. The foundation is then entitled to immediately reclaim the instrument, without prejudice to the foundation's right to claim any amounts the user may still owe the foundation under the terms of this agreement. In such a case, the user will be obliged to return the instrument to the foundation or a third party designated by the foundation, in a complete state and in good condition, without prejudice to the foundation's right to have any damage to the instrument repaired at the user's expense.

F. Personal data**Processing of personal data, privacy statement**

Art. F 1 The foundation shall only process the user's personal data to the extent necessary for the execution of the agreement and/or to the extent that the user has given his/her consent.

The foundation has a privacy statement, which is applicable. The foundation reserves the right to make amendments to the privacy statement. The latest version of the privacy statement can be found on the foundation's website.

Storing of personal data

Art. F 2 The foundation only stores personal data as long as is necessary for the realisation of the purposes for which the data is being processed, and in any case as long as specific regulations require.

Privacy rights

Art. F 3 The user has the right to inspect his/her personal data, the right to request the correction, restriction or deletion of his/her personal data as well as the right to request the transfer of his/her data. Ultimately, the user can raise objections to the use of his/her data. If the processing of his/her data requires consent, the user can withdraw his/her consent at any time.