

## GENERAL CONDITIONS OF RENTAL

**1. Definitions:** • "Billing Cycle" each means the Billing Cycle for the Goods as described in the Welcome Letter • "Goods" means each of the Goods described in the Invoice, including cases (where applicable) and where applicable from the context means one or more of the items described in the Invoice • "Instrument Value Summary" means the guide as to the value of the Goods based over the term of the Three Year Rental Plan • "Invoice" means the tax invoice issued for each Billing Cycle as referred to in the Welcome Letter • "Rental Charge" means the rental charge referred to in the Invoice • "Rental Period" means the period for which the Goods referred to in the Invoice are rented by the customer as referred to in the Welcome Letter starting on the date referred to in the Welcome Letter and continuing until ended pursuant to these conditions • "School" means the customer referred to in the Welcome Letter (and Invoice) • "Term" refers to the school term as designated in the School's annual calendar • "Owner" means The Polygon Group Pty Ltd trading as Musicorp Australia • "Welcome Letter" means the Welcome Letter issued to the School setting out details of the Rental Plan, including start date and Billing Cycle and including these General Conditions of Rental, Instrument Value Summary and Returns Schedule (if applicable).

**2. Payment:** The School must pay the Owner the total Rental Charge within 14 days of the date of the Invoice.

**3. Agreement by the Owner:** If any Goods are found to be defective the Owner will at its cost repair the Goods or if it decides they cannot be satisfactorily repaired, replace them with Goods of at least equal or better quality and condition (having regard to whether the Goods are new or pre-loved), the replaced Goods then becoming subject to these conditions. Any defect must be promptly reported to the Owner following receipt of the Goods and in any event within 14 days of receipt. All pre-loved Goods are checked and serviced prior to rental.

**4. Loss, damage, maintenance etc**

4.1 The School must notify the Owner as soon as possible in the case of loss (due to theft or burglary or otherwise), destruction or damage to the Goods however occurring (phone: 08 8301 8705). All costs associated with replacing the Goods due to loss or destruction, or for repair of damaged Goods, including the cost of replacement in any case where the Owner considers it appropriate having regard to the extent of the damage, will be borne by the School and the School acknowledges that having selected this Rental Plan (from various rental options offered by the Owner) based commercially on the amount of the Rental Charge (amongst other factors) applicable to this Plan, that the Rental Charge does not incorporate any additional cost allowance for insurance on the Goods and accordingly the onus will be on the School to make its own insurance arrangements for such risks as it seeks fit. While the School may opt not to have the Goods replaced, it will still be liable to pay the Owner the replacement cost. A certificate signed by the Owner's authorised officer as to the value of the Goods at the relevant time will be *prima facie* evidence of value (based on the Owner's industry experience). If you wish to dispute the value, the Owner we will give due consideration to any supporting evidence you provide and either confirm the value or adjust the value and provide you with the reasons for that decision or accept your value.

4.2 Notwithstanding Cl 4.1, the Owner will at its cost carry out such work as may be required to remedy any defect or fault occurring at any time during the Rental Period as recognised by the manufacturer's most recent warranty terms applicable to the Goods (excluding in any event repairs to any Goods case).

4.3 If Goods are being replaced by the Owner there will be no abatement in payment or reduction in the Rental Charge or suspension of the Rental Period in respect of such Goods until the same are replaced provided however that the Owner will use its best endeavours to replace Goods as soon as practicable.

4.4 If the Owner replaces Goods, the replacement will be of at least equal quality and condition having regard to the age of the Goods at the time of the event (and will become subject to these conditions).

**5. Delivery:** The Owner will use its best endeavours to have the Goods delivered to the School or if agreed made available for collection on or as soon as practical after the start of the Rental Period but will not be responsible for any delivery delay beyond its control and the School will not be entitled to compensation for any delay outside of the Owner's control and will pay all reasonable delivery, freight and handling costs or costs associated with collection of the Goods on receiving the Owner's invoice.

**6. School's general obligations:** The School's general obligations for the purposes of these conditions will be as follows • keep the Goods in a clean condition and in good order and repair • require any student or teacher who the School has authorized to use the Goods to immediately report to the School any loss, destruction, damage or requirement for any repair or maintenance • maintain a proper degree of supervision and control with respect to the Goods and ensure that they are at all times treated with due care and when not in use, securely stored • not assign, transfer, charge or otherwise encumber the Goods or part with its right to possession except as contemplated by these conditions • permit the Owner to periodically inspect the Goods at the School's premises at any time during the Rental Period on receiving reasonable prior notice.

**7. Use of the Goods:** The School will only use the Goods in the course of ordinary activities of the School and they must at all times remain in the School's effective custody and control. However despite Cl 6, the Owner agrees that the School may at its risk if the School considers it expedient to do so for the purposes of conducting its ordinary activities grant students who are participating in the activity a license to use the Goods outside School premises but so that the Goods will always remain under the School's full control including the right to require the Goods to be returned to School premises; such license must in any case be immediately terminated at the Owner's direction if the School is in breach or default of these conditions.

**8. Indemnity:** The School will indemnify the Owner and keep it indemnified against any loss, damage, injury, costs, claims, demands and expenses (including any associated legal costs) of whatever kind or nature it may incur or become liable for due to the use of the Goods by the School or the breach or default of any of these conditions on the part of the School including but not limited to the any loss or destruction of the Goods or for any damage to the Goods.

**9. Default:** If the School fails to pay the Rental Charge or any other monies within 14 days of the due date (without need for formal legal demand) or otherwise commits a breach or default of these conditions that is not remedied within 14 days of the Owner's notice to do so, the Owner may treat the Rental Period as ended and retake possession of the Goods and for that purpose may (subject to law) enter into or upon premises where the Goods are or are reasonably believed to be without liability to any action for trespass or other proceedings if permitted by law to do so and without prejudice to its other rights under these conditions or at law the Owner will also be entitled to demand and take action to recover from the School a sum equal to the total of • all monies due by way of the Rental Charge • if Goods are not returned or recovered by the Owner the value of those Goods at the time determined and evidenced in the same manner as set out in Cl 4.1 • reasonable costs and expenses of any repairs to restore the Goods to the same state and condition as existed at the start of the Rental Period (fair wear and tear from normal usage as reasonably determined by the Owner excepted) • any reasonable expenses incurred to repossess the Goods or enforce the Owner's rights under these conditions or to attempt to do so (including legal costs).

**10. Billing Cycle and end of Rental Period options:** If the Goods are rented before the halfway mark of the Term, the first Billing Cycle will be for the Term in which the Goods are rented (unless otherwise agreed with the School) and if rented after the halfway mark the first Billing Cycle will be for the next Term but so that over the Rental Period there will be 12 Billing Cycles (on a per Term basis or part Term, as applicable) • not less than 14 days before the end of the Rental Period the Owner will contact the School to offer options available to finalise the agreement, whether a continuation of rental, return of the Goods or purchase. In the absence of any agreement being reached on for continuation of rental or purchase before the end of the Rental Period, the School must return the Goods to the Owner at its address or be collected by its freight courier) and until returned the Owner may continue to invoice Rental Charges recalculated on the basis of a monthly Rental Charge for each month or part thereof until the Goods are returned • the School may at any time offer to negotiate purchase the Goods. At the commencement of the Rental Period the School will be provided with an Instrument Value Summary as a guide to the indicative purchase price at points during the Rental Period and while acceptance of any offer remains at the Owner's discretion, an offer aligning with the Summary will be more likely to be accepted than an offer to purchase for a lesser price.

**11. GST and additional charges**

11.1 In this Clause • "GST" has the meaning as in section 195-1 of the GST Act • "GST Act" means a New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time) • "Supply" has the meaning as in Section 9-10 of the GST Act and excludes any "GST-free supplies" "input taxed supplies" as defined in Section 195-1 of the GST Act.

11.2 The Owner and the School each warrant they are or are required to be registered under paragraph 2.5 of the GST Act and will continue to be so at all relevant times up to and including the day of each supply made under these conditions and agree that the amounts payable by the School to the Owner for or in connection of each supply made under these conditions include GST but if the prevailing rate of GST is increased at any time during the Rental Period the Owner reserves the right to correspondingly increase the amounts payable during the Rental Period for any supply to ensure that the Owner achieves the same economic benefit in respect of the amounts payable after the increase as before.

**12. General:** The Welcome Letter and these General Conditions of Rental together constitute the rental agreement between the Owner and the School for the Rental of the Goods • Payment of the first Billing Cycle invoice shall constitute confirmation of the School's acceptance of the rental agreement with the Owner • The Owner may at any time assign or transfer its rights and obligations hereunder to a 3<sup>rd</sup> party without notice to the School or its consent if reasonably necessary or required for legitimate commercial reasons • If at any time the School purchases Goods and continues renting other Goods the Rental Charge reflected in future Invoices will be adjusted accordingly and the remaining Goods will remain subject to the terms and conditions of the rental agreement • Goods will remain the Owner's absolute property during the Rental Period, the School only having custody as bailee • A notice to be given by the School can be delivered personally or sent by pre-paid post to the Owner's address in the Invoice or such other address as the Owner may from time to time notify in writing and a notice given by post will be taken as received on expiry of 48 hours after being properly posted and a notice or other correspondence (including invoices) to be given by the Owner can be delivered personally or sent by pre-paid post to the School's address in the Invoice or to such other address as the School may from time to time in writing notify and a notice or other correspondence (including invoices) given by post will be taken as received on expiry of 48 hours after being properly posted • the Owner may for legitimate commercial reasons on giving not less than 30 days written notice end the rental of the Goods but without prejudice to its rights under these conditions and in any such case the Owner will refund an appropriate portion of the Rental Charge adjusted to the date of ending the rental • if any of these conditions are or at any time become void or unenforceable or are found to infringe State or Federal law, whether existing or coming into operation during the Rental Period, the remaining conditions will continue in full force and effect and the unenforceable or infringing provisions will immediately be replaced so far as practical by the Owner with lawful and enforceable provisions which so far as possible achieve the same economic benefit or burden or other effect for the parties as the unenforceable provision was intended to achieve • These conditions may be amended by consent, the School's consent evidenced by making the next rental payment due after receiving notice of the proposed change • Rental of Goods under these conditions will be taken to be subject to the laws of South Australia and the parties submit to the jurisdiction of the Courts of that State.