

Instrument Rental Application & Contract: Terms & Conditions (Page 1 of 3)

Definitions

'Collection Fee' means the fee charged by the Owner or its agent to collect the instrument from where it is kept;

'Instrument' means the instrument described on the first page of this Rental Agreement and includes any accessories;

'Instrument Condition Sheet' means, if applicable, the sheet attached to this Rental Agreement which describes the condition of the Instrument if it is not brand new.

'Rental Charges' means the fees, costs, amounts and charges payable under this Rental Agreement;

'Rental Period' means the period commencing on the date of this Rental Agreement and ending on the date that the Renter returns the Instrument to the Owner;

'Your Address' means the address specified above or an updated address provided to the Owner if you move.

Conditions of Hire

Indefinite Rental Agreement

- 1) (a) The Owner agrees to rent the Instrument to You on the terms and conditions contained in this Rental Agreement.
- (b) It is a condition precedent to this Rental Agreement that You provide the Owner with a completed Rental Application Form and that the Owner is satisfied with any credit report that it obtains about you.
- (c) This Rental Agreement commences on the date shown on the Rental Information page and continues until terminated in accordance with clause 8.
- (d) *This means that if you do not provide a notice of termination in accordance with clause 8 then this Rental Agreement automatically rolls over for one further term of one month. This will happen in each term that you do not provide a notice of termination to the Owner.*

Property in the Instrument

- 2) (a) The Instrument belongs to the Owner.

- (b) You only have the right to possession of the Instrument subject to the terms and conditions of this Rental Agreement.
- (c) You must keep the Instrument in good condition and repair it when necessary but fair wear and tear is excluded.
- (d) You must not make any modifications to the Instrument or remove any serial numbers or stickers on the Instrument.
- (e) If the Instrument is a piano or digital piano You must not remove the Instrument from Your Address without the Owner's consent.
- (f) You must not assign this Rental Agreement or any of the rights it creates.

Payment of Rent

- 3) (a) Rental Charges accrue and are payable monthly.
- (b) Each rental payment must be paid on or before the Due Date for that Rental Period.
- (c) If You have provided a Credit Card Debit Authority then Rental Charges will be paid by direct debit from the specified account or any other account you nominate.
- (d) The minimum You will be required to pay under this Rental Agreement is:
 - (i) four month's rent; plus
 - (ii) any applicable delivery, collection or administration charges.
- (e) If You do not pay any amount due under this Rental Agreement within 14 days of the date when the payment was required, then You must pay the Owner:
 - (i) interest at 10% per annum (compounded daily) on the amount from the expiry of 14 days from the date on which the payment was required to the date of payment; and
 - (ii) any administrative costs reasonably incurred by the Owner, plus interest on those costs.

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Access to the Instrument

- 4) You must provide the Owner or anyone the Owner authorises with access to the Instrument at all reasonable times:
- (a) for inspection, repair, tuning; and
 - (b) to take possession of the Instrument.

Loss or Damage

- 5) (a) You are responsible for loss or damage caused to the Instrument during the term of this Rental Agreement. This means that if the Instrument or any part of it is lost or damaged then you will have to pay to replace or repair it.
- (b) The Instrument may only be repaired by the Owner or someone authorised by the Owner.
- (c) If the Instrument is second-hand then You acknowledge that the Instrument is in the condition described in the Instrument Condition Sheet. You are not required to repair any damage or marks noted on the Instrument Condition Sheet.
- (d) You must tell the Owner of any loss or damage to the Instrument within 24 hours of any loss or damage occurring.
- (e) If the Instrument is totally destroyed or lost and that is caused by anyone other than the Owner, then You must pay the Owner the Replacement Value of the Instrument.

Because You are responsible for covering the cost of replacing the Instrument if it is lost or destroyed while you have it, you should consider insuring the Instrument while you have it.

Personal Property Securities Act

- 6) (a) This Rental Agreement may create a security interest under the Personal Property Securities Act 2009 (Cth).
- (b) The Owner may perfect any security interest created by this Rental Agreement by registering a financing statement on the Personal Property Securities Register.
- (c) You must not grant any security interest in the Instrument and must keep the Instrument under your

personal control and must not try to sell or otherwise dispose of the Instrument.

- (d) The Owner does not have to give You any notice under the PPSA unless the notice is required and cannot be excluded.
- (e) You must do anything reasonably required by the Owner to register any security interest or maintain its priority and registration.

Communication

- 7) (a) The Owner may communicate with You by:
- (i) post to the address You provided on the Rental Information Page or your last known residential address;
 - (ii) email to any email address You have provided to the Owner for that purpose; or
 - (iii) in any other way permitted by law.
- (b) You may communicate with the Owner:
- (i) personally by attending the Owner's store and providing it to an employee;
 - (ii) by pre-paid post to the Owner's address shown on the Rental Information Page; or
 - (iii) in any other way permitted by law.

Termination

- 8) (a) Either party may terminate this Rental Agreement by providing one month's notice to the other party.
- (b) The Owner may immediately terminate this Rental Agreement if You make any false statement or if You:
- (i) breach this Rental Agreement and the breach continues for seven days;
 - (ii) execution or distress against You or your goods is issued;
 - (iii) You do or allow anything to occur which is likely to cause damage to the Instrument.

Return of Instrument

- 9) (a) On the termination of this Rental Agreement You must provide the Instrument to the Owner in good condition and according to the Owner's directions. If You

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choose to have the Owner collect the Instrument then You will have to pay a Collection Fee.

- (b) If the Instrument is a piano or digital piano and You choose to deliver the Instrument to the Owner, instead of having the Owner collect it, You must only use experienced professional piano movers to move the Instrument.
- (c) If You do not provide the Instrument to the Owner as required by this clause then You must continue to pay Rent until the Instrument is provided to the Owner.

Indemnity

- 10) You indemnify the Owner against any claim or proceeding that is made, threatened or commenced, and any liability, loss, damage or expense that the Owner incurs as a result of a breach of this Rental Agreement by You.

Entire Agreement

- 11) This Rental Agreement contains everything the parties have agreed in relation to the rental of the Instrument. No party can rely on an earlier written document or anything said or done by or on behalf of another party before this Rental Agreement was executed.

Variation And Construction Of Agreement

- 12)(a) Each provision of this Rental Agreement is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this Rental Agreement in the relevant jurisdiction, but the rest of this Rental Agreement will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.
- (b) No variation of this Rental Agreement will be of any force or effect unless it is in writing and signed by each party to this Rental Agreement.
- (c) A waiver of any right, power or remedy under this Rental Agreement must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion. The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Rental Agreement does not amount to a waiver.

Governing Law

- 13) This Rental Agreement is governed by the law of South Australia. The parties submit to the jurisdiction of its courts.

Australian Consumer Law

- 14) (a) Your rights set out in this Rental Agreement are in addition to the rights as a consumer under the Australian Consumer Law.
- (b) Your consumer rights are not excluded, restricted or modified by this Rental Agreement.

GST

- 15) Goods and Services Tax will be charged on all payments due under this Rental Agreement.

The Privacy Act

- 16) (a) Under Section 18E (8) of the Privacy Act, Dale Cleves Music Pty. Ltd. is allowed to give a credit reporting agency personal information about your credit application. The information which may be given to an agency is covered by Section 18E (3) of the Act and includes:
 - (i) Identity particulars as permitted by the Privacy Commissioner's determination issued under Section 18E (3);
 - (ii) The fact that you have applied for credit and the amount;
 - (iii) The fact that Dale Cleves Music Pty. Ltd. is a current credit provider to you;
 - (iv) Payments which have become overdue more than 60 days, and for which collection action has commenced;
 - (v) Advice that payments are no longer overdue;
 - (vi) Cheques drawn by you which have been dishonoured more than once;
 - (vii) In specified circumstances, that in the opinion of Dale Cleves Music Pty. Ltd. you have committed a serious credit infringement;
 - (viii) That credit provided to you by Dale Cleves Music Pty. Ltd. has been paid or otherwise discharged.