



<b>Policy name:</b>	RENT-TO-OWN TERMS AND CONDITIONS	<b>Date:</b>	26/11/2020
<b>Policy no:</b>	005	<b>Version:</b>	1.0

## Acceptance

The Parent/Guardian is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Parent/Guardian purchases a Rent-to-Own instrument from [www. Bandemonium.com.au](http://www.Bandemonium.com.au), signs the Terms and Conditions and pays the initial \$99 deposit for the instrument.

These terms and conditions may only be amended with Bandemonium's consent in writing and shall prevail to the extent of any inconsistency with the Enrolment Form, any other document or agreement between the Parent/Guardian and Bandemonium.

None of Bandemonium's employees, agents or representatives are authorised to make any representations, statements, conditions, views, opinions or agreements not expressed by the Director of Bandemonium in writing, nor is Bandemonium bound by any such unauthorised statements.

## Fee Payment

Payment for instrument rental will be debited from your nominated credit/debit card on the 7<sup>th</sup> day of every calendar month. Payments are non-refundable. It is the Parent/Guardian responsibility to ensure there are sufficient funds available for the payments to proceed. Any payments missed due to insufficient funds, invalid credit/debit card, or any other reason for which is the responsibility of the Parent/Guardian, will attract a \$5 administration charge. See clause 'Change in Control', to be read in conjunction with this rule.

All payments must be made to as per the requirements set out in the automated direct debit agreement, as per the Terms and Condition of Stripe. No cash payments are accepted. Neither our tutors, conductors or school office staff can accept any payments.

## Ownership

Non-payment will incur the repossession of the instrument. Funds for instrument purchases will be deducted on the day of order.

Bandemonium retains full ownership of the instrument until full payment has been made.

At any stage, it is possible to make payment of the remaining rental fee to transfer ownership of the instrument. Contact [accounts@bandemonium](mailto:accounts@bandemonium) for balance amounts and to confirm request.



## Loss and Damage

The Parent/Guardian is responsible for any loss or damage caused to the instrument and will be responsible to pay for all repairs caused by negligence (eg dropping the instrument). Any problems that are no fault of the student will be repaired/replaced at no charge. Any attempt of self repair may cause further damage. Please do not attempt this as this will result any resulting damage being made liable to the Parent/Guardian

## Returning instrument

If a Parent/Guardian advises us in writing that the student is not continuing with the band program, and the Rent-to-Own instrument is no longer required, the instrument must be returned to the class tutor. All monthly payments will be required to be paid until the instrument is returned and the tutor has confirmed it is good working order.

The Parent/Guardian agrees to forfeit any ownership of previously made payments for the instrument, if it is returned before the full amount of the Rent-to-Own agreement has been paid. In addition, the Parent/Guardian is liable for any repairs if the instrument is found to be damaged, due to negligence or misuse.

## Overdue Accounts

Overdue accounts are subject to collection by legal means and will include any collection costs incurred by Bandemonium. Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Bandemonium's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

All overdue accounts will be referred to an external debt collection agency.

If the Parent/Guardian owes Bandemonium any money the Parent/Guardian shall indemnify Bandemonium from and against all costs and disbursements incurred by Bandemonium in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Bandemonium's contract default fee, and bank dishonour fees).

Without prejudice to any other remedies Bandemonium may have, if at any time the Parent/Guardian is in breach of any obligation (including those relating to payment) under these terms and conditions Bandemonium may suspend or terminate the supply of Lessons/Equipment to the Parent/Guardian. Bandemonium will not be liable to the Parent/Guardian for any loss or damage the Parent/Guardian suffers because Bandemonium has exercised its rights under this clause.



## Change in Control

The Parent/Guardian shall give Bandemonium not less than fourteen (14) days prior written notice of any proposed change in the payment arrangements and/or any change (in circumstances from) to the details as outlined in the Rent-to-Own agreement including, but not limited to, change of name, address, contact phone, credit card details, email address of the Student and/or Parent/Guardian,

The Parent/Guardian shall be liable for any loss incurred by Bandemonium as a result of the Parent/Guardian's failure to comply with this clause.

## Electronic Transactions Act 2000

Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act. 3.

## Personal Property Securities Act 2009 (PPSA)

In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

Upon assenting to these terms and conditions in writing the Parent/Guardian acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Resources/Equipment and/or collateral (account) – being a monetary obligation of the Parent/Guardian to Bandemonium for Services – that have previously been supplied and that will be supplied in the future by Bandemonium to the Parent/Guardian.

The Parent/Guardian undertakes to:

(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Bandemonium may reasonably require to;

- (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
- (ii) register any other document required to be registered by the PPSA; or
- (iii) correct a defect in a statement referred to in clause 8.2(a)(i) or 8.2(a)(ii);

(b) indemnify, and upon demand reimburse, Bandemonium for all expenses incurred in registering a financing statement or financing change statement on the Personal Property



Securities Register established by the PPSA or releasing any Lessons/Equipment charged thereby;

(c) not register a financing change statement in respect of a security interest without the prior written consent of Bandemonium;

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Lessons/Equipment and/or collateral (account) in favour of a third party without the prior written consent of Bandemonium.

Bandemonium and the Parent/Guardian agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

The Parent/Guardian waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

The Parent/Guardian waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

Unless otherwise agreed to in writing by Bandemonium, the Parent/Guardian waives their right to receive a verification statement in accordance with section 157 of the PPSA.

The Parent/Guardian must unconditionally ratify any actions taken by Bandemonium under these clauses

Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

## General

The failure by Bandemonium to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Bandemonium's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales, the state in which Bandemonium has its principal place of business, and are subject to the jurisdiction of the Camden courts in that state.

Subject to above clauses, Bandemonium shall be under no liability whatsoever to the Parent/Guardian for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Parent/Guardian arising out of a breach by Bandemonium of these terms and conditions (alternatively Bandemonium's liability shall be limited to damages which under



no circumstances shall exceed the Term Fee/Rental Equipment hire/Rent to Own monthly charge).

The Parent/Guardian shall not be entitled to set off against, or deduct from the Fee, any sums owed or claimed to be owed to the Parent/Guardian by Bandemonium nor to withhold payment of any invoice because part of that invoice is in dispute.

Bandemonium may license or sub-contract all or any part of its rights and obligations without the Parent/Guardian's consent.

The Parent/Guardian agrees that Bandemonium may amend these terms and conditions at any time. If Bandemonium makes a change to these terms and conditions, then that change will take effect from the date on which Bandemonium notifies the Parent/Guardian of such change. The Parent/Guardian will be taken to have accepted such changes if the Parent/Guardian makes a further request for Bandemonium to provide Lessons/Equipment to the Parent/Guardian.

The Parent/Guardian warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it