



TERMS & CONDITIONS

The agreement formed on acceptance of this Application is a Rental Agreement and is not to be taken to constitute a Hire Purchase Agreement or an agreement for sale of goods by instalment until such time as the Hirer confirms in writing that he is intending to purchase the instrument outright; at such time, the agreement formed on acceptance of this Application will be taken to constitute a Hire Purchase Agreement or Agreement for Sale of Goods.

Definitions

- "Instrument" refers to the musical instrument, the case and any accessories supplied with the instrument and not purchased separately.
- "Leisure Coast Wind & Brass" refers to Peter Wouters ABN 45 611 336 220 trading as Leisure Coast Wind & Brass.
- "The Hirer" refers to the person hiring the musical instrument, the case and any accessories supplied with the instrument and not purchased separately.
- "Brand New" implies that the musical instrument being offered through this Agreement has never been used before, with the exception of technical set-up and play-testing in the workshop of Leisure Coast Wind & Brass.
- "Preloved" implies that the musical instrument being offered through this Agreement has been used before by previous Hirers. Any preloved instrument is always cleaned, sanitized, and serviced upon return to Leisure Coast Wind & Brass. Signs of wear and tear may be present on these instruments.

I, the Hirer, acknowledge that by entering into this agreement between myself and Leisure Coast Wind & Brass to rent a musical instrument, I am agreeing to the terms and conditions listed below.

1. Payments

I agree to pay the monthly fee in advance as set out in this application. Payments will begin upon acceptance and processing of this application and thereafter close to or on the monthly anniversary of the first payment. Leisure Coast Wind & Brass may charge my credit or debit card through an Electronic Clearing System.

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2. Agreement

I agree that the instrument shall remain the property of Leisure Coast Wind & Brass and I will be charged monthly in advance the rental charge until such time as the instrument is either returned to the premises of Leisure Coast Wind & Brass or until I choose to purchase the instrument under the Rent-a-Horn scheme. I agree to maintain the instrument in the same condition in which it was initially rented to me. I understand that I am responsible for the purchase of consumables such as reeds, greases and other items expected to be replaced through normal use, and that I am responsible for the purchase of a cleaning swab for the interior of the instrument if required. I agree to notify Leisure Coast Wind & Brass within 24 hours of any loss, theft or damage to the instrument. I agree not to sell, lend, lease, assign, mortgage, pledge for pawn or otherwise deal with the instrument in such a way that it leaves my personal control. I agree not to attempt to repair the instrument myself, or attempt any change to the instrument. I understand that should I feel the instrument is in need for repair, I will return the instrument to Leisure Coast Wind & Brass for assessment and repair, and that without prior arrangement, Leisure Coast Wind & Brass does not authorize me to take the instrument to any repair technician other than Leisure Coast Wind & Brass.

3. Delivery

I understand that if I elect to have the instrument delivered, I will be charged a further delivery fee and that this and the first monthly payment will be debited upon acceptance and processing of my application. I acknowledge that Leisure Coast Wind & Brass will endeavour to deliver the instrument quickly and safely and I will not hold Leisure Coast Wind & Brass responsible for any delays in the delivery of the instrument.

4. Damage

If the instrument is damaged while in my possession, I am liable for any repairs as deemed by Leisure Coast Wind & Brass. On demand, I shall pay Leisure Coast Wind & Brass either the cost of repairs or the value of the instrument as assessed by Leisure Coast Wind & Brass, whichever is the lesser amount. Leisure Coast Wind & Brass is not required to replace this instrument until I have paid this amount.

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5. Purchasing the Instrument

5.1. When the Instrument was “brand new” upon the commencement of this Agreement.

At any time during the Rental Period but not after its termination, I may give notice of my wish to purchase the instrument. Leisure Coast Wind & Brass may, in its absolute discretion, without legal obligation to do so, agree to sell the instrument to me at the residual Contract Value determined at the date it receives the notice by the formula $C - B - A$, whereby C = the Contract Value at the start of the Rental Period, B = 100% of the rental charges paid up to the end of 12 months from the start of the Rental Period and C = 65% of the rental charges paid from the start of the 13th month of the rental period up until and including the 24th month of the rental period. Before the expiry of the 12th month of the Rental Period, I will notify Leisure Coast Wind & Brass of my decision to purchase the instrument or to continue to hire term beyond 12 months. If no notice has been given by the expiry of the first 12 months of the hire term, it shall be deemed that the Rental Term shall be extended beyond 12 months. If no notice has been given by the expiry of the 24th month of the hire term, it shall be deemed that the Rental Term shall not be renewed and the instrument shall not be purchased by me and the instrument shall be returned to Leisure Coast Wind & Brass.

5.2. When the Instrument was “preloved” upon the commencement of this Agreement.

At any time during the Rental Period but not after its termination, I may give notice of my wish to purchase the instrument. Leisure Coast Wind & Brass may, in its absolute discretion, without legal obligation to do so, agree to sell the instrument to me at the residual Contract Value determined at the date it receives the notice by the formula $C - B - A$, whereby C = the Contract Value at the start of the Rental Period, B = 50% of the rental charges paid up to the end of 12 months from the start of the Rental Period and C = 30% of the rental charges paid from the start of the 13th month of the rental period up until and including the 24th month of the rental period. Before the expiry of the 12th month of the Rental Period, I will notify Leisure Coast Wind & Brass of my decision to purchase the instrument or to continue to hire term beyond 12 months. If no notice has been given by the expiry of the first 12 months of the hire term, it shall be deemed that the Rental Term shall be extended beyond 12 months. If no notice has been given by the expiry of the 24th month of the hire term, it shall be deemed that the Rental Term shall not be renewed and the instrument shall not be purchased by me and the instrument shall be returned to Leisure Coast Wind & Brass.

6. Returning the instrument

If I no longer wish to rent the instrument, I agree to return it to the premises of Leisure Coast Wind & Brass on or before the due date of payment processing, otherwise the next month’s rental will be charged. Notwithstanding normal wear and tear, I understand that I must return the instrument in the original condition and with the original accessories. If on its return the instrument is found to have been damaged, I understand that I will be liable for any costs involved in the repair of the instrument. I understand that I may elect to have any damage assessed by an independent repairer if I am not in agreeance with the assessment by Leisure Coast Wind & Brass.

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7. Maintenance

Unless I am in default, Leisure Coast Wind & Brass will carry out at its cost such maintenance and repairs (excluding case repairs) that may be required due to normal use to the extent it is considered necessary to keep the instrument in proper playing order, or at its option will replace the instrument. What is normal use will be determined by Leisure Coast Wind & Brass but does not include defects due to misuse, negligence or lack of supervision on my part or of any person I permit (without the consent of Leisure Coast Wind & Brass) to carry out any maintenance or repairs. If the instrument is lost or needs repair or maintenance, no abatement of rental charges or suspension of the agreement will apply; if a replacement is needed, Leisure Coast Wind & Brass will endeavour to have it supplied as soon as possible but will not be responsible for any delay. If the instrument requires repair, servicing or maintenance, unless otherwise agreed, it is my responsibility to deliver it to Leisure Coast Wind & Brass and arrange for its collection on completion of work.

8. Default

I understand that I must ensure there are sufficient funds available in my elected account to allow the credit/debit card payment to be made in accordance with this agreement and that if there are insufficient funds available, I may be charged a fee and/or interest by my financial institution and I will also incur fees and charges imposed or incurred by Leisure Coast Wind & Brass in direct relation to this. Should there be insufficient funds available I will arrange for the payment to be made by another method or will arrange for sufficient funds to be available so that the payment can be processed. If I fail to pay any amount due for 14 days after that amount has become due or commit any other breach of the provisions of this agreement, Leisure Coast Wind & Brass may resume possession of the instrument. In this event, I will allow the collection of the instrument by and fully cooperate with Leisure Coast Wind & Brass or its agents, and I will be liable to pay all expenses incurred by Leisure Coast Wind & Brass in seeking recovery of overdue or unpaid monies including legal or administration costs and any amount payable to its agents and debit recovery agents (subject to any law to the contrary).

9. Indemnity

Unless otherwise provided by law, I indemnify Leisure Coast Wind & Brass and keep it indemnified together with its employees and agents, against all loss, damage, injury, claims, demands, costs and expenses (including legal costs) of any nature that it may incur or be liable for due to my/the student using the instrument or breaching this Agreement.

10. Insurance

I understand that I am responsible for insuring the instrument and that if the instrument is lost, stolen or damaged, I am responsible for its replacement or repair. If I let someone else use the instrument, anything done by them or occurring while the instrument is in their possession or control is deemed to have been done by me as the hirer or occurred while in my possession or control.

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11. Miscellaneous Provisions

- Change of Address: I must immediately notify Leisure Coast Wind & Brass in writing of any change of my address, including my given email address.
- Notices: A notice will be sufficiently given if delivered to me personally or by prepaid post addressed to me at my last given address, which will be deemed to have been received 48 hours after posting, or to Leisure Coast Wind & Brass if sent by prepaid post addressed to Leisure Coast Wind & Brass at PO Box 5331, Wollongong NSW 2520, or by email to info@lcwb.com.au which will be deemed to have been received on the date sent. Notices of any kind to be given under the Agreement must be in writing (whether by letter or email).
- Jurisdiction: Notwithstanding any implication of law to the contrary, the Agreement will be deemed to be made in New South Wales and will be construed in accordance with and be enforceable in accordance with the laws of New South Wales and I expressly agree along with Leisure Coast Wind & Brass to submit to the jurisdiction of the Courts of that State in respect of all matters arising under or relating to the Agreement.
- Severance: If a provision of the Agreement is, or at any time becomes, void or unenforceable or is found to infringe any State or Federal law (whether existing or coming into effect during the term of the Agreement) the remaining provisions will continue in full force and effect. The provision in question will immediately be severed and replaced with a lawful and enforceable provision which so far as possible attains the same economic benefit or burden or other effect for me and Leisure Coast Wind & Brass as the severed provision was intended to attain.
- Assignment of Rights: Leisure Coast Wind & Brass may at any time during the term of the Agreement assign or transfer its rights and obligations under the Agreement to other company or person without notice to me.
- Waiver: any concession given to me does not affect Leisure Coast Wind & Brass' rights under the Agreement and waiver of a particular breach is not to be taken as a waiver of any further or continuing breach and the ending of the Agreement does not affect Leisure Coast Wind & Brass' entitlement to recover any monies due to the date of termination or damages for any breach.
- Entire
- Agreement: The Agreement is Leisure Coast Wind & Brass' entire agreement with me regarding the rental of the Instrument; any prior terms or understandings are cancelled or replaced.
- Right of Refusal: Leisure Coast Wind & Brass reserves the right to refuse service.

Privacy Act

I understand that Leisure Coast Wind & Brass only collects personal information necessary for it to carry out its business as a retailer. Leisure Coast Wind & Brass collects such information by lawful and fair means and in an unobtrusive manner. Leisure Coast Wind & Brass will use and disclose my personal information for the primary purpose of a related purpose to its business as a retailer as permitted by the Privacy Act 1988 or where I consent to such a disclosure.

I understand that Leisure Coast Wind & Brass does not provide my personal information to third parties, but may occasionally use my personal information for the purpose of marketing the products of Leisure Coast Wind & Brass directly to me.