

## TERMS OF SERVICE

Modified: December 7, 2021

**IMPORTANT: Please read this document carefully, as it contains very important information regarding your rights and obligations, as well as conditions, limitations, and exclusions that might apply to you. These terms require the use of arbitration on an individual basis to resolve disputes, rather than jury trials or class actions. By using our services and engaging other users of this website, you affirm that you are of legal age to enter into this agreement, and you accept and are bound by these terms and conditions. You may not use our services or engage other users of this website if you do not agree to these terms and are not at least eighteen (18) years of age.**

These terms and conditions (these "Terms") apply to individuals (either adult students or parents of minor students) ("Students") who search for, enter into agreements with, and pay (our "Services") music lesson providers ("Music Teachers") through [www.TravelingMusicLessons.com](http://www.TravelingMusicLessons.com) and any related mobile application, if and as applicable, (together the "Website"). These Terms are subject to change by Traveling Music Lessons AZ, LLC ("TML," "we," "us") without prior written notice at any time, in our sole discretion.

These Terms are an integral part of the "TML Terms", which include our Website Terms of Use, Privacy Policy, Copyright Policy, these Terms, and any documents the expressly referenced by them that apply generally to the use of our Website. Unless otherwise provided in such revision, the revised terms will take effect when they are published and apply to all access to and use of the Website thereafter. Your continued use of the Website following the posting of revised TML Terms means that you accept and agree to the changes. You are expected to check the TML Terms from time to time so you are aware of any changes, as they are binding on you.

### 1. OVERVIEW

The Website contains features that enable Music Teachers and Students (collectively "Registered Users") to do, among other things, the following:

**Music Teachers.** Create profiles, advertise capabilities, obtain Student clients, obtain feedback from Students, and receive payment from Students.

**Students.** Register for an account through the Website, search for Music Teachers, retain Music Teachers, communicate with Music Teachers, leave feedback for Music Teachers, and pay Music Teachers.

TML acts as a payment provider by providing the Services including, without limitation, creating, hosting, maintaining, and providing payment services to Music Teachers via the Website. TML does not have any control over the purchase and implementation of lessons from a Music Teacher by a Student ("Music Lessons") paid for through TML payment services. TML IS NOT RESPONSIBLE IN ANY WAY FOR THE TIMELINESS, ACCURACY, COMPLETION, OR WORKMANSHIP OF ANY WORK PRODUCT PRODUCED BY A MUSIC TEACHER AS A RESULT OF A MUSIC LESSON. A MUSIC TEACHER IS NOT AN AGENT OF TML WITH RESPECT TO ANY SERVICE PURCHASED AND SOLD BY REGISTERED USERS THROUGH THE WEBSITE AND HAS NO AUTHORITY TO EXPAND OR MODIFY ANY WARRANTY, LIABILITY, OR INDEMNITY

**STATED IN THE TML TERMS. TML IS NOT RESPONSIBLE FOR A STUDENT'S SAFETY DURING SERVICES. PARENTS OF MINOR CHILDREN SHOULD NOT LEAVE CHILDREN UNDER 18 ALONE WITH A MUSIC TEACHER DURING ANY LESSON.**

By using our Services, you expressly acknowledge that: (a) TML is not acting as a trustee or a fiduciary of any Registered Users and that our Services are provided to Registered Users administratively; (b) TML is not a "financial institution" as defined under the Bank Secrecy Act (BSA) and the TML billing and payment services are payment services rather than a banking service; (c) TML IS NOT A BANK AND ANY PAYMENTS TRANSFERRED THROUGH TML ARE NOT INSURED DEPOSITS AND ARE SUBJECT TO DEFAULT, LOSS, OR FORFEITURE.

## 2. RELATIONSHIPS

**Student and Music Teacher.** The engagement, contracting, and management of a Music Lesson are between a Student and a Music Teacher. At the time a booking request is accepted, the Student agrees to purchase, and the Music Teacher agrees to deliver, the Music Lessons and related deliverables in accordance with these Terms. You agree not to enter into any contractual provisions in conflict with these Terms. The Student is responsible for remitting subscription fees for Music Lessons in advance of the Music Lessons. The Music Teacher is responsible for the performance and quality of the Music Lessons in accordance with a Music Lessons Agreement between Student and Music Teacher. Student and Music Teacher each covenant and agree to act with good faith and fair dealing in purchase and performance of the Music Lessons.

**Independence.** The Music Teacher shall perform services as an independent contractor. These Terms are not intended to, and do not create a partnership, joint venture, agency, or employer-employee relationship between Music Teacher and Student or between TML and any Student or Music Teacher.

**Registered Users and TML.** TML is not a party to the dealing, contracting, and fulfillment of any Music Lesson between a Student and a Music Teacher. TML has no control over and does not guarantee the quality, safety, or legality of any services performed or deliverables created, advertised, the truth or accuracy of Music Lesson listings, the qualifications, background, or abilities of Registered Users, the ability of Music Teachers to perform services, the ability of Students to pay for Services, or that Student or Music Teacher can or will actually complete a Music Lesson. TML is not responsible for and will not control the manner in which a Music Teacher operates and is not involved in the hiring, firing, discipline, or working conditions of a Music Teacher. All rights and obligations for the purchase and sale of Music Lessons are solely between a Student and a Music Teacher. TML will not provide any Music Teacher with any materials or tools to complete any Music Lesson. Students and Music Teachers must look solely to the other for enforcement and performance of all the rights and obligations arising from Music Lessons Agreements and any other terms, conditions, representations, or warranties associated with such dealings.

**Agency.** These Website Terms and any registration for or subsequent use of the Website by any user or Registered User will not be construed as creating or implying any relationship of agency, franchise, partnership, or joint venture between you and TML, except and solely to the extent expressly stated in the TML Terms.

**Taxes.** Registered Users are responsible for payment and reporting of any taxes. TML is not obligated to determine the applicability of any taxes or to remit, collect, or report any such applicable taxes. You agree that you will abide by any and all applicable state and federal tax statutes, regulations, and common law. In the event TML receives a notice of non-compliance with any such statute, regulation, or common law, including, without limitation, an Internal Revenue Service Levy, TML will deem such receipt a breach of this section and may suspend your account until TML receives an Internal Revenue Service Release.

### 3. FEES AND PAYMENT TERMS

**TML Payment Services.** As part of our Services, TML enables Students to make payments for Music Lessons through the Website. All fees for Music Lessons are billed in advance, automatically, and can be billed monthly, weekly, or bi-weekly on a flat rate or per lesson basis. TML charges all Music Teachers a fee for the Services provided by TML through the Website (“**Service Charge**”). The Teaching Fee shall be deducted from the total amount paid by a Student for a Music Lesson prior to any transfer of funds from TML to a Music Teacher (“**Transfers**”). TML reserves the right, in its sole discretion, to place a hold on requested Transfers if TML suspects monies may be subject to chargeback, bank reversal, failure to clear, or fraud. TML will release any such hold as soon as practical.

**Prices.** All prices, discounts, and promotions posted on the Website are subject to change without notice. The price charged for a Music Lesson will be the price in effect at the time Music Lesson is requested and will be set out in your order confirmation email. Price increases will only apply to Music Lesson requests or auto-payment effected after such changes. Posted prices do not include taxes or charges for shipping and handling. We strive to display accurate price information, however we may, on occasion, make inadvertent typographical errors, inaccuracies, or omissions related to pricing and availability. We reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

**Trial Music Lessons and Recitals.** If a trial Music Lesson is requested, it will be billed forty-eight (48) hours prior to the Music Lesson or immediately if it is scheduled within forty-eight (48) hours. Unless a Music Teacher cancels within the forty-eight (48) hour period, no refunds are available for trial Music Lessons once billed and reschedule requests will only be available at the Music Teacher’s discretion. TML may host music recitals and may include a Student in such recitals for an optional additional charge.

**Payment.** A Registered User’s use of the Services constitutes an agreement to pay for any amounts which you authorize us to retain from transactions. Such payments, once authorized, are final. When a Music Teacher has completed a session: (a) TML shall have no further liability to any party with respect to payment for such Music Lesson; (b) Student acknowledges that TML has provided a complete service in respect of the payment made by Student, as applicable; and (iii) Student hereby releases TML from any and all liability with respect to such payment. We accept all major credit cards for all Music Lesson payments. You represent and warrant that: (a) the credit card information you supply to us is true, correct, and complete; (b) you are duly authorized to use such credit card for the purchase; and (c) charges incurred by you will be honored by your credit card company.

**Remedy.** If, for any reason, TML does not receive payment for any amounts that you have authorized to be paid through your use of the TML Services, you agree to pay such amount immediately upon demand by TML. You also agree to pay any interest charges, attorneys' fees, and other costs of collection incurred by TML in collecting from you the authorized but unpaid amount. In such case, TML may, at its option, stop processing any further payments made by you and apply any amounts then held by TML on your behalf toward any deficiencies, losses, or costs that we have incurred as a result of your use of the TML Services. We may also make appropriate reports to credit reporting agencies, financial institutions, tax agencies and law enforcement authorities, and cooperate with them in any resulting investigation or prosecution.

**Cancellations, Rescheduling, and Refunds.** Unless canceled or rescheduled pursuant to these Terms, Students will be charged in advance for Music Lessons by using the credit card on file with us. Upon payment to TML by Student for Music Lessons, TML will assume responsibility for Transfer of payment to Teachers for such Music Lesson (less applicable Service Charge). You acknowledge that such funds will belong to TML immediately upon such funds being transferred to TML by you and, unless canceled pursuant to these Terms, are non-refundable. Lessons are refundable only if the Student cancels their lesson directly with a TML Administrator twenty-four (24) hours prior to the scheduled Music Lesson. If a Music Teacher cancels a Music Lesson, a credit will be applied to the Student's next-due bill or a refund will be provided for trial Music Lessons as provided above. In order to reschedule a Music Lesson, the Music Teacher or Student must make such request through the Website at least forty-eight (48) hours in advance of the Music Lesson and accepted by the other party at least twenty-four (24) hours in advance of the Music Lesson or the Music Lesson is canceled and a credit shall be applied to the Student's next-due bill. Students must request any credit or refund within thirty (30) days of a cancellation. Lessons canceled and paid for within the last 30 days will be eligible for a refund less the higher of a.) 8% of total authorization fee, or, b.) a \$20 refund fee. A request for credit or refund more than thirty (30) days after a cancellation may not, in our sole discretion, be granted.

**Funds Transfer to Music Teachers.** To receive funds due to you, you must request your selection of the funds transfer methods available on the Website. Any such requests shall be subject to the conditions and restrictions contained on the Website and in these Website Terms. Notwithstanding any other provision of these Website Terms, if TML determines in its sole discretion that a Music Teacher has violated the conditions and restrictions of the Website or Website Terms, TML has the right to refuse to process such request.

#### 4. MISCELLANEOUS

**Non-Circumvention.** Students agree to use the Website to make all payments to Music Teachers, whether first-time, repeat, or follow-on. As a Music Teacher, you agree to use the Website to receive all payments from Students identified through the Website, whether first-time, repeat, or follow-on. Additionally, you agree not to circumvent the Website or any associated fees. Without limiting our other remedies, to the extent you engage in actions or activities which circumvent the Services or otherwise reduce fees owed TML under these Website Terms, you agree to pay TML for all fees owed to TML and reimburse TML for all losses, costs, and reasonable expenses (including attorney fees) related to

investigating such breach and collecting such fees. As a Student, you agree to notify TML immediately if your Music Teacher solicits payment from you outside the Website. As a Music Teacher, you agree to notify TML immediately if your Student seeks to pay you outside the Website. You agree to notify us if you become aware of a breach of the foregoing prohibitions, or any potential circumvention of the Website or our Services.

**Cumulative Remedies.** All rights and remedies provided in the TML Terms are cumulative and not exclusive, and the exercise by TML of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

**Privacy.** We respect your privacy and are committed to protecting it. Our Privacy Policy governs the processing of all personal data collected from you in connection with your use of the Website and purchase of Music Lessons through the Website.

**Force Majeure.** Except for the payment of fees to TML, no party to these Website Terms shall be responsible for the failure to perform or any delay in performance of any obligation hereunder due to labor disturbances, accidents, fires, floods, telecommunications or Internet failures, strikes, wars, riots, rebellions, blockades, acts of government, governmental requirements and regulations or restrictions imposed by law or any other similar conditions beyond the reasonable control of such party. The time for performance of such party shall be extended by the period of such delay.

**Governing Law and Jurisdiction.** All matters relating to the Website and the TML Terms and any dispute or claim arising out of them (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Arizona without giving effect to any choice or conflict of law provision or rule (whether of the State of Arizona or any other jurisdiction). Any legal suit, action, or proceeding arising out of, or related to, the TML Terms or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of Arizona in each case located in the City of Phoenix and County of Maricopa, although we retain the right to bring any suit, action, or proceeding against you for breach of the TML Terms in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

**Arbitration.** At our sole discretion, we may require you to submit any disputes arising from the use of the TML Terms or the Website, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying Arizona law. In any dispute between a Student and a Music Teacher which cannot be resolved through negotiation, you expressly agree to and acknowledge that TML or a third party chosen by TML will arbitrate the dispute in accordance with the TML Terms and the Website.

**Assignment or Transfer.** You will not transfer, assign, or delegate your rights or obligations (including your Account) under the TML Terms to anyone without the express written permission of TML, and any attempt to do so will be null and void. TML may assign the TML Terms in its sole discretion.

**Waiver and Severability.** No waiver of by TML of any term or condition set forth in the TML Terms shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term

or condition, and any failure of TML to assert a right or provision under the TML Terms shall not constitute a waiver of such right or provision. If any provision of the TML Terms is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

**No Third-Party Beneficiaries.** These Terms do not and are not intended to confer any rights or remedies upon any person other than you.

**Entire Agreement.** These Terms of Service, our Website Terms of Use, Privacy Policy, and Copyright Policy constitute the sole and entire agreement between you and TML with respect to the Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the Website.

**Notices.**

We may provide any notice to you under these Terms by: (a) sending a message to the email address you provide; or (b) by posting to the Website. Notices sent by email will be effective when we send the email and notices we provide by posting will be effective upon posting. It is your responsibility to keep your email address current.

To give us notice under these Terms, you must contact us by personal delivery, overnight courier, or registered or certified mail to Leah Halonen, 3501 E. Dry Creek Rd., Phoenix, Arizona 85044. We may update the address for notices to us by posting a notice on the Website. Notices provided by personal delivery will be effective immediately. Notices provided by overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.