

ESP Music Rentals Ltd

Terms and Conditions of Trading

Conditions of Hire

1.1 In these conditions:

- a) "Contract" means a contract for the hire of equipment concluded by the acceptance by ESP Music Rentals Ltd of an order as pursuant to Condition 2.
- b) "Equipment" means the equipment described or any individual item thereof.
- c) "Hire charge," means the daily/weekly charge payable by the hirer to ESP Music Rentals Ltd for the hire of equipment, which is set out in our website.
- d) "Hire period" means a period starting on the date that equipment or Crew is despatched from the premises of ESP Music Rentals Ltd or collected by the hirer and ending on the date on which the equipment is returned to the premises ESP Music Rentals Ltd. Should any equipment be returned after the agreed hire period end date, the Hirer will be responsible for the cost of the additional days.
- e) "Hirer" means the hirer of the equipment from ESP Music Rentals Ltd.

1.2 The headings in these Conditions are for ease of reference only and shall not effect their interpretation.

2. Orders

ESP Music Rentals Ltd shall only accept an order for hire of equipment provided that it is in writing. Unless otherwise agreed, the written acceptance of the hirers order by an authorised employee of ESP Music Rentals Ltd shall constitute the contract, which shall be subject to these conditions. Any terms or conditions in the Hirers order or other documentation of whatsoever kind, which are inconsistent with these Conditions, shall have no effect.

3. Hire of equipment

3.1 ESP Music Rentals Ltd hereby hires to the Hirer the Equipment for the Hire Period at the Hire Charge

3.2 ESP Music Rentals Ltd reserves the right to supply equipment of a similar design to the Equipment

3.3 All descriptions and specifications, drawings and particular weights and dimensions issued by ESP Music Rentals Ltd are approximate only, and are intended only to present a general idea of the goods to which they refer and shall not form part of the contract. Due to continual development, ESP Music Rentals Ltd reserves the right to change specifications without notice.

3.4 The Hirer is deemed to have satisfied themselves that the goods are suitable for the purpose and capable of performing the function and use to which it is intended to put them

4. Hire charge

4.1 The Hirer shall pay to ESP Music Rentals Ltd either in advance or on a weekly basis a sum calculated by multiplying the appropriate Hire Charge of the Equipment by the hire period for such items of Equipment. All hire charges are

strictly nett and are due and payable immediately on invoice or within 28 days if an account holder. Charges run from the day of dispatch until day of return and are based on a period of one week or part thereof irrespective if goods are in use or not.

4.2 The Hirer shall pay to ESP Music Rentals Ltd any packing and delivery charges where appropriate.

4.3 All sums due from the Hirer to ESP Music Rentals Ltd hereunder shall be increased to include VAT at the current rate.

4.4 Where no credit facilities have been established a deposit of 50% of the Equipment replacement cost may be required payable on receipt of the Equipment with the appropriate Hire Charge. The Hirer shall pay ESP Music Rentals Ltd's invoices hereunder within 28 days if an account is established.

5. Delivery

5.1 Any dates and times quoted for delivery of the Equipment are approximate only and ESP Music Rentals Ltd shall not be liable for any delay in the delivery of the Equipment however caused.

5.2 The hirer shall conduct a reasonable inspection of the Equipment upon receipt. If such inspections reveal that the Equipment is damaged, missing or part missing the Hirer shall inform ESP Music Rentals Ltd and the carrier in writing within 3 days of the date of receipt. The Hirer for inspection by the carrier may retain damaged Equipment provided that it be returned to ESP Music Rentals Ltd on demand. If the Hirer fails to notify ESP Music Rentals Ltd and the carrier in accordance with these conditions or to return the Equipment on demand, the Hirer shall pay to ESP Music Rentals Ltd the full cost of repair or replacement of the Equipment or full hire rate until returned.

5.3 ESP Music Rentals Ltd responsibility for damage or non-delivery of Equipment duly notified in accordance with the above shall in any event be limited to the replacement of the goods within a reasonable time (or, at the Hirers option refunding the price thereof) whether the damage or non-delivery is due to ESP Music Rentals Ltd negligence or otherwise.

6. Use of equipment

6.1 The Hirer shall ensure that the Equipment is installed and used by competent and qualified personnel in a manner which complies with any applicable statute, regulation or order in force affecting the Equipment including the Health and Safety at Work Act 1974 and any subsequent amendment.

6.2 The Hirer shall at his own expense keep the Equipment in good repair, condition and working order, fair wear and tear excepted. Without prejudice to the generality of the forgoing, the Hirer shall on a regular basis and certainly every week:

a) Inspect, test and clean equipment.

b) Check and maintain equipment.

c) The Hirer shall not without prior written consent of ESP Music Rentals Ltd make any modification or alteration to the Equipment, or take the Equipment outside mainland Great Britain.

4. d) The Hirer shall allow ESP Music Rentals Ltd to inspect the equipment upon request.

5. **e)** The Hirer shall return all faulty equipment / parts to ESP Music Rentals Ltd. The replacement cost will be charged to the Hirer if they are not returned.

7. Installations

The following conditions apply to contracts where ESP Music Rentals Ltd carries out the temporary or permanent installation of equipment.

7.1 The price quoted is based on work being carried out in one visit to the site unless otherwise agreed. Should additional visits be required for any reason whatsoever out with ESP Music Rentals Ltd control, additional charges will then be incurred and be charged to the Hirers account

7.2 If in the opinion of ESP Music Rentals Ltd, working out with the sites normal working hours is required, no costs incurred in keeping premises open shall be chargeable to ESP Music Rentals Ltd.

7.3 The Hirer shall provide suitable secure accommodation on site for the storage of materials to be incorporated in the works. The storage facilities should be clean, dry and kept at a temperature above freezing and below 30oC.

7.4 The Hirer shall provided power for small hand tools and working lights. The Hirer shall have the main power supply available and connected prior to the time set for ESP Music Rentals Ltd to test and commission the Equipment.

7.5 All works by other trades, which affect ESP Music Rentals Ltd work, such as the construction of a stage must be completed before ESP Music Rentals Ltd commences their work.

7.6 The Hirer shall notify ESP Music Rentals Ltd in writing of any special precautions that must be taken to protect surfaces, finishes or fabrics etc. and ESP Music Rentals Ltd will not be responsible for any damage caused howsoever to any surface or item unless they have been given prior written notice of such special precautions to be taken.

7.7 The Hirer shall advise ESP Music Rentals Ltd of any special provisions in the Hirers Health & Safety Policy and a copy shall be provided if requested.

7.8 The obtaining of any necessary consents for the installation of the Equipment whether from local or other authorities or for the ensuring that the installation of the goods is in accordance with the provisions of any by-laws, regulations or statutes shall be the responsibility of the Hirer.

8. Ownership

The Equipment shall at all times remain the property of ESP Music Rentals Ltd and the Hirer shall have no rights to the Equipment other than as hirer and the Hirer shall not do or permit or cause to be done any matter or thing whereby the rights of ESP Music Rentals Ltd in respect of the Equipment are or may be prejudicially affected. In the case of the purchase of equipment the property in the goods shall not pass to the Buyer until ESP Music Rentals Ltd have received in cash (or cleared funds) payment in full of the price of the goods and all other goods agreed to be sold by ESP Music Rentals Ltd to the Buyer for which payment is then due.

9. Loss, damage and insurance

9.1 The risk of damage or loss of equipment passes to the Hirer at commencement of the Hire Period. In the event of any loss or damage to the

Equipment the Hirer shall pay for its replacement, or the cost of restoring it to good working order, or allow ESP Music Rentals Ltd or its agent to carry out such work at the Hirers expense. In the event that the Hirer does not comply, their details will be given to the local police.

9.2 The hirer shall during the Hire Period (without prejudice to the liability of the Hirer to the Owner pursuant to Condition 9.1) keep the equipment insured for its full replacement value with a reputable insurance company against loss or damage from all risks (including Third Party risks). The Hirer shall notify its insurers that the Equipment is on hire from ESP Music Rentals Ltd and request the insurers to endorse a note of such interest on the policy naming ESP Music Rentals Ltd as loss payee. The Hirer shall on demand show to ESP Music Rentals Ltd the policy, the premium receipts and insurance certificate and shall not use or allow the Equipment to be used for any purpose not permitted by the terms and conditions of the said policy or do or allow to be done any act or thing whereby the insurance may be invalidated.

9.3 Where any event or accident shall occur which is a risk covered by the Hirer's insurance hereunder the Hirer shall immediately notify ESP Music Rentals Ltd thereof. The Hirer shall hold any monies received by the same as ESP Music Rentals Ltd directs.

10. Hirers Indemnities

10.1 The Hirer shall solely be responsible for and hold ESP Music Rentals Ltd fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by ESP Music Rentals Ltd as a result of any accident involving the Equipment.

10.2 The Hirer shall be solely responsible for and hold ESP Music Rentals Ltd fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by ESP Music Rentals Ltd as a result of breach or default on the part of the Hirer in the discharge of its obligations under any Contract.

11. Limitations Of Liability

11.1 ESP Music Rentals Ltd's Liability for direct physical damage to tangible property of the Hirer caused by the negligence of ESP Music Rentals Ltd, its employees, agents or sub- contracts, or by breach of any Contract, shall not exceed £500,000 subject to the exclusions set out in Condition **11.2**

11.2 ESP Music Rentals Ltd shall not be liable for the following loss or damage howsoever caused and even if foreseeable by or in contemplation of ESP Music Rentals Ltd: -

1. **a)** Loss of profits, business, revenue, goodwill or anticipated savings whether sustained by The Hirer or any other person; or
2. **b)** special, indirect or consequential loss other than direct physical damage to tangible property of The Hirer or any other person; or
3. **c)** any loss arising from any claim made against ESP Music Rentals Ltd by any other person.

12. Termination

12.1 ESP Music Rentals Ltd shall have the right to terminate a Contract forthwith by giving notice in writing if the hirer: -

1. **a)** fails to make payment of any sum in accordance with Condition 4, or
2. **b)** shall commit any other material breach of its obligations hereunder and shall not
within 14 days of notice of such breach remedy the same, or
3. **c)** Shall enter into liquidation whether compulsorily or voluntarily otherwise than for the
purpose of amalgamation or reconstruction without insolvency or shall compound or make any arrangement with its creditors or shall be the subject of an application for an administration order or shall be subject of any proposal under Part 1 of the Insolvency Act for a composition in satisfaction of its debts.

13. Consequences of Termination

13.1 Any termination of a Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party

13.2 On termination of a Contract (howsoever occasioned) the Hirer shall no longer be in possession of the Equipment with ESP Music Rentals Ltd consent and shall unless otherwise agreed with ESP Music Rentals Ltd forthwith return the Equipment to ESP Music Rentals Ltd in good working order.

14. Force Majeure

Although ESP Music Rentals Ltd shall use all reasonable endeavours to discharge its obligations under a Contract in a prompt and efficient manner, it does not accept responsibility for any failure or delay caused by circumstances beyond its control.

15. General

15.1 No neglect, delay or indulgence by ESP Music Rentals Ltd in enforcing a Contract shall prejudice the rights of ESP Music Rentals Ltd or be construed as a waiver.

15.2 The Hirer hereby waives all and future claims and rights set off against any sums due to ESP Music Rentals Ltd regardless of equity, set off or counter-claim on the part of the Hirer against ESP Music Rentals Ltd.

15.3 Any notice hereunder shall be in writing and may be served by sending it pre-paid first class post or delivery to the Hirers address.

15.4 The Hirer shall not assign or otherwise transfer all or any part of a Contract.

15.5 The formation, construction and performance of all Contracts shall be governed in all respect by Scottish Law. The parties hereby agree to submit to the exclusive jurisdiction of the Scottish Courts.

16. Cancellation

If the Hirer cancels an order within 24 hours of the date when the Hire Period was to commence, the Owner reserves the right to charge the Hirer a cancellation charge not exceeding the total agreed anticipated charge for the cancelled hiring.