

ESS Terms & Conditions of Hire 2020

Introduction

This document is issued by Entertainment Sound Specialists (Hereafter referred to as "ESS"), to describe the terms and conditions of hire of the Company's Sound Systems for concerts, events, tours and other performances, where provided with personnel – 'Sound Crew'.

This document is the Terms & Conditions of Hire in full, laying down the contractual agreement between ESS and the Hirer. Please note that other documentation, such as Quotations will include short interpretations and/or parts of these terms. In all cases, this document is the definitive Terms & Conditions of Hire document and will take precedence over any other terms stated or implied elsewhere.

Definition of expressions used:

"Hire" This expression refers to the arrangement to use equipment supplied by the Company at an event or tour, accompanied by a crew provided by or on behalf of the Company. The

period of Hire under these terms is usually three or more days and rates applied may be quoted as 'the Tour Rate'. These Terms & Conditions do not cover Dry Hire arrangements.

"Hirer" The person, company, department or other body who has ordered and/or accepted Equipment or services from ESS .

"The Equipment" All items of equipment and or services accepted by the hirer along with any other items and or services included or implied whether specified or not.

"Sound Crew" Personnel supplied by or on behalf of ESS as part of the hire service to install, maintain and dismantle the equipment.

"Owner/The Company" ESS

Provision of the Equipment and Services

1. Provision of the Equipment and Services ESS agrees to supply you with the sound system and rigging equipment described in the hire schedule/quotation for the hire period, together with the services of a Sound Crew of the number specified in the quotation.

2. Replacing defective Equipment: ESS will supply all Equipment in good working order, however, in the event of a defect; the liability of ESS will be limited to the repair or replacement of any defective Equipment, at ESS's discretion.

3. ESS's Property: Equipment remains the property of ESS at all times. In the event of a breach of any of these conditions, ESS may without prejudice to any other rights or remedies forthwith terminate the arrangement and repossess all their Equipment. Re-hire is not allowed by the Hirer without advanced written permission. Terms & Conditions of Hire Page 2

Principal Exclusions:

4. Unless explicitly stated in writing in the quotation, the following are excluded from the hire provision:

4.1. Taxes including Value Added Tax (VAT)

4.2. Equipment (other than shown in the hire schedule/quotation) including risers, sets, scaffolding, flooring, staging equipment, fork lifts or other transportation equipment.

4.3. Rigging of Flying Points ie the task of attaching motor chain hooks to the supporting fabric

4.4. Locally-booked or venue equipment

4.5. Local Crew Personnel (other than the ESS Sound Crew shown in the hire schedule/quotation) including loaders, stagehands, licensed riggers and electricians, operators of the Equipment. It will be the responsibility of the hirer to provide Local Crew to assist with equipment load in and load out.

4.6. Transportation of equipment and personnel, including freight and transport costs and storage of the equipment. Unless clearly stated otherwise, all equipment and sound crew services are quoted ex-Mansfield UK. All equipment should be collected and returned here at the end of the hire period. Other arrangements must be agreed in writing prior to the commencement of the hire contract.

4.7. Sound Crew Expenses including reasonable travel expenses from our Mansfield base to the event location and accommodation and crew catering. Payment of per diem or other cash payments to sound crew personnel is at the absolute discretion of the hirer and will not be reimbursed by ESS .

4.8. Excessive Hours ESS reserves the right to charge the hirer for hours worked by the Sound Crew in excess of their 'standard working day'. It is understood that the 'standard working day' may vary according to the nature of the hire and event locations, but it is the responsibility of the hirer to agree these terms in advance of the hire. Where equipment is loaded or despatched from ESS or returned to ESS during a weekend, this will normally incur an overtime charge for personnel at ESS's warehouse.

4.9. Insurance: It is a condition of hire that the Hirer takes out adequate insurance to cover the equipment hired. ESS will, at its sole discretion, charge the Hirer for any equipment lost, stolen or damaged as described in Paragraphs 5 and 6 below (Responsibilities of the Hirer) whether or not this is covered by the insurance policy taken out by the Hirer. ESS reserves the right to see evidence that the Equipment is adequately covered by a suitable policy, prior to checking out the Equipment. However, this does not reduce the liability of the hirer for uninsured losses.

4.10. Carnet fees and other administrative costs associated with transportation of Equipment outside of the United Kingdom. If any of the above excluded items are provided or incurred by ESS as part of a hire, they will be charged to the hirer as extras to the hire agreement. Terms & Conditions of Hire Page 3

Responsibilities of the Hirer:

5. The Hirer assumes full responsibility for the Equipment from the time of checking out until checking in to ESS . The hirer is responsible for the safe keeping of equipment and is liable for any loss or damage caused to the Equipment during the period of hire. The hirer is responsible for providing suitable and adequate security arrangements for the safe keeping of the equipment during the period of hire. The hirer must take all necessary steps (at its own expense) to retain possession and control of the equipment and in the event of losing possession or control will take all necessary steps to recover the equipment.

5.1. Items of equipment are not to be used, and the Hirer will not permit them to be used, for any purpose for which they are not expressly designed.

5.2. Equipment is not to be altered or modified in any way without the prior consent of ESS

5.3. Equipment is not to be hired, re-hired or sub-hired to any third party or parties, without the express written consent of ESS .

6. The cost of replacing or repairing the Equipment will be borne in full by the Hirer. Equipment lost, damaged or modified will be charged for at full hire rate until the loss is settled in full.

6.1.Examples of loss/damage /modification include (but are not limited to) the following:

- Damage by persons known or unknown, including audiences and artists (whether or not as part of the performance)
- Damage or loss caused by inadequate handling by third parties (including local crew)
- Damage by adverse weather conditions including water damage
- Loss due to theft on site or in transit
- Loss or damage during transportation
- Modifying cables by cutting and/or re-wiring plugs/sockets

Hire Periods, Charges and Payments:

7. Hire Period: Hire charges are calculated from the date of collection / delivery to the date of return to ESS . Permission for extending hire arrangements may be granted on request but must not be assumed. Availability and prices of Equipment may vary from our rate card or as advertised on our website and cannot be guaranteed for periods of extension.

8. Weekends & Bank Holidays: Where the hire start date or end date falls on a weekend or bank holiday, at the discretion of ESS , checking out may be done on the last working day prior to the hire start date and/or checking in may be done on the first working day after the hire end date. Checking out or checking in may in some circumstances be arranged outside of normal operating hours.
Terms & Conditions of Hire Page 4

9. Hire Equipment Charges: Hire charges are based on weekly rates, with the period of hire starting from the time of checking out by ESS at its Mansfield base, to the time of checking in by ESS, within the normal operating hours of the Company (10.00 am and 6.00 pm). Equipment checked out during operating hours on day 1, must be returned before 6.00 pm on the 7th day of hire, or a second week's hire will be incurred.

10. Payments: Payments must be made in full with cleared funds prior to checking out, unless the hirer has set up an account with ESS , in which case payments will be made according to the terms of the account and as stated on the invoice

11. Late Payments: Where any discounts are offered or negotiated, any entitlement to discount will be forfeited if accounts are not paid by the due date. Furthermore, any accounts not paid by the due date will have an interest charge applied each month until payment is received in full. (The rate of interest is currently 2.5% per calendar month or part thereof – the rate applied will be stated on the invoice).

12. Contra Payments.

Where an ESS Customer is also an ESS supplier then we shall consider an agreement exists to contra the sales and purchases transactions between us.

Any balance which remains outstanding will be remitted by or to ESS under the relevant parties normal terms and conditions.

Safe Working Provisions:

12. Health & Safety Sound Crew and other Personnel supplied by ESS must not be prevailed upon to act in any manner which is contrary to the method statements, risk assessments and codes of conduct issued by ESS. Full versions of these documents are available on request. In addition all contractors are instructed to follow established safe working practices and legal constraints and to refer to the ESS head office if they are instructed to operate in contravention of these.

13. Site Access It is the responsibility of the hirer to ensure there is adequate and safe access to a performance site. We reserve the right not to deliver equipment where we believe access to be unsafe. It is the responsibility of the hirer to inform ESS beforehand of any access issues and where possible take appropriate measures to reduce risk to our sound crew and equipment.

14. Site Power It is the hirer's responsibility to ensure provision of a safe, consistent and adequate electrical power supply. Where portable generators are used, these must be regulated and adequately grounded. Please contact us if you are unsure about what power will be required. Equipment damaged due to unsafe electrical equipment at the performance site shall be repaired or replaced at the expense of the hirer.

15. Sound Pressure Levels High Sound Pressure levels can cause permanent hearing damage. Repeated exposure can have a cumulative effect. Equipment provided by ESS can and does produce high enough sound pressure levels to cause hearing damage. ESS cannot accept liability for any individual's failure to stay at an appropriate distance from loudspeakers or failure to take any necessary steps to protect their own hearing. It is the responsibility of the hirer to ensure the safety, with regards to hearing, of the general public. Where appropriate you may wish to ensure that warning notices are displayed, hearing protection is issued, or safety barriers are erected. Terms & Conditions of Hire

Page 5

16. Local Licences: The hirer is solely responsible for obtaining any licence, qualification or other authority, which may be required for the safe and legal operation of the Equipment hired and agrees to abide by all legal guidelines relating to the installation and operation of the Equipment.

General Terms and Provisions:

17. Contract of Hire: The placing of an order for equipment by the Hirer or the issuing of a sales invoice by ESS constitutes a contract which binds the Hirer to accept these conditions and our full terms and conditions of business.

18. Termination: ESS may terminate the hire contract under these terms and conditions, either immediately or at any time within three months after that by notice to the Hirer and no payment subsequently accepted by ESS without knowledge of such termination shall in any way prejudice or affect the operation of this clause if the Hirer:

18.1. fails to pay any Rentals or other sums payable under these conditions or under any other agreement between the Hirer and ESS, in full within 14 days of such sums becoming due (whether demanded or not)

18.2. commits a breach of any of the other terms and conditions of the contract (whether express or implied

18.3. does or causes to be done any thing, which in the opinion of ESS may jeopardise ESS's rights in the Equipment.

18.4. is involved in any legal process (whether directly or indirectly) that results in a levy on or against any of the hired equipment, or against any premises where the equipment is, or against any of the Hirer's goods or other property, or the hirer permits any judgement against it to remain unsatisfied for seven days

18.5. suffers an interim order (as an individual) under the Insolvency Act or enters into a voluntary arrangement or suffers the making of a statutory demand or the presentation of a petition for a bankruptcy order

18.6. enters into any liquidation, calls any meeting of its creditors, or has a receiver or administrative receiver appointed of all or any of its undertaking or assets, or suffers the appointment or the presentation of a petition for the appointment of an Administrator under the provisions of Part II of the Insolvency Act, or is deemed by virtue of Section 123 of the Insolvency Act to be unable to pay its debts.

19. Force Majeure: ESS is not liable for any failure to supply a product or service where that failure is wholly caused by an event that could not reasonably have been foreseen, forestalled or prevented. This may include (but is not limited to) acts of war, terrorism, or natural disasters.

20. English Jurisdiction: All agreements, contracts and transactions entered into with ESS will be bound and governed by English Law. This document supersedes all previous terms and conditions of hire.