

STUDIO SERVICES BOOKING TERMS AND CONDITIONS

The Client hereby agrees that the Booking is made subject to the terms and conditions specified below ("the Conditions")

1. Definitions

For the purposes of this Booking:

- 1.1 "Booking" shall mean the hire of any of the recording studio facilities for the period and subject to the other terms and conditions specified in the Form
- 1.2 "the Client" shall mean the limited company partnership or individual on whose behalf a Booking shall be made
- 1.3 "the Company" shall mean 'Deep recording Studios'
- 1.4 "the Fee" shall mean the charges payable by the Client for the hire of the Studio and the supply of services and materials:
 - 1.4.1 as specified in the Form; or
 - 1.4.2 if not specified in the Form or if the details of the Booking shall change after initial acceptance of the Booking in accordance with the Company's agreed scale of charges operative at the commencement of the Booking together with all other charges incurred by the Client in connection with the Booking.
- 1.5 "the Form" shall mean any written quotation given by the Company or any written order of the Client received by the Company
- 1.6 "a Recording" shall mean any single or multi-track audio visual recording or derivative thereof of any one or more pieces of recorded sound or visual image recorded or used during the Booking
- 1.7 "the Studio" shall mean the deep recording studio specified in the Form

2. Studio Facilities

- 2.1 The Company shall make the Studio and any agreed Studio personnel available to the Client for the duration of the Booking
- 2.2 The Client shall not provide their own recording engineer or other such technical personnel to operate the Company's equipment without obtaining the Company's prior consent thereto

3. The Fee

- 3.1 Clients with agreed credit, ie account holders, shall pay the whole of the Fee within fourteen (14) days of the Company's invoice unless otherwise agreed in writing at the time of Booking. Failure to make payment of the Fee or any part thereof in accordance with the foregoing shall without prejudice to any other remedy the Company may have against the Client render the Client liable to pay interest on the amount unpaid at the rate of four per cent (4%) per annum above Barclay's Bank plc base rate prevailing at the time of Booking. Non account holder will be required to pay the full fee on placing an order for studio time or goods.
- 3.2 The Fee shall not be reduced on account of:
 - 3.2.1 the Client's failure to use the Studio for any or all of the period of the Booking
 - 3.2.2 The Client's cancellation of the Booking or any part thereof unless the Company shall otherwise agree in writing

4. Downtime

The Company shall not be liable to the Client for any loss or damage suffered by the Client as a result of delay postponement curtailment or cancellation of the Client's use of the Studio arising from any fault in the Studio's equipment ("Studio Breakdown") unless the same shall have been caused by the negligence of the Company in which event the Company's liability therefore shall be limited to a pro rata share of the Fee calculated by reference to the duration of the Studio Breakdown.

5. Recordings

- 5.1 The Client shall give the Company notice of its intention to supply its own recording media (including without limitation multi-track recording tape/media) ("the Client's Own Media") together with full technical details thereof at least seven (7) days prior to the commencement of the Booking.
- 5.2 If the Client supplies the Client's Own Media:
 - 5.2.1 the Company shall be entitled to charge the client for the use thereof within the Studio at the rate of twenty per cent (20%) of the retail list value of the Client's Own media used during the Booking
 - 5.2.2 the Client shall be responsible for the integrity of the Client's Own Media and the Company shall not be liable for any deficiency in or caused by such Media
- 5.3 The Company shall not be liable for any loss or damage to any Recordings howsoever arising unless the same shall have been caused by the negligence of the Company in which event the Company's liability therefore shall be limited to the direct costs actually incurred by the Client in making the recordings embodied on the Recordings in studio charges session musician's fees and the like PROVIDED that such costs shall not in any event exceed ten thousand pounds (£10,000) (or such other sum as the Client shall agree in writing with the Company ("Increased Value per Hour").
- 5.4 If the Company shall agree an Increased Value Per Hour with the Client for a particular Recording then the Client shall reimburse the Company with the cost of effecting special insurance cover for such

Recording whilst in the Company's possession

5.5 The Client shall procure the collection of the Recordings and ancillary materials (if any) ("the Materials") within fourteen (14) days of the date of the Company's invoice applicable to the Booking in which the Recordings were made and/or used ("the Collection Period")

5.6 Upon the expiry of the Collection Period:

5.6.1 notwithstanding any other provision contained within the Conditions the Materials shall be held by the Company solely at the risk of the Client

5.6.2 the Client shall be liable to the Company for such reasonable charges as the Company may raise against the Client for the continued storage of the Materials

5.6.3 the Company shall be entitled to serve notice on the Client requiring the Client to collect the Materials within thirty (30) days of the date of such notice failing which the Company shall be entitled to destroy or otherwise dispose of the Materials

5.7 Notwithstanding the foregoing until such time as the Company shall be in receipt of cleared payment of all the Fee:

5.7.1 the property in the Recordings shall vest in the Company

5.7.2 the Company shall be entitled to retain possession of the Recording

5.8 Notwithstanding any other provision contained within the Conditions the Client hereby acknowledges and agrees that all risk in the Materials when in transit or otherwise off the Company's premises shall vest in the Client

5.9 the Client hereby acknowledges that the Noise at Work Regulations 2005 have established that prolonged exposure to high noise levels above 85 dB(A) may cause damage to hearing and that both studios and studio users are required by law to keep exposures as low as reasonably practicable and that accordingly

5.9.1 the Client shall be responsible for noise levels within the Studio

5.9.2 high noise levels should not be sustained for long periods

5.9.3 the Company hereby reserves the right to take such action as it may deem appropriate to maintain tolerable noise levels ("the Company's Action")

5.9.4 no claim shall lie against the Company in respect of inconvenience or time lost in the event of the Company's Action

5.9.5 the Client shall follow the recommendations contained in the APRS leaflet "KEEP SOUND LEVELS DOWN" and instruct the Client's Personnel to do the same

6. Warranties

6.1 The Client hereby warrants undertakes and agrees that:

6.1.1 it shall procure that any and all persons entering the Studio in connection with the Booking at its discretion or request ("the Client's Personnel") shall do so subject to the Conditions and shall abide by the Studio's rules, regulations and health and safety policy

6.1.2 it shall be responsible:

6.1.2.1 for the Client's Personnel upon the Company's premises

6.1.2.2 for any and all loss and/or damage to the Company's equipment and/or premises and/or business caused by the Client's Personnel or by equipment brought onto the Company's premises by or at the instance of the Client or The Client's Personnel ("the Client's Equipment")

6.1.2.3 for any hire charges occasioned by the hire of any Client's Equipment and/or any authorised costs and expenses incurred by the Company on behalf of the Client

6.1.2.4 for removing all Client's Equipment and other property brought onto the Company's premises by the Client's Personnel ("Client's Property") forthwith at the end of the Booking and for such reasonable storage charges as the Company may invoice to the Client in the event of the Client's failure to so remove the Client's Property.

6.1.2.5 for any and all loss and/or damage to the Client's Property which shall be brought on to the Company's premises at the sole risk of the Client and/or the Client's Personnel

6.1.2.6 for any injury to persons caused by or in consequence of any act or omission of the Client and/or the Client's Personnel or by the Client's Property

6.1.3 it shall indemnify the Company against any loss damage costs and/or expenses suffered by the Company arising from:

6.1.3.1 The Client's cancellation of the Booking including without limitation any costs or expenses incurred by the Company in connection with the Booking with the knowledge and approval of the Client

6.1.3.2 the Client's making and/or use and/or exploitation of the Recordings

6.1.3.3 the Client's breach of any of the warranties undertakings or agreements on its part to be observed or performed under the Booking

6.2 The Client hereby acknowledges that it shall be responsible for:

6.2.1 ensuring the suitability of the Studio for the Client's purpose

6.2.2 ensuring that the Client's Equipment shall be compatible with the Company's equipment

6.2.3 the technical quality of any recording engineered by personnel provided by the Client and that accordingly the Company gives no warranty as to the foregoing

6.3 The Client shall indemnify the Company against all claims whatsoever for damages and costs and against all liability in respect of any infringement of any intellectual property rights resulting from the Booking and the Client will indemnify the Company against any liability in respect thereof and shall pay all costs and expenses which may be incurred by the Company in reference to any such claim. The indemnity shall extend to any amount paid on a lawyer's advice in respect of any such claim.

7. Limitation of Liability

7.1 Save as otherwise expressly provided in the Conditions in the event that the Client shall actually suffer any loss or damage arising directly from the negligence and/or breach of statutory duty of the Company then other than in cases of death or personal injury the Company's liability therefore shall be limited in any event to the Maximum Liability thousand pounds (£5,000) in respect of the aggregate of all instances of such negligence and/or breach or series of the same arising out of the Company's performance of its obligations under this agreement.

7.2 Notwithstanding any other provision contained within the Conditions the Company shall not be liable to the Client and/or the Client's Personnel for any:

7.2.1 indirect or consequential loss or damage

7.2.2 economic loss including without limitation any loss of profits and/or goodwill and/or anticipated savings arising from any fault in the Studio's equipment and/or any act or omission of the Studio and/or the Company and/or their employees

7.3 The Company shall not be under any liability for any failure to perform any of its obligations under the Booking due to Force Majeure. Following notification by the Company to the Client of such cause, the Company shall be allowed a reasonable extension of time for the performance of its obligations. For the purpose of this Condition, 'Force Majeure' means: Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery

7.4 The Company's liability under the Conditions shall be to the exclusion of all other liability to the Client whether contractual, tortious or otherwise all other conditions, warranties, stipulations or other statements whatsoever concerning the Booking, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded; in particular (but without limitation of the foregoing) the Company grants no warranties regarding the fitness for purpose, performance, use, nature or quality of the Booking, whether express or implied, by statute, at common law or otherwise howsoever.

7.5 The Client accepts as reasonable that the Company's total liability in respect of the Booking shall be as set out in the Conditions: in fixing that limit the Client and the Company have had regard to the price and nature of the Booking, and the resources available to each party including insurance cover, to meet any liability.

8. Consumers

WHERE THE BOOKING IS MADE BY A CONSUMER AS DEFINED IN THE SALE OF GOODS ACT 1979, THE SUPPLY OF GOODS AND SERVICES ACT 1982, THE SALE AND SUPPLY OF GOODS ACT 1994 OR THE FAIR TRADING ACT 1973 THE STATUTORY RIGHTS OF THE CLIENT ARE NOT AFFECTED BY THESE CONDITIONS.

9. Lien

The Company retains a general lien on any of the Client's equipment or materials in its possession for any unpaid balance the Client may owe to the Company. The Company shall be entitled to sell such equipment or materials in the event that payment is not made in full within 28 days of notice given to the Client by the Company of its exercise of the lien. The proceeds of sale may be taken by the Company for reimbursement of the expense of exercise of the lien and the sale, and payment of the said balance, and the Company shall account for any surplus.

10. Miscellaneous

10.1 The Client shall procure that neither the Client nor any of the Client's Personnel shall be held out as an agent of or pledge the credit of the Company

10.2 This Booking constitutes the entire agreement between the parties and neither party shall be bound by any statement or representation made to the other prior to the date of acceptance of the Booking

10.3 The singular shall be deemed to include the plural and vice versa

10.4 No variation or amendment to this Booking shall be effective unless made in writing and signed by the parties hereto

10.5 In the event that any part of this Booking shall be held to be void voidable or otherwise unenforceable by a court of competent jurisdiction then the balance thereof shall remain in full force and effect

10.6 All notices required to be given hereunder shall be in writing and deemed properly served if delivered by hand or sent by fax (PROVIDED that proof of transmission can be produced) to the address or fax number respectively of the applicable party specified on the Form on the date of delivery or transmission or if sent by recorded delivery post to such address within two (2) working days of posting.

10.7 This agreement shall be construed in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the English Courts.