

## TERMS AND CONDITIONS

In these Conditions: -

### Definitions

"Blank Media" means blank Media that does not embody any audio only or any audiovisual recording (other than any so-called SMPTE or similar time code).

"Booking" means the hire of the Facility and/or the supply of the Services during the period of booking in accordance with the terms of this Agreement.

"Booking Form" means the booking form sent to the Client including any "Schedule" and signed by the Client or the interchange of mails between the Company and the Client confirming the agreement between the Company and the Client.

"Client" means the person firm corporation signing the Booking Form.

"Client Blank Media" means any Blank Media that is owned by the Client or any Client Personnel prior to the commencement of the period of booking.

"Client Equipment" means any musical or technical equipment or instrument brought into the Facility or other of the Company's premises by or at the request of the any Client Personnel (including any such equipment or Instruments hired to or behalf of the Client).

"Client Invitee" means any persons invited by the Client, any Artist(s) or Representative(s) to enter the Facility during the Booking (including without limitation any session or other musician or vocalist).

"Client Media" means any Media provided by the Client that it is intended shall embody any Recording (whether or not the same shall be Client Blank Media embody any pre-existing audio or audio-visual recording) including without limitation multi-track recording Media.

"Client Personnel" means the Artist(s), the Representative(s), the Client's Invitees and the Client.

"Client Recording" means a recording made prior to the commencement of the period of booking which embodies or is to embody a Recording made by, on behalf of or at the direction of any Client Personnel.

"Company" means either Air Studios (Lyndhurst) Limited or Air Entertainment Group Limited as they case may be

"Disbursements" means the cost of any tapes, sundries or services (other than Agreed Services) supplied to any Client Personnel at the request of any Client Personnel by the Company as part of or pursuant to this Agreement during the Period of Booking including with out limitation any food or beverages (including any alcoholic beverages) supplied any third party or by the Company, taxi's or minicabs or other means of transportation, Blank Media or other sundries (which shall be charged in accordance with the Companies current schedule of charges for such media and/or sundries (as applicable) and any telephone calls or faxes made by or at the request of any Client Personnel and any third party hire charges incurred by or on behalf of any Client Personnel).

"Deliverables/Commitments" means without limitation any completed "monitor mixes", "pre-mixes", so-called 'stems', 'final mixes and variants', music and/or sound effect(s) tracks and any variants thereof created for any particular purpose (each a "Variant") as set out in the Booking Form as the same are to be provided by Company in accordance with the terms of this Agreement.

"Facility" means the premises operated by the Company and which are being hired by the Client

"Facility Breakdown" means a failure or breakdown or unavailability for any reason of the Facility that prevents the Client's use thereof in accordance with the terms hereof.

"Fee" means the fee shown on the Booking Form.

"Format/s" means any media technologies upon which master recordings are delivered.

"Master Recording" means any physical recording Media embodying a Recording.

"Materials" means media that has recorded information stored on it.

"Media" means without limitation tapes, computer discs, hard discs, drives and devices intended to store Recordings.

"Pre Production Master" means any physical recording media embodying a Recording in a form intended for mass production of copies.

"Recording" means a recording made prior to the commencement of the period of booking which embodies or is to embody a Recording made by, on behalf of or at the direction of any Client Personnel.

"Services" means work carried out on behalf of the Client, including but not limited to sound recording, editing, or other such similar tasks as required by the Client pursuant to this Agreement.

"Transfer/Reproduction" means the transfer/reproduction of any audio only or audio-visual recordings on any Media in one Format to/on another Media whether or in a different Format

"Security Policy" means the policy adopted by the Company in respect of the security of the Facility and the prevention of unauthorised intrusion by third parties into the Facility intent upon theft of Materials and the content embodied therein and administrative procedures to circumvent such misappropriation and the prevention of the theft or misappropriation (whether by physical, electronic or other means).

### 1. AGREEMENT

These Terms and Conditions shall be the basis of the agreement between the Company and the Client as referred to in the Booking Form

### 2. FACILITY

2.1 The Company shall make the Facility and the operators (if any) as referred to in the Booking Form available to the Client during the period referred to in the Booking Form for the purposes of making Recordings

2.2 The Client shall not employ the services of its own or any other recording engineer dubbing mixer, editor or other such personnel to operate the Facility (or any equipment located in the Facility) without obtaining the Company's prior consent in writing

2.3 The Client hereby acknowledges that prior to the commencement of the Booking it shall be solely responsible for:

2.3.1 ensuring the suitability of the Facility for the Client's purpose during the Booking

2.3.2 the technical quality of any Recording engineered by any personnel whose services are employed by the Client in accordance with Clause 2.2;

2.3.3 obtaining and paying for (or procuring that the same are obtained and paid for) any necessary third party consent, permission or license required in order to make or exploit any Recordings or to produce or exploit any Master Recording

or Pre Production Master during the Booking (including without limitation from any union, collective body musician, vocalist or other performer (including the Artist(s))). The Client hereby acknowledges that any failure to obtain any such consent, permission or license may result in delays to the completion of any such Recording or Master Recording and if any such delay causes the Booking to overrun then the Company may (but shall not be obliged) to allow the Booking to continue beyond the expiry of the Booking upon the same terms and conditions set out in this Agreement and the Client shall be charged and shall pay for any additional time spent at the Facility at the Company's standard charge out rate for the additional time spent as result of such delay promptly following receipt by the Client of the Company's invoice in respect thereof;

2.3.4 obtaining and paying for (or procuring that the same are obtained and paid for) any necessary third party consent, permission or license in respect of any pre-recorded material (including without limitation any sound effects, library music and audio samples whether supplied by the Company or by a third party) embodied or to be embodied in any Recording and/or Master Recording. The Client will be responsible any loss due to the failure to obtain any such consent, permission or licence and shall hold the Company harmless against any loss it may suffer as a result of any failure to comply with this sub-clause and accordingly the Company gives no warranty or representation as to any of the foregoing

### 3. AGREED SERVICES

3.1 The Company shall deliver its services using suitable equipment and technically competent personnel

3.2 The Company's responsibility is limited to carrying out the Services and the supply of deliverables/commitments (if any) as set out on the Booking Form. For the avoidance of doubt, the Company shall not be responsible for supplying any service, product or material not expressly referred to in this Agreement/the Booking Form

3.3 The Client shall be entitled at reasonable times in the normal working day to monitor the Company's performance of its services and the Company shall carry out the same at the reasonable direction of and subject to the monitoring and approval of the Client

3.4 The Client acknowledges and accepts that it is incumbent upon the Client to ensure that any Pre Production Master and any deliverables/commitments meet with its satisfaction prior to the commercial exploitation of any Recording embodied thereon and as evidence of such acceptance once the final recording is removed from the Company's premises at the end of the Booking the Client will be deemed to have accepted the Recording as completed.

3.5 If the Client is specifically requests the Company to engage the services of any personnel on the Client's behalf to carry out any specific services in connection with the Booking, the Client will ensure that this person is technically qualified and in all respects suitable to carry out such services. The Client will be responsible for the services carried out by that person and will pay or procure the payment of any costs incurred in relation to such services.

### 4. FEE

4.1 If the Client shall fail to pay to the Company any sums due to the Company on or before the date that such sums fall due then Company shall be entitled to charge the Client interest thereon at a rate of eight per cent (8%) per annum above Bank of England Base Rate or the allowable rate of interest chargeable on commercial debts whichever is the higher from the date that such sum falls due until the same paid to the Company.

4.2 The Fee and any expenses and any disbursements, shall not be reduced on account of:

4.2.1 the failure of any Client Personnel to attend the Facility during any or all of the Booking; or

4.2.2 the Client's cancellation of the Booking or any part thereof.

4.3 All sums payable hereunder are expressed to be exclusive of VAT which shall if applicable be payable in addition to such sum provided that a valid VAT invoice shall have been rendered to the Client in respect thereof.

4.4 For the avoidance of any doubt, if the Booking is cancelled prior to the commencement of the Booking all costs as set out in the Booking Form including without limitation the Fee, any Disbursements incurred by the Company on behalf of the Client or any Client Personnel at the Client's request in relation to the Booking.

### 5 CLIENT MEDIA, PERSONNEL AND EQUIPMENT

5.1 The Client shall give the Company reasonable notice of its intention to use any Client Media during the Booking and shall provide the Company with full technical details in relation to the same prior to the commencement of the Booking.

5.2 If the Client uses any Client Blank Media:

5.2.1 the Company shall be entitled to charge the Client a sum equivalent to the rate set out in the Booking Form or the manufacturer's recommended retail list price of the Client's Blank Media used during the Booking

5.2.2 the Client shall be responsible for the quality and integrity of the Client Media and that it is fit for the purpose for which the Client wishes to use the same. The Company shall not be liable the Client or otherwise for any deficiency in or caused by such Client Media.

5.2.3 the Company shall be entitled to charge the Client as an expense a sum in addition to the Fee for any time and/or expenses incurred by the Company in any adjustment or conversion of the Company's technical equipment or copying of any Client Media including with limitation any Transfer/Reproductions in respect thereof; and

5.2.4 the Company shall procure that the Client Media (if any), Client Equipment and any Ancillary Materials shall be delivered to the Facility the day before the commencement of the Booking

5.3 The Client hereby warrants undertakes and agrees that it shall procure that all Client Personnel shall abide by the Company's studio rules, regulations and health and safety policy and that it shall be responsible for:

5.3.1 the actions of the Client's Personnel upon the Company's premises;

5.3.2 any and all injury, loss or damage to any person's equipment or premises caused by any act or omission of any Client Personnel, or as a result of any defect in or inappropriate specification of any Client Equipment or Client Media, Client Equipment or Materials;

5.3.3 the cost of any hire of any Client Equipment (if applicable);

5.3.4 any costs and expenses incurred by the Company on behalf of any Client Personnel at any Client Personnel's request; and

5.3.5 any and all loss or damage to any Client Equipment and Client Media that the same shall be at the sole risk of the Client whilst at the Facility or on any Company premises.

5.4 The Client Personnel shall vacate the Facility promptly and the Client shall remove or procure the removal of all Client' Equipment forthwith at the end of the Booking. If the Client shall fail to do so, the Client shall be liable to the Company for its reasonable storage charges. The Company shall give 1 (one) months written notice to the Client at its address on the Booking Form requiring the Client to collect the Client Equipment and if the Client shall fail so to collect or procure the collection of such Client Equipment on or before the expiry of such period, the Company shall be entitled to

destroy or otherwise dispose of such Client Equipment and the Client shall not raise any objection in respect thereof and shall indemnify the Company from and against any claim with respect thereto.

5.5 The Client warrants that it shall not without the Company's prior written consent make any inducement or contractual offer of employment or any other kind to any "Operator" or other of the Company's personnel that shall or may conflict with such Operator's or Personnel's employment or engagement by the Company.

#### 6 SOUND LEVELS

The Client hereby acknowledges that the Noise at Work Regulations 1989 (NWR) (and any subsequent revision thereof) have established that prolonged exposure to noise levels in excess of 85 decibels may cause damage to hearing and that the Facility is required by law to keep exposure to noise in excess of such levels to the minimum that is reasonably practicable) and that accordingly:

6.1 the Client shall be responsible for the level of noise within the Studio;

6.2 the Client shall procure that noise levels in excess of 85 decibels shall not be sustained in the Facility for long periods

6.3 Company reserves the right to take such action as it may in its discretion deem appropriate in order to maintain tolerable levels of noise in the facility in accordance with its obligations pursuant to the NWR and that no claim shall be made against the Company in respect of such action (including in relation to any inconvenience or time lost)

#### 7 RECORDINGS AND MATERIALS

7.1 The Client shall procure the collection of the all Master Recordings belonging to the Client and any so-called track listing(s)/sheet(s) or computer material or any like ancillary materials (if any) ("Ancillary Materials") promptly upon payment in full of the Company's invoice applicable thereto ("the Collection Date")

7.2 After the Collection Date:

7.2.1 notwithstanding any other provision contained within this Agreement all Master Recordings and/or Ancillary Materials shall be held by the Company at the Client's sole risk;

7.2.2 the Client shall be liable to the Company for its storage charges in accordance with the Company's standard schedule of storage charges in respect of the storage of such Master Recordings and/or Ancillary Materials following the Collection Date;

7.2.3 the Company shall be entitled to serve written notice on the Client requiring the Client to collect such Master Recordings and/or Ancillary Materials within a period of no less than three (3) months from the date of service of such notice. If the Client shall fail so to collect such Master Recordings and/or Ancillary Materials within such period the Company shall be entitled to destroy or otherwise dispose of the relevant Master Recordings and/or Ancillary Materials and the Client shall not raise any objection in respect thereof and shall indemnify the Company from and against any claim with respect thereto;

7.3 Notwithstanding the foregoing until such time as the Company shall be in receipt of cleared payment of all Fees and Disbursements:

7.3.1 property in all Master Recordings and/or Ancillary Materials shall vest in the Company; and

7.3.2 the Company shall be entitled to retain possession of the said Master Recordings and/or Ancillary Materials.

7.4 Notwithstanding any other provision in this Agreement the Client hereby acknowledges and agrees that all risk in all Master Recordings and/or Ancillary Materials when in transit or otherwise off the Company's premises shall vest in the Client.

7.5 The Company shall retain a general lien over any property of any Client Personnel in situated at any time at the Facility or other of the Company's premises in respect of any sums which the Client may at any time owe to the Company and the Company shall be entitled to sell such property if payment of such sums is not made in full within 28 days of written notice serviced on the Client by the Company of its intention to exercise its lien as aforesaid. The proceeds of such sale may be taken by the Company for reimbursement of the sums the subject of the lien and the Client shall not raise any objection in respect thereof and shall indemnify the Company from and against any claim with respect thereto. The Company shall account to the Client for any surplus funds received by the Company in excess of the sums owed by the Client to the Company as aforesaid.

7.6 The Company shall be entitled to deliver to the Client all Deliverables including Master Recordings and audio files by the use of DropBox or a similar function and the Client accepts the risk of such delivery process.

#### 8. INDEMNITY

The Client hereby covenants and undertakes to the Company that it shall indemnify the Company from and against any injury loss damage costs and/or expenses (including legal expenses) howsoever and wheresoever suffered by the Company arising from:

8.1 the Client's cancellation of the Booking including without limitation any reasonable costs or expenses incurred by the Company in connection with the Booking;

8.2 the Client's making, use or exploitation of any Recordings; 8.3 the Client's breach of any of the terms of this Agreement; and

8.4 the Clients failure to obtain any licenses, consents or permissions in relation to the making or exploitation of any Recordings, Master Recordings or Pre Production Masters.

#### 9. CONTENT OF RECORDING

9.1 The Client hereby warrants and undertakes that nothing shall be included in any Recording, Master or Pre Production Master recorded in whole or in part at the Facility which constitutes a breach or infringement of any copyright or other rights or which shall be in any way illegal, scandalous, obscene or libelous and the Client shall fully indemnify the Company 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 the advice of counsel in respect of any such claim.

9.2 The Company shall not be required by Client or any Client's Personnel to reproduce any matter which in its opinion is or may be of an illegal, scandalous, obscene or libelous nature, or would constitute an infringement of any copyright or other rights.

#### 10. FACILITY BREAKDOWN WARRANTY

In the event of Facility Breakdown the Company shall at its option either make available to the Client the Facility for a period of time equivalent in duration that proportion of the unexpired Booking existing at the time of the Facility Breakdown and provide the Agreed Services (as applicable) at a future time (as soon as the same can reasonably be

arranged) which has/have been lost as a result of such Facility Breakdown or credit or refund to the Client a reasonable proportion of the Booking Fee in respect of the Booking.

#### 11. MASTER RECORDINGS AND POST PRODUCTION WORK

11.1 The Company shall in no event be liable to the Client in respect of any defect in or loss of or damage to any Master Recording or Pre Production Master or Media unless such defect, loss or damage was directly caused by the negligent act of any Operator or directly by any faulty equipment owned by Company situated at the Facility

11.2 The Company shall use its reasonable endeavours to correct any such defect and to effect replacement of such lost or damaged Master Recordings or Pre Production Masters or Media that are promptly notified to the Company or of which it is aware and which are attributable to faulty materials belonging to, workmanship by or negligence of the Company

11.3 In the event that the Company is unable reasonably to effect such correction or replacement its liability in respect of any Master Recording or Pre Production Master or Media shall be limited at most to the Fee.

11.4 The Client acknowledges that Company's liability in respect of any defect, loss or damage to any Recording, Master Recording or Pre Production Master or Media is restricted to the value of any Media supplied to the Client by the Company (if any) as if such Media were blank and did not embody any recording in any format whatsoever.

11.5 In reference to vinyl masters the Company will not be liable for any costs incurred after the test pressing stage, and the Company does not accept responsibility for product manufactured without test pressings being assessed and approved in writing by the Company.

11.6 In reference to CD masters the Company does accepts no responsibility for product manufactured from any form of CD master format without either a CD reference disc first being approved by the Company in writing, or written approval of a DDP master via the supplied Air Mastering DDP Player.

11.7 The Client agrees to ensure that prior to the delivery to the Company of any Media, Master Recording or Production Master it has retained for itself a fully usable copy

#### 12 CLIENT'S RECORDINGS

It shall be a condition of this Agreement that any Client Recordings shall have been copied by the Client before delivery to the Company or the arrival of the same at the Facility, and that the Company's liability for loss of or damage to any Client Recording shall be limited to the manufacturer's retail list price of the unrecorded blank Media on which such Recording is made.

#### 13 COMPANY'S OVERALL LIABILITY

13.1 In the event that the Client shall suffer any actual loss or damage arising directly from the negligence or breach of contract or of statutory duty of the Company then other than in cases of death or personal injury the Company's liability therefor shall be limited in any event to the Fee at most in respect of the aggregate of all instances of such negligence and/or breach arising out of the Company's performance of its obligations under this Agreement

13.2 Notwithstanding any other provision contained within this Agreement the Company shall not be liable to the Client or the Client's Personnel for any:

13.2.1 indirect or consequential loss or damage

13.2.2 economic loss including without limitation any loss of profits or goodwill or anticipated savings arising from any fault in the Facility or any act or omission of the Company its servants or agents in respect of this Agreement

13.3 The Company's liability under this Agreement shall be to the exclusion of all other liability to the Client whether contractual, tortious or otherwise.

13.4 The Client accepts that the limitation of the Company's total liability in respect of the Booking and/or the Services as aforesaid is reasonable and that in setting such limit the Client and the Company have had regard to the price and nature of the Booking, the Fee and the Services and the terms hereof, and the level of expenses expected to be incurred by the Client in respect thereof and the resources available to each party including insurance cover, to meet any such liability.

#### 14 FORCE MAJEURE

Notwithstanding any other term of this Agreement the Company shall not be under any liability for any failure to perform any of its obligations or agreements pursuant to this Agreement due to the occurrence of any Force Majeure Event.

Following notification by the Company to the Client of the occurrence of any such Force Majeure Event, the Company shall be entitled to a reasonable period of time to perform its obligations or agreements hereunder. For the purpose of this Agreement, a 'Force Majeure Event' means, without limitation any Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, by-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 Company, the Client or of a third party ruling or action of any labour union or trade body association affecting the Company, the Client or the music audio post production industry); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery or any other events beyond the control of the Company.

#### 15 FACILITY SECURITY

15.1 The Client shall be responsible for ensuring that all appropriate security measures are in place at the commencement of the period of booking whether or not the Company has a Security Policy in place.

15.2 The Client undertakes to inform the Company of any additional security measures in addition to any Security Policy that may be required by the Client during the period of booking and the Client acknowledges that the cost of providing such additional security measures shall be the sole responsibility of the Client.

15.3 The Company shall not be under any liability whatsoever to the Client or otherwise resulting from any theft or misappropriation of or damage to any Master Recording, Pre Production Master, Recording, Media Ancillary Materials or any content embodied therein by any person or persons.

#### 16 MISCELLANEOUS

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

16.2 This Agreement constitutes the entire agreement between the parties and neither party shall be bound by any other statement or representation made to the other.

16.3 No variation or amendment to this Agreement shall be effective unless made in writing and signed by the parties hereto.

16.4 In the event that any part of this Agreement 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.

16.5 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 Booking 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.

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

16.7 Breach - Any of the following shall constitute a breach by the Client hereunder: the Client's failure to pay any amount due to the Company hereunder within five (5) days of the date due, the Client's default in performing any other obligations hereunder or under any other agreement between the Company and the Client or the Client's breach of any warranty or agreement hereunder, the Client's failure to maintain any insurance required hereunder, the death or judicial declaration of incompetence of the Client, the filing by or against the Client of a petition under the Insolvency Act 1986 or under any other insolvency law providing for the relief of debtors, the making of any arrangement or composition with, or any assignment for the benefit of, the Client's creditors or the taking of steps to wind up the Client (SAVE for the purpose of and followed by a voluntary reconstruction or amalgamation), or the appointment of a trustee, receiver, administrator, administrative receiver, liquidator or similar officer in respect of all, or any part of, the Client's business or assets.

#### 16.8 Remedies

In the event of the Client's breach hereunder the Company may do any one or more of the following:

16.8.1 declare any or all remaining fees due whereupon they shall forthwith be payable by the Client to the Company;

16.8.2 take possession of any items of Equipment and other property of the Client on the Company's premises without notice, wherever located, without liability for damages occasioned by such taking and further without prejudice to any of the Company's accrued rights or remedies under this Contract;

16.8.3 exercise a lien over any property ostensibly belonging to the Client in the custody or control of the Company for the balance of any monies due to the Company. The foregoing shall be without prejudice to any other remedy available to the Company. All such remedies are cumulative and may be exercised concurrently or separately from time to time;

16.8.4 The Client shall pay the Company all costs and expenses, including collection charges and legal fees (on an indemnity basis), incurred by the Company in exercising any of its remedies hereunder or otherwise enforcing this Contract.

#### 16.9 Intellectual Property Rights

The Client acknowledges all rights in and to all premises used by it hereunder belong to the Company absolutely as do all logos trade marks brand names and other names used by or reflected by the Company or any associated company and nothing herein shall vest in or grant to the Client any rights whatsoever to use any such rights.

#### 16.10 Filming

The Client will have no right to film in any format on any part of the Client's premises without the express written consent of the Company.

#### 16.11 Assignment

16.11.1 The Client shall not itself hire any item of Equipment to a third party or otherwise assign or transfer this agreement or permit any item of Equipment to be subject to any lien, charge or encumbrance of any nature without the express prior written consent of the Company.

16.11.2 The Company may assign, pledge or otherwise dispose of its rights under this Contract or in the Equipment, in whole or in part, without notice to the Client, but subject always to the rights of the Client hereunder. The Client shall acknowledge receipt of any notice of assignment in writing and shall thereafter pay any amounts designated in such notice as directed therein.

#### 16.12 Further Assurance

The Client shall execute such further documents as the Company may reasonably require confirming, protecting, perfecting or enforcing the Company's rights under this agreement and in the Equipment.