



big noise
recording studios

General Terms and Conditions For Studio Hire

*These term & conditions supersede all
previous versions as of 01 January 2015*

Definitions

"**Agreement**" means the agreement comprised in the Booking Form and these Conditions.

"**Booking**" means the hire of the Studio for the Period of Booking.

"**Booking Fee**" means the fee payable by the Client to the Company for the Booking calculated in accordance with the Company's published, quoted or usual scale of charges.

"**Client**" means the person or company who makes the studio Booking or to whom the invoice will be made out to.

"**Client's Equipment**" means equipment brought onto the Company's premises by the Client, or the Client's Personnel or any agent or contractor for and on behalf of the Client.

"**Client's Personnel**" refers to persons invited by the Client to enter the Studio during the Booking.

"**Company**" means Simon Davies trading as Big Noise Recording Studios.

"**Conditions**" means these conditions.

"**Fees**" means the cost to the Client for Booking and using the Studio during the period of Booking.

"**Master Recording**" means the original recording produced for the Client in the course of the Booking.

"**Maximum Liability**" means the maximum liability on the part of the Company to the Client arising under or in connection with this Agreement being £1,000.

"**Operators**" means the staff, freelancers or official representatives of the Company.

"**Period of Booking**" means the period of time which the Client has booked into the Studio.

"**Recording**" means any single or multi-track audio and/or visual recording or data programming or derivative thereof or any one or more pieces of recorded sound or visual image recorded or used during the Booking including a Master Recording and a Pre-Production Master or any Client's Recording.

"**Studio**" means the recording studio, the premises and it's equipment.

"**Studio Breakdown**" means a failure or breakdown or unavailability (for any reason) of the Studio which prevents the Client's use thereof in accordance with the terms hereof.

1. AGREEMENT

These Terms and Conditions alone are to apply to all facilities hired and work done by the Company for the Client and shall prevail over any terms and conditions put forward by the Client.

2. STUDIO FACILITIES

- 2.1 The Company shall make the Studio and the Operators available to the Client for the Period of the agreed Booking and shall produce the Master Recording at the direction of the Client or their Representatives. The Client shall only permit people directly involved in the Recordings to enter the Studio and only during the Booking Period. The Company reserves the right to require any person not so involved to leave the Studio.
- 2.2 The Client hereby acknowledges that it shall be responsible for:
 - 2.2.1 ensuring the suitability of the Studio for the Client's purpose
 - 2.2.2 ensuring that the Client's Equipment shall be compatible with the Studio
 - 2.2.3 the technical quality of any recording engineered by personnel provided by the Client.
 - 2.2.4 any problems or damage howsoever caused by the Clients personnel or Clients Own supplied Media (either blank or part recorded, including any virus damage) and that accordingly the Company gives no warranty as to the foregoing

3. THE FEES

- 3.1 The Client shall, upon receipt of a booking form or Proforma invoice, pay a 40% deposit of the Fees to confirm the booking and any other sums payable by the terms of this Agreement and no later than 21 days before the start of the Booking Period.
- 3.2 The remaining 60% balance must be paid on the final day of the Booking Period in cleared funds, together with any additional expenses that have been accrued by the Client.
- 3.3 The Client shall be liable to pay interest on any overdue sums and payable to the Company from time to time at the statutory interest rate of eight per cent (8%) per annum above Bank Of England base rate plus any recovery costs incurred.
- 3.4 The Fees shall not be reduced on account of:
 - 3.4.1 the Client's failure to use the Studio for any or all of the Period of the Booking.
 - 3.4.2 the Client's cancellation of the Booking or any part thereof.
- 3.5 Neither the Master Recording, nor any part of the Master Recording, will be released to the Client until all outstanding payments have been paid in full, regardless of the outstanding balance.

4. THE CLIENT'S OWN MEDIA, PERSONNEL AND EQUIPMENT

- 4.1 The Company will supply all blank media for recording.
- 4.2 The Client will be responsible for the integrity of the Client's Own Part Recorded Media and the Company shall not be liable for any deficiency in or caused by such Media.
- 4.3 The Client hereby warrants, undertakes and agrees that it shall procure that each of the Client's Personnel shall abide by the Studio's rules, regulations and health and safety policy and that it shall be responsible:
 - 4.3.1 for the actions of the Client's Personnel upon the Company's premises
 - 4.3.2 for any and all injury, loss or damage to any person's equipment or premises caused by any act or omission of the Client's Personnel, or as a result of any defect in or inappropriate specification of the Client's Equipment or the Client's Own Media

- 4.3.3 for the cost of the hire of any Client's Equipment
 - 4.3.4 for any costs and expenses incurred by the Company on behalf of the Client at the Client's request
 - 4.3.5 for any and all loss or damage to the Client's Equipment which shall be at the sole risk of the Client
- 4.4 The Client shall vacate the Studio and remove all Clients' Equipment forthwith at the end of the Period of Booking. The Company shall be entitled by 4 (four) weeks' notice to the Client to require the Client to collect the Client's Equipment and should the Client's equipment not be collected within this 4 week period, the Company shall be entitled to destroy, or otherwise dispose of the Client's Equipment as the Company sees fit, without further notice or warning.

5. SOUND LEVELS

The Client hereby acknowledges that the Noise at Work Regulations 1989 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:-

- 5.1 the Client shall be responsible for noise levels within the Studio
- 5.2 high noise levels shall not be sustained for long periods
- 5.3 the Company hereby reserves the right to take such action as it may deem appropriate to maintain tolerable noise levels and that no claim shall lie against the Company in respect of inconvenience or time lost in the event of such action
- 5.4 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. RECORDINGS AND MATERIALS

- 6.1 The Client shall procure the collection of the Recordings and any ancillary materials ("the Materials") immediately upon payment in full of the Company's invoice applicable thereto ("the Collection Date")
- 6.2 After the Collection Date:
 - 6.2.1 notwithstanding any other provision contained within the Conditions the Materials shall be held by the Company solely at the risk of the Client
 - 6.2.2 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
 - 6.2.3 should the Client not collect the Materials within 30 days after payment of the invoice, the Company shall be entitled to destroy, sell or otherwise dispose of the Materials
- 6.3 Notwithstanding the foregoing until such time as the Company shall be in receipt of cleared payment of all the Fees: the Company shall be entitled to retain possession of all of the Materials
- 6.4 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
- 6.5 The Company retains a general lien on any property of the Client Master Recordings and or Materials in its possession for any unpaid balance the Client may owe to the Company.

- 6.5.1 As long as there remains an unpaid Balance owed to the Company by the Client, the Client is not entitled to sell, manufacture, license or distribute the Master Recordings until payment has been made in full to the Company.

7. INDEMNITY

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

- 7.1 the Client's cancellation of the Booking including without limitation any reasonable costs or expenses incurred by the Company in connection with the Booking
- 7.2 the Client's making, use or exploitation of the Recordings
- 7.3 the Client's breach of any of the warranties undertakings or agreements on its part to be observed or performed by the terms of this Agreement
- 7.4 any loss or damage caused to the Company by Clients use of Clients Personal or Clients Own Part Recorded Material.

8. CONTENT OF RECORDING

- 8.1 The Client warrants that nothing whatever shall be included in the Recording (or any software introduced by the 'Client') which constitutes a breach or infringement of any copyright or which shall be in any way illegal, scandalous, obscene or libellous 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
- 8.2 The Company shall not be required to reproduce any matter which in its opinion is or may be of an illegal, scandalous, obscene or libellous nature.

9. STUDIO BREAKDOWN WARRANTY

In the event of Studio Breakdown the Company shall at its option either replace (as soon as can reasonably be arranged) the Studio facilities to which the Client was entitled by the terms hereof and which have been lost as a result of such Studio Breakdown or credit or refund to the Client the Booking Fee in respect of the Booking and shall have no liability or obligation to the Client beyond these remedies.

10. MASTER RECORDING AND POST PRODUCTION WORK WARRANTY

- 10.1 The Client shall promptly notify the Company in writing of any defect in or loss of or damage to the Master Recording of which it is made aware.
- 10.2 The Company shall use its reasonable endeavours to correct any such defect and to effect replacement of such lost or damaged materials so notified to it or of which it is aware and which are attributable to faulty materials or workmanship or the negligence of the Company
- 10.3 In the event that the Company is unable reasonably to effect such rectification or replacement its liability in respect of any Master Recording shall be limited to the Maximum Liability
- 10.4 The Company is not obligated to and generally does not keep hard or soft back-up copies of the Master Recordings, session files or any other data or audio recording related to the Master Recording after the Booking Period. It is the sole responsibility of the client to:
 - 10.4.1 supply appropriate recordable media to the Company for the purpose of creating a back-up
 - 10.4.2 store any session files or audio related to the Master Recording after the Booking Period.

11. CLIENT'S RECORDINGS

It is a condition of this Agreement that all Client's Recordings shall have been copied by the Client before delivery to the Company, and that the Company's liability for loss of or damage to a Client's Recording shall be limited to the value of the media on which it is recorded.

12. COMPANY'S OVERALL LIABILITY

- 12.1 In the event that the Client shall actually suffer any 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 therefore shall be limited in any event to the Maximum Liability 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
- 12.2 Notwithstanding any other provision contained within this Agreement the Company shall not be liable to the Client or the Client's Personnel for any:
- 12.2.1 indirect or consequential loss or damage
- 12.2.2 economic loss including without limitation any loss of profits or goodwill or anticipated savings arising from any fault in the Studio or any act or omission of the Company its servants or agents in respect of this Agreement
- 12.3 The Company's liability under this Agreement shall be to the exclusion of all other liability to the Client whether contractual, tortious or otherwise. All other conditions, warranties, stipulations or other statements whatsoever concerning the Agreement, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded.
- 12.4 The Client accepts as reasonable that the Company's total liability in respect of the Booking and/or the Post Production Work shall be as set out in this Agreement: in fixing those limits the Client and the Company have had regard to the price and nature of the Booking and the Recording Work 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 liability.
- 12.5 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.

13. 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 under this Agreement 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 Company or of a third party)
- difficulties in obtaining raw materials, labour, fuel, parts or machinery
- power failure or breakdown in machinery

14. MISCELLANEOUS

- 14.1 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
- 14.2 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
- 14.3 No variation or amendment to this Agreement shall be effective unless made in writing and signed by the parties hereinto.
- 14.4 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
- 14.5 All notices required to be given hereunder shall be in writing and deemed properly served if delivered by hand or sent by electronic means (PROVIDED that proof of transmission can be produced) to the address or electronic address 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.
- 14.6 This agreement shall be construed in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the English Courts By making a booking in person, via the internet or by telephone, the Client agrees to and is bound by the terms & conditions of this agreement.