

5A Studios Ltd

Terms and Conditions

Definitions

Blank Media – devices of any kind that can hold data and/or audio/video recordings including but not limited to HD tapes, Neumatic tapes, DAT, Mini Disc, DV, DigiBeta tapes, Cassette tapes, hard discs, CDs, DVDs and USB sticks.

Booking – Engaging 5A Studios facilities and/or employees to supply the Services agreed upon between the Client and 5A Studios.

Control Room – The location in the Facility where the engineer shall operate from, often with the Client beside them. This is where all equipment is operated from.

Live Room – The location in the Facility where all talent, props or instruments shall be recorded in.

Client's equipment – Any equipment or instruments that are brought to 5A Studios belonging to or hired at the request of the Client.

Client's associates – Any persons involved with the Booking along with or on behalf of the Client.

Client's blank media – Any format of media that is owned by the Client that contains no Material. See Blank Media.

Client's media – Any format of Media that is owned by the Client and contains Material belonging to the Client.

Client's recording – A recording made prior to the Period of Booking, made by, on behalf of or at the direction of the Client outside 5A Studios or by 5A Studios at a previous Booking.

Disbursements – The cost of any extra charges incurred by 5A Studios at the request of the Client or a third party on behalf of the Client. This includes but is not limited to; food, beverages (including alcoholic beverages), taxis, courier services, phone calls made by or on behalf of the Client, hired equipment from third parties by or at the request of the Client, any Blank Media.

Deadline – An agreed date and time upon which an agreed Event shall have occurred. This Event includes but is not limited to; services being completed, written notice being served, payment to have been made.

Deliverables/Commitments – Material including but not limited to completed 'monitor mixes', 'pre mixes', 'stems', 'final mixes', and any variants thereof, which are to be delivered to the Client by 5A Studios in accordance with the terms of this Agreement.

Editing – The altering of Recordings in order to remove part(s) of the Recording.

Facility – The location of 5A Studios premises where the Booking shall occur.

Format(s) – Media technologies upon which audio visual Materials are to be delivered to the Client. These include but are not limited to PAL, NTSC, WAVE, MP3.

Master Recording/ Master – any Media that contains the final recording/mixes.

Mastering – The process of applying audio post production manipulation techniques to a final mix, and then transferring the data to a storage device, which shall then be the Master.

Mixing – The process of manipulating a combination of Recordings that make up the elements of a project, in order to create a final mix to the agreed specifications.

Pre Production master – Any form of Media which contains Material that has no changes to be made to it, and which is to have a mass number of copies produced.

Recording – Any recording, whether audio or visual, which was made during the Booking and is stored on any kind of Media.

Services – Work carried out by 5A Studios employees at 5A Studios premises on behalf of the Client pursuant to this Agreement.

Facility Breakdown – A breakdown in 5A Studios facilities, or the failure of any equipment vital to the Booking, or the unavailability of the Facilities for whatever reason during the Period of Booking in accordance with the terms stated in this Agreement.

Transfer/Reproduction – The copying of any audio/visual Material onto any other form of Media, whether in the same format or an alternate format.

Security Policy and Measures – Any policy undertaken by 5A Studios relating to the security and safety of 5A Studios facilities from dangers including but not limited to; intrusion by third parties, theft, vandalism and misappropriation.

Media – Any form of storage device holding or intended to hold Material produced in the session, or containing Material belonging to the Client.

Materials – Any items, either physical or digital, related to the Booking which belong to the Client. These include but are not limited to; media which has information stored on it, any form of administrative items and equipment.

1.- Agreement

1.1 This agreement is binding once:

- 1.1.1. 5A Studios receives instructions to carry out a booking
- 1.1.2. 5A Studios receives acknowledgement of having read this agreement
- 1.1.3. 5A Studios receives a deposit for a booking

2.- Facility

- 2.1 5A Studios shall make the facility located at 5a Scampston Mews W10 6HX and/or 199 Queens Crescent NW5 4DS and/or 41-42 Berners Street W1T 3NB and/or 43-44 Berners Street W1T 3ND and/or any engineers and/or assistants available to the Client during the Period of Booking for Recording / Mixing / Mastering at the direction of the Client or any of the Client's associates.
- 2.2 The Client shall not use any engineer(s) not employed by 5A studios without obtaining

previous consent from 5A Studios.

- 2.3 The Client hereby acknowledges that before the Booking Period commences it is responsible for:
- 2.3.1. ensuring the Facility booked is suitable for the purpose of the Booking.
 - 2.3.2. ensuring the Client's Equipment is compatible with the equipment located at the booked facility.
 - 2.3.3. the technical quality of any recording, mixing and mastering undertaken by any engineer employed by the Client in accordance to clause 2.2
 - 2.3.4. obtaining consent and/or pay the license to use any pre-recorded material. Failure to do so may delay the completion of the Recording / Mixing / Editing / Mastering and can cause the Booking to overrun. 5A Studios may allow the Booking to continue depending on availability. The extended Booking will be bound by this agreement and charged at the same rate and terms of payment as the initial Booking.
 - 2.3.5. any issues and losses arising from failing to obtain the necessary consent and/or pay the needed license(s).

3.- Agreed Services

- 3.1 5A Studios shall carry out the agreed Services using the equipment available within each facility, operated by professional engineers.
- 3.2 5A Studios' responsibility is limited to carry out the agreed services and the supply of deliverables. Any extra services shall be detailed and agreed prior to commencement between the Client and 5A Studios. The extra services and/or bookings will be bound by this agreement.
- 3.3 The Client understands and accepts that any services undertaken after the completion and delivery of the Masters will be chargeable and will be bound by this agreement. This includes, but is not limited to, changes to approved material and/or content, further work arising from alterations in any part of the visual materials, further work arising from alterations in scripts, any alterations arising after material has been approved and delivered.
- 3.4 The Client and The Client's associates shall be entitled to monitor the progress of the agreed services at reasonable times. Such visits shall be pre-booked.
- 3.5 The Client acknowledges and accepts full responsibility to ensure any audio in the masters and/or deliverables are of its full satisfaction prior to any commercial exploitation.
- 3.6 The Client must report any technical defects with the Masters and/or deliverables to 5A Studios within 30 days of the delivery date. Failure to do so will incur in further charges.
- 3.7 If the Client requests 5A Studios to engage an external company and/or individuals to carry out any services within the Booking, the Client accepts responsibility to ensure the company and/or individuals are qualified to undertake the required services and to pay or procure payment for said services. 5A Studios may charge an administration fee.

4.- Fee

- 4.1 The Client shall pay the whole of the Fee, any Disbursements and any other sums payable in accordance to the terms indicated in the invoice.
- 4.2 If the Client shall fail to pay 5A Studios the whole of the Fee, any Disbursements and any other sums payable according to the terms indicated in the invoice, 5A Studios will exercise the statutory right to charge interest at a rate of 8% above the Bank of England base rate, along with an additional single payment of a sum dependant on the size of the

unpaid debt in accordance with the Late Payment of Commercial Debts Act 1998 (and any revisions thereof). If legal action is to be taken, the Client will pay any cost incurred by 5A Studios related to such a claim, including but not limited to, Court fees and advice from legal counsel.

- 4.3 The Fee and any Disbursements shall not be reduced if the Client and/or any Client's associates fail to attend part of or the entirety of the Booking and the services were carried out.
- 4.4 All sums payable are expressed to be exclusive of VAT unless otherwise stated. The VAT shall be payable in addition to all payable sums. 5A Studios shall provide the Client with a valid VAT invoice.

5.- Client Media, Personnel and Equipment

- 5.1 The Client shall give 5A Studios reasonable notice of its intention to use any Client Media prior to the commencement of the Booking. If the Client intends to use any Client Media once the Booking has commenced it may cause the Booking to overrun and therefore incur extra charges.
- 5.2 If the Client uses any Client Blank Media:
 - 5.2.1 The Client shall be responsible for ensuring the quality and integrity of the Client Media and its suitability for the intended purpose. 5A Studios shall not be liable for any deficiency in or caused by the Client's Media.
 - 5.2.2 5A Studios shall be entitled to charge the Client as a disbursement in addition to the Fee for any time and/or any extra work incurred due to any adjustments or conversion of any equipment in the facility.
 - 5.2.3 The Client must ensure any Client Media, Client Equipment or any other Material essential to the commencement of the Booking shall be delivered to the facility at least 24 hours before the Booking is due to start.
- 5.3 The Client hereby warrants and agrees that all Client's Personnel and Client's Associates shall abide by 5A Studios rules, regulations and health and safety policy (copy on request)
- 5.4 The Client shall be responsible for:
 - 5.4.1 the actions of every Client's personnel and every Associate at all times whilst at 5A Studios premises.
 - 5.4.2 any and all injuries, loss or damage to any person and/or equipment and/or premises caused by any inappropriate conduct of any/every Client's personnel and Associates.
 - 5.4.3 any injuries, loss or damage to any equipment and/or media found in the premises (rented, in-house, lent, shared, etc.) due to any inappropriate use, or any inappropriate specification or of any Client's equipment, Client's Media, Client's Materials.
 - 5.4.4 the cost of any equipment hire requested by the Client unless specified otherwise.
 - 5.4.5 any additional cost due to any Client's and/ or Client's personnel and/or Associates request that are not specified in the Agreed Services.
 - 5.4.6 any and all loss and damage of any Client's Equipment, Client's Media, Client's Material whilst at the premises.
 - 5.4.7 ensuring any and all equipment brought into the premises is insured, including cover when left overnight in the premises.
 - 5.4.8 ensuring all Client's Personnel and/or Client's Associates, Client's vacate the Control Room(s) and/or Live Room(s) promptly at the end of the Booking.
 - 5.4.9 ensure all Clients' Equipment and/or Materials and/or Media shall be removed

from the Facility promptly at the end of the Booking unless otherwise agreed and approved by 5A Studios in writing.

5.4.10 failure to comply with 5.4.8 and 5.4.9 will result in an additional charge for storage.

6.- Sound Levels

Prolonged exposure to levels of noise in excess of (85 decibels) can cause damage to hearing, as specified in the Noise at Work Regulations 1989 (NWR) (and in any revision thereof). 5A Studios is legally required to keep exposure to such noise levels at a minimum, and accordingly:

- 6.1 the Client is responsible for the noise levels within 5A Studios;
- 6.2 the Client shall ensure that there are no prolonged periods of sound levels at or above 85 decibels in the control room that the Client or employees of 5A Studios are exposed to
- 6.3 5A Studios will take any action deemed necessary to ensure that noise levels remain tolerable, in accordance with 5A Studios obligations stated in the NWR. 5A Studios will not be held responsible for any inconveniences caused by such action.

7.- Recordings and Materials

- 7.1 The Client will ensure that all Master Recordings, track sheets, equipment and any other Material belonging to the Client is collected promptly upon paying 5A Studios invoice in full applicable thereto ("the Collection Date")
- 7.2 After the Collection Date:
 - 7.2.1. All Recordings and Materials belonging to the Client shall be held by 5A Studios at the risk of the Client alone
 - 7.2.2. 5A Studios will be entitled to charge it's standard rate of storage with regards to the Recordings and Materials still in possession of 5A Studios after the Collection Date
 - 7.2.3. 5A Studios will be entitled to give the Client a written notice declaring that all Recordings and Materials belonging to the Client must be collected within three (3) months of the receipt of such notice. If after this allotted time the Client has still failed to collect all Recordings and Materials belonging to them, 5A Studios have the right to dispose of or destroy these Recordings and Materials, without objection from the Client. The Client will indemnify 5A Studios from and against any legal claim with respect to this Material.
- 7.3 Notwithstanding the foregoing until such time as 5A Studios have received payment of all Fees and Disbursements:
 - 7.3.1. 5A Studios shall have property of all Recordings and Materials that have resulted from the work carried out at 5A Studios, such as recordings, mixes, session files, and any digital or hard copies of this data along with relevant paperwork; and
 - 7.3.2. 5A Studios will be entitled to maintain possession of these Recordings and Material
- 7.4 Notwithstanding any other provision in this Agreement the Client shall acknowledge and agree that 5A Studios are not responsible for any Recordings and Material belonging to the Client whilst in transit or whilst off the premises of 5A Studios, and that all risk therefore lies with the Client
- 7.5 5A Studios have the right to hold property situated on 5A Studios premises that belongs to any of the Client Personnel, with regards to outstanding payments that the Client owes to 5A Studios. 5A Studios are entitled to serve a written notice stating the intent to sell

such property if the relevant sum is not paid within 28 days of receipt of such notice. If the payment has not been made by the Client to 5A Studios after the allotted time, 5A Studios are entitled to sell the property, and to use the proceeds from such a sale as a reimbursement for the withheld payment. The Client will not object and will indemnify 5A Studios from and against any legal claim regarding the sold property. The Client shall receive any sum obtained from the sale that is over the amount owed by the Client to 5A Studios.

8.-Indemnity

The Client understands and accepts that it shall indemnify 5A Studios from all legal costs and any financial loss to the business arising from:

- 8.1 The Client cancelling their booking, including and without limitation of any costs or expenses that are incurred by 5A Studios in relation to the booking;
- 8.2 The exploitation or use of Material from the session by the Client;
- 8.3 The Client breaching or breaking the terms of this Agreement;
- 8.4 The Client failing to obtain any necessary licences, permission or consent in relation to any Material used in the session with 5A Studios, such as, but not limited to, Recordings, Master Recordings and Video Material.

9.- Content of Recording

- 9.1 The Client understands and accepts that any Recording or Material produced in their sessions with 5A Studios shall not infringe on any copyright or other legal rights, and shall not include any scandalous, obscene, libellous or illegal content. The Client accepts and understands that they will indemnify 5A Studios from any claim arising from such Material, and will pay any cost incurred by 5A Studios related to such a claim, including but not limited to, Court fees and advice from legal counsel.
- 9.2 5A Studios and its employees reserve the right to refuse to reproduce or produce any Material that in their judgement infringes on copyright, or that is in any way scandalous, obscene, libellous or illegal.

10.- Facility Breakdown Warranty

In the event of a Facility Breakdown, 5A Studios shall either make the Facility available to the Client at an arranged future date, for the amount of time that has been lost in the original booking due to the Facility Breakdown or 5A Studios shall refund the Client a reasonable sum in relation to the time lost for the booked period due to the Facility Breakdown. See section 14. Force Majeure

11.- Client's Media and Material

- 11.1 5A Studios are not liable for any faulty, defective or damaged Recording or Material that has not been put in such a condition by any equipment or Operators of 5A Studios.
- 11.2 5A Studios shall correct defects, or replace faulty or damaged Material that is in such condition as a direct consequence of the actions of 5A Studios employees or equipment.
- 11.3 If 5A Studios are unable to correct or replace the defective or damaged Material, then 5A Studios liability shall extend to either the fee or the maximum liability (whichever

amounts to less).

- 11.4 The Client understands and accepts that if any Media that has been supplied by 5A Studios to the Client with defective or damaged Material, or if this Material is lost, 5A Studios liability is limited to the cost of the Media as if it were blank with no Material on it.

12.-Client's Recordings

It is a condition of this agreement that the Client shall copy any Material that they deliver prior to their scheduled booking, or that they take with them to their scheduled booking at 5A Studios' Facilities. If any such Material is lost or damaged by 5A Studios, their liability will be limited to the the manufacturer's retail price for the blank Media that any such Material was on.

13.- 5A Studios Overall Liability

- 13.1 For any loss or damage suffered by the Client that does not include personal injury or death, 5A Studios liability shall be restricted to whichever is less out of the Maximum Liability or the Fee.
- 13.2 Notwithstanding the terms of this Agreement, 5A Studios shall not be liable to the Client for;
 - 13.2.1. Indirect loss or damage
 - 13.2.2. financial loss including but not limited to any loss of profit or forecasted savings of the Client arising from a Facility fault or of omission of 5A Studios or it's employees.
- 13.3 The responsibilities and liabilities of 5A Studios stated in this Agreement do not include any other responsibilities or liabilities that may fall under another agreement or contract.

14.- Force Majeure

Notwithstanding any other terms of this Agreement, should a Force Majeure Event occur, 5A Studios shall be under no obligations to the Client to carry out the services agreed upon previously under this Agreement, and shall not be liable for failure to do so. Upon notifying the Client of any such Event, 5A Studios will perform it's obligations in a reasonable length of time, depending on the nature of the Force Majeure Event. A Force Majeure is defined by, but not limited to;

- 14.1 Natural Disasters, flood, fire, accident, war or threat of war, sabotage, civil disturbance, acts, regulations, laws, any action on the part of the government that prohibits the services being carried out, industrial actions or trade disputes that involve 5A Studios employees, the Client or a ruling or action by a third party such as trade body associations that affect 5A Studios, the Client or the audio post production industry, power failure, breakdown of machinery or equipment, any other event that cannot be controlled or influenced by 5A Studios.

15.- Facility Security

- 15.1 If security of any kind is required at the time of the booking, it will be the Client's responsibility to ensure that this is in place.
- 15.2 The Client will give 5A Studios written notice of any such security measures the

Client deems necessary for part of or for the duration of the booking, and the Client shall incur all costs associated with this.

- 15.3 5A Studios are not responsible for and not liable for any theft or damage to Materials belonging to the Client.

16.- Miscellaneous

- 16.1 The parties shall be bound by this Agreement alone and regard it as the entire agreement. They will not be bound by any other form of agreement.
- 16.2 This Agreement is final and an amended version shall only be valid if it is done so in writing and signed by all relevant parties.
- 16.3 All notices regarding the booking are required to be written, and shall only be considered properly served if they are delivered to the address by hand or by fax on the day of delivery, or if posted by recorded delivery within two (2) working days of posting. In addition, proof must be provided of the delivery.
- 16.4 This Agreement is subject to the jurisdiction of the English Courts exclusively, and shall be construed in accordance with the laws of England and Wales.

17.- Cancellation Charges

- 17.1 If the Client wishes to cancel the Booking by written notice to 5A Studios: more than 8 weeks before the start of the Period of Booking, then the Client will not be subject to a cancellation charge or any of the agreed Fee.
- 17.2 If the Client wishes to cancel the Booking by written notice to 5A Studios: between 8 weeks and 6 weeks before the start of the Period of Booking, then the Client shall pay 5A Studios 25% of the agreed Fee as a cancellation charge.
- 17.3 If the Client wishes to cancel the Booking by written notice to 5A Studios: between 6 weeks and 4 weeks before the start of the Period of Booking, then the Client shall pay 5A Studios 50% of the agreed Fee as a cancellation charge.
- 17.4 If the Client wishes to cancel the Booking by written notice to 5A Studios: between 4 weeks and 2 weeks before the start of the Period of Booking, then the Client shall pay 5A Studios 75% of the agreed Fee as a cancellation charge.
- 17.5 If the Client wishes to cancel the Booking by written notice to 5A Studios: 2 weeks before the start of the Period of Booking then the Client shall pay 5A Studios the entire sum of the agreed Fee as a cancellation charge.

A. Notwithstanding the terms of this Agreement, should a replacement booking be made with 5A Studios with a third party that is for the same period of time as the Period of Booking in question or for longer, and should 5A Studios and the third party agree upon a Fee which is of a sum equivalent to or more than the Fee agreed upon with the Client in question, then 5A Studios may in its discretion waive its entitlement to receive a cancellation charge from the Client.

B. Notwithstanding the terms of this Agreement, should a replacement booking be made with 5A Studios with a third party, that is for a lesser period of time than the Period of Booking in question, and should 5A Studios and the third party agree upon a Fee which is less than the Fee agreed upon with the Client in question, then 5A Studios may in its discretion reduce the Client's cancellation charge by the amount of the Fee paid by the third party.