

## Fulton Sound Studio Terms & Conditions

**1. Acceptance.** These terms and conditions constitute a part of the contract between Fulton Sound Studio hereafter referred to as FSS and Client. Different or additional terms and conditions which may be included in Client's purchase order or other acceptance of this quotation are hereby rejected unless approved in writing by FSS.

Payment of deposit as laid out in paragraph 3 constitutes acceptance of this agreement. If no deposit is paid then a signed booking form will constitute acceptance of all terms and conditions set out below.

**2. Studio Facilities:** 2.1 FSS shall make the Studio and the Operators, available to the Client for the Period of Booking and shall produce the Master Recording at the direction and subject to the monitoring and approval of the Client or the Representatives. The Client shall only permit people directly involved in the Recordings to enter the Studio Building and only during the Booking Period. FSS reserves the right to require any person not so involved to leave the Studio building. 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 problem or damage caused by use of Clients Own Part Recorded Media (including any virus damage) and that accordingly FSS gives no warranty as to the foregoing

**3. Terms of Payment.** Payment terms are 50% of accepted quote before commencement of work, or before confirmation of a particular booking date. The balance and any additional cost incurred are due before delivery of productions.

**4. Rates; Additional Charges.** All rates are subject to change without notice. In addition, FSS reserves the right to bill Client for additional charges incurred for any reason or cause that is the fault of Client (including without limitation Client's submitting materials which are not legible or otherwise suitable to produce the work) or otherwise beyond FSS' control. Client shall pay and be solely responsible for any and all royalties and other fees payable to any third party.

**5. Changes in Specifications;** Cancellation. After acceptance of this quotation no changes by Client in the specifications will be binding on FSS unless FSS consents to such changes in writing. Additional charges for accepted changes will be billed to Client. Cancellations of bookings must be made within 24 hours or Client will be billed for 4 hours of booked time.

**6. Risk of Loss.** All risk of damage or loss to the work at any time after arrival at FSS is assumed by Client, and such damage or loss shall not in any way release Client from any of its obligations hereunder. Client agrees that FSS shall not be liable for any special, incidental or consequential damages, including without limitation lost income or profits, resulting from damage or destruction to the work prior to delivery.

**7. The Client's Own Media, Personnel And Equipment:** 7.1 FSS will supply all blank media for recording. 7.2 The Client will be responsible for the integrity of the Client's Own Part Recorded Media and FSS shall not be liable for any deficiency in or caused by such Media. 7.3 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: 7.3.1 for the actions of the Client's Personnel upon FSS' premises 7.3.2 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 7.3.3 for the cost of the hire of any Client's Equipment 7.3.4 for any costs and expenses incurred by FSS on behalf of the Client at the Client's request 7.3.5 for any and all loss or damage to the Client's Equipment which shall be at the sole risk of the Client 7.4 The Client shall vacate the Studio and remove all Client's Equipment forthwith at the end of the Period of Booking. FSS shall be entitled by 3 (three) months' notice to the Client to require the Client to collect the Client's Equipment and in default of collection of the Client's Equipment on or before the expiration of the said period of notice, FSS shall be entitled to destroy or otherwise dispose of the Client's Equipment.

**8. Production Storage;** Materials. Production storage is at Client's risk and may be released upon final payment. Quoted price is based on the cost to FSS of the type and grade of parts and materials to be used to produce the work as of the date of this quotation, and quoted price shall be subject to increases based on any increases in the cost of such parts and materials to FSS prior to completion of the work.

**9. Sound Levels.** The Client hereby acknowledges that prolonged exposure to high noise levels above 85 dB SPL(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: 9.1 the Client shall be responsible for noise levels within the Studio 9.2 high noise levels shall not be sustained for long periods 9.3 FSS 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 FSS in respect of inconvenience or time lost in the event of such action.

**10. Engineer's EQ;** Signal Processing Settings. Engineer's EQ is and will remain the property of FSS and will not be released. Signal Processing Settings are and will remain the sole property of FSS and will not be released.

**11. Approvals.** One test CD-R will be submitted to Client for approval. Written approval or suggested changes to said test CDR must be received by FSS within 7 calendar days. Client will be billed for all additional time and materials relating to any such suggested changes.

**12. Delays, Contingencies and Limitation on Liabilities.** Production and delivery schedules are approximate only unless specifically guaranteed in writing by FSS. In any event all such schedules are subject to and shall be extended for delays (a) caused by Client, including without limitation, failure of Client to timely furnish materials in satisfactory condition for use by FSS, failure of Client to promptly approve the test CD-R, return by Client of the test CD- R with changes requiring additional time, or any other breach of this agreement by Client (collectively, "Client actions"), or (b) resulting from any cause beyond the control of FSS ("force majeure"). FSS SHALL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE WHATSOEVER, DIRECT, INDIRECT OR OTHERWISE, RESULTING FROM ANY DELAY OR FAILURE RESULTING FROM CLIENT ACTIONS OR INACTIONS OR FORCE MAJEURE.

**13. Warranty and Disclaimer of Warranties;** No Consequential Damages. Subject to the provisions of paragraph 9 above regarding Client Actions and force majeure, work performed by FSS for Client will conform in all material respects to specifications set forth on the reverse side hereof. THIS WARRANTY IS IN LIEU OF AND FSS HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. FSS MAKES NO WARRANTY WITH RESPECT TO CD-PRINTING OR DUPLICATION. FSS' SOLE AND EXCLUSIVE LIABILITY UNDER THIS WARRANTY SHALL, AT FSS' DISCRETION, BE EITHER TO REPLACE ANY DEFECTIVE WORK, OR PART THEREOF, OR TO REIMBURSE CLIENT THE ACTUAL CHARGE PAID TO FSS BY CLIENT FOR ANY DEFECTIVE WORK OR PART THEREOF. FSS SHALL IN NO EVENT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST INCOME OR PROFITS, OR CLAIMS OF ANY THIRD PARTY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FSS' PERFORMANCE HEREUNDER, WHETHER OR NOT CAUSED BY FSS' NEGLIGENCE.

14. Claims. Receipt of any work delivered hereunder shall be an unqualified acceptance of, and a waiver of any and all claims with respect to, such work unless Client gives FSS notice with details of alleged claim in writing and/or return of rejected production parts within five (5) days after receipt. However, with respect to alleged defects not discoverable upon reasonable inspection upon receipt, claim or return may be made within ten (10) days after Client discovers or should have discovered such defect; provided, that in any event, said claim must be made in writing within thirty (30) days of tender of delivery of the work in question. Any action by Client for breach of this agreement must be commenced not later than one (1) year after the cause of action occurs.

**15. Indemnification.** Client agrees to indemnify and save FSS harmless from all losses, claims, damages and other expenses, attorney's fees, which FSS may suffer or incur in the event any claim is made against FSS for (a) libel, slander, violation of privacy or right of publicity, patent, trademark or copyright infringement, contract or other cause of action arising in connection with or relating to FSS' production of the work, (b) the use, display, performance, reproduction, publishing, transportation, mailing or distribution of the work, or (c) Client's failure to obtain, or abide by the terms and conditions of this Agreement and any required license or other agreement relating to watermark or other copy protection technology requested by Client. Client further agrees at FSS' request to defend at Client's expense any such actions or claims made against FSS.

**16. Waiver, Governing Law and Consent to Jurisdiction.** FSS' failure to insist in any instance upon strict performance by Client of any terms and conditions herein shall not be construed as a continuing waiver of any such terms and conditions or as a waiver of any other terms or conditions. The entire agreement shall be performed and construed in accordance with the laws of the United Kingdom.

**17. Default of Payment.** If Client defaults in payment of any invoice at due date, or in the event of any proceeding in bankruptcy or insolvency by or against Client, FSS, in addition to any right it has, shall have the right: (a) to suspend or discontinue work until it has received payment in full for work performed; (b) to require cash in advance to cover further work; (c) to collect late charges of 5% per month from due date; and/or (d) to recover all costs of collection, including reasonable legal fees. In the event credit or financial ability of Client becomes impaired or unsatisfactory in the sole reasonable judgment of FSS, FSS shall have the right at any time thereafter to change the credit terms with respect to any further work under this quotation.

**18. Final Written Expression of Agreement.** This writing is intended by FSS and by Client as the final expression of this agreement and is intended also as a complete and exclusive statement of the terms and conditions of this agreement. If any term or condition of this Agreement is held invalid, the remaining terms and conditions shall continue in full force and effect.

