

## **Terms and conditions**

**As required by the Conduct of Employment Agencies and Employment Businesses Regulations 2003, the Agency's booking confirmation form, containing the specific terms of the booking, must be signed and returned by the client. The failure to sign and/or return the booking confirmation form whilst proceeding with the booking will be deemed to be an acceptance by the client of these terms and conditions and they shall apply to and govern the booking between the Agency and the client.**

**Any amendment and/or variations made to the booking confirmation form by the client shall not be valid and binding unless the Agency has agreed to such amendment and/or variation in advance and confirmed such agreement by signing the booking confirmation form after the amendment and/or variation has been included on the booking confirmation form.**

### **1. Terms and conditions**

#### **2. Booking fees**

##### **a) Permitted use**

**Unless agreed otherwise and included on the booking confirmation form, booking fees provide an entitlement and right for the client to use one image via a single published medium for one year from the date of the booking, in the United Kingdom only, for the initial permitted use. Please note that such permitted use and entitlement is strictly subject to payment in full of all fees owed to the Agency.**

##### **b) Daily/hourly rate**

**Standard hourly rates are charged during Monday to Friday between 09:00 and 17:00 or 10:00 and 18:00 excluding bank and public holidays. Any booking which is over 5 hours will be charged at the day rate. Booking fees are charged by the day or by the hour, or on an alternative basis, for example, a set fee for a catwalk show. Details will be set out in the booking confirmation form.**

##### **c) Overtime**

**Overtime rates apply at any time more than any 8-hour period including any time outside 09:00 and 17:00 or 10:00 and 18:00. Monday to Friday and on all bookings lasting longer than 8 hours. Overtime rates will be charged as follows:**

**Work on Saturdays between 09:00 and 24:00 and between 18:00 hours and 24:00 hours on Mondays to Fridays (excluding bank and public holidays) is charged to the client at one and a half times the standard hourly rate.**

**A special rate is negotiated for night work between 24:00 hours and 09:00 hours.**

**Work on Sundays and bank and public holidays is charged to the client at double the standard hourly rate.**

##### **d) Travel**

**Any time spent by the model travelling to or from a client's venue will be charged at half the hourly rate. This applies to any travel outside a five-mile radius of Hyde Park Corner (i.e. Chiswick in the west, Golders Green and Highgate Village in the north, Mile End in the east, Streatham Hill and Tooting Bec in the south).**

**e) Fitting fees**

Any time spent by the model for fittings is charged at half the appropriate hourly rate with a minimum charge to the client of £60 per hour.

**f) Additional expenses**

All expenses incurred by the Agency on the clients' behalf will be charged to the client and will include an uplift of 12.5% of the total amount of the expenses.

**g) Location bookings**

When a location booking is made, a client must provide transport for the model to the booking location and back again unless agreed otherwise. If the client fails to provide such transport, then the Agency shall be entitled to re-charge the cost of the transport procured for the model in accordance with section 2f).

If a model on location is prevented from returning to London to work, half the daily fee will be charged to and payable by the client.

**3. Additional fees**

To be agreed at the time of the booking or before any additional usage

**a) Usage**

Additional fees are payable for the right to use the model's image or reproductions, or adaptations of, or drawings derived from that image, or any other representation of it, either complete or in part whether alone or in conjunction with any wording or other images, photographs, drawings or anticipated purposes other than the initial permitted use, details of which will be set out in the booking confirmation form, e.g. packs, posters, showcards, record covers, swing tickets etc. Unless otherwise agreed, the additional fees cover the right to use one image for one year from the date of booking, in the United Kingdom only, for the permitted use or uses or purposes agreed between the Agency and the client. Under no circumstances will each additional usage fee be less than the model's advertising day rate as determined by the Agency unless determined otherwise by the Agency in its absolute discretion.

**b) Territory**

Additional fees are also payable for the right to use the model's image or reproductions etc, as set out in section 3a) above for all known or anticipated territories other than the United Kingdom. Unless otherwise agreed the additional fees cover the right to use one image for one year or one season (as determined by the Agency at the date of booking) from the date of booking, in the territory or territories agreed and stipulated on the booking form. Under no circumstances will each usage fee be less than the model's advertising day rate as determined by the Agency unless determined otherwise by the Agency in its absolute discretion.

**c) Other services**

Additional fees are also payable for other services to be supplied by the model, for example, personal appearances for PR purposes. Fees for such services will be negotiated on a case-by-case basis.

**4. Agency Fees**

**a) All bookings apart from equity contract TV commercials Both agency fees and model fees will be invoiced by the Agency.**

**b) Equity contract TV commercials in the United Kingdom**

The fee negotiated by the Agency is the model's fee from which an agency commission will be deducted of the invoice total.

**c) Non equity contract TV commercials worldwide**

The fee negotiated by the Agency is the model's fee from which an agency commission will be deducted of the invoice total.

**d) The model disbursement and agency fees will be charged in accordance with 4a) and applies to all commercials shot for use outside the UK irrespective of where the fee is paid.**

**e) Value added tax**

All sums payable under these terms and conditions are exclusive of VAT and any other similar or equivalent taxes or duties which shall be payable in full without set off by the client.

**5. Invoicing**

On all invoices, payment is required to be made by the client on receipt of the invoice unless otherwise agreed in writing with the agency.

In all cases, the person booking the model is the client, who will be invoiced and solely responsible for payment, unless otherwise agreed in writing at the time of booking. The Agency reserves the right in its discretion to invoice the 'ultimate client', (eg. designer/ manufacturer/owner of the product in question).

For example, this may be done if the client is booking on behalf of the ultimate client, in which case the client and the ultimate client are jointly and severally liable to pay all of the fees and settle the invoice accordingly. All fees for usage are for the right to use the model's image and, once agreed, are payable whether or not the right is exercised. Unless the Agency specifically agrees otherwise, in writing, no usage for the model's image is permitted until payment is made in full. The agency reserves the right to alter payment terms if it deems appropriate, prior to booking.

If the client fails to pay in full on the due date any amount which is payable to the Agency, without prejudice to any other right or remedy of the Agency, the amount outstanding shall bear interest both before and after any judgment at five per cent per month over Barclays Bank plc base rate from time to time from the due date until up to and including the date that payment is made in full and such interest shall be compounded and accrued on a daily basis.

**6. Exclusivity fees**

Unless agreed otherwise the model is supplied to the client by the Agency on a non-exclusive basis and the model shall be free to provide similar and/or competing services to any third party and/or competing product or brand of the client. An additional fee will need to be agreed when the use of the model's image or the service to be supplied by a model in relation to a product is required on an exclusive or semi- exclusive (for example sector specific exclusivity) basis which precludes supplying services or allowing the use of the model's image for competing and/or particular sector of products or within a particular territory. A model can supply services to and allow use of the model's image by any

competitor unless such an exclusivity fee is negotiated and paid by the client. It is the client's responsibility to carry out any research and check whether the model supplied has undertaken or is booked to undertake any conflicting work.

#### **7. Provisional bookings (options)**

Provisional bookings will be automatically cancelled if they are not confirmed by the client (by signing the booking confirmation form) within 24 hours of the proposed booking.

#### **8. Cancellations**

##### **Cancellation of booking by the Client**

Within 24 hours of the booking call time, the full booking fee will be charged and payable by the client unless the same model is booked within 24 hours of the cancellation in which case half the booking fee will be charged and payable by the client.

Outside 24 hours of the booking call time but within 48 hours of the booking call time of the booking date, then half the booking fee will be charged and payable by the client.

The full booking fee will be charged and payable by the client for bookings of more than three days duration: within a period equal to or less than the length of the booking, then Saturdays, Sundays and bank and public holidays are excluded for the purpose of determining the cancellation notice period.

##### **Cancellation of booking by the Agency**

Should the Agency want to cancel a booking, then it shall use reasonable endeavours to provide the client with reasonable notice, take steps to offer to the client a suitable replacement and/or substitute and take such other reasonable steps as are reasonably practicable to mitigate against such cancellation.

In any event the Agency shall be entitled to cancel a booking at any time and for any reason prior to the booking date without liability to the client and the client will procure the necessary insurance cover to protect against such cancellation and any associated liability.

#### **9. Weather related cancellations**

On the first occasion of cancellation half the booking fee is charged and payable by the client unless the client fails to cancel in time to prevent the model's attendance in which case the full booking fee is charged and payable by the client. On the occasion of the second cancellation and any subsequent cancellations the full booking fee is charged and payable by the client.

#### **10. Meals**

Clients are responsible for the provision of all meals and beverage requirements of the models (considering dietary requirements) whilst the models are providing services to the client on all bookings.

#### **11. Model care and safety**

The clients shall ensure that the model is treated with respect and professionalism and that the client takes all steps necessary to ensure that the safety, health and wellbeing of

the model is protected and always maintained whilst providing services to the client. Such steps shall include without limitation:

a) ensuring that the venue for the provision of the services and the working condition is safe and secure and allow the model to provide the services in compliance with all health and safety standards, regulations, codes and laws.

b) allowing the model to take suitable and regular rest periods, to ensure the model can maintain suitable amounts of rest and refreshment whilst delivering the services.

c) providing adequate levels of insurance cover to safeguard the health and safety and future earnings of the model whilst the model is delivering the services and travelling to and from the client's venue as if he/she were an employee of the client.

d) ensuring that all the people and organisations which are engaged by the client in relation to the delivery of the services are suitably qualified, experienced and professional.

e) ensuring that no one imposes upon the model any action or activity which is either dangerous, degrading, unprofessional or demeaning to the model.

f) ensuring that the services are delivered, and the model is treated in accordance with The Association of Model Agents' Code of Practice; and

g) providing the model with an appropriate changing and dressing area to ensure that the model can prepare for the provision of the services and maintain his/her privacy. Always include a credit as "model's name" @ "the Agency", wherever a credit is applied.

## **12. Warranties**

The client warrants and represents to the Agency that: it has full capacity to enter into these terms and conditions and perform its obligations under these terms and conditions; the booking form is executed by a duly authorised representative of the client;

it will take all steps necessary to ensure that the model is protected and treated in accordance with all applicable laws, good industry practice and section 11 above; it has all necessary permits, licences and consents to enter into and to perform its obligations under these terms and conditions and such obligations shall be performed in compliance with all applicable laws, enactments, orders, regulations, and other similar instruments; and

it will promptly disclose to the Agency in writing all necessary information (including without limitation the location and length of the shoot and requirements for any foreign travel) and details relating to the provision of the services to enable the Agency to ensure that the model is suitably prepared and able to perform the services.

## **13. Fashion shows**

Catwalk bookings provide the client with the right to make use of a model's services on the catwalk for the specified show and the right to allow photographers to be present to take photographs and videos of the show on the basis that all such material (or reproductions etc. as set out in section 3b above) is exploited for reporting purposes only. The client is responsible for ensuring that all photographers present are aware of this condition and the client will procure that they abide by these conditions. If any other usage is required, it must be negotiated and agreed with the Agency at the time of the booking.

#### **14. Music videos, Promotional films**

All fees will be negotiated, structured and paid by the client for on a case-by-case basis. In normal circumstances there will be a fee for the shoot plus an additional buyout fee payable by the client. If not booking direct, the client (usually the music company) will be invoiced by the Agency as the ultimate client (see section 5).

#### **15. Test and experimental photography**

When the Agency agrees to allow a photographer to take test or experimental photography, the photographer is not entitled to use, or allow others to use, test and/or experimental photographs or test commercials for commercial purposes unless specific arrangements have been made before the photographic session.

#### **16. Intellectual property rights**

The photographer and/or the client and anyone obtaining rights from or through the photographer/client is not entitled to use any images for any usage beyond that agreed or permitted under sections 2a), 3, 12, 13 and 14 above. The client will procure that the photographer/client agrees to restrict the use and exploitation of the copyright content of the photograph or any other intellectual property rights. If the client is not the photographer, the client is to draw all these terms and conditions (1-22) to the attention of the photographer and procure his agreement to them before the shoot commences.

All rights not expressly granted to the client under these terms and conditions are hereby reserved to the Agency and/or the model as appropriate. In particular, the client acknowledges and agrees that the Agency is the owner or licence holder of all commercial rights and intellectual property rights relating to the model and the Agency and the client shall not be entitled to exploit or enter into any commercial or other agreement to exploit any rights relating to the model or the Agency other than the rights specifically granted to the client under these terms and conditions.

#### **17. Liability and insurance**

a) No party excludes or limits its liability under these terms and conditions for: death or personal injury caused by its negligence; fraudulent misrepresentation; or any other type of liability which cannot by law be excluded or limited.

b) Subject to section 17a, the Agency limits its liability under these terms and conditions, whether such liability arises in contract, tort (including without limitation negligence) or otherwise, so that the maximum liability of the Agency for all claims under these terms and conditions shall be limited to and shall not in aggregate exceed the total amount of the fees paid or payable to the Agency;

c) the Agency shall not be liable for: loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings; product recall costs; failure by the model to attend a booking for whatever reason; damage to the client's reputation; or consequential, special or indirect loss or damage; even if the Agency has been advised of the possibility of such loss or damage

d) The client shall effect and maintain (and shall require its ultimate client, if any, to maintain) throughout the continuance of this terms and condition insurance policies

which provide appropriate coverage adequate enough to cover all liabilities and risks of the client that may arise under these terms and conditions. Such insurance policies shall include without limitation:

cancellation insurance to protect against the potential liabilities which the Agency and the client may incur as a consequence of the provisions of sections 8 and 9;

insurance to protect the model and the Agency should any damage, injury or loss be caused whilst the model is providing services to the client; and

travel insurance to cover the activities of the models whilst travelling to and from the location of the services

#### **18. Contract and authority**

All matter's relating to the use of the model's image, any other services supplied by the model and all fees must be negotiated and agreed only with the Agency. The client shall not attempt to negotiate, nor allow others to negotiate, with the models directly. If the client or the photographer or any other person on their behalf or connected with them obtains the model's signature on any document or the model's purported verbal agreement to anything, this is non binding on the model or the Agency unless and until it is agreed in writing by the Agency (such agreement to be determined in the Agency's absolute discretion).

#### **19. Complaints and disclaimer**

Any cause for complaint must be reported to the Agency by the client as soon as it arises. Complaints cannot be considered and/or dealt with effectively after the services have been delivered. Whilst the Agency will use reasonable endeavours to ensure that the models provide a satisfactory and efficient service to clients, as the agent, the Agency cannot be held responsible for a model's conduct or behaviour whilst delivering the services and in this regard the Agency shall not be held liable for any costs, expenses or losses suffered as a consequence of the behaviour or conduct of any model.

#### **20. Force Majeure**

The Agency's shall not be liable to the client for any delay in performing or failure to perform any of its obligations under these terms and conditions which is due to any cause beyond its control and which is unknown to, and cannot reasonably be anticipated by the Agency including without limitation fire, flood or catastrophe, acts of God, insurrection, workforce action, war or riots, (an "Event of Force Majeure") and the Agency's obligations under these terms and conditions shall be suspended for so long as the Event of Force Majeure continues and to the extent that it is so delayed.

#### **21. Interpretation of terms and conditions**

a) For the purpose of the relationship between the client and the Agency the client acknowledges, accepts and agrees that the Agency is the supplier of services which shall be strictly and exclusively governed by these terms and conditions. These terms and conditions apply to every offer, quotation, acceptance, purchase order, confirmation order, specification and/or contract for the sale and supply of services or goods (including services ancillary thereto) by the Agency and supersede any other terms of the client and take precedence over and override and exclude any other terms stipulated or incorporated or referred to by the client whether in the booking confirmation form or in any negotiations and any course of dealing established between the Agency and the client. The client acknowledges that there are no representations, statements or promises made or given by

or on behalf of the Agency outside these terms and conditions which have induced the client to enter into these terms and conditions (which expression shall include any contract of which these terms and conditions form part).

b) If there is any conflict between any of these terms and conditions and the booking confirmation form then the terms of these terms and conditions shall prevail without detriment to the remaining unaffected terms of booking confirmation form.

c) The booking confirmation forms part of these terms and conditions and shall have effect as if set out in full in the body of these terms and conditions. Any reference to these terms and conditions includes the booking confirmation form.

d) For the purpose of these terms and conditions the words "agreed", subject to section 1, means agreed in writing in the booking confirmation form and signed by duly authorised representatives of both the Agency and the client.

## **22. General**

a) If any of the terms, conditions or provisions of these terms and conditions or the booking confirmation are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent, be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

b) Any termination of all or part of these terms and conditions shall not affect the coming into force or the continuance in force of any provision of these terms and conditions which is expressly or by implication intended to come into force or continue in force on or after such termination.

c) Except as otherwise expressly provided in these terms and conditions, all representations, warranties, undertakings, agreements, covenants, indemnities and obligations made or given or entered into by the client and the ultimate client under these terms and conditions are assumed by them jointly and severally.

d) Nothing in these terms and conditions shall render any party a partner or agent of the other. Except as expressly permitted by these terms and conditions, nothing shall allow a party to purport to undertake any obligation on behalf of the other nor expose the other party to any liability nor pledge or purport to pledge the other's credit.

e) No failure to exercise and no delay in exercising on the part of either party of any right, power or privileged under these terms and conditions shall operate as a waiver of it. Nor shall any single or partial exercise of any right, power or privilege preclude the enforcement of any other right, power or privilege. Nor shall the waiver of any breach of a provision be taken or held to be a waiver of the provision itself. For a waiver to be effective it must be made in writing.

f) Except as and to the extent expressly otherwise specified in these terms and conditions, the rights and remedies contained in these terms and conditions are cumulative and are not exclusive of any rights or remedies provided by law or elsewhere in these terms and conditions.

g) The parties agree to keep, and to instruct its agents, employees, advisers and sub-contractors with knowledge hereof to keep these terms and conditions strictly private and



**confidential and not to disclose any details relating to the same, subject to disclosure in the following circumstances;**

**(i) to enable enforcement of the party's rights under these terms and conditions;**

**(ii) with the prior written consent of the other party; and**

**(iii) as required by any applicable law.**

**h) These terms and conditions and the booking form constitute the entire agreement between the parties and supersede any previous agreement or arrangement between the parties relating to the subject matter of these terms and conditions.**

**i) No variation or amendment to the terms of these terms and conditions shall be valid and binding unless in writing and signed by an authorised representative of each party.**

**j) Except where these terms and conditions expressly provides otherwise, a person who is not a party to these terms and conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these terms and conditions, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act. The client acknowledges, accepts and agrees that the Agency has entered into these terms and conditions for the benefit of itself and the model and accordingly the model shall be entitled to enforce these terms and conditions as if he/she were a party to these terms and conditions.**

**k) The parties agree that these terms and conditions and its provisions will be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.**