

# **General Terms and Conditions**

## **§ 1 Subject of Agreement**

Subject of this agreement is the legal relationship between the fashion model (hereinafter also referred to as “the model”), MODELWERK and their respective clients. Our Terms and Conditions of Booking shall apply exclusively unless other individual agreements have been concluded.

## **§ 2 Agency Fees**

- (1) MODELWERK represents the model in dealings with the client and makes statements to the client in the name and on behalf of the model. A client shall be defined as someone who books with MODELWERK, unless expressly agreed otherwise in writing at the time of booking.
- (2) For providing the model, the client shall pay MODELWERK a commission of 20 % of the model’s agreed fee or of the payable cancellation fee plus VAT, unless other arrangements have been made. Any liability on the part of MODELWERK arising from the arranged legal relationship shall be excluded. The client shall not be entitled to offset any claims against the model against MODELWERK’s claim to a commission, nor shall the client be entitled to exercise a right of retention.
- (3) The client shall also pay a commission for subsequent bookings as long as the model is represented by MODELWERK. The client undertakes not to make any direct bookings that circumvent MODELWERK.

## **§ 3 Bookings**

### **(1) Confirmed Bookings**

Confirmed bookings are binding for both parties. On request of the client, MODELWERK shall confirm them in writing without delay, indicating the essential details.

### **(2) Options**

Options are reservations for a binding date. They shall be forfeited unless a confirmed booking is made no later than one working day (by 6:00 p.m.) before the start of work or within one working day after being requested to do so by MODELWERK. Saturdays and Sundays shall not be considered working days. German calendar time shall apply. Options shall be noted in the order in which they are received. If the option is not a first option, the client shall be informed of the option’s priority. If an option should lapse, subsequent options shall move up in priority.

### **(3) Weather-related Bookings**

These are bookings that are subject to certain weather conditions. Unless otherwise agreed, these bookings shall be considered as referring to fairweather bookings. They are only permissible at the model's place of residence and must be expressly denoted as such. If the weather conditions are not as desired or unclear, the client may cancel the booking with MODELWERK up to one hour before the agreed start of work. In this case the cancellation fee shall be 50 % of the model's agreed fee.

## **§ 4 Cancellation**

- (1) A confirmed booking may be cancelled at any time for good cause. Cancellation for good cause shall be applicable in particular in cases of force majeure and in case of circumstances which make the performance of the contract unreasonable. The client shall inform MODELWERK of the cancellation immediately after gaining knowledge of the reasons and state the reasons for cancellation.
- (2) A cancellation for other reasons shall be made as many working days prior to the start of work as the number of working and travel days that have been booked, however, no less than 48 hours beforehand.
- (3) Should MODELWERK receive the notice of cancellation before 12 noon, then this day shall count in calculating the cancellation deadline within the meaning of sub-clause 2. Saturdays and Sundays shall not be considered working days. German calendar time shall apply.
- (4) Bookings by the day or hour may be cancelled up to 24 hours before the start of work.
- (5) Should the model cancel a contract after booking, MODELWERK shall make every effort to find an adequate substitute for the client, even if this requires calling in another agency.
- (6) Should the cancellation be late within the meaning of the above provisions, or should the contract be cancelled without good cause, the agreed fee shall be paid in accordance with clause 2.

## **§ 5 Working Hours of the Model**

- (1) The working hours for a day booking shall be 8 hours, those for a half-day booking shall be 4 hours. Unless agreed otherwise, the working hours of the model are between 9.00 a.m. and 6.00 p.m. and shall include a one-hour lunch break in case of a day booking.
- (2) The working hours start when the model meets the client at the agreed place and time. Preparations such as make-up and hair styling shall be deemed working hours.

- (3) Overtime shall be remunerated at 15 % of the agreed daily fee for each overtime hour and part thereof. If the working hours are exceeded by 30 minutes or less, this shall generally be considered goodwill and not be charged.
- (4) Any time spent by the model and client travelling together from the hotel/airport to the location and back shall be considered working time. Such travel time amounting to a maximum of one hour per day shall generally be considered goodwill and not be charged.

## **§ 6 Model's Fee**

- (1) The model's fee consists of his/her remuneration, the fee for the rights of usufruct and any VAT that may apply.
- (2) In the absence of any other information from the client, MODELWERK shall base the booking and price calculation on the assumption that clothing and/or accessories appurtenant to fashion, such as nightclothes, jewellery, stockings, shoes, hairdos, eyeglasses etc. which are designed in connection with fashion, are to be photographed or presented (fashion rate). The offered or agreed fees are based thereon.
- (3) Should the contract instead concern the modelling of underclothes, corsets, nude modelling, for consumer goods advertising, advertising with photographs at the fashion rate and advertising films, a surcharge of 100 % in case of nude modelling and of 50 % in case of modelling underclothes and corsets shall be charged in the absence of an explicit separate agreement and without prejudice to further rights. In all other respects, the remuneration to be paid shall be based on the scope of use.
- (4) Furthermore, any booking by a client shall be considered a day booking in the absence of any other arrangement. Should the booking actually be a halfday or hourly booking, then the fee shall amount to a minimum of 50 % of the daily fee in case of models who reside at the location. Should the model not reside at the location, the fee shall amount to 100 % of the daily fee.

## **§ 7 Travel Expenses**

- (1) The client shall recompense the model's travel time to and from the location only if such travel, in whole or part, falls within the normal working hours of the model [see clause 5 (1) above]. The compensation shall amount to
  - 1/2 of the daily fee in case of contracts of up to 2 working days
  - no compensation for contracts exceeding 2 working days, unless the travelling time takes up an entire workday.

- (2) Models residing at, or not travelling to, the location shall not be compensated by the client for the costs of overnight accommodation and meals. Except in the case of half-day and hourly booking, any expenses for taxis shall only be reimbursed from the city limit. For all trips taken together, the client shall bear all expenses for travel, meals and overnight accommodation incurred by the model from the airport/train station from which the model departs. The reimbursement is either paid as a lump sum in accordance with the standard daily rates allowed for tax purposes or upon submission of receipts. Should the model work for several clients at one location, the expenses incurred shall be allocated in accordance with the days worked for each client.

## **§ 8 Payment Terms**

- (1) The claim for payment of the fee arises upon performance of the contract. The fee shall be paid in Euro and become payable in full no later than upon receipt of the invoice.
- (2) At the discretion of MODELWERK, travel expenses shall be paid in local currency or in Euro converted at the buy rate.

## **§ 9 Complaints, Liability**

- (1) In the event of any complaints and problems, the client shall immediately inform MODELWERK and provide all information necessary to evaluate and solve the problem. To the extent possible, photos shall be taken to document the problem. The model is not responsible for hairstyling, styling and make-up. Any claim for payment of the fee and reimbursement of travel expenses shall be forfeited in case of complaints that make the performance of the contract impossible and for which the model is responsible. In the event that photographs are nevertheless taken using the model, this shall be deemed a waiver of any claims and rights arising from the complaint on the part of the client.
- (2) If the model is late through his/her own fault (oversleeping, missed flight etc.), then the model shall accordingly be obliged to work longer. If this should prove to be impossible, either entirely or in part, due to special circumstances, then the model shall lose his/her prorated claim to the daily fee based on the overtime rate.
- (3) The client shall take out appropriate insurance coverage for the model in case of hazardous photo shoots. In the event that MODELWERK was not expressly informed of the risk involved at the time the booking, the model shall be entitled to refuse to carry out the assignment and shall receive a cancellation fee amounting to 70 % of the total agreed fee.

- (4) Any additional claims shall be subject to general statutory provisions. The liability of the model and of MODELWERK, for whatever legal reason, shall be limited to twice the total fee except in cases of wilful intent and gross negligence.

## **§ 10 Rights of Use**

- (1) Unless otherwise agreed, the respective contractual partner/client shall be granted the exclusive right to use the photographs taken within the scope of the contract within the territory of the Federal Republic of Germany for the period of one year and exclusively for the agreed purpose, for the agreed product and in the agreed form of use. The limit of one year shall commence from the date of the first actual use, but no later than 2 months after the photographs were taken.
- (2) Any additional use, in particular for posters, billboards, the Internet, packaging, displays and videos as well as any use of the model's name shall require the express written consent of MODELWERK as the model's agent. As a matter of principle, digital storage of the photographs shall be prohibited and may only be undertaken with the express written consent of MODELWERK stating the exact purpose for which they are to be used.
- (3) Rights of use shall not be granted until the agreed fee has been paid. Any use prior to complete payment of the agreed fee shall be prohibited.

## **§ 11 Final Provisions**

- (1) This agreement between the parties (client, MODELWERK and model) shall be exclusively governed by German law. Place of performance for all rights and obligations arising from the booking in connection with rights of use shall be the registered place of business of MODELWERK.
- (2) The client undertakes to only amend or add to the bookings and deviate from these booking terms upon prior consultation with MODELWERK and to refrain from directly enjoining the models to amend or add to the bookings.
- (3) Should any provision of these Terms and Conditions be or become invalid, this shall not affect the validity of all other provisions. In place of the invalid provision, such provision shall be deemed to have been agreed which best reflects the intended purpose of the agreement. The same applies for filling any gaps in the agreement.
- (4) Place of jurisdiction for qualified merchants, legal entities under public law and clients without a place of general jurisdiction in Germany shall be Hamburg.