

Talent Standard Terms and Conditions

1. Interpretation

1.1. In these terms and conditions, the following words and phrases shall have the following meanings:

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| Agency | means Kate Moss Agency Limited, a company incorporated in England and Wales under registered number 09311038; |
| Agency Fee | means in respect of any Booking that part of the Fee relating to that Booking that is payable by the Client to the Agency as determined pursuant to Clause 4.1; |
| Booking | means any booking that is made by a Client with or through the Agency and which involves any Talent providing any Services and/or granting any rights to that Client; |
| Client | means any person that requests that any Talent provides any services or grants any rights for the purposes of or in relation to any Booking and such person shall be the person named as the client on the Confirmation Form relating to that Booking; |
| Confirmation Form | means the booking confirmation form that shall be prepared by the Agency for and on behalf of any Talent and issued to the Client in relation to each Booking and which contains (amongst other things) specific terms agreed between the Client and the Talent who is the subject of the Booking (or by the Agency for and on behalf of that Talent) in relation to that Booking including the extent of any permitted use of any Materials created as part of that Booking and the fee payable by the Client in relation to that Booking; |
| Data Protection Law | means the Data Protection Act 1998, the Data Protection Directive 1995, the Privacy and Electronic Communications Regulations 2003, the E-Privacy Directive (2002/58/EC) and all applicable laws and regulations relating to the processing of Personal Data and privacy, including any legislation that replaces, repeals and/or supersedes any of the foregoing such as the General Data Protection Regulation (2016/679) |
| Fee | means in respect of any Booking the total fee payable by the Client in relation to that Booking as set out in the Confirmation Form for that Booking (it being acknowledged that such fee may comprise one or elements including fixed fees and/or fees based on usage); |
| GDPR | the General Data Protection Regulation (2016/679) |
| Hourly Rate | means in respect of any Talent the standard hourly rate of that Talent for the time being. Details of the standard hourly rate of any Talent may be set in the Confirmation Form for a Booking or otherwise are available from the |

Agency on request (and may be varied from time to time at the Agency's discretion);

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| Image Rights | means in respect of any Talent that Talent's name, nickname, image, initials, signature, voice, reputation, likeness or other personal attributes or identifying features; |
| Location | means any location at which any Talent is required by a Client to provide any Services; |
| Materials | means any photographs, images, pictures, video or other audio, visual or audio-visual content or other materials of any nature whatsoever (and on whatever medium recorded, created or stored) taken, captured or created during the course of any Booking or the provision of any Services as part of any Booking and which contains, includes or features any Talent; |
| Private Policy | means the privacy policy published on the KMA website, www.katemossagency.com , as may be amended and updated from time to time; |
| Talent | means any model, actor, actress, artist, photographer, celebrity or other person represented or managed by the Agency and whose services are (or are to be) made available to a Client as part of any Booking; |
| Services | means in respect of any Booking the services that are to be provided by the Talent whose services are being made available to the Client as part of or in relation to such Booking as set out in the Confirmation Form for that Booking; |
| Talent Fee | means in respect of any Booking that part of the Fee relating to that Booking that is payable by the Client to the Talent who is the subject of that Booking as determined pursuant to Clause 4.1; and |
| Terms | means the terms and conditions set out in this document. |

2. Application of these Terms and Basis of Agreement

- 2.1. These Terms shall apply to all Bookings made by any Client with or through the Agency and to all Services to be provided by any Talent as part of or in relation to any such Booking.
- 2.2. These Terms, together with the Confirmation Form relating to a Booking and any written agreement approved by the Agency and signed and entered into between any Talent and the Client in relation to a Booking shall together comprise the agreement (the **Agreement**) between the Client, that Talent and the Agency in relation to that Booking and shall apply to the exclusion of any and all other agreements, terms and conditions, offers, acceptances, quotations, purchase orders or specifications of any kind (including any standard terms of business of the Client) and any course of dealing established between any Talent or the Agency and the Client.

- 2.3. The Client must sign and return to the Agency the Confirmation Form for each Booking. By signing the Confirmation Form for a Booking the Client agrees to comply with the provisions of the Agreement in relation to that Booking. Until such time as the Confirmation Form relating to a Booking is signed by the Client and returned to the Agency any Talent shall not be obliged to proceed with or provide any Services in relation to that Booking and that Talent (or the Agency acting as agent on his or her behalf) may vary the terms and conditions applicable to that Booking.
- 2.4. If notwithstanding paragraph 2.3 any Services shall be provided in relation to any Booking despite the fact that the Confirmation Form relating to that Booking has not been signed by the Client and returned to the Agency then the Client shall be treated as having accepted the terms set out in the last Confirmation Form relating to that Booking which has been sent to the Client by the Agency and the terms set out in that Confirmation Form and these Terms shall comprise the agreement between the relevant Talent, the Client and the Agency in relation to that Booking.
- 2.5. No amendments and/or variations made to any Confirmation Form by the Client shall be valid or binding unless the Agency (acting on its own behalf and separately as agent for and on behalf of the relevant Talent) has given its express consent to such amendments or variations and signed the amended or varied Confirmation Form both on its own behalf and separately as agent for and on behalf of the relevant Talent.
- 2.6. Save as otherwise provided in these Terms, if in respect of any Booking there is any conflict between any provision of these Terms and the Confirmation Form for that Booking then the provisions of these Terms shall prevail without detriment to the remaining unaffected terms of the Confirmation Form.

3. Basis on which Services Provided

- 3.1. The Client acknowledges and agrees that the Agency shall have no liability to the Client in respect of any matters arising from the performance or non-performance by any Talent of any obligations arising under the Agreement relating to that Booking and that (other than in respect of any provisions of the Agreement relating to a Booking that relate to the payment of the Agency Fee to the Agency) the Agency acts in the capacity of agent of the Talent to which the Booking relates and without liability to the Client.
- 3.2. The Client acknowledges that there are no representations, statements or promises made or given by or on behalf of any Talent or the Agency outside of the Agreement relating to a Booking which have induced the Client to enter into that Agreement.

4. Fees and Expenses

- 4.1. The Fee payable in respect of each Booking shall be payable by the Client as follows:
 - (a) a sum equal to 66.67% of such Fee shall be payable to the Talent who is the subject of such Booking and such sum shall comprise the Talent Fee for that Booking; and
 - (b) a sum equal to 33.33% of such Fee shall be payable to the Agency and such sum shall comprise the Agency Fee for that Booking.

Any variation or change to the Fee relating to a Booking must be agreed in writing between the Client and the Agency (and the Agency shall act as agent for and on behalf of the relevant Talent who is the subject of the Booking in relation to the agreement or variation of any Fee).

- 4.2 If the Confirmation Form for a Booking confirms that any part of the Fee for that Booking are to be charged by the day or by the hour then for these purposes:
- 4.2.1 a 'day' shall be treated as any consecutive 8-hour period (including one hour for lunch) between 9am and 6pm (eg 9am-5pm or 10am-6pm) and where any Talent's time is charged for by the day in relation to a Booking then if that Talent spends on any day additional time undertaking activities in relation to that Booking (including waiting time) beyond 8 hours between 9am and 6pm then their time for that additional time shall be charged for at the Talent's Hourly Rate;
 - 4.2.2 overtime will be charged at one-and-a-half times Talent's Hourly Rate for any time spent by any Talent undertaking activities in relation to a Booking (including waiting time) either before 9am or after 6pm on weekdays and also for any time spent on Saturdays;
 - 4.2.3 overtime will be charged at twice Talent's Hourly Rate for any time spent by any Talent undertaking activities in relation to a Booking (including waiting time) on Sundays or Bank Holidays;
 - 4.2.4 if any Location is situated outside of a five mile radius of Hyde Park Corner then the Client must pay for any time spent by any Talent travelling to or from that Location for the purposes of providing any Services and for these purposes Talent's time shall be charged at a rate equal to 50% of that Talent's Hourly Rate;
 - 4.2.5 the Client must pay for any time spent by any Talent participating in fittings and for these purposes Talent's time shall be charged at a rate equal to 50% of that Talent's Hourly Rate with a minimum charge of £50 per hour.
- 4.3 All third party costs and expenses incurred by any Talent or the Agency on the Client's behalf or in relation to any activities undertaken as part of any Booking (including, without limitation, any travel costs or expenses) will be charged to and must be paid by the Client in addition to any Fee and will include an uplift of 12.5% of the aggregate amount of such costs and expenses.

5. Invoicing and Payment

- 5.1. The Client must pay all invoices issued by or on behalf of any Talent and/or the Agency (including any such invoices issued on behalf of any Talent by the Agency) in respect of the Talent Fee, Agency Fee and/or any expenses or other sums payable in relation to a Booking within 30 days of the date on which any such invoice is issued. Unless otherwise agreed in the Confirmation Form for a Booking the person named as the client in that Confirmation Form shall be treated as the Client and shall be the person invoiced and responsible for the payment of all fees, costs and expenses payable under the Agreement in relation to that Booking.
- 5.2. Unless otherwise stated in the Confirmation Form for a Booking, the Talent Fee payable to Talent in relation to that Booking shall be paid to and collected by the Agency on behalf of that Talent.

- 5.3. It is acknowledged that in certain circumstances the Client may be acting on behalf of another person (for example another business or brand) who is the ultimate recipient of the Services being provided by any Talent as part of the Booking (any such person being a **Principal Client**). In such circumstances, if requested by the Client, the Agent and/or the relevant Talent (or the Agency acting as agent for and on behalf of such Talent) may in their sole discretion (but shall not be obliged to) invoice any such Principal Client for any sums payable under the Agreement relating to the Booking. In such circumstances the Client shall remain liable to the relevant Talent and Agency for the payment of any and all invoices issued to a Principal Client and shall pay any sums due under any such invoice in the event that the Principal Client fails to pay any such invoice within 30 days of the date of issue of such invoice.
- 5.4. If the Client fails to pay when due any amount payable under the Agreement relating to a Booking then, without prejudice to any other right or remedy of any relevant Talent or the Agency, the Client must pay to the relevant Talent and/or the Agency (as appropriate) interest on the overdue amount from the due date until the date of payment (both before and after any judgment) at a rate of 5% per annum above the base rate from time to time of the Bank of England. This interest shall accrue from day to day on the basis of a 365 day year and shall be compounded on the final day of each calendar month.
- 5.5. If the Client has made a Booking for or on behalf of or for the benefit of any Principal Client then the Client shall procure that such Principal Client:
- 5.5.1. shall if so requested by any relevant Talent or the Agency enter into an agreement with the relevant Talent and/or Agency confirming that it shall comply with the provisions of the Agreement relating to that Booking as if it were a party to that Agreement and named therein as the Client;
- 5.5.2. shall comply with the provisions of the Agreement relating to that Booking in relation to the use of any images or other Materials produced during the course of any Booking as if the Principal Client was a party to that Agreement and named therein as the Client including but not limited to territorial restrictions and restrictions as to media in which any images or other Materials may be used and, without prejudice to the generality of the foregoing, the Client shall procure that any Principal Client shall not use any such images or other Materials produced during the course of any Booking until the relevant Talent and the Agency have received payment of all sums payable to them under the Agreement in relation to that Booking.
- 5.6. Any and all monies received by the Client from any Principal Client on account of or which relate to or which are in respect of any sums payable to any Talent or the Agency under the Agreement relating to a Booking or which otherwise relate to any of the rights or benefits conferred on the Client under the Agreement relating to a Booking must be either directly paid by the Client on to the relevant Talent or Agency on receipt or must be held by the Client pending payment on to the relevant Talent or Agency in a separate bank account which does not contain any of the Client's own funds. Any such monies shall be held on trust for the benefit of the relevant Talent or Agency until such time as all outstanding sums owed by the Client to the relevant Talent or Agency in relation to the Booking are paid in accordance with the Agreement relating to that Booking.

5.7. All sums payable under an Agreement relating to a Booking are stated exclusive of VAT or similar or equivalent taxes or duties and where any VAT or other such taxes are payable the Client shall pay such VAT or other taxes in addition to any other amounts due.

6. Restrictions on Use

6.1 The payment of the Fee set out in the Confirmation Form in relation to any Booking shall permit the Client to use any Materials or Image Rights only during such period, in such territories and for such purposes and to such extent as are set out in that Confirmation Form and no other use or exploitation of any kind shall be undertaken by the Client (and the Client shall procure that no such use or exploitation is undertaken by any Principal Client or any photographer, cameraman or other person employed or engaged by the Client or any Principal Client who provides any services relating to any Booking (together **Service Providers**)) without the prior written approval of the relevant Talent or the Agency (acting as agent for and on behalf of the relevant Talent).

6.2 The Client shall procure that any Principal Client and all Service Providers are made aware of and comply with the restrictions on use and exploitation set out in the Agreement for any Booking and that such persons shall, if so requested by any relevant Talent or by the Agency, provide confirmation in a written agreement that they shall comply with such restrictions.

6.3 Where all or any part of the Fee comprises a fee for the use of any Materials, the use of any Talent's Image Rights or the use of any other items, such Fee shall be payable whether or not any use is in fact made by a Client of such Materials, Image Rights or other items.

6.4 Save to the extent that more extensive use is permitted in the Confirmation Form for a Booking, where the Services to be provided by any Talent in relation to a Booking involve:

6.4.1 that Talent acting as a model then the Client may use one image of that Talent via a single published medium for a period of 12 months (or for a single season in the case of a fashion Booking) commencing from the date on which the image concerned was taken and within the United Kingdom only;

6.4.2 catwalk modelling at any fashion show or similar event the Client shall have the right to make use of that Talent's services on the catwalk for the show or event specified in the Confirmation Form and shall have the right to allow photographers to be present to take photographs and/or video footage of that show or event on the condition that any photographs or video footage so taken are used and exploited for reporting purposes only. The Client shall procure that all photographers attending any such show or event are made aware of and comply with this condition.

6.5 The use of any Materials or Image Rights of any Talent are strictly subject to:

6.5.1 the relevant Talent (or Agency on behalf of the relevant Talent) having received in advance of any such use payment in full from the Client of the Talent Fee payable in relation to any relevant Booking; and

6.5.2 the Agency having received in advance of any such use payment in full from the Client of the Agency Fee payable in relation to any relevant Booking.

- 6.6 Save as permitted in the Confirmation Form for a Booking or agreed in writing by the relevant Talent or by the Agency on behalf of such Talent a Client may not:
- 6.6.1 produce, use or exploit in any medium any Materials or any materials featuring any Image Rights of any Talent;
 - 6.6.2 in any way adapt or reproduce or re-use any Materials (including, without limitation, by producing drawings or other images or graphics based on any Materials) in whole or in part and whether alone or in conjunction with any wording, images or materials;
 - 6.6.3 use or exploit or post any Materials online or through any digital media or social media or networking sites or accounts (including, without limitation, Facebook, Instagram, YouTube, Twitter, Flickr and MySpace); or
 - 6.6.4 use or exploit any Materials outside of the United Kingdom.

7. Talent provided on a non-exclusive basis

- 7.1 Unless otherwise agreed in the Confirmation Form for a Booking, the services of any Talent are supplied for each Booking on a non-exclusive basis and Talent shall not be restricted from providing any services to any third party, including any third party which may compete with the Client or any of the Client's goods or services. It is the Client's responsibility to check whether any Talent has undertaken or is booked to undertake any conflicting work.
- 7.2 If the use of any Talent's services or any of their Image Rights is required on an exclusive or semi-exclusive basis (for example sector specific or territorial exclusivity) such that any restriction would be imposed on that Talent from supplying any services or granting any rights to any third parties or any restriction on that Talent's ability to allow third parties to freely use any of his/her Image Rights then the cost of such exclusivity will be reflected in the Fee payable in relation to any relevant Booking.

8. Provisional bookings

If the Client has not signed and returned the Confirmation Form relating to a Booking by the time falling 24 hours before the time of any activities that are required to be undertaken as part of that Booking then such Booking shall (unless otherwise agreed in writing by the relevant Talent or by the Agency acting as agent for and on behalf of the relevant Talent) be automatically cancelled.

9. Cancellations

9.1. *Cancellation of Booking by the Client*

- 9.1.1. All Fees and other sums payable under the Agreement in relation to a Booking (together, the **Booking Fees**) will be charged to and payable by the Client if the Client cancels that Booking less than 24 hours before the time (the **Booking Call Time**) that any activities proposed to be undertaken by any Talent as part of that Booking were due to be undertaken (unless the Booking itself was only finalised and made within the period of 24 hours before the Booking Call Time in which case only 50% of the Booking Fees relating to that Booking will be charged to and payable by the Client).

- 9.1.2. Half of the Booking Fees relating to a Booking will be charged to and payable by the Client if the Client cancels that Booking more than 24 hours but less than 48 hours before the Booking Call Time.
- 9.1.3. Subject to Paragraph 9.1.4, no Booking Fees relating to a Booking will be charged to and payable by the Client if the Client cancels that Booking more than 48 hours before the Booking Call Time.
- 9.1.4. The full Booking Fees relating to a Booking will be charged to and payable by the Client for Bookings of more than three days duration if the Client cancels the Booking within a period equal to or less than the number of days on which the relevant Talent is to provide Services as part of the Booking. Saturdays, Sundays and bank and public holidays are excluded for the purpose of determining the cancellation notice period.

Notwithstanding the foregoing provisions of this Paragraph, if any Talent or the Agency has incurred any third-party costs or expenses in relation to any Booking which is cancelled by a Client then that Client shall reimburse the Talent and/or the Agency (as appropriate) on demand for such costs and expenses.

9.2. *Cancellation of booking by Talent or the Agency*

- 9.2.1. If any Talent (or the Agency acting as agent for and on behalf of any Talent) wishes to cancel a Booking then it shall use reasonable endeavours to give reasonable notice to the Client, offer the Client a suitable replacement (if, in the opinion of the Agency, there is one) and take any other reasonable steps as are reasonably practicable to mitigate against such cancellation.
- 9.2.2. In any event any Talent (or the Agency acting as agent for and on behalf of any Talent) shall be entitled to cancel a Booking at any time and for any reason prior to the date on which that Talent is to provide any Services to the Client as part of the Booking without incurring any liability to the Client whatsoever and the Client shall procure the necessary insurance cover with a reputable insurance provider to protect against such cancellation and any associated liability.

9.3. *Weather related cancellations*

If a Booking is cancelled by the Client due to inappropriate weather conditions then on the first occasion of cancellation half of the Fee applicable to that Booking will be charged to and payable by the Client. However, if the Client fails to communicate to the relevant Talent or the Agency on that Talent's behalf that a Booking has been cancelled before the time at which such Talent attends any Location at which any Services were to be provided as part of the Booking then the full Fee applicable to that Booking shall be charged to and be payable by the Client. On the occasion of the second cancellation of any Booking and any subsequent cancellations the full Fee relating to the Booking will be charged to and be payable by the Client.

10. Protection of Talent providing Services

- 10.1. Save to the extent otherwise provided in the Confirmation Form, the Client must provide transport for Talent both to and from any Location. If the Client fails to provide such transport then the Talent or Agency shall be entitled to re-charge the cost of the transport procured for such Talent in accordance

with clause 4.3 of these Terms. If any Talent at a Location is prevented from returning to London to work, half the Talent's standard daily fee will be charged to and be payable by the Client as an additional Fee for each day that such Talent is unable to return to London to work.

- 10.2. The Client agrees that it shall procure that a suitably qualified and experienced person shall make a health and safety assessment of each Location and shall notify the Agency (on behalf of the Talent), prior to any Talent undertaking any Services, of any potential risks and how these have been mitigated. The Client acknowledges that Talent's health and safety is of paramount importance at all times and shall ensure that the highest standards of health and safety are complied with whilst any Talent undertakes any activities as part of any Booking. The Client further agrees that it shall not ask or encourage any Talent to do or omit to do any act or thing during the course of undertaking any activities as part of any Booking that may cause any illness or injury to that Talent.
- 10.3. The Client agrees that it shall provide reasonable access to food and drink (taking into account any dietary requirements of any Talent) to Talent whilst they are undertaking any Services and shall allow Talent reasonable rest breaks during the provision of such Services such that Talent may eat and drink. In the event that the Client fails to provide Talent with appropriate food and drink then the Client shall reimburse that Talent and the Agency for any reasonable costs or expenses incurred by them in purchasing any food or drink.
- 10.4. If the Booking is to involve any Talent participating in any photoshoot, filming or other activity which would require that Talent to appear in a nude or semi-nude state or in any transparent clothing, bathing suit or lingerie then such activities shall require the express prior written approval of that Talent (or the Agency acting as agent for and on behalf of that Talent). The use by the Client of a Talent's image or any other Materials must not be pornographic, derogatory, or a cause of embarrassment or ridicule to that Talent and no images or Materials featuring any Talent may be altered or distorted in any way without the prior written approval of that Talent (or the Agency acting as agent for and on behalf of that Talent).
- 10.5. The Client shall take all steps necessary to ensure that the health, safety and wellbeing of all Talent is at all times protected and maintained and that Talent are treated with respect and professionalism throughout the time when Talent is undertaking any activities as part of any Booking. Without limiting the generality of the foregoing, the Client shall procure that:
 - 10.5.1. Talent is provided with an appropriate private changing area;
 - 10.5.2. any location at which any Services are to be provided and the general working conditions under which any Services are to be provided are safe and comply with all applicable health and safety standards, regulations, codes and laws;
 - 10.5.3. Talent is permitted to take suitable and regular rest periods, to ensure they are suitably rested and refreshed whilst delivering the Services;
 - 10.5.4. adequate insurance cover is obtained to safeguard and insure against the health and safety and future earnings of Talent both whilst Talent is performing any Services or when Talent is travelling to or from any Locations;
 - 10.5.5. any persons employed or engaged by the Client in relation to any activities undertaken by Talent are suitably qualified, experienced and professional;

- 10.5.6. no person requires or encourages any Talent to undertake during the course of the provision of any Services any action or activity which is either dangerous, degrading, unprofessional and/or demeaning to that Talent.
- 10.6. Wherever a credit is applied in relation to any Materials, the Client shall always include a credit in the form of "[Talent's name]" @ "Kate Moss Agency".

11. Warranties

- 11.1. The Client warrants and represents to the Talent who is the subject of a Booking and the Agency that:
- 11.1.1. the Confirmation Form for each Booking shall be executed (or has been executed and/or has been approved by) by a duly authorised representative of the Client;
- 11.1.2. it has full power, capacity and authority to enter into the Agreement relating to each Booking and to perform all of its obligations under any such Agreement;
- 11.1.3. it has all necessary permits, consents and licences to enter into and perform its obligations under the Agreement relating to each Booking and such obligations shall be performed in strict compliance with all applicable laws, enactments, orders, regulations, and other similar instruments (including but not limited to any employment law or health and safety requirements in effect from time to time); and
- 11.1.4. it will provide that Talent and the Agency in a timely fashion with written details of all information relating to any Booking and related Services which may be relevant or desirable for any relevant Talent and/or the Agency to know including, without limitation, any proposed Locations, travel directions, shoot length and any other information that may be necessary to enable the relevant Talent to be suitably prepared for the performance of the Services.

12. Indemnity

- 12.1. The Client shall fully and effectively indemnify and keep indemnified any Talent and the Agency on demand from and against all costs, expenses, fees, claims, proceedings, damages, losses or other liabilities (together, **Liabilities**) suffered, sustained or incurred by any Talent or the Agency (including but not limited to all legal costs and expenses on a full indemnity basis) arising out of or in relation to:
- 12.1.1. any breach by the Client of any provision of the Agreement relating to any Booking;
- 12.1.2. any use by the Client of any images of any Talent or other Materials or of any Talent's Image Rights which is not permitted by the Agreement relating to a Booking (or which is beyond the scope of any permitted use) including any Liabilities arising from any claim brought by a third party against the Agency or any Talent in circumstances where any images or other Materials or any of a Talent's Image Rights have in breach of this Agreement been distributed, used or exploited in any form outside of any territories permitted by the Agreement relating to any Booking and such distribution, use or exploitation has caused the Agency or any Talent to breach the terms of any agreement which they may be a party to with any third party; and

- 12.1.3. any breach by the Client of any applicable laws and regulations including but not limited to any breach of applicable health and safety or employment laws and regulations as amended from time to time.

13. Intellectual property rights

- 13.1. Any and all intellectual property or other rights relating to any Talent, their Image Rights or any Materials are hereby reserved to that Talent save to the extent of any use of the same permitted by the Client pursuant to the Agreement relating to a Booking.
- 13.2. Notwithstanding any of the other provisions of the Agreement relating to any Booking (including without limitation any provisions relating to the grant of any exclusive use rights) the Client hereby agrees (and shall procure that any Principal Client and any Service Providers shall agree) that Talent and/or the Agency may use any photographs or other images taken at or resulting from any Booking for the purposes of promoting that Talent or the Agency and/or for the purposes of obtaining other work for that Talent (including by including copies of any such photographs or images on any website) provided that any such use does not extend into any other form of commercial use or exploitation).

14. Liability

- 14.1. Subject to clause 14.4, the maximum aggregate liability of any Talent in respect of any and all claims that may be made against that Talent under, pursuant to or in connection with the Agreement relating to any Booking (whether arising in contract, tort (including without limitation negligence) or otherwise) shall be limited to and may not exceed a sum equal to the amount of the Talent Fee actually received by that Talent from the Client in relation to that Booking.
- 14.2. Subject to clause 14.4, the maximum aggregate liability of the Agency in respect of any and all claims that may be made against the Agency under, pursuant to or in connection with the Agreement relating to any Booking (whether arising in contract, tort (including without limitation negligence) or otherwise) shall be limited to and may not exceed a sum equal to the amount of the Agency Fee actually received by the Agency in relation to that Booking.
- 14.3. The Agency shall not be liable for any: (a) failure by any Talent to attend a Booking or provide Services in respect of a Booking for any reason or any late attendance by any Talent at any Booking; (b) damage to the Client's reputation or loss of goodwill; (c) loss of business, use, profit, anticipated profit, contracts, revenues or anticipated savings; (d) product recall costs; or (e) consequential, special or indirect loss or damage; even if the Agency has been advised of the possibility of such loss or damage.
- 14.4. Nothing in the Agreement relating to any Booking shall exclude or restrict any party's liability for fraud or fraudulent misrepresentation, for death or personal injury resulting from the negligence of that party or of its employees while acting in the course of their employment or for any other liability which cannot be excluded or restricted by law.

15. Insurance

The Client agrees that it shall put into place and maintain with a reputable insurer the following insurance policies (in each case in such form and providing such amount of cover as may be reasonably requested by the Agency):

- (a) a policy providing cover against all liabilities or potential liabilities of the Client arising pursuant to or in connection with the Agreement relating to any Booking or any breach of that Agreement;
- (b) travel insurance providing cover for any Talent whilst undertaking any travel to or from any Locations or whilst that Talent is spending any time away from home whilst providing any Services as part of a Booking;
- (c) cancellation insurance to protect against the potential liabilities which any Talent, the Agency and/or the Client may incur as a consequence of the provisions of clause 10 of these Terms in relation to any Booking; and
- (d) insurance to protect any Talent and the Agency against any damage, injury, loss or injury that:
 - (i) may arise or be caused by that Talent's inability to attend a Booking or any part of a Booking; or
 - (ii) a Talent may suffer is sustain whilst that Talent is providing any Services as part of a Booking or whilst travelling to or from any Location.

16. Negotiations concerning Talent

The Client acknowledges and agrees that any queries, discussions or negotiations regarding a Booking, any Services and/or any use or exploitation of any Materials or any Talent's Image Rights must be directed to and held with the Agency and that the Client may not (other than through the Agency) directly or indirectly contact or discuss or negotiate with (or attempt to do of the foregoing or arrange for any other person to do any of the foregoing on its behalf) any Talent concerning any such matters. In the event that the Client or any other person on its behalf shall directly or indirectly enter into any discussions or negotiations with any Talent in breach of the foregoing provisions of this Clause or shall obtain a Talent's agreement (whether in writing or otherwise) to any such matters then any such agreement shall not constitute a variation of the Agreement relating to any Booking and shall not be binding unless agreed in writing by the Agency.

17. Complaints regarding conduct or behaviour

The Client hereby acknowledges and agrees the Agency cannot and shall not be held responsible for any Talent's conduct or behaviour whilst providing any Services or otherwise and the Agency shall not have any liability for any costs, expenses, fees, claims, proceedings, damages, losses or other liabilities suffered, sustained or incurred as a consequence of the behaviour or conduct of any Talent. Any cause for complaint regarding the behaviour or conduct of any Talent must be reported by the Client to the Agency as soon as it arises. The Client acknowledges that complaints cannot be considered and/or dealt with effectively after the Services have been provided.

18. Data Protection

18.1. In this Clause 18 "**Data Controller**", "**Data Processor**", "**Data Subject**", "**Personal Data**", and "**Processing**" shall have the same meanings as in the GDPR, and their cognate terms shall be construed accordingly and "processed" and "process" shall be construed in accordance with the definition of "Processing".

18.2. The parties acknowledge and agree that, in respect of any Personal Data transferred pursuant to the Agreement, each party independently determines its own purposes and means of the Processing of

such Personal Data and that the Agency is neither a Data Processor acting on behalf of the Client, nor are the Client and the Agency joint Data Controllers.

18.3. Each party shall:

18.3.1. adhere to the Data Protection Law;

18.3.2. take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. When considering what measure is appropriate, they shall have regard to the state of good practice, technical development and the cost of implementing any measures to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful Processing or accidental loss or destruction, and to the nature of the data to be protected;

18.3.3. not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:

18.3.3.1. comply with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and

18.3.3.2. ensure that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer; and

18.3.4. process Personal Data solely in accordance with the provisions of this Clause 18.

18.4. The parties hereby acknowledge and agree that subject to each party's obligations under the applicable Data Protection Law and this Clause 18, each party may use the Personal Data transferred under this Agreement for both the duration of this Agreement and after the date of termination in connection with and for the benefit of its business.

18.5. Any Personal Data KMA collects and processes relating to the Client or its personnel as part of any relationship or dealings between the Client and the Agency under this Agreement, shall be used and processed by the Agency in accordance with Data Protection Law, as set out in the Privacy Policy.

18.6. Each party shall indemnify the other against all claims and proceedings and all liability, loss, costs and expenses incurred by the other as a result of any claim made or brought by a data subject or other legal person in respect of any loss, damage or distress caused to them as a result of any breach by the other party of the Data Protection Legislation by that party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it. The liability of the indemnifying party under this clause shall be subject to the limits set out in Clause 14.

19. Miscellaneous

- 19.1. The parties agree to keep (and to procure that their respective agents, employees, professional advisers and sub-contractors keep) the terms of the Agreement for each Booking strictly private and confidential and not to disclose to any person (other than the Talent who is the subject of the Booking) any details relating to the same, subject to disclosure in the following circumstances: (a) to enable enforcement of a party's rights under that Agreement; (b) with the prior written consent of the other party; or (c) as required by any applicable law.
- 19.2. The Client agrees to keep and to procure that its agents, employees, professional advisers and sub-contractors shall keep confidential and not disclose to any person any information that any of such persons may obtain relating to the Agency, any directors or shareholders of the Agency or any Talent or any of such persons' personal or business affairs or any acts or omissions of any such person provided that information regarding such matters may be disclosed to the extent (i) required by law; or (ii) the information concerned has become publicly available other than as a consequence of a breach of the Agreement relating to a Booking.
- 19.3. Neither the Agency nor any Talent shall have any liability to the Client (and shall not pay any compensation) for any delay in performance or failure to perform any of its obligations under the Agreement relating to a Booking in circumstances where such delay or failure is caused by any facts, matters or circumstances beyond their control (including, without limitation, any delay or failure caused by any fire, flood or catastrophe, acts of God, insurrection, workforce action, war or riots, civil strife, actual or threatened terrorist activity, industrial dispute, natural or nuclear disaster (each a **Force Majeure Event**). Any relevant Talent's and the Agency's obligations under the Agreement relating to a Booking shall be suspended for so long as any Force Majeure Event continues.
- 19.4. If any provision of the Agreement relating to a Booking is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction then the legality, validity and enforceability in that jurisdiction of the remaining provisions shall be unaffected and the legality, validity and enforceability in any other jurisdiction of that or any other provision shall be unaffected.
- 19.5. Except as expressly provided in the Agreement relating to a Booking, all representations, warranties, undertakings, agreements, covenants, indemnities and obligations made or given or entered into by the Client and any Principal Client pursuant to that Agreement shall be assumed by them jointly and severally.
- 19.6. Any termination of all or part of the Agreement relating to a Booking shall not affect the coming into force or the continuance in force of any provision of that Agreement which is expressly or by implication intended to come into force or continue in force on or after such termination.
- 19.7. Nothing in the Agreement relating to a Booking shall be construed to constitute either party the partner, joint venturer, agent or employee of the other party or to create any relationship other than that of independent contractors, and, except as expressly provided in the Agreement relating to a Booking, neither party by virtue of that Agreement has authority to transact any business in the name of the other party or on its behalf or incur any liability for or on behalf of the other party.
- 19.8. Except where otherwise specified in the Agreement relating to a Booking, the rights and remedies contained in the Agreement relating to a Booking are cumulative and are not exclusive of any rights or remedies provided by law. No failure to exercise and no delay in exercising on the part of either party of

any right, power or privileged under the Agreement relating to a Booking 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.

- 19.9. The Client, the Agency and the Talent party to any Agreement relating to a Booking agree that: (a) the provisions of the Agreement relating to that Booking are personal to them and are not intended to confer any rights of enforcement on any third party and that The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement relating to a Booking or any of its provisions.
- 19.10. No variation or amendment to the terms of the Agreement relating to a Booking shall be valid and binding unless in writing and signed by an authorised representative of both the Client and the relevant Talent who is party to that Agreement.
- 19.11. The Agreement relating to each Booking (together with any contractual or non-contractual obligations arising from or connected with that Agreement) shall be governed and construed in accordance with the laws of England and Wales. The Courts of England and Wales shall have exclusive jurisdiction in relation to any legal action or proceedings arising out of or in connection with the Agreement relating to a Booking (or any contractual or non-contractual obligations arising from or connected with that Agreement) provided that nothing in this Clause shall operate to prevent any Talent or the Agency from being able to bring a claim against the Client in the courts of the Client's home jurisdiction or in the courts of any jurisdiction in which the Client holds any assets or any other jurisdiction which any Talent or the Agency considers appropriate.

