

# Fresh Artiste Management Ltd. – Terms & Conditions of Service

## 1. Definitions

- 1.1 “Company” shall mean Fresh Artiste Management Ltd. and/or F-10 Artistes Limited its successors and assigns or any person acting on behalf of and with the authority of Fresh Artiste Management Ltd. and/or F-10 Artistes Limited.
- 1.2 “Client” shall mean the person or entity described as such on the invoices, application for credit, quotation, work authorisation, booking confirmation or any other forms to which these terms and conditions apply, and shall include any person acting on behalf of and with the authority of such person or entity.
- 1.3 “Guarantor” means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 “Booking” shall mean all performance bookings of an Artiste or a Brand or an event by the Company for the Client and are as described on the invoices, quotation, work authorisation, booking confirmation or any other forms as provided by the Company to the Client and includes any advice or recommendations (and where the context so permits any incidental supply of any goods).
- 1.5 “Performance” shall mean a Booking of a performance made by the Company for the Client.
- 1.6 “Artiste” shall mean a Brand, or a person or a group of people sourced and a Booking of a Performance made by the Company of that Brand, or person, or group of people for the Client.
- 1.7 “Price” shall mean the cost of the Bookings as agreed between the Company and the Client subject to clause 3 of this contract.

## 2. Acceptance

- 2.1 Any instructions received by the Company from the Client for a Booking and/or the Client's acceptance of Bookings made by the Company shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be amended with the written consent of the Company.
- 2.4 The Client shall give the Company not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, email address, mobile telephone number or business practice). The Client shall be liable for any loss incurred by the Company as a result of the Client's failure to comply with this clause.
- 2.5 Bookings are made by the Company only on the terms and conditions of service herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of service.

## 3. Price And Payment

- 3.1 At the Company's sole discretion the Price shall be either:
  - (a) as indicated on invoices provided by the Company to the Client in respect of Bookings made; or
  - (b) the Company's quoted Price (subject to clause 3.2) which shall be binding upon the Company provided that the Client shall accept the Company's quotation in writing within thirty (30) days. The Price quoted shall be for that particular Booking and may change in the event of future Bookings.
- 3.2 The Company reserves the right to change the Price in the event of a variation to the Company's quotation. In the event of a fluctuation in currency exchange rates of more than 3%, then the Client agrees that this additional cost will be charged to the Client in addition to the Price.
- 3.3 A non-refundable deposit and/or booking fee shall be due on contract issue date. In the event this is not received within seven (7) days of the contract issue date, the Company reserves the right to cancel the Booking. The Company shall not be liable for any loss or damage whatever arising from such cancellation.
- 3.4 All costs incurred by (or on behalf of) the Company including but not limited to flights, accommodation, transport, or any other subsistence required by the Artiste are non refundable under any circumstances. Where such costs are agreed to be recouped by Company, the Client is liable to pay these costs on or before seven (7) days prior to the contract issue date.
- 3.5 Any accommodation and travel arrangements required by the Artiste must be booked in advance by the Client and agreed in writing by the Company. Incorrect or unconfirmed accommodation or travel arrangements may result in the cancellation of the Booking for which the Client shall remain liable for the Price in full.
- 3.6 The Client shall arrange and pay for all appropriate work permits within ample time that may be required in order for the Artiste to deliver the Performance. Where a work permit is required and the Company is responsible for arranging the work permit no matter whether there is an additional charge for this or the charge is included in the agreed performance fee it is important that all payments are on time and according to the payment terms. Any delay may cause the agreed permit fee or all inclusive fee to increase or the date of the event to be cancelled or postponed.
- 3.7 The Client shall ensure all taxes (either local or national) relating to the Artiste's performance, are paid according to the law of the jurisdiction under which the event is scheduled. The Company shall not make a deduction from the Artiste's fee in relation to any taxes paid, unless express permission is given in writing prior to the Booking.
- 3.8 Payment terms shall be agreed in writing as per the booking confirmation sent to the Client confirming details of the Booking. A deposit that includes the Booking fee, or payment in full shall be due (time for payment shall be of the essence), when the Booking is confirmed according to the payment terms stated in the Booking confirmation.
- 3.9 At the Company's sole discretion:
  - (a) full payment shall be due before delivery of the Performances; or
  - (b) payment for approved Clients shall be made by instalments in accordance with the Company's payment schedule.
- 3.10 Payment will be made by cash, cheque, credit card (plus a surcharge of 3.00% of the Price), debit card, or by direct bank credit (BACS), or by any other method as agreed to between the Client and the Company. For payment by international bank transfer a surcharge of £20 GBP or €25 EUR or \$30 AUD or \$35 USD shall be added to the Price.

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3.11 VAT and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

### **4. Confidentiality**

4.1 The Client agrees to keep confidential the details of any Bookings, including but not limited to, details relating to the Price. In the event of any breach of this confidentiality by the Client, the Company reserves the right to cancel any Bookings, including any future Bookings and in such an event, the Client shall remain liable for the Price in full.

### **5. Performance Delivery**

5.1 Delivery of the Performance shall take place at the Client's address or other address nominated by the Client.

5.2 The Company shall not be liable for any loss or damage whatever due to failure by the Artiste to complete the Performance (or any of them) promptly or at all.

5.3 In the event the venue where the Performances are being delivered is closed or otherwise unavailable at the agreed time of the Performance delivery, the contract shall be considered as fulfilled and the Price in full shall remain due or if already paid shall be retained by the Company as payment in lieu of the fulfilled contract.

5.4 In the event that the Artiste is unable to fulfil their obligation(s) due to circumstances beyond their control, or due to the scheduling of promotional television or radio appearances, the Company shall offer to supply a replacement Artiste. Where the Client rejects the replacement Artiste, the contract shall be cancelled and the Company shall refund the Artiste fee. In such an event, the Company and the original Artiste shall be released from all liability.

### **6. Events**

6.1 Once the Company has commenced providing a Booking for any event (i.e. a concert, performance, show, exhibition, fair, party, conference or any such similar event) which the Client has arranged or is undertaking then the Company shall not be liable to the Client in any way whatsoever (including any loss or damage suffered by the Client) for non-performance of its obligations (whether wholly or partly) by reason of any cause beyond the Company's reasonable control (including without limitation, acts of God, inclement weather, flood, lightning strike, power failure, fire, riot(s), civil commotion or unrest, interference by civil or military authorities or act of war (i.e. a force majeure event)).

6.2 For the sake of clarity as such force majeure events are beyond the Company's control, such events shall not negate nor reduce the Client's liability to pay the full Price that was agreed between the Company and the Client for the provision of the Booking by the Company to the Client, and the Client's payment obligations to the Company shall be deemed to remain the same as if the force majeure event had never occurred. It shall be the Client's responsibility to ensure that they are adequately insured against such force majeure events and all other usual risks.

6.3 In the event of a non-performance due to a force majeure event, the Company shall endeavour to find a replacement date that is mutually agreeable to the Client and the Artiste. In such an event, the Artiste fee and Booking fee are transferable, however any costs relating to the Booking may not be transferable and consequently any additional costs, including but not limited to, travel or accommodation costs shall be at the Client's expense.

### **7. Access and Power Supply**

7.1 The Artiste shall require access to the event venue with ample time to set up any equipment before the Performance is scheduled to start. In the event that the appropriate amount of time is not available, then the Client acknowledges there may be delay to the commencement of the delivery of the Performances with no liability to the Company or Artiste.

7.2 The Artiste may require appropriate power including three phase power to operate any equipment. If the appropriate power supply is not available then the Artiste may not be able to perform and the contract shall be considered as fulfilled with no liability to the Company or the Artiste. In such an event, the Price in full shall remain due or if already paid shall be retained by the Company as payment in lieu of the fulfilled contract.

### **8. Faults and Omissions**

8.1 The Client shall notify the Company (within twenty-four (24) hours) of any alleged omission or failure to comply with the description or quote. The Client shall afford the Company an opportunity to review the Booking within a reasonable time following Performance delivery if the Client believes the Performance was substandard in any way. If the Client shall fail to comply with these provisions the Booking and/or Performance shall be presumed to be free from any fault or omission. For substandard Performances, which the Company has agreed in writing that the Client is entitled to reject, the Company's liability is limited to replacing the Booking.

### **9. Intellectual Property**

9.1 The Client warrants that no recording of any sort or description and for any purpose shall be made of the Artiste's performance without separate prior written agreement of the Company. The Company acknowledges that the Client cannot prevent recording being made by members of the public on personal devices such as mobile phones.

9.2 The Client shall not mention or publicise the Artiste in any advertising, promotion or promotional material until the contract has been signed and returned.

9.3 The Client shall not use any artwork or logos to advertise the Artiste other than those supplied by the Company. In the event that the Client uses any unauthorised images including, but not limited to, logos and photos there will be an additional charge of £2,000.00 (two thousand GBP) payable by the Client to the Company. All artwork must be sent to the Company for approval in advance. The Company reserves the right to cancel all bookings (with no liability for any loss or damage whatever arising from such cancellation) where any artwork is used by the Client without prior written approval of the Company.

9.4 The Client hereby authorises the Company to utilise images of the Artiste performing in advertising, marketing, or competition material by the Company.

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### **10. Default & Consequences of Default**

- 10.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment; or
- 10.2 The Company may charge interest on overdue invoices in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 10.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Company from and against all costs and disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own client basis and the Company's collection agency costs.
- 10.4 Without prejudice to any other remedies the Company may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Company may cancel the Artiste or Performance and any further upcoming Performances with any other Artistes or branded events and any of its other obligations under the terms and conditions. The Company will not be liable to the Client for any loss or damage the Client suffers because the Company exercised its rights under this clause.
- 10.5 If any account remains overdue after thirty (30) days then an amount of £20.00 GBP shall be levied as an administration fee and shall be levied for each month that the account remains overdue, which sums shall become immediately due and payable.
- 10.6 Without prejudice to the Company's other remedies at law the Company shall be entitled to cancel the Artiste or Performance and any upcoming performances of other Artistes or Brand represented by the Company which remains unperformed in addition to and without prejudice to any other remedies and all amounts owing to the Company shall, whether or not due for payment, become immediately payable in the event that:
  - (a) any money payable to the Company becomes overdue, or in the Company's opinion the Client will be unable to meet its payments as they fall due; or
  - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

### **11. Security And Charge**

- 11.1 Despite anything to the contrary contained herein or any other rights which the Company may have howsoever:
  - (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Company or the Company's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Client and/or the Guarantor acknowledge and agree that the Company (or the Company's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
  - (b) should the Company elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Company from and against all the Company's costs and disbursements including legal costs on a solicitor and own client basis.
  - (c) The Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Company or the Company's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 11.1.

### **12. Cancellation**

- 12.1 The Company may cancel these terms and conditions or cancel delivery of Performances at any time before the Performances are delivered by giving written notice. On giving such notice the Company shall repay to the Client any sums paid in respect of the Price. The Company shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.2 The Client shall make all arrangements necessary to take delivery of the Performance at the time and date agreed. In the event that the Client is unable to take delivery of the Performance as arranged then the contract shall be considered as fulfilled with no liability to the Company or the Artiste. In such an event, the Price in full shall remain due or if already paid shall be retained by the Company as payment in lieu of the fulfilled contract.
- 12.3 The Client shall provide a minimum of six (6) weeks written notice to the Company to cancel delivery of the Performances and in such an event where the cancellation is:
  - (a) less than six (6) weeks but more than two (2) weeks prior to the scheduled date that the Artiste is to commence delivery of the Performances then the Client shall be liable for 50% of the agreed Artiste's fee plus the agreed booking fee and any and all loss (whether direct or indirect) incurred by the Company up to the time of cancellation, or which the Company may suffer as a direct result of the cancellation; or
  - (b) within two (2) weeks of the scheduled date that the Artiste is to commence delivery of the Performances, the Client shall remain liable for the Price in full.
- 12.4 Where payments for the Performance has been agreed by the Company to be made in instalments by the Client and any one of the instalments isn't made for any reason, then any outstanding payments due shall immediately become payable and any remaining Performances may be cancelled at the sole discretion of the Artiste or the Company and all sums due under this contract shall be payable by the Client.

### **13. Data Protection Act 1998**

- 13.1 The Client and the Guarantor/s (if separate to the Client) authorises the Company to:
  - (a) collect, retain and use any information about the Client, for the purpose of assessing the Client's creditworthiness or marketing products and services to the Client (for the Company's own use and not by a third party); and

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- (b) to disclose information about the Client, whether collected by the Company from the Client directly or obtained by the Company from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or of listing a default by the Client on publicly accessible credit reporting databases.
- 13.2 The Company may also use information about the Client to monitor and analyse its business. In this connection the Client authorises the Company to disclose personal information to agents or third parties engaged by the Company.
- 13.3 The Client consents to the transfer of information outside of the European Economic Area for the purposes listed above.
- 13.4 Where the Client is an individual the authorities under (clause 13.1) are authorities or consents for the purposes of the Data Protection Act 1998.
- 13.5 The Client shall have the right to request the Company for a copy of the information about the Client retained by the Company and the right to request the Company to correct any incorrect information about the Client held by the Company.

### **14. Limitation of Liability**

- 14.1 The Company shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit or goodwill) suffered by the Client or any third party arising out of a breach by the Company or the Artiste (including any employees, agents or subcontractors) of these terms and conditions.
- 14.2 The Company shall be under no liability whatever to the Client or any third party of the Client (including, but not limited to employees or customers of the Client or members of the public) for any act or action of the Artiste.
- 14.3 The Company shall be under no liability whatever to the Client for any loss or damage to any equipment by the Artiste, brand or any party connected to the Artiste or Brand howsoever caused.
- 14.4 The Company shall not be liable for any non Performance or substandard Performance by the Artiste or Brand due to intoxication of alcohol or illegal substances.
- 14.5 In the event of any breach of this contract by the Company the remedies of the Client shall be limited to damages and the Company's liability (if any) whether in contract, tort or otherwise in respect of any defect in the Performances, or for any breach of these terms and conditions, or of any duty owed to the Client in connection with them shall be limited to the amount of the Price.
- 14.6 For the avoidance of doubt, nothing in these terms and conditions shall exclude or restrict the Company's liability to any person for death or personal injury to that person resulting from the Company's negligence.

### **15. Non-Solicitation**

- 15.1 The Client warrants that any offers regarding future engagements for the Artiste by the Client shall be directed through the Company and under no circumstances shall the Client make any such offers to the Artiste or Brand or their representatives directly subject to the Company continuing to represent the Artiste or Brand. Where any such offers are made by the Client, the Client shall be liable for the appropriate fee (at the time) due to the Company.

### **16. Client's Disclaimer**

- 16.1 The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to the Client by the Company and the Client acknowledges that the Bookings are made relying solely upon the Client's skill and judgment.

### **17. General**

- 17.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 17.2 These terms and conditions and any contract to which they apply shall be governed by the laws of England and Wales and are subject to the jurisdiction of the courts of England and Wales.
- 17.3 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by the Company.
- 17.4 The Company may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 17.5 The Company reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Company notifies the Client of such change. Except where the Company supplies further Bookings to the Client and the Client accepts such Bookings, the Client shall be under no obligation to accept such changes.
- 17.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.