

General Terms and Conditions of ORF Marketing & Creation GmbH & Co KG as booking agency

Date of effect: July 25, 2018

*General Terms and Conditions (GTC) of ORF Marketing & Creation GmbH & Co KG as booking agency
ORF Marketing & Creation GmbH & Co KG, A-1136 Vienna, Würzburggasse 30*

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I. Services of ORF Marketing & Creation GmbH & Co KG

ORF Marketing & Creation GmbH & Co KG ("OMC") is a comprehensive marketing agency for all ORF protagonists ("Protagonists"), e.g. journalists, presenters or commentators, and provides agency, management, promotion and advertising services. OMC thus acts as the professional agency platform between Protagonists, event organisers and advertising customers.

The General Terms and Conditions ("GTC") serve as a basis for regulating the mutual rights and obligations for the agreement to be concluded between OMC and the respective client ("Customer") regarding the booking of Protagonists for presentations, performances and other activities, in particular in connection with "off air" events.

All follow-up orders of the Customer with Protagonists must be booked and processed via OMC.

II. Order Booking and Cancellation

Orders can be placed verbally or in writing and are only legally binding for OMC if they are confirmed by OMC in writing (by fax or e-mail) and signed on behalf of OMC.

Once the order has been confirmed, the Customer is bound by the order. OMC will aim to take into account any requested changes that are reasonable and practicable.

An order may be cancelled at any time, subject to the subsequent cancellation fees:

20% of the total order amount between 4 and 2 weeks before the event;
50% of the total order amount up to 1 week before the event;
later 100% of the total order amount.

In case of a short-term order, the cancellation deadlines are adjusted in the individual contract.

In case of an open-air event without an alternative location, the Customer can cancel the booking free of charge via e-mail up to 48 hours prior to the event due to bad weather conditions, provided that a replacement event will take place in the same calendar year with the participation of the booked Protagonist. Otherwise the Customer is obliged to pay a contractual fee of 50% of the total order sum. If the Protagonist is not available on at least 2 event dates proposed by the Customer, the contractual fee is reduced to 25% of the total order sum.

III. Events

The Customer is obliged to ensure the safety and security of the Protagonists booked via OMC before and during the Event. In particular, the Customer shall ensure that the local and structural conditions as well as the security facilities including the "security staff" reflect the special character of the Event and are agreed upon in advance with the OMC. The Customer shall indemnify and hold the OMC harmless from and against any claims in this regard, in particular also by a Protagonist booked via the OMC.

The Customer undertakes to properly report the Event to the collecting society AKM and to obtain and acquire any other rights held by collecting societies.

The Customer or the organizer commissioned by the Customer shall create all technical requirements for the Event to run without complaint at his own expense.

Unforeseeable or additional services are subject to agreement and will be invoiced separately.

Any expenses (hotel min.****, travel costs etc.) will be discussed and determined in advance. If the ORF Stars Management (one person) accompanies the Protagonist, the Customer will bear the costs to the same extent as agreed upon in advance.

The Customer provides the following services on site as agreed upon and as far as possible:

- 1 clean lockable wardrobe (incl. mirror & ashtray), the Customer is liable for theft and damages in this area;
- toilets separate from the audience;
- sufficient drinks, as well as snacks in the wardrobes;
- parking at the Event location.

III.1 Special Conditions for Presentations

The booking of a presenter only includes the presentation at the Event and does not include any reporting of the Event by ORF.

The offer quote includes the costs of one briefing appointment. Any additional briefing appointment will be invoiced separately (at least the travel costs shall be remunerated).

All bookings for presentations undergo an internal approval process, which can take up to 21 days. The booking is final only after the ORF Stars booking contract will have been returned to the Customer.

All information and suggestions (presentation cards) for the design of an optimal presentation are to be provided by the Customer in due time, but at least three days before the Event.

The Customer is prohibited from changing the motto/theme or the basic nature of the Event agreed upon with the OMC, and, shall not deviate from the presentation topic.

III.2 Special Conditions for Artistic Performances (e.g. Music)

Unless otherwise agreed, the Customer shall provide an experienced sound engineer familiar with the on-site system.

The Customer shall plan a binding soundcheck time of 60 minutes after the final stage construction. The soundcheck shall be held in camera if possible. Filming and photographing during stage construction and soundcheck are prohibited.

The Customer is liable for the personal safety and security of the Protagonist at the Event location as well as for damages to equipment and theft caused by third parties in the area of responsibility of the Customer or organizer of the Event.

Photo & film accreditations and interview requests must be agreed upon and confirmed in advance with the Protagonist's representative or ORF Stars.

IV. Grant of Rights

The grant of rights of the Protagonist (presenter or performer) includes the right of public performance (off air event) and the right to record this event for private, non-commercial purposes (e.g. internal documentation). Any further use and exploitation of the performer's rights requires the consent of OMC.

The making available online of recordings of any kind, live streams/video streams or live tickers on Facebook, Instagram, YouTube or other websites is expressly excluded from this agreement.

The use of recordings (image or sound recordings, image sound recordings, photos) for commercial and/or promotional purposes is prohibited.

All photographs of the Event may only be used in the context of reporting of the Event itself. The publication of photographs showing the Protagonist individually shall be approved by OMC prior to the intended use. If the Customer does not receive any feedback from ORF Stars within 48 hours, the publication will be deemed approved. Regarding the publication of group photographs, the Customer will take every effort to exchange photos if possible at the request of the OMC.

The Customer provides ORF Stars with photos and films free of charge and grants the OMC and ORF the non-exclusive, temporally and territorially unrestricted rights of use and exploitation all media.

Any rights for the use of ORF trademarks, logos or titles or ORF productions are explicitly excluded from this contract. Such rights need to be specifically authorised and stipulated in the individual contract.

V. Payment

All payments related to this booking order, plus any advertising tax and the statutory value added tax, shall be made by bank transfer to the account of OMC free of charges immediately after performance and invoicing.

The amounts to be transferred include the compensation for all services provided by the OMC and the performance by the Protagonists, including travel times and costs.

Payments need to be made to the OMC to have a discharging effect.

In the event of default in payment, 9% default interest are charged.

VI. Performance and Warranty Defects

If an order is not performed or not fully performed by OMC culpably or at least grossly negligently, OMC is liable for the direct financial disadvantages incurred by the Customer limited to the order quote.

Any further liability of OMC or any liability for force majeure is explicitly excluded. The following events classify as force majeure: illness of the Protagonist, death of close relatives of the Protagonist, unreasonableness of the presentation/performance due to external circumstances (this is to be decided individually by the ORF Stars promoter accompanying the Protagonist), weather-related failures, unforeseeable unavailability of the Protagonist due to an official obligation towards the ORF - in this case a replacement as equivalent as possible is provided, missing permits or authorizations (only when the Customer has taken all reasonable steps to get these permits but they are not issued by a third party).

If the performance or warranty defect is mainly due to the culpable conduct of the executing Protagonist or an organizer independent of OMC, OMC shall not be liable, but undertakes to assign its internal claims against the Protagonist or the organizer to the Customer as relevant. In this case, the Customer shall clarify or settle the claims directly with the Protagonist (or with the organizer).

VII Final Provisions

In the event of disputes arising from this contract, the place of Jurisdiction is Vienna and the competent court is the court for the first district of Vienna. Austrian law is applicable.

Amendments and supplements to the contract are only effective if they are made in writing and the document containing the amendment or supplement is signed by both parties to the contract.

The contract is confidential. The Customer shall not disclose the content of the contract, the trade and company secrets and other information that the Customer has received about the nature and activities of OMC or ORF to third parties during or after termination of this contractual relationship. The existence of the present agreement itself and the existence of the confidentiality obligation are not subject to secrecy.

The GTC are a translation of the German version. In the event of discrepancies between the German and the English version of the GTC, the German version shall be legally binding.

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