



## Terms and Conditions

### 1. Definitions

1.1 In these conditions the following meaning:

“Blue Giraffe Imaging”, “Company”, “Us”, “We”, “Our”, or variations thereof shall mean James Allen of 84 Letham Oval, Bishopbriggs, Glasgow, G64 1XX trading as Blue Giraffe Imaging.

1.2 “The Customer”, “You”, “Client”, “Your”, “Purchaser”, or variations thereof shall mean the person, firm or Company with whom Blue Giraffe Imaging contracts.

1.3 “Intellectual Property Rights” means all patents, registered and unregistered designs, copyright, trade marks, trade secrets, know-how and all other forms of intellectual property wherever in the world enforceable including but not restricted to the right of Blue Giraffe Imaging to have exclusive rights to use its own plans, ideas, or other intangible assets.

1.4 “Goods” means assignment, media, articles, things or services which are the subject matter of the Contract.

1.5 “Media” means any video production, photographic production, optical media, media kit, electronic media or new media supplied or produced by Blue Giraffe Imaging to the Client in fulfilment of the Contract. including all other information in whatever form supplied or produced by Blue Giraffe Imaging to the client.

1.6 “ Specification document” means a statement of work, quotation or other similar document describing the services to be provided by Blue Giraffe Imaging annexed to these terms and conditions

### 2. Order Acceptance Policy

2.1 Blue Giraffe Imaging reserves the right at any time to accept or refuse service and sales to for any reason. Blue Giraffe Imaging reserves the right to require additional verification or information from the Purchaser before accepting any order or providing services. You agree that the receipt by Blue Giraffe Imaging of a verbal, electronic or printed copy of an order form does not indicate Blue Giraffe Imaging’s acceptance of the Purchaser’s order, neither does it constitute confirmation of Blue Giraffe Imaging’s offer to sell.

2.2 You acknowledged and agree that title, reproduction rights and ownership of all Goods shall remain with Blue Giraffe Imaging until the full purchase price for the same has been satisfied to Blue Giraffe Imaging. Your exclusive license to use the commissioned media is granted for a period of 24 months as stated in clause 11.4.1

### 3. Quotations

3.1 Written quotations are valid for 1 month and will be supplied for all work on receipt of a clear and accurate written brief from the Client. Written briefs are required to ensure photographic objectives are well defined for both the Client and Blue Giraffe Imaging and to avoid errors. The brief may need to include, but is not limited to, full postal address with postcode, maps, site plans with boundaries and the North compass bearing clearly marked, Ordnance Survey Grid references (6 Figure) and any other material required to accurately identify the site from the air.

3.2 The quotation and fee will be inclusive of all preparatory work, provision of any written documentation (e.g. Method Statements and Risk Assessments where required) and any additional permissions required (e.g. by the Civil Aviation Authority, Air Traffic Control, Police, Local Authority and relevant landowners), travel and accommodation (where necessary), post-production processing work and digital delivery of media. For UAS work, unless otherwise stated, the quotation will be based on Our daily or hourly rates as stated in Our current rate card.

3.3 The fee quoted will reflect the proposed uses of the Media, as stated by the Client, for which Limited Reproduction Rights will be granted. A series of assignments is treated as a set of individual contracts. Additional Reproduction Rights may be negotiated at a future date.



#### 4. Payment Terms

4.1 Terms of payment are within Blue Giraffe Imaging's sole discretion, and, unless otherwise agreed to in writing by Blue Giraffe Imaging, full payment, or remaining payment, is due within fourteen days of final delivery of the Goods to the Client. Depending on the assignment Blue Giraffe Imaging may request an advance payment before any work is undertaken.

4.2 In the case of work being required by the Client to be done in phases, Blue Giraffe Imaging reserves the right to partially invoice at stages. The first staged payment will become due upon the acceptance of these Terms and Conditions. Blue Giraffe Imaging reserves the right to add statutory Late Payment Interest (Base Rate +8%) to overdue accounts.

4.3 Notwithstanding the above if requested by Blue Giraffe Imaging the client will pay 50% of the fee specified on the specification document on acceptance of these terms and conditions.

#### 5. Site

5.1 If a site survey is needed prior to the quotation, the cost will be agreed and may be invoiced in advance. If the site is Your Property You must confirm verbally or in writing that You have granted Us permission to access the ground that will be used to take off and land.

5.2 To enable Blue Giraffe Imaging to perform its obligations under this agreement the client shall:-

5.2.1 co-operate with Blue Giraffe Imaging;

5.2.2 provide Blue Giraffe Imaging with any information reasonably required by Blue Giraffe Imaging;

5.2.3 obtain all necessary permissions and consents which may be required before the commencement of any work;

5.2.4 comply with such other requirements as may be set out in the Specification document or otherwise agreed between the parties.

5.3 The Client shall be liable to compensate Blue Giraffe Imaging for any expenses incurred by Blue Giraffe Imaging as a result of the Client's failure to comply with clause 5.2.

#### 6. Cancellation / Termination by Blue Giraffe Imaging

6.1 If Blue Giraffe Imaging cannot fly due to illness, travel disruption, adverse weather conditions or mechanical failure, and the task cannot be rescheduled, Blue Giraffe Imaging will refund all advance monies paid for that day. Costs incurred prior to the task day, such as paid-for Site visits and meetings, are excluded and remain due for payment.

6.2 If Blue Giraffe Imaging cannot fly due to reasons that only become evident once on site or for reasons that Blue Giraffe Imaging was not advised of beforehand then full cost will remain due for payment. Blue Giraffe Imaging may, at its sole discretion, offer a discount on a reshoot should one be scheduled.

#### 7. Cancellation / Termination by You

7.1 After Your written or verbal instructions to supply Goods has been accepted by Us and the assignment scheduled, Notice of cancellation by You must be received in writing by Blue Giraffe Imaging and the Notice is not valid until confirmed in writing by Blue Giraffe Imaging.

7.2 Without prejudice to any other rights to which Blue Giraffe Imaging may be entitled, in the event that the client unlawfully terminates or cancels the work agreed to in the Specification document the client shall be required to pay to Blue Giraffe Imaging as agreed damages and not as a penalty the full amount of any third party costs to which Blue Giraffe has committed and in respect of cancellations on less than five working days' written notice the full fee contracted for as set out in the Specification document and the client agrees this is a genuine pre-estimate of Blue Giraffe Imaging's losses in such a case. For the avoidance of doubt the client's failure to comply with any of the obligations under clause 5.2 above shall be deemed to be a cancellation of the work and subject to the payment of damages set out in this clause.



7.3 In the event that the client or any third party, not being a sub-contractor of Blue Giraffe Imaging, shall omit or commit anything which prevents or delays Blue Giraffe Imaging from undertaking or complying with any of its obligations under this agreement, then Blue Giraffe Imaging shall notify the client as soon as possible and:-

7.3.1 Blue Giraffe Imaging shall have no liability in respect of any delay to the completion of the work;

7.3.2 If applicable the timetable for the work will be modified accordingly;

7.3.3 Blue Giraffe Imaging shall notify the client at the same time if it intends to make any claim for additional costs.

## 8. Permission to Conduct Commercial Aerial Work

8.1 Blue Giraffe Imaging has been granted a varied permission by the Civil Aviation Authority (CAA) to conduct commercial work with UAS by day and by night in accordance with Our Permission for Commercial Operations and Operations Manual. However, in some cases, additional permissions may be required from the CAA, Air Traffic Control (ATC), National Air Traffic Service (NATS), Local Authorities, Police, other authorities and relevant landowners which may take several weeks. All work is subject to obtaining permitted and legal access from which to safely operate the UAS. Any costs incurred by gaining additional permissions will be due and payable immediately on receipt of an invoice from Blue Giraffe Imaging. It is clearly understood that payment of these costs must be made prior to any work being carried out by Blue Giraffe Imaging.

## 9. Media Delivery

9.1 Still photographic and video material will be shot on digital camera equipment. Photographic media will be supplied as uncompressed TIFF and/or low compression JPEG files. Video material will normally be supplied as MOV files or H.264 edited rushes. Media will be supplied via download or USB flash drive devices.

9.2 Retouching, digital manipulation, stitching and video post-production are available at an additional cost. Whilst we will endeavour to provide an accurate colour rendition of the original scene, we cannot guarantee to match or grade the colour perceived by the human eye. All original media (i.e. high-resolution digital raw/ TIFF files and/or video) remain the property of Blue Giraffe Imaging.

9.3 Subject to clause 11.9, reorders etc from the original Media can be supplied on request. Reorders will be treated as an extension to this contract and should include Media Reference Numbers and are required in writing. A written quotation will then be supplied. Finished materials are normally dispatched within 14 working days of completion of the location work.

## 10 Limitation of Liability

10.1 Except in respect of death or personal injury due to negligence for which no limit applies, the entire liability of Blue Giraffe Imaging to the client in respect of any claim whatsoever or breach of these terms and conditions whether or not arising out of negligence, shall be limited to fee quoted in the Specification document annexed hereto.

10.2 In no event shall Blue Giraffe Imaging be liable to the client for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or Blue Giraffe Imaging had been made aware of the possibility of the client incurring such a loss.

10.3 Nothing in these Terms and Conditions shall exclude or limit Blue Giraffe Imaging's liability for death or personal injury resulting from Blue Giraffe Imaging's negligence or that of its employees, agents or sub-contractors.

## 11. Legal Reproduction Rights, Moral Rights and Copyright (Copyright, Designs and Patents Act 1988 and Agreed Property Misdescriptions Act 1991)

11.1 Unless otherwise agreed the title and entire copyright of all Media produced by Us remains with Blue Giraffe Imaging at all times throughout the world. Limited Reproduction Rights of the commissioned material passes to the Client upon full settlement of the final invoice. This allows reproduction for all uses stated on the Quotation or Agreement from Us. By default, and in the absence of any stated use, this will be 'Standard Usage Rights'. 'Standard Usage Rights' expressly excludes use for merchandise (e.g. reproduction of the material for resale) or broadcast, for which an additional fee will need to be negotiated.



11.2 Unless agreed in advance, use of the commissioned material by any third party (including, but not limited to, stock libraries, newspapers, magazines, book publishers, television, film and the Internet) will only be granted following written permission from Blue Giraffe Imaging. This may incur a negotiated reproduction fee.

11.3 Subject to Paragraphs 11.1 and 11.2 above, the following two exceptions do not need advance written permission from Blue Giraffe Imaging.

11.3.1 Any third party working directly for the Client such as a Company creating publicity material for the Client incorporating the commissioned material.

11.3.2 Newspaper Editorial Content for a news item about the Client provided that the text “© Blue Giraffe Imaging” is clearly visible adjacent to the Media for printed content.

And for online content the aforementioned text is clearly visible and all the text hyperlinks to Blue Giraffe Imaging’s Home Page (<https://www.bluegiraffeimaging.co.uk>).

#### 11.4 Licensing

11.4.1 Subject to clause 11.4.2 We grant You an exclusive license to use the commissioned material (the Media) as agreed in clause 11.1 for a period of 24 months from the end date of delivery of the Media from Us to You, or from the date that full payment has been received by Us from You for the Media, whichever is the later.

11.4.2 You agree that We retain the right, in all cases, to use any or all of the Media in any manner at any time and in any part of the world for the purposes of advertising or otherwise promoting Blue Giraffe Imaging without reference to You.

11.4.3 After the period of the license as stated in clause 11.4.1 has expired:

11.4.3.1 We will give You the option to purchase a further exclusive use license, or;

11.4.3.2 We grant You a non-exclusive license to use the Media in perpetuity and in agreement with clauses 11.1, 11.2 and 11.3 and ;

11.4.3.3 You agree that We may license the Media to third parties for any purpose without reference to You.

#### 12. Limitations of Liability, Weather, Force Majeure, Acts of God and Other Constraints

12.1 As with any outdoor location photography, a successful outcome depends upon suitable weather conditions. A decision to fly on a particular day is normally delayed to the last practical moment to maximise the chance of suitable weather. Should the weather on the day not be as forecast and the assignment needs to be postponed, or there is one other reasonably unpredictable reason why the work could not be completed, then either there will be no additional charge to the Client for a return visit to complete the work, or the Client can request a full refund of monies paid to Blue Giraffe Imaging in respect of the cancelled time. No refund will be made for any chargeable preparation work already carried out.

12.2 We will endeavour to obtain the best quality Media for the prevailing conditions and this may require certain adjustments to be made by post-processing. However, the images and video are not guaranteed to be of fine art or broadcast standards.

12.3 Unless a rejection fee has been agreed in advance, there is no right for You to reject the Media on the basis of style or composition.

12.4 If the work could not be completed due to Client reasons (e.g. but not limited to, lack of access or unscheduled site activity, etc), the Client may be charged to recover costs and time.

12.5 Blue Giraffe Imaging will always endeavour to complete its assignments by proposed completion dates. However, due to weather and other operational constraints, Blue Giraffe Imaging cannot guarantee completion on or by any specific date. We, therefore, cannot be held responsible for any missed publishing or other deadlines, or any consequential costs involving the timing of the commission.



12.6 The completion of work may be subject to alteration or cancellation due to cause or causes beyond Our control. Certain requested shots from specific locations, directions and heights, quoted to be undertaken, may not be possible on the day for various operational reasons. In this case, the best possible alternative shot(s) will be supplied and these will be deemed to fulfil the contract.

12.7 In exceptional circumstances, Blue Giraffe Imaging may not be able to completely fulfil or complete a contract at all. In these cases it will refund part, or all, of any deposit received and not accept any other liability. In any event, the liability of Blue Giraffe Imaging will be limited to the total value of the contract with no liability accepted for indirect and/or consequential loss.

12.8 Blue Giraffe Imaging does not accept liability for errors resulting from incomplete or inaccurate instructions from the Client's written brief, nor for the delays or restrictions caused by Air Traffic Control, CAA, the Police or similar bodies.

12.9 Whilst back-up copies of images are usually kept, Blue Giraffe Imaging accepts no responsibility nor liability for maintaining archive copies of digital media after the work has been delivered to and accepted by the Client.

12.10 Blue Giraffe Imaging has all necessary insurances, including Public Liability Insurance, with an indemnity of up to £2 million, fully compliant with EU Regulation (EC) No785/2004. This can be increased upon negotiation with the Client and additional costs factored into the final invoice.

12.11 Blue Giraffe Imaging does not accept liability for errors resulting from incomplete or inaccurate instructions from the Client's written brief, nor from delays or restrictions caused by Third Parties.

12.12 Blue Giraffe Imaging and its employees and agents shall be under no liability for any injury, loss or damage, of any kind, whether direct, consequential or special and howsoever caused resulting from or arising out of or incidental to:

12.12.1 Any negligence on the part of Us or Our employees (except insofar as the same causes death or personal injury) or;

12.12.2 Our performance of or failure to perform or breach of any of its express implied obligations under the Contract.

12.13 You shall indemnify Us against any liability whatsoever (including any liability based on the negligence of You) which may incur resulting from any claim made against Blue Giraffe Imaging by any Third Party. In addition the client shall indemnify Blue Giraffe Imaging against all claims, costs and expenses which Blue Giraffe Imaging may incur and which arise directly or indirectly from the client's breach of any of its obligations under this agreement, including any claims brought against Blue Giraffe Imaging alleging that any work carried out in accordance with the Specification document infringes a patent, copyright or trade secret or other similar right of a third party.

12.14 We accept no liability for delay or non-fulfilment of any term of the Contract caused wholly or in part by "force majeure", which expression shall be deemed to include war, strikes, lockouts, accidents, fire, scarcity of materials or any other cause or causes not within Our control.

### 13 General Conditions

13.1 No failure or delay on the part of Us to exercise Our rights under the Contract shall operate as a waiver thereof nor shall any single nor partial exercise of any such right exclude any other or further exercise thereof. Any waiver of a breach of any provision of the Contract shall not affect Our rights in the event of any further or additional breach or breaches.

13.2 Notwithstanding termination of the Contract these Conditions shall continue in full force and effect for so long as is necessary after such termination to give full effect to the provisions contained in these Conditions.

13.3 The Contract shall be construed in accordance with the laws of Scotland which shall be the proper law of the Contract and the Scottish Court shall have sole jurisdiction in relation to the provisions contained under these Conditions.



13.4 The clause headings in these Conditions are for convenience only and shall not affect the interpretation hereof in any way whatever.

13.5 Each and every obligation contained in the clause or sub-clause of these Conditions shall be treated as a separate obligation and shall be severally enforceable as such and the non-enforceability at any time of the clause or sub-clause of these Conditions shall not prejudice the enforceability of the remainder.

13.6 These Conditions are stipulated by Us on Our own behalf and on the behalf of all Our employees and agents and apply for the protection of all its employees and agents as for Us. The Customer undertakes not to sue or make any claim whatever against any employee or agent of Us in respect of any alleged negligence or other default to that employee or agent in relation to the carrying out, failure to carry out or breach of any Contract.

13.7 The Customer acknowledges and agrees by placing an order with Us that:

13.7.1 This transaction into which both parties are freely entering;

13.7.2 There are clauses contained in these Conditions which exclude, limit or modify the liability of Us and Our employees and agents.

13.8 The Customer acknowledges that the Customer has read the Agreement and both understands and agrees with Us regarding all of the Terms and Conditions.

#### 14 Assignment

The client shall not be entitled to assign its rights or obligations or delegate its duties under this agreement without the prior written consent of Blue Giraffe Imaging.

#### 15 Severability

If any provision of this agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this agreement has been agreed with the invalid illegal or unenforceable provision eliminated.

#### 16 Waiver

The failure by either party to enforce at any time or for any period any one or more of the terms and Conditions herein stated shall not be waiver of them or of the right at any time subsequently to enforce all the Terms and Conditions of this agreement.

#### 17 Notices

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Specification document or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time the letter was delivered personally or if sent by post shall be deemed to be delivered in the ordinary course of post.

#### 18 Entire Agreement

This agreement contains the entire agreement between the parties and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement this Agreement may be varied only by a document signed by both parties.

#### 19 No Third Parties

Nothing in this Agreement is intended to or nor shall it confer any rights on a third party.



20 Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the law of Scotland and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.

I/ We accept by our execution hereof the Terms and Conditions of this Agreement

Signed by \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_

Signature \_\_\_\_\_

Position \_\_\_\_\_

Address

Witness

Name \_\_\_\_\_

Occupation \_\_\_\_\_

Address