

# Terms and Conditions for Harrier Aerial Photography Ltd

## 1 Introduction

1.1 The terms contained on this page (Terms and Conditions for Harrier Aerial Photography Ltd.) apply to all transactions for the purchase of products and services (each a "Service" or, two or more, the "Services") from our website or as a result of contact with **Harrier Aerial Photography Ltd** (the "Business" or "Harrier"). By ordering any Services from our Site or from the Business you are indicating your acceptance to be bound by these terms and conditions. They form a legal agreement between you and us and can only be amended with our consent.

1.2 We reserve the right to change these terms and conditions from time to time without prior notice to you, provided that any such change will not affect any purchases you have made before the change is implemented.

## 2 Order Acceptance Policy

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

2.2 The Client acknowledges and agrees that title, reproduction rights and ownership of all ordered products shall remain with Harrier until the full purchase price for the same has been satisfied to Harrier.

## 3 Quotations

3.1 Written quotations are valid for 30 days and will be supplied for all work on receipt of a clear and accurate written brief from the Client.

3.2 The quotation will be inclusive of all preparatory work, provision of any written documentation (e.g. Method Statements and Risk Assessments) or fees for any permission required (e.g. by the Civil Aviation Authority, Air Traffic Control, Police and relevant landowners), travel and accommodation (where necessary), any requested post-production processing work and digital delivery of images and/or video.

3.3 The fee quoted will reflect the proposed uses of the images, as stated by the Client, for which Limited Reproduction Rights will be granted (see Section 11, Legal Reproduction Rights, Moral Rights, Copyright (Copyright, Designs And Patents Act 1988) and Property Misdescriptions Act 1991). Additional Reproduction Rights may be negotiated at a future date. A series of assignments is treated as a set of individual contracts.

3.4 The UAV Operator may request changes if it is determined that any flight operation could impair the operational safety of the equipment, persons, property or violate any laws.

3.5 You accept that our quotation does not indicate an acceptance of your order, neither does it constitute confirmation of our offer to supply, which we will confirm with an order acknowledgement.

## 4 Briefs

4.1 Written briefs are required to ensure your photographic objectives are well defined to avoid errors.

4.2 The brief should include (where applicable), but not be limited to:

- 4.2.1 full postal address with postcode;
- 4.2.2 a what3words location (available here: <https://what3words.com/>) for the shoot location(s);
- 4.2.3 on-site contact details and maps;
- 4.2.4 site plans with boundaries with the North compass bearing clearly marked;
- 4.2.5 and any other material required to accurately identify the site from the air and ground;
- 4.2.6 required deliverables (images and/or video) and the format needed;
- 4.2.7 details of specific shot requests;
- 4.2.8 details of any retouching, digital manipulation, stitching and printing of images and/or video post-production;
- 4.2.9 and any other information they deem pertinent.

4.3 The Brief should also indicate the proposed use and method of publication of the images, for which a licence to use for the stated purpose will be granted. By default and in the absence of any stated use, this will be 'General Marketing' (see Section 11, Legal Reproduction Rights, Moral Rights, Copyright (Copyright, Designs And Patents Act 1988) and Property Misdescriptions Act 1991) .

## 5 Site Survey

5.1 If a site survey is required prior to the quotation, the cost will be agreed and invoiced in advance. The Client must confirm in writing:

- 5.1.1 That it has permission to access the ground that will be used to take off and land;
- 5.1.2 and that it grants Harrier permission to access the ground.

## 6 Permissions To Conduct Aerial Work

6.1. Harrier Aerial Photography Ltd. has been granted standard permissions by the Civil Aviation Authority (CAA) to conduct aerial work with UAS in accordance with Our Permission for Commercial Operations and our Operations Manual. However, in some cases additional permissions may be required from the CAA, ATC, NATS, Local Authority, 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.

## 7 Payment Terms

7.1 Terms of payment are within the Business' sole discretion.

7.2 A deposit of 50% is required to confirm

7.3 Unless otherwise agreed to in writing by the Business, any remaining payment is due within 14 days full before the first day of shooting.

7.4 In the case of work being required by the client to be done in phases, Harrier reserves the right to partially invoice at stages.

7.5 Harrier reserves the right to add statutory Late Payment Interest (Bank of England Base Rate + 8%) to overdue accounts under the Late Payment of Commercial Debts (Interest) Act 1998.

## **8 Cancellation by Harrier**

8.1 If Harrier cannot fly due to adverse weather conditions or mechanical failure, and the photoshoot cannot be rescheduled, Harrier will refund all advance monies paid for from the time the cancellation occurs. Costs incurred prior to the affected day such as paid-for site visits and meetings are excluded and remain due for payment.

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

## **9 Cancellation by the Client**

9.1 Notice of cancellation by the Client must be received in writing by Harrier and the Notice is not valid until confirmed in writing by Harrier. Cancellation fees are payable according to the following schedule:

9.1.1 Prior to any or all payment being paid – Nil;

9.1.2 Between seven and three days' notice – 50% of the agreed fee less any payment already made;

9.1.3 and Two days or less notice – 100% of the agreed fee less any payment already made.

9.2 Notwithstanding the above schedule, if any costs have been incurred by Harrier following written instruction from the Client (for example, but not limited to an agreed Site Survey cost) these costs will remain due for payment in full.

## **10 Photographic Media Supplied**

10.1 Photographic and/or video media will be supplied in the format and with the post-processing stated on the Quotation, as requested in the client's Brief to Harrier.

10.2 Further retouching, digital manipulation and general editing of images and videos 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 to the colour perceived by the human eye.

10.3 All original photographic material remains the property of Harrier.

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

11.1 Limited Reproduction Rights of the commissioned material passes to the Client upon full settlement of the final invoice. No use may be made of the images before payment in full of the relevant invoice without our express permission. Any permission which may be given for prior use will automatically be revoked if full payment is not made by the due date or if you are put in administration, receivership or liquidation.

11.2 The license allows reproduction for all uses stated on the Quotation from Us. By default and in the absence of any stated use, this will be 'General Marketing'. 'General Marketing' use excludes use for 'merchandising' (e.g. reproduction of an image for the promotion of goods for resale), for which an additional fee will need to be negotiated.

11.3 Benefits of the licence only apply to you and shall not be assigned to any third party without our permission. Permission to use the images for purposes outside the terms of the Licence will normally be granted upon payment of a further fee, which must be mutually agreed (and paid in full) before such further use. Unless otherwise agreed in writing, all further licences in respect of the images will be subject to these terms and conditions.

11.4 Unless agreed in advance, use of the images by any third party (including, but not limited to, newspapers, magazines, book publishers, television, film and the Internet) will only be granted following written permission from Harrier. This may incur a negotiated Reproduction Fee.

11.5 Subject to Clauses 11.1, 11.2, 11.3 and 11.4, the following two exceptions do not need advance written permission from Harrier:

- 11.5.1 Any third party working directly for the Client such as a company creating publicity material for the Client incorporating the commissioned material in a General Marketing way;
- 11.5.2 Newspaper Editorial Content for a news item about the Client provided that the text "Photograph © Harrier Aerial Photography Ltd." is clearly visible adjacent to the image for printed content and for online content the aforementioned text is clearly visible and the entirety of the text is hyperlinked to Harrier's home page (<https://www.harrieraerialphotography.co.uk/>).

11.6 We abide by the Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008. We will not alter our images to deliberately mislead the viewer. We remind users of our images that publishing old images (which were taken much earlier when the views were significantly different), without indicating capture date, could be misleading. Both activities may be considered as offences under these Regulations.

11.7 Unless otherwise stated, the copyright on all photographs, graphic images and other elements is retained by Harrier and you may not store, use or reproduce for any other purpose than licensed without our express prior consent.

11.8 Unless you advise of the confidential nature of any assignment, where we will agree not to reproduce certain images for an agreed period, you permit us the right to use any material (still or video) for: promotion and advertising of Harrier (including, but not limited to, website, social media and print); stock image and video websites and other uses without reference to you.

## **12 Licensing**

12.1 Harrier grants the Client an exclusive licence to use the commissioned material in perpetuity as agreed in Clauses 11.1, 11.2, 11.3, 11.4 and 11.5 from the date of delivery of the commissioned material from the Business to the Client or from the date that full payment has been received by the Business from the Client for the commissioned material, whichever is the latter.

## **13 Limitation of Liability, Weather, Force Majeure, Act of God and Other Constraints**

13.1 As with any outdoor location filming or 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 some 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 Harrier in respect of the cancelled time. No refund will be made for any chargeable preparation work already carried out.

13.2 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.

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

13.4 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.

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

13.5 The completion of work may be subject to alteration or cancellation due to cause or causes beyond the Harrier's 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.

13.7 In exceptional circumstances, Harrier 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 Harrier will be limited to the total value of the contract with no liability accepted for indirect and/or consequential loss.

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

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

13.10 Harrier has all necessary insurances, including Public Liability Insurance, with a usual indemnity of up to 1 million GBP (increasable on request) fully compliant with EU Regulation (EC) No 785/2004.

13.11 Harrier does not accept liability for errors resulting from incomplete or inaccurate instructions from the Client's written brief, nor for delays or restrictions caused by third parties.

13.12 Harrier 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:

13.12.1 Any negligence on the part of Harrier or its employees (except insofar as the same causes death or personal injury) or;

13.12.2 Harrier's performance of or failure to perform or breach of any of its express implied obligations under the contract.

13.13 The Client shall indemnify Harrier against any liability whatsoever (including any liability based on the negligence of the Client) which it may incur resulting from any claim made against the Client by any third party.

13.14 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 the Harrier's direct control.

## **14 Modifications to the Services and Prices**

14.1 Prices for Harrier's products are subject to change without notice.

14.2 Harrier reserves the right at any time to modify or discontinue a service (or any part or content thereof) without notice at any time.

14.3 Harrier shall not be liable to the Client or to any third party for any modification, price change, suspension or discontinuance of a service.

## **15 General Conditions**

15.1 No failure or delay on the part of Harrier to exercise its 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 Harrier's rights in the event of any further or additional breach or breaches.

15.2 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.

15.3 The Contract shall be construed in accordance with UK law which shall be the proper law of the contract and the UK Court shall have sole jurisdiction in relation to the provisions contained in 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.

15.5 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.

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

15.7 The Client acknowledges and agrees by placing orders with Harrier that:

15.7.1 This is a transaction into which both parties are freely entering;

15.7.2 There are clauses contained in these Conditions which exclude, limit or modify the liability of Harrier, our employees and agents.

15.8 The Client acknowledges that they have read this Agreement, and both understands and agrees with Harrier regarding all of the Terms and Conditions.