

# Terms and Conditions of Aerial Imaging Services – Sky Eye Imagery V 1.4

## INTRODUCTION

1. All charges, which will be charged at the prevailing rate, are subject to these Terms and Conditions.
2. Upon receipt of this document, the Client acknowledges it has read, understands and agrees with Sky Eye Imagery regarding all of the following Terms and Conditions which apply to the commissioning of aerial imaging services. Quotations made or provided as a result of this document are bound by these Terms.
3. These Terms and Conditions are periodically reviewed by Sky Eye Imagery and are subject to change. This current document was last amended accordingly on **03 October 2023**.

## PART 1 - TERMS AND CONDITIONS OF COMMISSIONING AERIAL IMAGING AND REPRODUCTION OF IMAGERY FROM SKY EYE IMAGERY

### 4. Terms and Definitions:

(a) picture includes a photograph, images, transparency, negative, digital scan, design, artwork, painting, montage drawing, engraving or any other item which may be offered for the purposes of reproduction.

(b) reproduction includes any form of publication or copying of the whole or part of any picture and whether or not altered by printing, photography, slide projection (whether or not to an audience) xerography, artist's reference, artist's illustration, layout or presentation, electronic or mechanical reproduction or storage by any other means.

(c) the Photographer (otherwise known as Bitu Williams) is the Author of the photograph or the Photography.

(d) the Client is the person or organisation to whom the invoice is addressed (whether or not the Client is acting for a third party).

(e) Sky Eye Imagery administers the licensing of the works of the Photographer, Bitu Williams..

(f) These terms and conditions represent the entirety of the agreement between Sky Eye Imagery and the Client. Any variation is only applicable when agreed in advance and in writing.

### 5. Copyright and Ownership of Materials:

(a) Unless imaging (video and stills) has been captured by a third party (camera operative), the entire copyright in the pictures is retained by the Photographer, Bitu Williams at all times throughout the world and is administered by Sky Eye Imagery.

(b) Title to all photographs remains the property of the Photographer.

(c) Images will be licensed for use for a specified period. When the License to Use has expired, the images should be returned to the Photographer and a written undertaking given that all digital files have been destroyed. The Client is expected to comply with this requirement within 30 days of expiration of the License to Use. The Photographer reserves the right to make an additional charge for continued use after this period.

(d) The Photographer, as administered by Sky Eye Imagery, supplies the technical and artistic ability to illustrate an idea photographically and sells the right to reproduce those pictures in a given context. No property or copyright in any pictures shall pass to the Client whether on its submission or on Sky Eye Imagery's grant of reproduction rights in respect thereof.

(e) Bitu Williams asserts both his moral right to be identified as the author of his work and the right to a credit is asserted in accordance with sections 77 and 78 of Copyright, Designs and Patents Act 1988.

(f) Unless otherwise agreed in writing if any picture reproduced by the Client omits the copyright notice or credit line specified by Sky Eye Imagery any fee payable by the Client shall be subject to an increase specified by Sky Eye Imagery and in any event an increase of not less than 25%.

## **6. Use and Reproduction:**

(a) The License to Use only comes into effect once full payment of the invoice has been made. No use may be made of the images until full and final payment – including any late payment charges that may have been levied – has been received by Sky Eye Imagery.

(b) Permission in writing may be granted for image use before payment, however this permission will be immediately revoked if payment of the invoice is not made by the timescale stated on the invoice.

(c) Reproduction rights (if and when granted) are strictly limited to the use and period of time specified on Sky Eye Imagery's invoice. An agreement must be reached with Sky Eye Imagery before the pictures are used for a different purpose or after the licence to use has expired.

(d) Reproduction rights are not issued exclusively to the Client except when specified on the invoice.

(e) Reproduction rights granted are personal to the Client and may not be assigned, nor may any picture submitted to the Client be loaned or transferred to third parties save for the purpose of the exercise by the Client of such reproduction rights.

(f) Any reproduction rights granted are by way of licence and no partial or other assignment of copyright shall be implied.

(g) Sky Eye Imagery reserves the right to refuse to supply or grant a reproduction licence to a third party when requested to do so by the Client.

(h) In the case of printed publications, three copies of the relevant pages containing any picture supplied are to be furnished to Sky Eye Imagery free of charge within two weeks. In other media, evidence of use must be made available if requested.

(i) On the Client's death or bankruptcy or (if the Client is a company) in the event of a Resolution, Petition or Order for winding up being made against it, or if a Receiver is appointed, Sky Eye Imagery may at any time thereafter inspect any records, accounts and books relating to the reproduction of its pictures to ensure that the pictures are being used only in accordance with the reproduction rights granted to the Client.

## 7. Definitions and Reproduction Rights:

The following terms are used when describing the reproduction rights granted by Sky Eye Imagery and the Photographer to the Client:

(a) **Internal Use only:** The right to use the pictures only within a company for non-commercial purposes; publication in a free in-house magazine not normally available to the public; exhibition within the Client's premises; editorial use in the Client's intranet site.

(b) **PR and Press distribution:** The right to use the pictures as described in 7(a); plus a licence for third parties to reproduce such pictures in print or electronic media in an editorial context where no fee has been paid to guarantee publication.

(c) **Specified Use Only:** The right to use the pictures once only for the purpose as described on the invoice.

(d) **Editorial:** One reproduction only of pictures supplied within one print edition of the specified title in an editorial context only.

## 8. Payment Terms:

(a). **Commercial Commissions:** For commercial commissions a written Purchase Order must be received (either by hard copy (letter) or electronic (email) means). Sky Eye Imagery reserves the right to request a deposit with Order to cover non-recoverable costs. Orders are not binding upon Sky Eye Imagery until accepted in writing (either by hard copy (letter) or electronic (email) means) by Sky Eye Imagery. In the case of work being required by the client to be done in phases, Sky Eye Imagery reserves the Right to partially invoice at stages. Sky Eye Imagery reserves the right to add statutory Late Payment Interest (Base Rate +8%) to overdue accounts [Late Payment of Commercial Debts (Interest) Act 1998].

(b) Our payment terms for **commercial commissions** are strictly net **14 calendar days (2 weeks)** unless agreed in advance and in writing.

(c). **Private Commissions:** For private and personal commissions, a 40% deposit (where appropriate) must be received prior to Sky Eye Imagery's acceptance of an order. Orders are not binding upon Sky Eye Imagery until accepted in writing (either by hard copy (letter) or electronic (email) means) by Sky Eye Imagery. In the case of work being required by the client to be done in phases, Sky Eye Imagery reserves the right to partially invoice at stages. Sky Eye Imagery reserves the right to add statutory Late Payment Interest (Base Rate +8%) to overdue accounts [Late Payment of Commercial Debts (Interest) Act 1998].

(d) Our payment terms for **private commissions** are strictly net **14 days (2 weeks)** unless agreed in advance and in writing.

(e) If payment is not made in accordance with (a) above then Sky Eye Imagery may rescind any Agreement and recover damages, or, at its option, may exercise its statutory right to interest under the Late Payment Of Commercial Debts (Interest) Act 1998.

(f) An administration fee of £20 will be made for each account reminder, duplicate invoice, or any other paperwork, correspondence or phone calls involved with the pursuance of a debt. This fee is non-refundable, and represents the additional time spent pursuing overdue invoices.

(g) The Client's right to reproduce a picture arises only when Sky Eye Imagery's invoice relating to the grant of such right is fully paid (including interest charges levied on late payment of the invoice or invoices). Any reproduction before payment of the invoice constitutes an infringement of rights and a breach of this Agreement entitling Sky Eye Imagery to rescind the Agreement and rendering the Client liable for the payment of damages.

(h) If any invoice issued to the Client is not paid by the Due Date, then all unpaid invoices issued to the Client become due of immediate effect, even if it is less than 14/28 days from the issue date, and

that Sky Eye Imagery may consider these invoices as overdue when pursuing legal action for the recovery of said debts.

#### **9. Making Payment:**

(a) Our terms are strictly net **14 calendar days (two weeks)** for **commercial commissions** and **14 days (two weeks)** for **private commissions/content purchases** unless agreed in advance and in writing.

(b). Payment by BACS is preferred and bank details will be provided on our invoice. We also accept payment by cheque and crossed cheques should be made payable to "Bitu Williams.". Please note that when making payment by cheque, proof of postage of remittances is not considered proof of receipt and clients are advised to send payment by any method affording proof of delivery.

#### **10. Rejection:**

(a) Sky Eye Imagery will deliver what it considers to be the best of every situation covered.

(b) Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style, composition or editing.

#### **11. Liability and Indemnity:**

(a) While Sky Eye Imagery takes all reasonable care in the performance of this agreement generally, it shall not be liable for any loss or damage suffered by the Client or by any third party arising from use or reproduction of any picture or its caption.

(b) The Client agrees to indemnify Sky Eye Imagery in respect of any claims, damages or any costs arising in any manner from the reproduction without proper reproduction rights of any picture supplied to the Client by Sky Eye Imagery.

(c) It is the Client who must satisfy themselves that all necessary rights, model releases or consents which may be required for reproduction, are obtained and it is acknowledged that Sky Eye Imagery gives no warranty or undertaking that any such rights, model releases or consents have or will be obtained whether in relation to the use of names, people, trademarks, registered or copyright designs or works of art depicted in any picture. In the event that the picture issued or reproduced by or with the authority of the Client then the Client shall indemnify Sky Eye Imagery against any loss or damage, proceedings or costs where such rights, releases or consents have not been obtained.

#### **12. Applicable Law:**

(a) This Agreement shall be subject to and constructed according to English Law and the parties agree to accept the exclusive jurisdiction of the Courts of England.

(b) Email communication constitutes a contract in law, unless the Client specifically states they will not accept this and instead provides hardcopy paperwork of all relevant agreements and contracts.

#### **13. Client Confidentiality:**

(a) The Photographer and Sky Eye Imagery will keep confidential and will not disclose to any third parties or make use of information communicated to them in confidence for the purposes of the photography, save as may be reasonably necessary to enable the Photographer or Sky Eye Imagery to carry out their obligations in relation to the commission.

## PART 2 - TERMS AND CONDITIONS OF SERVICES

### 14. Order Acceptance Policy

- a) 14. Sky Eye Imagery reserves the right at any time to accept or refuse service and sales for any reason. Sky Eye Imagery reserves the right to require additional verifications or information from the Client before accepting any order or providing services. The Client agrees that the receipt by Sky Eye Imagery of an electronic or printed copy of an order form does not indicate Sky Eye Imagery's acceptance of the purchaser's order, neither does it constitute confirmation of Sky Eye Imagery's offer to sell.
- b) The Client acknowledges and agrees that title and ownership of all ordered products shall remain with Sky Eye Imagery until the full purchase price for the same has been satisfied to Sky Eye Imagery.

### 15. Quotations

- a) Written quotations are valid for **14 days** and will be supplied for all aerial assignments on receipt of a clear and accurate verbal/written brief from the Client. Written briefs are required to ensure photographic objectives are well defined for both the Client and Sky Eye Imagery 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.
- b) The quotation and fee will be inclusive of all preparatory work, provision of any written documentation (eg. Risk Assessment and Method Statements where required) or permission required (e.g. by the Civil Aviation Authority (CAA), Air Traffic Control (ATC), Police and relevant landowners), travel and accommodation (where necessary) and post-production processing work (not normally included) and delivery of images. For UAV work, unless otherwise stated, the quotation will be for the amount of aerial imaging reasonably achievable within one day.
- c) The fee quoted will reflect the proposed uses of the images, as stated by the Client, for which Full Personal 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.

### 16. UAV Operational Site Considerations

- a) 19. When/if a site survey is required and/or necessary prior to the quotation, the cost will be agreed and invoiced in advance. The Client must confirm in writing (either by hard copy (letter) or electronic (email) means) that they have been granted permission to access the ground that will be used by Sky Eye Imagery to take off and land a UAV - evidence of which **MUST** be presented to Sky Eye Imagery (either by hard copy (letter) or electronic (email) means) **no later than 24 hours prior to date of planned service**. Confirmation by means of phone voice message or SMS by the Client **WILL NOT** be accepted as a form of evidential approval.

### 17. Cancellation or Postponement of Aerial Imaging Services by Sky Eye Imagery

- a) 20. For the purposes of these Terms and Conditions, Sky Eye Imagery shall not be liable to the Client as a result of any delay or failure to perform our obligations as a result of a Force Majeure Event (an event beyond Our reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving Our workforce or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors).
- b) 21. If the work could not be completed due to Client reasons and Sky Eye Imagery were not forewarned (e.g. lack of access or unscheduled site activity etc), the Client may be charged to recover costs and time.

- c) 22. If Sky Eye Imagery cannot fly due to mitigating circumstances that may prohibit imagery collection, Sky Eye Imagery will refund **100%** of any advanced monies that have been paid for the intended collection day. Sky Eye Imagery and the Client will have to accept that there will be times when flight/collect cannot be achieved and Sky Eye Imagery wishes to not occur unnecessary costs to it nor to the Client. Costs incurred prior to the day such as further/additional paid-for site visits and meetings are excluded and remain due for payment.
- d) 23. Circumstances that **will prohibit** collection of aerial imagery (HD video and stills) include, although not exhaustive and which are subject to change, the following:

**Flying near or over prohibited areas and structures which include:**

- i. Government Property/Estates (unless tasked and authorised by client).
- ii. Military Installations (unless tasked and authorised by client).
- iii. Power Facilities (unless tasked and authorised by client).
- iv. Sensitive Industrial Installations (unless tasked and authorised by client).
- v. Highly congested areas (unless tasked and authorised by client).
- vi. High Intensity Radio Transmission Areas.

**(National/Local airspace restrictions including:**

- i. Military Low Flying Areas (LFAs).
- ii. National/Military airports/aerodromes.
- iii. Areas of sensitivity.
- iv. Temporary Flight Restrictions (TFRs) and/or pre-booked airspace by other air users (NOTAMs).

**Unauthorised/non-agreed access to indicated UAV operating site from Landowner.**

**Client has not taken appropriate measures to cordon operations site or to adequately forewarn non-participating parties/individuals in the vicinity of operations site.**

- e) Circumstances that **will postpone** collection of aerial imagery (HD video and stills) include, although not exhaustive and which are subject to change, the following:

**Poor/unsuitable weather conditions:**

- i. Rain and Mist.
- ii. Winds that exceed the safe and stable use of Sky Eye Imagery's aerial platforms (>15 Mph).

**Poor light and visibility conditions:**

- i. Operating no earlier/later than 30 minutes before sunrise/after sunset.
- ii. Fog and Low Clouds (>100 metres AGL).

**Kp Index Measurements** (*The Kp index measures geomagnetic disruption caused by solar activity and is on a scale from 0 (calm) to 9 (major storm). Anything at or below 5 is usually safe for UAV flying. The higher the Kp index, the more likely GPS-enabled UAVs have difficulty getting an accurate GPS lock.*)

- i. The predicted Kp index on the date of task registering/indicating a value of **6 or greater**.

**Unauthorised/non-agreed access to indicated UAV operating site from Landowner.**

**Client has not taken appropriate measures to cordon operations site or to adequately forewarn non-participating parties/individuals in the vicinity of operations site.**



- f) 25. If Sky Eye Imagery cannot fly due to reasons that only become evident once on site or for reasons that Sky Eye Imagery was not advised of beforehand by the Client on the planned date of service, then the full cost may remain due for payment. Sky Eye Imagery may, at its sole discretion, offer a discount (where appropriate). Should circumstances postpone the collection of aerial imaging, a reshoot will be rescheduled in the event that the above at 23 a-d occurs. This intent will be previously briefed to the Client for their awareness during initial communications and meetings.
- g) 26. Sky Eye Imagery will endeavour to complete undertakings within the agreed timescales. However circumstances and weather may change during the working day and as such all flights are undertaken at Sky Eye Imagery's sole discretion to ensure safety at all times.

## **18. Cancellation or Postponement of Aerial Imaging Services by the Client**

- a) 27. Notice of cancellation by the Client must be received in writing, either by hard copy (letter) or electronic (email) means, by Sky Eye Imagery and are not valid until confirmation of receipt of cancellation in writing, either by hard copy (letter) or electronic (email) means, by Sky Eye Imagery. Cancellation by phone voice message or SMS by the client WILL NOT be accepted as a means of cancellation. Cancellation fees are payable according to the following schedule:
  - i. Prior to if Deposit being paid – Nil.
  - ii. Following if Deposit paid and greater than 14 (fourteen) days written notice to Sky Eye Imagery – the Deposit will be forfeited and credited to the Client's account. If booking is made within 6 (six) months, it can be used as credit. However, if 6 (six) months elapses, the Deposit is forfeited. The Deposit is non-transferrable.
  - iii. Following if Deposit paid and less than 14 (fourteen) days but greater than 2 (two) days written notice to Sky Eye Imagery – the Deposit only.
  - iv. Following if Deposit paid and less than 2 (two) days notice – 50% of the agreed fee less the Deposit already paid.
  - v. Notwithstanding the above schedule, if any costs have been incurred by Sky Eye Imagery following written instruction from the Client (for example, but not limited to an agreed Site Survey cost) these costs will remain due for payment.

## **19. Permission to conduct Aerial Imaging**

- a) 28. Flight permission is generally granted within three days or so, however with UAV photography, permission from the Civil Aviation Authority (CAA), local Police, other public authorities and relevant landowners, when needed, can take several weeks (CAA may require, in certain areas, up to 28 days written notice of intention to fly. This is usually granted but certain height and/or other conditions may be applied). All work is subject to obtaining permitted and legal access to a site from which to safely operate the UAV equipment.

## **20. Aerial Imaging Material Supplied**

- a) 29. Still images will normally be shot on digital imaging equipment and supplied as unedited Adobe DNG RAW and/or high-resolution JPEG formats. Video material will normally be supplied as unedited rushes and captured in high-resolution format(s). Unedited images and video will be supplied either on DVD(s), a Client's means of storage (memory stick, hard drive etc) or uploaded into either an appropriately named Sky Eye Imagery /Client Dropbox weblink or sent point-to-point to the Client via online "on-demand" dissemination protocol (WeTransfer).
- b) 30. Retouching and digital enhancement and mosaics of supplied images are available at an additional cost, when feasible. While Sky Eye Imagery will endeavour to provide an accurate colour rendition of the original scene, it cannot guarantee to match the colour perceived by

the human eye. All original photographic material (i.e. high-resolution digital RAW and JPEG images and/or video files) remains the property of Sky Eye Imagery.

- c) 31. Digital copies of still imagery and/or video files from the original material can be supplied on request. Reorders will be treated as an extension to this contract and should include Image Reference Numbers and are required in writing. A written quotation will then be supplied. Unedited materials are normally supplied to the Client onsite. If retouching, digital enhancement and mosaics of supplied still images are required, these can be dispatched within 10 working days upon completion of the location work.

## 21. Sky Eye Imagery Statement and Disclosure of Survey related products.

- a) Sky Eye Imagery (Operated by Bitu Williams) is **NOT** a survey company and it does **NOT** claim to be accredited surveyors or geomatics specialists. We do not guarantee the accuracies of our spatial products or derived measurements from, but we do inform the recipients of our products that certain UAV, aerial imaging and photogrammetry-related geospatial product accuracies are involved through appropriate reporting documentation and product handling caveats.
- b) Our geospatial products **SHOULD NOT** be independently used to authenticate measurements of any kind and be used in any legally-binding documentation **UNLESS** they have been ortho-rectified and are accompanied with additional and orthorectified positional geodetic information that has been provided by a trained/accredited party accompanied by accuracy statements and which would complement other accurate and project-supporting geospatial-related data.
- c) Provided geospatial products would typically fall within the **potential accuracy range** as indicated within the **RICS Professional Guidance Note - Measured Survey of Land, Buildings and Utilities (Band D to E)** and, therefore, **must not be further used** beyond its tasked-for requirements and/or support other projects that would require **greater degrees of accuracies**.

## 22. Property Misdescriptions Act 1991

- a) 32. Sky Eye Imagery abides by the Property Misdescriptions Act 1991. It will not alter imagery 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 of these activities may be considered as offences under this Act.

## 23. Privacy and Data Protection

- a) 33. Sky Eye Imagery abides by the directives outlined by the Information Commissioner's Office (ICO) regarding the responsible use of drones and privacy which can be found at [www.ico.org.uk/for-the-public/drones](http://www.ico.org.uk/for-the-public/drones) and legislation detailed within the Data Protection Act 1998.

## 24. Limitation of Weather, Liabilities and Other Constraints

- a) 34. **Weather.** As with any outdoor location imagery collection, a successful outcome depends upon suitable weather conditions and for them to be forecast accurately. A decision to image 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 originally forecasted and, therefore, the assignment needs to be postponed or there is some other reason why the work could not be completed due to Sky Eye Imagery's fault, 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 if paid to Sky Eye Imagery in respect of the cancelled date/time. No refund will be made for any chargeable preparation work already carried out.
- b) 35. The UAVs and imaging sensors weigh less than 7Kg. Whilst the UAV has build-in self-stabilising measures and sensors are fitted with high quality stabilisation gimbals, it is a flying



platform and is subject to movement by the wind at a certain threshold and will tilt whilst being held against the wind. This may impact on the image quality, steadiness and the angle of imagery collected. Sky Eye Imagery will endeavour to obtain the best quality imagery for the conditions and certain adjustments (such as skew to square up the imagery) can be made afterwards in post-processing. However, the images and video are not absolutely guaranteed to be steady and of broadcast standards (for instance).

- c) 36. **Liabilities.** Sky Eye Imagery will always endeavour to complete its assignments by proposed completion dates. However, due to weather and other operational constraints, Sky Eye Imagery 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.
- d) 37. The completion of work is subject to alteration or cancellation due to any cause(s) 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.
- e) 38. Battery limitations mean that each flight will last a maximum of approximately 15 minutes. This will normally generate 8 minutes of photographically usable flight time. After this time, the UAV must descend either for a battery change or upon completion of the task.
- f) 39. The quality (e.g. exposure and sharpness) of photographs taken before sunrise and after sunset (which require the camera to be relatively still at the point of exposure) cannot be guaranteed and usually will not be attempted. Images required to be taken into the sun's direction will undoubtedly suffer, to some degree, from lens flare and other detrimental effects.
- g) 40. In exceptional circumstances, Sky Eye Imagery 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 Sky Eye Imagery will be limited to the total value of the contract with no liability accepted for indirect and/or consequential loss.
- h) 41. Sky Eye Imagery does not accept liability for errors resulting from incomplete or inaccurate instructions from the Client's verbal or written brief, nor for delays or restrictions caused by the CAA, ATC (National or Local), the Police or similar public bodies.
- i) 42. Whilst back-up copies of imagery previously acquired for commercial purposes are usually kept, Sky Eye Imagery accepts no responsibility nor liability for maintaining archive copies of imagery acquired for clients on tasks of a personal nature (weddings, etc) longer than 60 days.
- j) 43. Sky Eye Imagery has all necessary and current CAA 'Permissions for Commercial Operations' GVC in place and Public Liability Insurance with an indemnity of up to 1 million pounds. Proof of which, including other pertinent documentation, will always be available and can be produced upon request by the Client.