

## Terms & Conditions of Business January 2020

### **COPYRIGHT, USAGE & LICENSING**

In keeping with current industry standards and copyright law, commissioned images remain the copyright of Kevin Timmons Photography. This protects the interests of us, the photographers, against subsequent reproduction or distribution of the images beyond their initial agreed use.

For the first 2 years the image licence and usage rights of any commissioned image remain with the client. During this period these rights – and consequently the image – can not be re-assigned to a third party by us the photographers without the express permission of the original client. However, the images may be used by Kevin Timmons Photography for their own marketing purposes in agreeance with the client.

Thereafter we guarantee that an image will never be sold to a competitor or used in a way that could be deemed derogatory to the original client.

The client may however continue to reproduce the commissioned photography for as long as required, providing that it is directly related to promotion or advertising of the original company and not transferred to a third party even if that third party is a subsidiary or linked company.

Should a client wish to secure an image exclusively, for a longer timescale, occasionally we may agree an extended image licence or a copyright buy-out fee depending on the circumstances of the images and the possible future applied uses.

The License to Use comes into effect from the date of payment of the relevant invoice(s).

No use may be made of the photographs before **payment in full** of the relevant invoice(s) without the photographer's express permission in writing. All supplied images **will be watermarked** until full payment has been received by the photographer.

Any permission that may be given for prior use will automatically be revoked if full payment is not made by the due date or if the agency is put into receivership or liquidation.

All images purchased by the client will be licensed by the photographer for use now and in any further projects carried out solely by the existing client.

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 or an administration is appointed, any licence granted shall immediately cease.

If an image has been commissioned by an advertising agency or other party on behalf of a client, then the advertising agency or other party may not assign rights to anyone other than the original client for whom the work was commissioned.

The advertising agency or other party may retain the right to use the image for its own self-promotional purposes providing that it is in the context of the original use. i.e. an advertising agency may demonstrate commissioned images as part of its own self-promotion or portfolio providing that it is in conjunction with the respective artwork or client logos for which it was originally commissioned. Under no circumstance may an agency reproduce the photography for another project or its own promotional purposes without commissioned images having a direct link to their original purpose.

If photography is commissioned by an agency it is the responsibility of the agency to ensure that all visuals/briefs or ideas for the photography are original in content. Kevin Timmons Photography or those working for them will not be held responsible for any action brought by a third party for copyright or intellectual property infringement.

All images will be supplied to the client in both high and low resolution for use in print and online, (eg: websites, social media) in accordance with the above terms and conditions. Manipulation of the image or use of only a portion of the image may only take place with the written permission of the photographer.

All photography project fees include basic editing of images (eg: cropping, colour balance, sharpening and contrast). This does not include colour changes, cutting out with clipping paths, changes of backgrounds or any other major alterations. These options can be added for an extra charge if required.

### **ELECTRONIC STORAGE**

(a) Images will be backed up securely by Kevin Timmons Photography for a period of 2 years from the original shoot date. This service is included within the original fee.

(b) Digital data is stored by the photographer on the understanding that the photographer is not responsible for the future integrity of that data, or of any failure to retrieve data from the photographer's archive.

(c) If a client requires images to be held for more than 2 years, then an additional fee will be charged (to be negotiated depending upon size, number of images and length of time).

(d) Replacement images within 2 years from original shoot date: Should the client lose the original images supplied by Kevin Timmons Photography, then an administration fee will be charged for a replacement set of images (to be negotiated depending upon size and number of images).

### **INDEMNITY**

(a) It is the client who must satisfy himself/herself that all necessary rights, model releases, clearances or consents which may be required for reproduction of people, places or items depicted within any works are obtained.

(b) It is acknowledged that the photographer gives no warranty or undertaking that any such rights, releases or consents are or will be obtained whether in relation to the use of names, people, trade marks, registered or copyright designs or works of art depicted in any picture.

(c) The photographer shall only be responsible for obtaining such clearances if this has been agreed in writing before the shoot.

(d) In all other cases the client shall indemnify the photographer against all expenses, damages, claims and legal costs arising out of any failure to obtain such clearances.

(e) The photographer will not be liable for any loss or damage, for any consequential loss of profit or income, however caused, including negligence by the photographer, Kevin Timmons their employees or agents or otherwise, and it is the client's responsibility to insure against such loss or damage.

(f) When photography projects are carried out with our mobile studio at a client's premises, we will endeavor to make best use of space and control lighting to the best of our ability. However, we cannot be held responsible for external influences that are beyond our control. Eg: limited space, background distractions, adverse effects created by ambient light.

### **PAYMENT**

(a) A 50% deposit is required at least 48 hours prior to commencement of a project.

(b) Full payment by the client will be strictly within 7 days of the issue of the relevant invoice for the commissioned work or on receipt of high resolution images/video.

(c) No use may be made of the photographs before **payment in full** of the relevant invoice(s) without the photographer's express permission in writing. All supplied images **will be watermarked** until full payment has been received by the photographer.

(d) Where a client is a company and whether or not that company has gone into liquidation the individual directors will be responsible for all outstanding fees and costs in relation to the contract.

### **EXPENSES**

Where extra expenses or times are incurred by the photographer as a result of alterations to the original brief by the client, or otherwise, the client shall give approval to and be liable to such extra expenses or fees, in addition to the fees and expenses shown on the estimate as having been agreed or estimated.

### **REJECTION**

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

### **CANCELLATION & POSTPONEMENT**

A booking is considered firm as from the date of confirmation and accordingly the photographer will, at his discretion, charge a fee of cancellation or postponement especially if costs have already been incurred prior to the shoot (eg: equipment hire).

## **Additional Terms and Conditions For Use Of Drone Services**

Our pilots have attended an accredited course with NQE (National Qualified Entity) status from the CAA (Civil Aviation Authority). The certificate and registration is called a PFCO (Permission for Commercial Operations). This allows us to operate our drone commercially and in turn allows us to be fully insured and operate safely in accordance with our comprehensive operations manual.

As a licensed operator of UAVs (unmanned aerial vehicles) KTP is also regulated by the Civil Aviation Authority. It is essential for us to adhere to these regulations to maintain our PFCO and for our insurance and public liability cover to remain valid. We assess each project individually to ensure that we always operate within the rules set out by the CAA.

### **Legal Requirements**

- We require the permission of the landowner/s for take-off and landing.
- We cannot overfly people, roads & buildings which are not under the control of the crew and we require a minimum distance of 30 metres from these objects at take-off / landing and 50 metres distance during flight operations.
- Extra permissions from the CAA may be required for some projects that fall outside of the regular rules.
- Flying near airports and airfields is not usually allowed but is possible with the correct permissions and procedures. We have to contact air traffic control, police, CAA, the insurance company, the drone manufacturer to apply for an unlock code and sometimes even the Ministry of Defence.
- It is often necessary and beneficial to perform a pre-shoot recce of a location. We usually do this in person if possible as well as using Google and OS mapping, street view and several air data resources.
- The Pilot's decision to fly on any given day is final. If weather conditions or circumstances are not favourable or there is any risk to persons or property then the flight may have to be cancelled or postponed.

When we have all the required information we prepare a full set of pre-flight documentation. This includes:

- Pre-Flight Site Research
- Site Flight Plan
- Risk Assessment

**Please note:** We will require signatures from the landowner or landowner's agent **before** we commence operations.

### **AGREEMENT**

In commissioning Kevin Timmons Photography or those working for them, you are declaring your agreement to be bound by the above copyright terms and conditions. Should the aforementioned terms and conditions be broken, you may be liable to legal proceedings taken against you in accordance with the UK Copyrights and Patents Act 1988.