

Updated September 28, 20203:

Terms and Conditions

These client terms and conditions (these “Terms and Conditions”) govern the provision of any services (the “Services”) to you (“you,” “your,” or “Client”) by Cool Breeze Aerials LLC, hereinafter “CBAs” (the “Company,” “CBAs,” “we,” or “us”). You hereby agree as follows:

1. Waiver

In consideration of the Services to be conducted and the project to be produced at the premises (the “premises” or the “property”), you and each other person acting through or by you (including, without limitation, your real estate broker(s), clients, heirs, representatives, successors, and assigns) (collectively, the “Client Affiliated Persons”), do hereby expressly, to the fullest extent permitted by law, agree to release, waive, and discharge all claims, demands, and causes of action, whether known or unknown, foreseeable or extraordinary (collectively, “Claims”), against the Company and its directors, officers, employees, contractors, and/or agents (collectively, the “CBAs Covered Personnel”), to the extent such Claims arise out of or are connected in any way to the provision of Services by Company to you; provided, however, the foregoing in no event shall waive any Claims resulting from Company’s gross negligence or willful misconduct in so providing such Services.

In addition to the waivers contained above, you expressly acknowledge and agree that CBAs shall, in no event, be liable to you for the (i) the transmission of COVID-19 by or among any persons in any location at which Services have been provided, and (ii) any injuries, loss of life, disease, property loss, damages, expenses, costs, claims, or other losses (collectively, “Losses”) arising out of the foregoing. You acknowledge and agree that CBAs cannot prevent you from becoming exposed to, contracting, or spreading COVID-19 while obtaining CBAs’ Services. You hereby assume the risk of transmission of COVID-19 and release and waive any right to bring any Claims against CBAs, or any CBAs Covered Personnel, in connection with any Losses you, or any Client Affiliated Persons, may sustain in connection with the exposure, infection, and/or spread of COVID-19.

2. INDEMNIFICATION AND HOLD HARMLESS:

Except to the occasioned by the gross negligence or willful misconduct of any CBAs Covered Personnel, you also agree, for yourself and on behalf of all Client Affiliated Persons, to indemnify and hold harmless all CBAs Covered Personnel from and against all Losses resulting from or in any way arising in connection with the provision of Services hereunder.

3. SERVICE & PRODUCTION REQUESTS:

To ensure the best results of the service and production requested, please be sure the property is ready before the scheduled call time.

- It is the Client's responsibility to ensure that the property is ready at the arranged time.
- CBAs do not handle cleaning, dusting, or moving of furniture or decor.
- We are not able to physically move or remove property signs.
- The Client shall ensure that there are no hazards to CBAs or its employees at the site.
- The Client shall ensure that the property is ready for flight (i.e., all pets are secured, lights are on, fans are off, and window shades open).
- CBAs will be photographing and filming throughout the entire property. Garages are typically not included, but if you would like those included, please let an employee of CBAs know before the shoot.
- If there is anticipated bad weather, the Client must reschedule with us at least twenty-four (24) hours before the shoot. Last-minute postponements or cancellations are subject to Section 9 hereof.

4. TURNAROUND TIME:

Once on site, CBAs require forty-eight (48) hours to return your first draft. After you receive your draft, you are permitted one (1) additional revision round, at no additional expense, to highlight areas in the video and photo to change. These revisions may include simple footage editing (e.g., removing clips, altering speed, requesting color corrections, and modifying information on the graphic slides). These revisions may include less extensive edits (e.g., re-filming a property, removing cosmetic defects in the premises (e.g., cracks on a window or drywall), or inserting objects in the footage that did not exist).

Subject to the preceding, CBAs agree to the following turn-around times:

- Forty-eight (48) hours for any Indoor or Outdoor Drone Tour (the base offering)
- 7-10 business days for special creative projects
- 1-2 Business days for Video Revision Requests (One complimentary revision; \$100/additional revision)
- Next-day video rush delivery (\$150) *
- CBAs may only sometimes be able to provide these services.

5. TRAVEL COST:

If travel is needed outside of the sixty (60) mile radius surrounding Chicago (zip code 60601), CBAs will require an additional \$50 per hour travel fee. CBAs reserves the right to charge Client this fee following the provision of Services, which shall be payable by Client upon demand.

6. WARRANTY:

Company warrants that it will exercise due professional care and competence in the performance of the Services and that it will use commercially reasonable efforts to substantially comply with any descriptions and representations (including performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions, and requirements) which have been communicated to you in writing by CBAs. For any breach of the above warranty, Client's exclusive remedy, and Company's entire liability, shall be the re-performance of such deficient Services. If the Company is unable to re-perform the Services as warranted, the Client shall be entitled, subject to Section 7 hereof, to recover the fees paid to the Company for the deficient Services. Company further warrants that, except in respect of information received from Client (i), the Services will not be in violation of any applicable law, rule, or regulation, and Company will have obtained all permits required of Company to comply with such laws and regulations; and (ii) neither its performance hereunder nor the Services will violate or in any way infringe upon the rights of third parties, including property, contractual, employment, trade secrets, proprietary information, and non-disclosure right, or any trademark, copyright, or patent rights. EXCEPT AS OTHERWISE STATED IN THIS SECTION 7, THE COMPANY MAKES NO WARRANTY

OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR WARRANTIES OF ANY PRODUCTS OR SERVICES.

7. LIMITATIONS ON DAMAGES:

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES (INCLUDING LOSS OF PROFITS, DATA, BUSINESS, OR GOODWILL), FROM ANY CAUSE OF ACTION OF ANY KIND, INCLUDING CONTRACT, TORT, OR OTHERWISE, EVEN IF ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. To the fullest extent permitted by applicable law, the total aggregate liability to Client of Company, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose, or otherwise, under These Terms and Conditions or any other agreement between you and the Company shall be limited to the fees then paid by Client to Company.

8. VIDEO EDITING & AND POST-PROCESSING:

CBAs follow a specific flight format (the “Standard Format”) concerning the provision of Services. The Standard Format is as follows: (i) CBAs begin filming from inside the door, (ii) proceed to the most important space outlined in the listing, and (iii) then films room to room until the first (1st) floor is covered; (iv) after filming the first (1st) floor, CBAs will film upstairs (if applicable), (v) downstairs to the basement (if applicable), and (vi) then back to the front door. If Outdoor Flights are purchased, CBAs will also follow a specific flight format.

If another format (other than the Standard Format) is desired. In that case, the Client must provide specific requirements or details to CBAs when scheduling the shoot, with sufficient prior written notice so CBAs may accommodate the same.

After your first draft is delivered, please let us know within two (2) business days if you have any changes (limited to one revision) you would like to make

Client hereby agrees that following two (2) business days, CBAs will consider the project completed, and any changes may be subject to additional fees (\$100/hour).

9. CANCELLATION & POSTPONEMENT POLICY:

CBA's understand that sometimes schedule adjustments are necessary. If a schedule adjustment or cancellation is desired, the Client must notify CBA's of any required changes to the schedule at least twenty-four (24) hours in advance. If a cancellation is made at least twenty-four (24) hours in advance, CBA's will not charge you for rescheduling.

Any appointment canceled, rescheduled, or changed without twenty-four (24)-hour's notice will result in a \$150 fee.

Any appointment missed (i.e., an employee of CBA's showed up on site and was unable to shoot the property) will result in a forfeiture of the full amount due.

Any appointment delayed by more than thirty (30) minutes will be subject to a rescheduling fee of \$150. Our team must leave at the end of the scheduled shoot if they have another appointment, and we will need to reschedule if the project is incomplete. The agent assumes all responsibility for delays.

10. WEATHER POLICY:

There may be events when services cannot be fulfilled due to weather. In those circumstances, the decision about the shooting is up to the Client. If the Client proceeds with production, CBA's will use their best efforts to complete the shoot. Standard rescheduling rates will apply if additional outdoor production is required on another day with better weather (i.e., \$150). If there is anticipated to be bad weather, you must reschedule with us at least twenty-four (24) hours before the shoot. All rescheduling will be subject to availability.

11. LIMITED LICENSING RELEASE:

In order to provide the Client with the best service and support at reasonable pricing, CBA's does not grant the Client any rights with respect to the Work Product, but CBA's is willing to license the use of such Work Product for a fee. The quoted fee depends on (i) payment of the invoice in full before the scheduled production call time and (ii) using the content only as indicated by CBA's. Any such license granted to the Client shall strictly follow CBA's' standard license agreement.

12. WORK PRODUCT OWNERSHIP:

Subject to Section 13 hereof, CBAs is, and shall be, the sole and exclusive owner of all rights, title, and interest in and to the documents, work product, videos, footage, and other materials that are created, made, conceived, reduced to practice or authored by CBAs in the course of performing the Services (the “Work Product”), including all intellectual property rights therein. Client agrees that concerning any Work Product that may qualify as “work made for hire” as defined in 17 U.S.C. §101, such Work Product is hereby deemed a “work made for hire” for CBAs. To the extent that any of the Work Product does not constitute a “work made for hire,” Client hereby irrevocably assigns to CBAs, in each case without additional consideration, all worldwide rights, title, and interest in and to the Work Product, including all intellectual property rights therein. Such assignment shall be automatic under these Terms and Conditions without needing to be further evidenced in writing. CBAs shall be free to make, have made, use, offer for sale, sell, modify, translate, and import products utilizing the Work Product without restriction. The client will execute or cause to be executed all documents and perform such acts as may reasonably be necessary to secure or enforce CBAs’ statutory protection, including patent, trademark, trade secret, or copyright protection throughout the world for all Work Product, at CBAs’ expense.

13. USAGE:

Subject to the limitations set forth in Section 12 hereof, CBAs grants Client a limited, revocable, non-assignable license to use Work Product provided by CBAs to be uploaded to any social media or MLS listing services by the Client (including the Client’s proprietary website) but solely for the promotion of the listing during the pendency of the sale of the property.

14. MEDIA RELEASE:

You understand that CBAs may take photographs and/or video or digital recordings, which may be edited at CBAs' sole discretion (collectively, “Pictures”). You hereby provide your permission to use your property, possessions, name, likeness, and voice in connection with such Pictures in any manner and media throughout the world in perpetuity (including, but not limited to, marketing and advertising campaigns conducted by the Company). You further release CBAs and all CBAs Covered Personnel from and against any Claims or any other cause of action arising from any use or reproductions of such Pictures.

15. SEVERABILITY:

If one or more of the provisions contained in these Terms and Conditions is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised to the extent necessary to make them enforceable.

16. PAYMENT & LATE FEES:

Payment is due in full before the project date unless stipulated otherwise. Overdue payments are subject to a late fee of the greater of (i) a \$50/month late fee and (ii) ten percent (10%) of the amount due.

17. ASSIGNMENT:

All of the terms and provisions of these Terms and Conditions shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto. Still, neither these Terms and Conditions nor any of the rights, interests, or obligations hereunder of any party hereto shall be assigned without the prior written consent of the other party (which may be withheld for any reason); provided, however, that CBAs may, without such consent, assign these Terms and Conditions (and the underlying contract which it modifies) in whole or in part (i) to a successor corporation in connection with the transfer or sale of all or substantially all of its business or assets to which these Terms and Conditions pertains or in the event of the merger or consolidation with another corporation; and (ii) to any affiliated entity of CBAs. Any purported assignment in violation of the preceding sentence shall be void. Any permitted assignee shall assume all obligations of its assignor under these Terms and Conditions.

18. FORCE MAJEURE:

Company shall be excused from default or delay in the performance of its obligations hereunder if and to the extent that such default or delay is caused by an act of God or other cause beyond its reasonable control, including but not limited to pandemics (including, without limitation, COVID-19 and mutations, variations, and strains thereof), work stoppages, fires, riots, accident, explosion, flood, storm, or failures or fluctuations in electrical power, heat light, air conditioning, data, telecommunications or computer equipment (each a, "Force

Majeure Event”). In such event, the Company shall be excused from performance for as long as such circumstances prevail and shall, as soon as practicable, notify Client by telephone (to be confirmed promptly in writing) of any actual or anticipated delay. IN NO EVENT SHALL THE CLIENT BE EXCUSED OF ANY PAYMENT OBLIGATIONS ARISING HEREUNDER ON ACCOUNT OF ANY FORCE MAJEURE EVENT.

19. APPLICABLE LAW; VENUE; WAIVER OF JURY TRIAL:

These Terms and Conditions shall be governed and construed in accordance with the laws of the State of North Carolina as if the agreement were made in North Carolina for performance entirely within the State of North Carolina. Each party irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in Union County, North Carolina, for the adjudication of any dispute hereunder or in connection herewith and hereby irrevocably waives and agrees not to assert in any suit, action, or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, in such case, action or proceeding is improper or is an inconvenient venue for such proceeding. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

20. ENTIRE AGREEMENT:

These Terms and Conditions constitute the entire agreement between the parties concerning the subject matter hereof and supersede and merge all prior proposals, understandings, and all other agreements, oral and written, between the parties relating to such subject matter. Any supplemental or additional forms or terms submitted by one party to the other are rejected except to the extent the parties hereto agree to the same in a written agreement or schedule executed by both parties.

21. COSTS AND ATTORNEYS' FEES:

Suppose any action, suit, or other proceeding is instituted concerning or arising out of these Terms, Conditions, or any transaction contemplated hereunder. In that case, the substantially prevailing party shall recover all of such party's costs

and reasonable attorneys' fees incurred in each such action, suit, or other proceeding, including any and all appeals or petitions therefrom.

22. ACKNOWLEDGEMENT OF UNDERSTANDING:

I have read the entirety of these Terms and Conditions, waiver of liability, assumption of risk, and indemnity agreement, and fully understand its terms. I acknowledge that I am signing these Terms and Conditions freely and voluntarily, and intend by my signature or decision to proceed with CBAs servicing or producing the Work Product to be a complete and unconditional release of all liability to the greatest extent allowed by law.