

# Adam Price Photography Terms of Service & License Agreement

The terms and conditions of this Agreement apply to all Services and Photographs/Videos delivered to the Client during the Terms defined below. Purchasing products or services from Adam Price Photography (Photographer) means the Client agrees to the following:

**Assistants.** Photographer reserves the right to bring a number of assistants to Client's premises to help provide the Services (photography, videography, drone photography, drone videography, 3D virtual tours).

## **Client Responsibilities.**

**Site Access.** The Client shall provide Photographer and any assistants with access to its premises to the extent necessary for the performance of the Services. If access is not granted upon arrival, a \$50 cancellation fee applies and the shoot will be rescheduled.

Client or home owner is responsible for making sure the property is "photo-ready" before the photographers arrival. If the property is not and it's deemed excessive by the photographer, the shoot will be cancelled and a \$50 cancellation fee will apply.

Client or home owner is responsible for notifying neighbors of potential drone operations. This is not required by the FAA and is simply a courtesy. Drones are allowed to operate in all airspaces in the United States under certain conditions. Controlled airspaces (such as those near airports, military bases, schools and federal parks) require special airspace authorizations and Adam Price Photography will secure those in advance should they be needed. Common drone myths and facts can be found here: <https://www.faa.gov/news/updates/?newsId=76240>

**Waivers, Releases, and Permission.** The Client shall provide Photographer with any necessary licenses, permissions, waivers, releases, or consents, including those relating to publicity and privacy, to photograph the property, persons, and/or items when required. For real estate, this applies to community amenities. Client hereby waives any rights to privacy, and grants permission to photograph the property, persons, and/or items purchased.

**Term.** This Agreement is effective immediately and will continue until the Services are completed and Final Payment is provided, unless earlier terminated in accordance with this Agreement.

**Copyright.** All Photographs shall be the sole and exclusive property of the Photographer, including but not limited to all copyrights and other intellectual property rights therein, in perpetuity, throughout the universe. All rights not expressly granted herein shall be reserved by the Photographer. Modification of Photographs and/or incorporation of Photographs in any layout, concept, reproduction, or publication shall not constitute a Joint Work. Photographer shall have the sole power to enforce its copyrights and any other intellectual property, including without limitation all registration, renewal, and reversion rights, and the right to register and sue to enforce such rights against infringers.

**Limited License.** Photographer, on the condition of full compliance with this Agreement, including receipt of the Final Payment and Attribution duties, hereby grants to Client a non-exclusive, fully paid-up, and royalty-free right and license to use the Photographs for the purpose of promoting the real estate listing and their own personal real estate services without expiration.

**Client Publications.** Client may use the Photographs in Client Publications without expiration.

The term “Client Publications” shall be restricted to mean only reproduction and publication of the Photographs done solely by the Client, whether in print or electronic form, such as use of the Photographs in the Client’s websites, social media pages, emails, competition entries, portfolios, annual reports, brochures, pamphlets, or posters, and whose audience is employees, customers, shareholders, or the general public.

**Outside Publications.** Client may NOT use the Photographs in Outside Publications.

The Term “Outside Publications” shall include all reproductions of the Photographs other than Client Publications. Outside Publications include, but are not limited to, advertising or editorial use of the Photographs in third-party websites, newspapers, billboards, books, or magazines, whether in print or electronic media, regardless of whether the Client pays or instructs the Outside Publication or any other person to engage in such use.

**Proof Images.** Photographs designated as “Proofs” or “Preview” shall be kept confidential. Proofs shall not be made public, or otherwise released outside of Client’s business, for any reason. Only final versions of the Photographs may be made public or shared with anyone other than Client, Client’s members, or Client’s employees.

**Infringement.** Any use of the Photographs beyond the terms of this Limited License, without permission of the Photographer, by any person or entity shall constitute copyright infringement.

**Client’s Edits to Photographs.** The terms of this Agreement shall apply to any edits, changes, modifications, or revisions made to the Photographs, and any duplicated work created in the future regardless of the extent or amount of edits, changes, modifications, or revisions, whether made by the Client or any other person or entity.

**Attribution.** Client agrees, for any and all use of the Photographs, including Client Publications and Outside Publications, to conspicuously indicate Photographer as the source of the Photographs. Failure to properly credit or tag Photographer will constitute copyright infringement.

The following notations, or similar, on or near the photo in legible text are acceptable:

“Adam Price”

“Photo(s) by Adam Price”

**Use of Photographer’s Name.** Photographer hereby grants to Client and its affiliates, and each of their respective direct and indirect successors, licensees, and assigns, the right to use Photographer’s name, in connection with the Photographs.

**Additional Usage.** If Client, or any other person or entity, wishes to make any additional uses of the photographs not covered in this Agreement, Client or other person or entity shall obtain permission from the Photographer and pay an additional fee to be agreed upon if necessary.

**Improper Use Prohibited.** Photographer reserves the right to halt the use of Photographs in any publication that could reasonably be deemed offensive or improper, including but not limited to use of the Photographs in virtual backgrounds, political advertisements, propaganda, or pornography works. Similarly, Photographer reserves the right to revoke Client's right to use Photographer's name, in connection with the Photographs. The determination of whether a publication is improper shall be at the sole discretion of Photographer, provided it is reasonable and in a good faith attempt to avoid negative publicity.

**Estimates and Requests for Additional Work.** The fees quoted by the Photographer are for the original job description as presented by the Client. Any subsequent changes, whether made orally or in writing, may result in additional charges. The expenses are estimated in good faith. Actual expenses, which may be greater or less than estimated, will be invoiced. Requests for additional work, such as additional images or subject matter, will be added to the estimated cost and invoiced.

**Due Date.** Client shall make payment in full for the cost of all Services and Photographs provided ("Final Payment") to Photographer before receiving the final product(s).

**Cancellation and Postponements.** In the event of a cancellation or postponement of a shoot by the Client, or its affiliates or agents, Client shall pay all expenses incurred by the Photographer up to the time of cancellation. If a shoot is canceled or postponed on the same day of the Photographer's departure for the shoot, the \$50 Cancellation Fee shall be applied. Any Deposit or payments made will be deducted from any such Cancellation Fee and will become non-refundable to Client upon cancellation. If the amount of the Deposit or payments made exceeds the Cancellation Fee, the excess shall be refunded to Client. Any Cancellation Fee owed to Photographer must be paid within 30 days from cancellation.

**Delay.** Failure by the Client, or its affiliates or agents, to provide Photographer with site access shall constitute a cancellation, and Photographer shall be entitled to the Cancellation Fee. The cost of delays caused by the Client, or its affiliates or agents, to the extent they cause additional cost to the Photographer, shall be added to Photographer's Final Invoice.

Either party may terminate this Agreement on written notice to the other party if such other party materially breaches this Agreement and fails to cure such breach within fifteen (15) days after receiving notice of such breach. Any rights or obligations of the parties in this Agreement which, by their nature, should survive termination or expiration of this Agreement, as well as any other representations, warranties, indemnification obligations, and dispute resolution provisions, will survive any such termination or expiration.

**Notice.** Any Notice required under, or related to, this Agreement shall be effective if sent by email to the email addresses provided by the Client and Photographer. Notice shall be deemed received as of the day the email is sent.

**Aesthetic Disclaimer.** Client is aware of Photographer's personal style and portfolio and waives any right to refuse payment on the basis of dissatisfaction with the end result. No refunds will be provided unless for a material breach of this Agreement.

**Representation and Warranties.** To the best of its knowledge, Photographer hereby represents and warrants that each Photograph to be provided is Photographer's sole and original creation and will not infringe or otherwise violate any right of any third party.

**Embargoes.** If Client wishes to temporarily prevent publication by Photographer of the Photographs, Client shall make an embargo request. Photographer will offer a 30-day courtesy

embargo for publication at no cost if Client requests an embargo before the date of photography. Photographer may use Photographs for portfolio and social media uses, and reserves the right to license the Photographs to other parties, after the 30-day embargo has passed.

**Indemnification.** Client hereby agrees to indemnify, defend, and hold harmless the Photographer and its affiliates, agents, successors, and assigns, from and against any claims, judgments, damages, liabilities, settlements, losses, costs, and expenses, including attorneys' fees and disbursements, arising from or relating to: (a) bodily injury, death of any person, or damage to real or personal property resulting from Client's acts or omissions, or Client's affiliates, agents, successors, and assigns acts or omissions; (b) any breach of this Agreement by Client, or Client's affiliates, agents, successors, and assigns, of its representations, warranties, or other obligations hereunder; or (c) Client's, or Client's affiliates, agents, successors, and assigns, use of the Photographs.

Photographer agrees to indemnify and hold harmless Client against claims arising from Photographer's negligence or material breach of this Agreement.

**Limitation of Liability.** Photographer's aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, shall not exceed the amount of payment received for the Services.

**Severability.** If any of the provisions of this agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions will not be affected.

**Survivorship.** This Agreement survives the individuals who agreed to it and applies to their successors and executors.

**Assignment.** Client shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Photographer. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Client of any of its obligations under this Agreement.

**Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy.

**Capacity and Counsel.** Client understands the entirety of this Agreement and the obligations herein. Client has had the opportunity to seek legal counsel to further understand and gain advice regarding this Agreement.

**Governing Law.** This Agreement and all matters arising out of or relating to this Agreement, including tort and statutory claims, are governed by the laws of Florida.

**Dispute Resolution.** Either party shall institute any legal suit, action, or proceeding arising out of or relating to this Agreement in the federal or state courts in each case located in St. Johns,

Florida, and each party irrevocably submits to the jurisdiction of such courts in any legal suit, action, or proceeding. As a condition precedent to filing such suit, action, or proceeding, the parties agree to attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between Client and Photographer. If such negotiation is unsuccessful, the parties agree to attend mediation that, unless the parties mutually agree otherwise, shall be administered by JAMS (Judicial Arbitration and Mediation Services, Inc.) or the County Court Mediation Services, St. Johns FL. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**Attorneys' Fees.** In the event that any party institutes any legal suit, action, or proceeding, including arbitration, against the other party arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.

**Force Majeure.** Neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes, to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, breakdown of web host, breakdown of internet service provider, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, or generalized lack of availability of raw materials or energy.

For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.

**Covid-19.** Client and Photographer acknowledge that the current Covid-19 crisis has been factored into the risks assumed by the parties and will not constitute grounds to excuse performance unless there is a mandatory Quarantine, Stay-At-Home, or Do-Not-Travel order in effect within the geographical location of Services or travel for Photographer to provide the Services. Client and Photographer shall endeavor to execute the Agreement in good faith.

**Bad Weather.** Photographer reserves the right to postpone Services due to bad weather including but not limited to rain, forecast of rain, clouds, or high wind. Client and Photographer may agree to postpone shoot to a reasonable date in the future in case of inclement weather at no additional charge beyond any expenses already incurred.

**Hazardous Conditions.** Photographer reserves the right to postpone or cancel Services due to reasonably dangerous conditions, as determined by the Photographer in good faith, including but not limited to working from height or on unstable platforms without adequate protection or safeguards, dangerous pets or other animals, and unsafe construction sites. Client shall be responsible for providing a safe location to take the photographs at the Property, and any necessary personal protective equipment if required by site rules.

**Non-Disclosure Agreement.** Client and Photographer agree to keep the terms of this Agreement, including but not limited to payment terms, confidential. Client and Photographer agree to keep any communications or documents containing Photographer's rates or pricing information, confidential.

**Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same

agreement. A copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Digital agreements, digital signatures, or scanned signatures are acceptable.

**Modification.** No amendment to this Agreement is effective unless it is in writing and signed by an authorized representative of each party. No waiver by Photographer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Photographer. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

**Contractual Authority.** If the Client is a business or other organization, the person agreeing on behalf of the Client warrants that he or she has the authority to legally bind Client to the terms of this Agreement.

**Merger.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, whether written or oral, with respect to such subject matter.