

# Terms

**Effective date: November 14, 2016**

Sierra Pro Aerial Imaging, LLC, a limited liability corporation located in Rocklin, California 95677 ("Sierra Pro Aerial Imaging," "Sierra Pro," "our," "we") provides aerial photography, video, and processed aerial data to clients ("Client") pursuant to these Terms and Conditions ("Terms").

## 1. Agreement

By using our services, Client agrees to be bound to and abide by these Terms and Privacy Policy. We reserve the right to revise the Terms from time to time. It is Client's responsibility to review the Terms periodically to learn of any revisions. If Client is using our service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on behalf of that organization.

## 2. Third Party Sites and Software

Sierra Pro may use solutions from third party providers ("Third Parties") to provide service and deliverables to our Clients. The Third Party solutions are subject to separate license terms and not subject to terms contained herein.

## 3. Property Rights

### 3.1. Definitions

3.1.1. "Data" means Raw Data and Processed Data

3.1.2. "Identifiable Data" means Data that identifies the Client or any individual

3.1.3. "Processed Data" means data that results from the processing, analysis, modification, or transformation of Raw Data

3.1.4. "Raw Data" means images and other data captured by Sierra Pro drones

3.1.5. "User Data" means data or content provided by the Client such as messages, reviews, text, photographs, images, sound/music

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- 3.1.6. "Job Quote" means a price quote to the Client for performing and delivering a mutually agreed-upon scope of work
- 3.2. Rights to Raw Data. Raw Data captured by Sierra Pro is copyrighted and remain the property of Sierra Pro. The Client grants to the Sierra Pro a worldwide, irrevocable, non-exclusive royalty-free perpetual license to use, reuse, adapt, publish, translate and distribute Client content in any existing or future media. Alternative terms to protect Identifiable Data may be agreed-upon during the Job Quote process. The Client has the right to withdraw Sierra Pro's right to reproduce the Client's work product in any form including the authority to third party selling upon settlement of an appropriate licensing fee. The Client hereby authorizes and grants to Sierra Pro all permissions, rights, and licenses necessary or useful for Sierra Pro to perform Processed Data services including the right to collect, transmit, process, distribute, modify, reproduce, display, archive, analyze, aggregate, use, execute, create derivative works of, and otherwise perform all operations on the Raw Data in order to perform the Processed Data services.
- 3.3. Rights to Processed Data.
- 3.3.1. Client Usage Rights: The client is granted the usage (not ownership) rights of the Processed Data as provided in the Delivery Memo accompanying the final delivered images. Rights granted may not be sold, transferred, or assigned to any other party, in whole or in part, whether voluntary or by operation of law without the express written consent of Sierra Pro. If Client wishes to make any additional uses of the Delivered Items not covered in this initial agreement, Client shall obtain permission from Sierra Pro and pay an additional fee to be agreed upon. Infringement of these rights is a copyright violation and will be strictly enforced. A credit in the name of Sierra Pro Aerial Imaging shall accompany Delivered Items whenever practical. Social media use always credit: Sierra Pro Aerial Imaging. Use of final Processed Data is void until project balance is paid in full.
- 3.3.2. Sierra Pro Usage Rights: Sierra Pro exclusively retains all copyrights to the Processed Data delivered. Notwithstanding anything set forth herein, Sierra Pro may use, disclose, and otherwise exploit all

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Processed Data delivered that do not contain Identifiable Data without restriction or obligation to Client, on a non-confidential basis or otherwise, both during and after the term of this Agreement.

- 3.3.3. Rights to User Data. The Client retains copyright and any other proprietary rights they may hold. Unless Client explicitly opts out by notifying Sierra Pro in writing, the Client grants Sierra Pro a non-exclusive, irrevocable, fully paid and royalty-free, transferable, worldwide license to use, copy, reproduce, process, adapt, modify, publish, transmit, display, and distribute User Data in its marketing materials and on its web sites, refer to the Client by name, trade name, and trademark.

## 4. Payment

- 4.1. Payment. The Client agrees to pay for all services rendered. Payment in full, as invoiced, is due 15 days from the date of work completion and delivery of Processed Data.
- 4.2. Past Due Balances. Any amounts not paid when due shall bear interest at the rate of one and one-half percent (1.5%) per month or the maximum rate allowed by law, whichever is less. The Client is responsible for any legal and attorney fees associated with past-due debt collection.
- 4.3. Download Links. Links to Processed Data expire thirty (30) days from the date they are provided to the Client. After expiration, electronic access to the Processed Data may be restored for a separate processing fee.
- 4.4. Charges, Expenses, and Refunds. If weather or issues as a result of Sierra Pro's fault necessitate the need to reschedule the image capture assignment, the Client will not incur any additional charges to complete the assignment on another day. If upon Sierra Pro's arrival on the day of the assignment, the Client is not ready to complete the assignment (lack of access, unplanned items on site, unplanned site activity, etc.), the Client agrees to pay time and expenses incurred on that occasion. The Company will not be held liable for any missed publishing or other deadlines due to weather delays or operational constraints outside of Sierra Pro's control.

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Sierra Pro may not be able to complete the assignment for reasons outside of its control (site conditions, electromagnetic interference, satellite interference, FAA airspace decisions, etc.). In such cases, the Company will refund part or all of any deposits received and not accept any other liability. In any event, any liability beyond the total value of the Job Quote is limited to the total value of the Job Quote with no liability accepted for indirect and/or consequential loss. Sierra Pro does not accept liability for inaccuracies or missing information in the Client's Job Quote nor for delays or restrictions caused by Air Traffic Control, the Federal Aviation Administration, law enforcement agencies, or other authorities.

- 4.5. Cancellations. Any notice of cancellation must be received in writing no later than 7 days prior to the agreed-upon assignment date. In the event of cancellation, the Client remains liable for any expenses Sierra Pro incurs in preparatory work agreed with the Client already undertaken to commence the work, including but not limited to administrative fees, site surveys, and travel expenses. If cancellation is given two (2) business days or less before the assignment date, Client will be charged and be liable for 100% of the Job Quote.

## 5. Disclaimers; Limitation of Liability; Indemnity

- 5.1. Disclaimer. THIS SITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) AND SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THIS SITE ARE PROVIDED BY THE COMPANY ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. THE COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THIS SITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THIS SITE, UNLESS OTHERWISE SPECIFIED IN WRITING. YOU EXPRESSLY AGREE THAT YOUR USE OF THIS SITE IS AT YOUR SOLE RISK. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, THE COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY DOES NOT WARRANT THAT THIS

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SITE; INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THIS SITE; THEIR SERVERS; OR E-MAIL SENT FROM THE COMPANY ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THIS SITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

- 5.2. Weather. We strive to meet or exceed our commitments. The nature of aerial imaging is such that weather may result in changes to the desired mission date and time. Clients will be provided with as much advance notice as weather forecast accuracy enables. Sierra Pro will not operate in weather conditions that could potentially harm people, property, animals, or other aircraft.
- 5.3. Back-Up Copies. Though Sierra Pro will have back-up copies of the delivered Processed Data in accordance with its record retention policy, Sierra Pro accepts no responsibility and liability for maintaining archive copies of work product after it has been delivered to the Client.
- 5.4. Force majeure. A party shall not be liable for any failure of or delay in the performance of these Terms for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, riots, insurrection, explosions, fire, flood, storm, emergency conditions (including weather conditions), earthquake, embargoes, government orders, unavoidable casualty, acts by common carriers, incompatible with safety, or any other unforeseen event that renders performance commercially implausible.

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- 5.5. Indemnity. The Client agrees to defend, indemnify, and hold Sierra Pro (including its licensees, assignees, subsidiaries, affiliated companies, and their respective officers, directors, employees, independent contractors, shareholders, agents, and representatives) free and harmless from any demands, loss, liability, claims or expenses (including attorneys' fees) made against us by any third party due to or arising out of Client's use of Sierra Pro's services.

## 6. Trademarks / Service Marks

Sierra Pro Aerial Imaging® LLC, [www.SierraProAerial.com](http://www.SierraProAerial.com), and other Sierra Pro graphics, logos, page headers, button icons, scripts, and service names are registered trademarks and the trade dress of Sierra Pro in the U.S. and/or other countries. Sierra Pro's service marks and trade dress may not be used in connection with any product or service that is not Sierra Pro's and in any manner that is likely to cause confusion among customers or in any manner that disparages or discredits Sierra Pro. All other service marks not owned by Sierra Pro that appear on Sierra Pro's web site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Sierra Pro. Sierra Pro protects our copyright and registered service mark interests. In the event that an infringement is discovered you will be notified and may be invoiced for unauthorized usage and/or prosecuted for copyright or service mark infringement in U.S. Federal Court where you will be subject to a fine of US \$150,000 in statutory damages as well as all court costs and attorneys' fees. By entering Sierra Pro's web site you are agreeing to be bound by the terms of these Terms.

## 7. Disputes

These Terms provide that all disputes between Client and Sierra Pro will be resolved by Binding Arbitration. Client agrees to give up the right to go to court to assert or defend rights under these terms. Client rights will be determined by a neutral arbitrator and not a judge or jury, and claims cannot be brought as a class action.

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### 8. Governing Law

By using Sierra Pro services, Client agrees that the laws of the United States of America and by the laws of the State of California, without regard to principles of conflict of laws, will govern these Terms and Conditions and any dispute of any sort that might arise between Client and Sierra Pro.

### 9. Entire Agreement

This Agreement, together with the applicable Processed Data License Agreement that accompanies invoices, and all amendments, constitutes the entire agreement between Client and Sierra Pro, superseding any prior agreements (including, but not limited to, any prior versions of these Terms). Sierra Pro reserves the right to seek all remedies available by law and in equity for any violation of these Terms.