

## FIGMENTO FILMS

### GENERAL TERMS OF SERVICE

#### 1) Definitions

In these conditions, unless the context requires otherwise:-

- 1.1 **'Agreement'** means the general terms of business set out in this document and any special terms agreed in writing between parties;
- 1.2 **'Client'** means the person/s who has engaged Figmento Films to provide the Video Works & Services for the Event pursuant to the Conditions;
- 1.3 **'Event'** means the wedding (or other event) for which the Video Works & Services are to be provided by Figmento Films for the Client as agreed by the Parties.
- 1.4 **'Figmento Films'** means Luke Brown T/A 'Figmento Films' of 5 Heronfield Close, Church Hill South, Redditch, B98 8QL
- 1.5 **'Parties'** means the Parties to this Agreement
- 1.6 **'Video works & Services Fee'** means the fee for the Video Works & Services as agreed by the Parties.
- 1.7 **'Video Works & Services Fee'** Means the fee for the Video Works & Services as agreed by the Parties.

#### 2) Interpretation

In this Agreement, unless the context otherwise requires:-

- 2.1 words importing any gender include every gender;
- 2.2 words importing the singular number include the plural number and vice versa;
- 2.3 words importing persons include firms, companies and corporations and vice versa;
- 2.4 references to numbered clauses and schedules (if applicable) are references to the relevant clause in or schedule to this agreement.
- 2.5 reference in any schedule to this agreement (if applicable) to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 2.6 any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 2.7 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation;
- 2.8 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 2.9 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation.

### 3) **Terms applicable**

- 3.1 This terms of Agreement shall apply between the parties to the exclusion of all other terms and conditions.
- 3.2 All bookings for Video Works & Services shall be deemed to be an offer by the Client to purchase the pursuant to the terms in this Agreement and shall be deemed conclusive evidence of the Client's acceptance of the terms in this Agreement.
- 3.3 Any variation to this Agreement including any special terms and conditions agreed between the parties shall be inapplicable unless agreed in writing by both Parties.
- 3.4 Any failure by Figmento Films to enforce any or all of the terms set out in this Agreement shall not amount to or be interpreted as a waiver of any rights that Figmento Films may have.

### 4) **The Video Works & Services**

- 4.1 Figmento Films shall provide the Video Works & Services to the Client in consideration for the Client paying the Video Works & Services fee to Figmento Films, subject to the provisions of this Agreement.
- 4.2 Figmento Films shall use such time and efforts as may be necessary to complete the Video Works & Services.
- 4.3 The Video Works & Services shall be performed by such persons as Figmento Films in it's absolute discretion determine as being appropriate for the Video Works & Services and for the avoidance of any doubt Figmento Films may appoint different persons to carry out different elements of the Video Works & Services.
- 4.4 Figmento Films is permitted to use sub-contractors as its absolute discretion to provide some or all of the Video Works & Services without obtaining to the consent of the Client.

### 5) **Insurance**

Figmento Films may have in place such insurance policies as they shall decide in their absolute discretion are appropriate to cover any liabilities that may arise from undertaking the Video Works & Services.

### 6) **Fees and Payment**

- 6.1 A non-refundable deposit of 20% of the total Video Works & Services Fee shall be payable at the time of booking. No bookings can be accepted or dates reserved or fee agreed or without such deposit being paid in full in cleared funds and without the booking form being signed accepting these terms.

- 6.2 The balance payment of the Video Works & Services shall be made by the Client to Figmento Films on or before the delivery to the Client of the final edit of the video. Time for payment shall be of essence.
- 6.3 Figmento Films may charge and the Client shall be liable for any additional expenses, charges and costs (in addition to the Video Works & Services Fee) incurred by Figmento Films or by its sub-contractors or on behalf in carrying out the Video Works & Services.
- 6.4 All amounts stated are exclusive of VAT (if applicable) and any other applicable taxes, which may be charged in addition at the rate in force at the time the Client is required to make payment.
- 6.5 When making a payment the Client shall quote their surname, any reference number and the invoice number.
- 6.6 Interest shall be payable on all outstanding payments from the date the payment fell due to the date of actual payment to the maximum extent permitted by the law.
- 6.7 Any delivery date for the first cut or final edit of the video agreed by the Parties shall be approximate only and time shall not be of the essence for the purposes of any such date.
- 6.8 Any delay, costs or expenses incurred owing to failure or negligence on behalf of the Client shall incur additional charges, which shall be payable by the Client at the same time as the Video Works & Services.

## 7. **Acceptance of the Video Works & Services**

- 7.1 The first edit of the video will usually be available within 30 days of the event but time is not of the essence for the purposes of this clause and this is just a guide only. Depending on the circumstances, timescales can be longer or shorter.
- 7.2 The Client shall be deemed to have accepted the Video Works & Services five days after the delivery to the Client. After acceptance the Client shall not be entitled to reject any of the Video Works & Services which are deemed by the Client not to be in accordance with this Agreement.
- 7.2 If the Client wishes to request any adjustments or edits, the Client may do this once and must request these clearly within the five days as set out above and where these requests are reasonable or arising from an error made by Figmento Films, then Figmento Films shall use reasonable endeavors to make such adjustments or edits and then resend to the Client.
- 7.3 Figmento Films reserves the right to charge an additional fee for any work in connection with additional editing.

## 8. **Title and Risk**

- 8.1 The Video Works & Services shall be at the Client's risk as from delivery.

8.2 In spite of delivery having been made ownership of the Video Works & Services shall not pass to the Client unless:

- (a) The Client has paid the Video Works & Services fee in full; and
- (b) No other sums whatsoever are due from the Client

## 9. **Limitation of Liability**

9.1 Figmento Films warrants that it will use reasonable skill and care in providing the Video Works & services.

9.2 Except in the case of death or personal injury caused by negligence, the total liability of Figmento Films under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed the Video Works & Services fee. Nothing in this Agreement limits or excludes liability for fraud.

9.3 Neither party shall be liable to the other party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature.

9.4 Each of the Parties acknowledges that in entering this Agreement, it does not do so in reliance of any representation, warranty or other provision except as expressly provided in this Agreement.

## 10. **Force Majeure**

10.1 Figmento Films shall have no liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond their reasonable control including (but not limited to) weather conditions, acts of God, war, riot, fire, labour shortage unavailability of subcontractor/s, file corruption, technical failure, equipment damage, poor acoustics, poor light levels, interference from guests and third parties, signal loss, and any other occurrence that is outside their reasonable control.

10.2 In the unlikely event of any such occurrence of the kind referred to in clause 10.1 causing Figmento Films to cease or abort the provision of the Video Works & Services then the balance of the Video Works & Services fee shall not be payable, however Figmento Films shall be entitled to keep the deposit paid and shall also be able to charge for any additional costs incurred in relation to the Event.

## 11 **Coverage**

11.1 Figmento Films shall have absolute discretion to decide on the video coverage, shot selection, editing decisions and make all creative decisions as they deem appropriate.

11.2 Figmento Films do not provide any warranty that any particular aspect of the Event will form part of the video coverage.

- 11.3 Where the parties have agreed in advance on specific shots, coverage, background, location, group arrangements etc to be included as part of the Video Works & Services, Figmento Films will use reasonable endeavors to include these, however owing to a host of factors such as adverse weather conditions, poor lighting levels, and the availability and willingness of subjects etc, Figmento Films offer no warranty that the same will be included. Special requests are not a binding instruction.
- 11.4 The Client must advise Figmento Films at least 7 days in advance of the date of the Event of any particular background music which they would like to accompany the video. Where any such background music is requested, Figmento Films shall use reasonable endeavors to source and use this music, however this subject to availability and copyright. Figmento Films does not offer any warranty that a particular piece of background music can be used, and at their discretion may elect to use another suitable piece of background music or no music at all. The Client understands that there may be an additional charge for the certain background music if Figmento Films has to incur charges to source and /or use such music.
- 11.5 While efforts will be made to ensure accurate colours and lighting reproduction, in certain conditions the colours and the lighting may not be accurately reproduced. This may be owing to limitations caused by the factors beyond the control of Figmento Films. E.g. mixed indoor & external lighting, harsh shadows, and poor lighting conditions etc. Sound will be captured as accurately as possible within the limitations of the Event and the equipment used.
- 11.6 Whilst efforts will be made to get good position for the camera to video the Event, due to restrictions imposed on the day, this may not always be possible.
- 11.7 Where the Client requests a specific filming location (i.e. church, part, etc.), Figmento Films will use its reasonable endeavors to obtain permission/s to film at such location/s provided that the client shall be reasonable for any fees that may be levied in obtaining any such consent/s and Figmento Films shall not be responsible for any refusal of any such consent/s.

## 12. **The Video and Copyrights etc**

- 12.1 The video shall usually be provided to the Client via an electronic copy on USB stick, DVD or though digital transfer via an online service or app.
- 12.2 Figmento Films shall remain the sole owner of all copyright in the video and all aspects of the Video Works & Services and the brand identity and logo of Figmento Films. Figmento Films shall have unrestricted right to use all the footage for its own marketing, promotion and publicity purposes in whatever way it deems fit, in whatever form, whether the Client or any person and its sole discretion.
- 12.3 The Client agrees that Figmento Films may utilise their own logo and branding on the video and be credited at the close of each video without payment to or consent from the Client or any person and at its sole discretion.
- 12.4 Provided that the Client has paid all payments due to Figmento Films pursuant to this Agreement, the Client shall have permission to publish and display the video at any time by any means and without any further payment.

12.5 The Client may not copy the video footage taken, or allow copies to be made photographically, electronically, or by any other means. Nor can they sell it.

13. **Termination**

13.1 Either party may terminate this Agreement at any time no later than 30 days before the Event by written notice to the other Party.

13.2 In the event of the Client terminating the Agreement pursuant to clause 13.1, Figmento Films shall retain the deposit and shall also be able to charge for any additional costs and expenses incurred in relation to that Event.

13.3 In the event of the Client terminating the Agreement later than the date clause 13.1 then the full Video Works & Services Fee shall fall payable with immediate effect from the date of cancellation.

13.4 In the event of Figmento Films terminating the Agreement at any time (otherwise than in the circumstances envisaged at clause 13.5), Figmento Films shall refund the deposit to Client.

13.5 In the Event of Figmento Films terminating the Agreement owing to unworkable conditions, adverse health & safety conditions, or threatening, intimidating or abusive words or behavior or physical violence towards an Figmento Films representative, or any other serious matter whatsoever preventing Figmento Films from carrying out the Video Works & Services then Figmento Films shall be entitled to immediately cease working and leave the event immediately (as applicable). In these circumstances, the full Video Works & Services fee shall remain due and shall be deemed to fall due on the date of such circumstances arising.

14. **Event Exclusivity**

Figmento Films shall be the sole professional videographers at the Event. However, there is no restriction on family, friends, and other guests (as applicable) taking photographs and videos throughout the day if they wish to do so and the Client permits.

15. **Severance**

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

16. **Third parties**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

17. **Law and jurisdiction**

The validity, construction and performance of this Agreement shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which Parties submit.