



SERVICE TERMS AND CONDITIONS \ CONTRACT

An overview of critical items in our service agreement.

1. DELIVEARBLES

The Photographer will perform the services and The Home Bird LLC will deliver the final assets (the "Deliverables") in such format as agreed upon with client. Assets delivery times differ depending on type of services rendered. Below are our typical delivery times starting at the end time of the appointment.

- Real Estate Photography 24-48 hrs. depending on the size of the project.
- Architectural Photography 48-96 hrs. depending on the size of the project.
- Videography Services 48-96 hrs. depending on size of the project.
- 3D Matterport Presentation Services and Floor Plans - 24-48 hrs. depending on the size of the project.
- Single Property Websites - within 12hrs after images, video or other media work has been completed.
- Flyers Brochures and Graphic Design (Virtual Photo Staging) - within 12hrs after images work has been completed.

In any case deliverables must be delivered no later than 5 days after the appointment.

- The Home Bird LLC will provide a full resolution and MLS size compliant images delivered via our custom client management system
- and as 90 days (from the time of media delivery) free of charge google cloud drive storage system commonly known as "google drive". Images will be removed after 90 days unless client would like to pay for online storage in the amount of \$10/month Will make every effort to notify the client upon media removal from Google Drive.

2. POST-PRODUCTION EDITING

- All post-production and editing styles, effects, and overall look of the Photographs and Videos shall be left to the discretion of the Photographer. Work is delivered As-is , no additional edit work of any delivered assets is allowed without permission of The Home Bird LLC. This includes but is not limited to

cropping, reframing, changing white balance, color grading, adding logos, cutting video adding music or any additional elements to any of the delivered media.

3. SERVICE FEES

In consideration of the services to be performed, the Deliverables to be delivered and the license rights granted by Photographer under this Agreement, Client will pay fees (the "Fees") at the rates specified on the Site, Through The Home Bird LLC online ordering system or via email agreement between THB and the client at the time when Client schedules the Appointment. Client will be charged the full amount of the fees prior to, and as a condition of, the confirmation of the Appointment. The Fees paid for the Appointment will not change in the event of the Photographer's rate change during the time period between the scheduling date and the Appointment date, except as described in Section 4 below. Please note we do not negotiate our rates.

4. CHANGES TO SERVICE

Client may request additional or different services directly from the Photographer (e.g., adding drone, certain editing of images, re-touching, etc.) at or before the time of the Appointment. The Photographers compensation for such additional services must be handled directly with the TheHomeBird LLC

5. OWNERSHIP OF PRODUCED MEDIA AND LICENSING \ INTELLECTUAL PROPERTY RIGHTS.

It is customary for photographers\videographers to retain the copyright for images \ video taken. We TheHomeBird LLC reserve that copyright. TheHomeBird owns all copyrights to the media we capture and create. All deliverables are protected by the U.S. Copyright Law Title 17 (<https://www.copyright.gov/title17/title17.pdf>) and registered with Electronic Copyright Office System (Eco) , and might NOT be used in any manner other than as stated in this Agreement.

TheHomeBird is CRMLS approved and certified and listed for photography\video services (this includes aerial and 3D). Here are some of the benefits for the listing agents

- Limits confusion about copyright and licensing matters.
- Ensures photographer's professionalism.
- Know that your listing's photos are protected in CRMLS.

For any MLS usage please follow the rules and regulations according to the CRMLS guidelines. Found at <https://kb.crmls.org/knowledgebase/using-professional-photographs-in-the-mls-a-guide>

6. LICENSE AND LICENSE TRANSFER.

The original agent (client) who paid for the service and the name is on the invoice has the (license) permission to use paid-for deliverables on any of their listing's electronic or printed forms of advertisement (for the purpose selling property in subject) for the duration of the sale and to promote photographed / video recorded / 3d scanned property.

Additionally, THB gives original agent (client) license to use any deliverables on client's professional website, social media accounts (no private accounts**) when the intent of the sites and social media account is to promote their business as an agent. In this case duration of the licensing agreement is valid indefinitely for the agent who purchased photography\videography services with the TheHomeBird.

If an agent is transferring TheHomeBird's created content, to another agent we require to be notified of the transfer. Images cannot be sold to another agent who takes over an expired, lost or withdrawn listing.

Legal actions will be taken when we discover another agent is using created content.

** THB refers to "private accounts" to social media accounts as accounts displaying brokerage logo or brokerage affiliation name or are not recognizable as the client is working for a real estate brokerage.

7. DELIVERABLES USAGE:

- Only invoiced client is allowed to use any of the deliverables for the purpose of marketing and selling photographed \ video recorded \ 3D Scanned by THB property. This includes:
- TheHomeBird allows deliverables to be shared on:
 - **Any online based MLS system and any MLS IDX feed enabled websites.**
 - **Client\Listing agent website (Real Estate agent website)**
 - **Client\Listing agent Social media accounts (no private accounts)**
 - **Client\Listing current brokerage firm,**
 - **Any printed materials promoting and selling the property in subject. (Promotional Ads)**
 - **Magazine Ads (For Editorial please see 8)**

Please note we request for any deliverables to be removed from all of the online sources with marketing \ sale intent up to 30 days after the purchase contract has been signed between the listing agent and the property buyer (property has been sold)

This includes all the sources mentioned above: online MLS systems, any 3rd party IDX feed enabled websites, brokerage website, social media channels including Instagram, Facebook, LinkedIn and others.

TheHomeBird allows photos to be shared on non-MLS-IDX feed enabled websites as long as the following conditions are met:

- Original agent purchasing the photography \ video \ 3d scan service is requesting for the photos to be used with the intent to sell the property featured on the photos or to promote themselves as a real estate agent and their real estate business.

License for the display of the content online on non-IDX feed enabled websites last indefinitely for the invoiced client as long as it serves as a promotion tool for the agents business.

** Please note in the event of a client ordering community photos or video (for example in a residential complex) these photos cannot be re-used for another property other than the one mentioned on the original invoice. In other words you cannot use the photos for another unit without obtaining an additional license from TheHomeBird.**

8. 3RD PARTY LICENSING AND PHOTO CREDIT.

Builders, stagers, designers and others who wish to use images taken by our photographer should contact us for specific licensing information. And to obtain a proper license. In addition to fees paid to TheHomeBird, a property photography\video release will need to be obtained from the business or the homeowner.

Please send these types of request our way and we will accommodate the interested party, and provide proper licensing.

Editorial\news usage is allowed but we asked to be contacted by the party that would like to use the images to obtain additional licensing. Please send them our way we will accommodate the requests.

In case of editorial\news usage a photo credit is required either in the article byline or adjacent to each published media.

Acceptable formats are as follows:

Photos \ Videos by TheHomeBird.com

© [year] TheHomeBird.com

Photos by TheHomeBird.com / courtesy of [Agent/Broker]

To keep the consistent quality of the images, photos used for editorial purpose should be obtained from either the TheHomeBird and not be extracted from MLS or public facing websites (example: Redfin.com).

9. RESTRICTIONS

Client will not use or post any of the Deliverables in any way that exceeds the scope of Section 7 and 8 above

10. 3D AND WEBSITES ONLINE HOSTING AND WEBSITE DOMAINS

Due to the 3D Tour hosting, we need to know who currently has the listing. 3D Tours are hosted for 90 days for free of charge from the time we present the media link to a client. After the 90 days period we require monthly service fee for the 3D Tour to continue being accessible. Monthly Fee after 90 days equals to \$15/month. In the event of non-payment the 3D presentation link gets suspended.

Premium Property website hosted by us are billed at \$15/month after 90 days of included in price free hosting. Domain names are purchased and leased to the client for the duration of 12 months. After 12 months from the date of the domain purchase we delete or sell the domain with an option to purchase by the client. Purchase price is assessed by the domain registrar.

11. MODEL RELEASE

Client hereby assigns to the Photographer the irrevocable and unrestricted right to use and publish photographs of property and facilities for editorial, trade, advertising, educational and any other purpose and in any manner and medium, to alter the same without restriction, and to copyright the same without restriction. Client releases all claims to profits that may arise from the use of Client's images.

Client, on behalf of him/herself and owner of the photographed property , hereby assigns to the Photographer the irrevocable and unrestricted right to use and publish photographs depicting Client or Client's property and facilities for editorial, trade, advertising, educational and any other purpose and in any manner and medium, to alter the same without restriction, and to copyright the same without restriction. Client releases all claims that may arise from the use of Client's images. Without limiting the generality of the foregoing, the Client specifically releases and discharges the Photographer from any and all claims to profits, as well as any and all claims and demands for violation of any right of publicity or privacy. Client hereby warrants that Client is a legally competent adult.

12. APPOINTMENT; SESSION TIME

Client and the Photographer agree that cooperation and punctuality are essential to accomplish the goals and wishes of all parties. The Appointment will commence at the scheduled start time and will end at the scheduled end time even if Client does not arrive at the appointed time. All additional time beyond the scheduled end time shall be as mutually agreed with the Photographer

13. WEATHER POLICY:

We are prepared to shoot in almost any weather. Often, sellers spend a reasonable amount of time getting their house ready, so at the very least we can do the interiors. If it is not raining hard, we can often get front and rear shots as well. If in the opinion of the photographer, the shoot/3D scan cannot be completed due to inclement weather or other adverse conditions, then the photographer reserves the right to reschedule the shoot at the earliest convenience. The client has the option to accept the reschedule date or to receive a refund of any fees or payments that have been accepted. Aerial Service will be affected by weather also. In unsafe conditions for the equipment, the photographer may choose to reschedule the shoot. In this event, TheHomeBird will attempt to complete the job, but if we are unable to, we will refund any fees or payments that have been accepted.

14. CANCELLATIONS / RESCHEDULE:

We want our clients to have a positive experience – but we do have to pay our photographer when we reserve his\her time. When you schedule services with us, you are booking a valuable time slot that will not be available to others. When you cancel or reschedule your photo shoot, we must pay our photographer for that reserved time, if it falls within the cancellation window outlined below.

While everyone understands the purpose of cancellation fees and agrees to the terms of service, nobody likes paying them. So, we do our very best to keep you apprised of your upcoming appointment; please continue to check in with your client as the date approaches.

As soon as you become aware that the property is not ready as scheduled, either call TheHomeBird's office at 310-844-0743 or email us at info@thehomebird.com so we can notify our photographer and remove it from the schedule and set up a new appointment time.

If another agent in your Real Estate office can fill the spot, there will be no rescheduling/cancellation. Cancellations and reschedules are at no charge provided they are done 24 hours in advance of the scheduled shoot date/time.

In the event of a booking cancellation with less than 24hrs notice (Special case on Mondays - see below) before the scheduled appointment, the following applies:

- Tuesday through Saturday Appointments – 24-hour window a cancellation fee of 10% off the pretax invoice total + \$50.
- Sundays - In a special event, when an appointment is scheduled on Sunday, a 24-hour window cancellation fee of 10% off the pretax invoice total + \$100.
- Mondays – If you cancel or reschedule your Monday appointment after 2 pm on prior Saturday - 10% off the pretax invoice total + \$75.
- Unable to Shoot/Scan Fee - If the photographer arrives at the service location and cannot access it, a site is not ready for the shoot, or the agent/seller cancels the shoot, the cancellation fee is \$100 + 25%

of the quoted amount.

- 50% of the cancellation/reschedule fees are waived if the booking can be scheduled within seven days of the original date.

15. EXPENSES

The Photographer will specify the radius within which the Photographer will deliver the Services without charging Client for any travel expenses. In the event Client books the Photographer for the Services outside of the specified radius, or if the Photographer incurs location expenses or other extraordinary expenses as a result of special accommodations to Client, reimbursement of such expenses shall be made, and the Photographer shall look solely to Client for reimbursement, if any, of such expenses.

16. SERVICE LOCATION\SITE PREPARATION:

For us to produce the best content, we need your help preparing service location, so it looks great in your photos\video\3D. Please note, Our "Realtor Checklist" is sent out via email in a .pdf format at least 24hrs, prior the service location appointment. Please read and familiarize yourself with the document, and if needed forward to your assistant or your client. Customer or its representative may be present at the service location at the time of the service to approve service provider's interpretation of the services to be provided. We suggest informing your client, especially at home shoot, that it is not recommended for them to present on the location during the shoot.

Service Provider shall not be responsible for the untidiness of any service location or small alignment issues, mirror, window, glass, and reflective views. Customer shall further ensure that the service location is accessible on the day of the booking for the length of the appointment. Unless otherwise arranged, a service location that has not been adequately prepared, in service provider's sole discretion will be considered place unready, and we reserve the right for the photographer to terminate the appointment. The Home Bird will then assess rescheduling fee based on our cancellation policy terms and condition.

Please make sure following are met before photographer arrival at the service location.

- Remove any hazards to the photographer's safety on site.
- Ensure the service location is free of moving persons, or objects.
- If people are present at the service location, homeowners should ensure children are supervised and out of the camera's view.
- Inform the service provider of any rooms or areas that should be excluded from any capture services
- Pets are to be contained or removed from the property for the photography session (Often a friendly dog will be aggressive when someone enters their domain that they don't know)
- The photographer will do everything to ensure pets stay inside, but are not responsible for pets that

escape the property during the session.

- The photographer reserves the right to terminate the shoot if they feel threatened in any way.
- TheHomeBird is not responsible for any cleaning, dusting, or moving (other than for the composition of the photographs) of furniture due to liability reasons.

17. INABILITY TO KEEP THE APPOINTMENT

If the TheHomeBird photographer becomes ill or otherwise unable to keep the appointment, TheHomeBird may:

- contact Client via phone call or email to reschedule the appointment;
- use commercially reasonable efforts to engage the services of a replacement photographer who will appear at the appointment.

In the event of a no-show by the Photographer, Client will receive the full refund of the Fees within 7 days after submitting a dispute in accordance with Section 12. In addition, if the Photographer has requested to reschedule but Client does not wish to reschedule the Appointment, the Appointment will be cancelled and Client will receive a full refund of the Fees.

18. INABILITY TO FINALIZE SERVICES

If, after the Appointment, the Photographer becomes ill or otherwise unable to finalize the Services deliver the Deliverables, the Photographer may

- use commercially reasonable efforts to engage the services of a replacement professional who will finalize the Services and deliver the Deliverables described in this Agreement; or
- refund the client in full.

19. COMPROMISED COVERAGE; CAPTURE

The Photographer shall not be responsible for compromised coverage due to causes beyond the Photographer's control, including but not limited to disruptive behavior of any person on premises of the shoot, tardiness of Client, schedule complications, incorrect addresses provided to the TheHomeBird, obstructive or reflective house decorations, backgrounds or lighting conditions, restrictions of the locations or any of the force majeure events described in Section 15 below.

In addition, the Photographer shall not be responsible for failure to capture any part of the property, any or any objects, unless Client specifically requests to capture certain portion of the property, or objects and the Photographer is provided an adequate opportunity to comply with such request

20. CLIENT'S OBLIGATIONS

▪ COMMUNICATIONS WITH PHOTOGRAPHER

Client agrees to communicate promptly with the Photographer, confirming and notifying of any changes in location or other issues in a timely manner.

21. LOCATION PERMITS AND RESTRICTIONS AND AERIAL OPERATION LIMITATIONS

If the Appointment is at a location that is not controlled by the Photographer, Client shall secure all permits, entry credentials or passes, and take all actions necessary to ensure the Photographer's access and ability to conduct a photoshoot.

Negotiation with the officials for the location shall be Client's responsibility; the Photographer will offer technical recommendations only. Client agrees to accept the technical results of any location's restrictions on the Photographer.

The Home Bird aerial photography \ videography is conducted according to current Federal Aviation Administration commercial operations laws and regulations, and is warranted by our drone pilot by having current Part 107 UAS license. For more information please see

https://www.faa.gov/uas/commercial_operators/

In case of a aerial shoot in a "no-fly zone" or restricted airspace, we will notify the client of such occurrence before the scheduled aerial shoot. If TheHomeBird cannot deliver aerial footage to the client we will fully refund the charges of such work.

22. WORK ENVIRONMENT

Photographer. The Photographer reserves to right to terminate Services and leave the location of the Appointment if the Photographer experiences inappropriate, threatening, hostile or offensive behavior from person(s) at the Appointment or in the event that the Photographer in good faith feels unsafe. If the Photographer is unable to perform the Services due to Client's behavior and, therefore, cannot deliver the Deliverables, the Client will not be entitled to a refund. If, on the other hand, the Photographer is able to perform the Services in whole or in part in spite of Client's behavior, the Photographer must prepare and deliver the Deliverables to Client and has the right to give an unfavorable review to Client in connection with this Appointment.

Client may leave the location of the Appointment if the Photographer's behavior at the Appointment is inappropriate, threatening, hostile or offensive behavior or in the event that Client in good faith feels unsafe. If the Photographer was not able to perform the Services (and would not be able to deliver the Deliverables) because Client left the Appointment due to the Photographer's behavior, Client will be

entitled to a refund. If the Photographer was able to perform the Services in whole or in part in spite of Client's departure, the Photographer must prepare and deliver the Deliverables to Client and, and Client has the right to give an unfavorable review to Photographer in connection with this Appointment.

23. TheHomeBird's obligations:

▪ PROFESSIONAL SERVICES

The Home Bird LLC shall be responsible for delivering:

- the services in a timely and professional manner in a harassment-free and sanitary environment; and
- the media in accordance with client's specifications and format agreed upon prior to or at the time of the appointment.

24. RUSH / SAME-DAY SERVICE:

In most cases, rush orders/same-day service is available. Order is required by 11:00 a.m. Rush Fee depends on the type of service. We do not charge a rush fee if we do not have another booking on the same day.

25. PAYMENT OF INVOICE:

We accept numerous ways of payment, including checks, money orders, all major credit cards, cash, mobile payment services (ex. Venmo, Zelle).

Client has an option to either use credit card via our online [client center](#) system when service has been ordered or notify us they would like to pay by at the time of the appointment.

Check payments are to be made out and mailed to:

The Home Bird LLC
800 North Juanita Avenue, Unit #4
Redondo Beach, CA, 90277

26. LATE PAYMENTS:

TheHomeBird requires 100% payment for any of our services upfront, however in the event of a client having a written (email) agreement with TheHomeBird internal staff that differs from the above, the following terms and conditions apply:

In the event of non-payment of the balance in the 7-day window from the time of the appointment, we will notify the client of the due invoice. If the invoice is not paid within 24hrs of the late notification:

- TheHomeBird will remove any hosted-by-us media.
- TheHomeBird will retract from any client discounts (if any applied).

If media is not hosted by us but has been provided to the client via digital delivery or any other ways:

- TheHomeBird will notify the client's local Real Estate office and Association of non-payment issues.
- We will also assess a late fee (\$100) and send a demand letter for invoices to be paid.
- If the invoice is overdue 30 days, TheHomeBird will send the invoice to a collection agency. If invoices are not paid after a demand letter has been sent, we will pursue legal means³ to recover the payment.

27. Disputes

Client may submit a dispute regarding the Services by contacting TheHomeBirdr within 7 days after the project is complete (and Client has received an email notice of the complete project) or the Photographer's no-show. Please send the dispute to info@thehomebird.com

28. Indemnity:

▪ INDEMNITY BY CLIENT

Client will indemnify, defend and hold Photographer harmless from and against all losses, arising from or related to any of the following:

- Client's failure to comply with Section 5 (Intellectual Property Rights); and
- any property or equipment damage, except to the extent caused by Photographer's recklessness.

▪ INDEMNITY BY THE PHOTOGRAPHER

Photographer will indemnify, defend and hold Client harmless from and against any claim that the Deliverables infringe any other person's intellectual property rights unless the infringement relates to Client's breach of Section 9 (Restrictions) above.

29. PROCEDURE; WAIVER

The obligation of each party (the "Indemnitor") to indemnify the other party is conditioned upon that other party (a) giving the Indemnitor prompt written notice of the claim (except that any delay in giving notice will not limit the Indemnitor's obligations unless it has been prejudiced by the delay and then only to the extent of the prejudice); (b) tendering the defense and settlement of the Claim to the Indemnitor (and the Indemnitor will not settle any such Claim without the indemnified party's consent unless the settlement includes a full and complete release of all liability and does not include an admission of wrongdoing and

does not impose any obligations on the indemnified party); and (c) cooperating with the Indemnitor in the defense of that Claim.

IF A CLIENT IS AN ENTITY, TO THE EXTENT NECESSARY TO INDEMNIFY AND HOLD PHOTOGRAPHER HARMLESS FROM ANY CLAIMS BY ANY OF CLIENT'S EMPLOYEES, CLIENT EXPRESSLY WAIVES ANY IMMUNITY OR EXEMPTION FROM LIABILITY FOR THE PERSONAL INJURY OR DEATH OF CLIENT'S EMPLOYEES THAT MAY EXIST UNDER, OR ANY RIGHT TO RECEIVE CONTRIBUTION FROM PHOTOGRAPHER, CREATED BY, THE WORKERS' COMPENSATION LAWS OF THE STATE WHERE THE INJURY OCCURS OR THE EMPLOYEE IS LOCATED. IF APPLICABLE LAW DOES NOT PERMIT CLIENT TO COMPLY WITH THIS PARAGRAPH, CLIENT WILL ADD PHOTOGRAPHER AS AN ADDITIONAL NAMED INSURED UNDER CLIENT'S GENERAL COMMERCIAL LIABILITY POLICY.

30. Limitation of Liability

IN NO EVENT WILL PHOTOGRAPHER BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, OR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. In the unlikely event that digital files have been lost, stolen, or destroyed for any reason, including but not limited to a force majeure event or equipment malfunction, the Photographer's liability shall be limited to the return of the Fee for the lost digital files, prorated to total number of originals paid for by Client. Notwithstanding any provision in this Agreement to the contrary, in no event shall the Photographer be liable for the loss of images beyond the cost of the final delivery of all products included in the package.

31. Force Majeure

Neither party will be liable for the delay or failure of performance of its obligations under this Agreement to the extent that delay or failure is caused by insurrection, war, terrorist attack, riot, explosion, nuclear incident, fire, flood, earthquake, severe weather or other catastrophic event beyond the reasonable control of the affected party, provided the affected party promptly notifies the other party and takes reasonable and expedient action to resume operations.

32. Assignment

Except as expressly provided otherwise in this Agreement, neither party may sell, transfer or assign this Agreement, or any of its rights or obligations under this Agreement, to any other person.

33. Governing Law; Jurisdiction

The internal law of the state where the Photographer resides (the "Photographer's State"), regardless of

where the Services are delivered and without regard to the Photographer's State's conflicts of law provisions. The prevailing party in any suit, action or other proceeding will be entitled to recover its attorney fees and costs, including without limitation those incurred prior and at the proceeding and in any post judgment proceeding.

34. Entire Agreement

This Agreement and any addenda hereto contain the entire understanding between the Photographer and Client; provided, however, that this Agreement shall govern and supersede any provisions in the addenda inconsistent with the provisions in this Agreement. In addition, this Agreement supersedes all prior and simultaneous agreements between the parties. In the event that any part of this Agreement is found to be invalid or unenforceable, the remainder of this Agreement shall remain valid and enforceable. Any agreement to waive one or more provisions of this Agreement or any failure by one or both parties to enforce a provision of this Agreement shall not constitute a waiver of any other portion or provision of this Agreement.

BY BOOKING THE SERVICES AND ACCEPTING THE BOOKING, THE PARTIES HERETO EXPRESSLY ACKNOWLEDGE AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT, AND FURTHER ACKNOWLEDGE THAT THEY ARE LEGALLY COMPETENT TO ENTER INTO THIS AGREEMENT.

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TheHomeBird LLC 2019