

TERMS OF BUSINESS
3D VR SERVICES

- 1) *These Terms and Conditions ('T's & C's') will apply to the supply of 3D VR services provided by Jon Nash for commercial or personal purpose. Work of any description undertaken by us in relation to a 3D VR Booking is subject to these T's & C's.*
- 2) *Where our 3D VR service is provided to you in conjunction with our other service(s), please also refer to our Terms of Business – General.*
- 3) *Where we provide you with 3D services using the equipment, platform or technology belonging to or provided by Matterport Inc ('Matterport') you are subject to Matterport's terms and conditions ('Matterport Terms'). You agree to be bound by and comply with the Matterport Terms. Should you breach the Matterport Terms you must indemnify us from and against all claims, damages, losses, liabilities, judgments, costs and expenses that we may suffer or incur that arise from such breach. You can find Matterport Terms at <https://matterport.com/legal/terms-of-service/> and <https://matterport.com/terms-of-use/>, as amended from time to time.*
- 4) *You acknowledge and agree to accept these T's & C's when you accept our quotation, or from the date of any performance of our Service (whichever happens earlier). These T's & C's and our Quotation ('the Contract') are the entire Agreement between us.*
- 5) *In these T's & C's, unless the context otherwise requires, the following expressions have the following meanings:*
 - a) *'Client', 'you' or 'your' means the person or organisation who commissioned the work and/or to whom the invoice is addressed (whether the Client is acting for a Third Party or not);*
 - b) *'Jon Nash' 'Jon Nash Photography' 'Jon Nash Visuals' '3D Property Scans' '3D Yacht Scans' '3+VR' or the words and/or terms 'us', 'we' or 'our' refers to Jon Nash, our agents or representatives;*
 - c) *'Term' means the agreed hosting period or duration of the Contract;*
 - d) *'Service' will mean any 3D service, 3D VR Virtual Tour, Hosting, Subscription, Visual Material, Artwork, Scan, Image, Graphic, Work, Process, Product or Service that we provide to you;*
 - e) *'3D VR Virtual Tour' will mean a 3D model hosted on the platform of Matterport, Inc. ('Matterport') that includes the following features as a minimum: Inside mode, Dollhouse mode, Floor Plan mode. Optional add-on features are available, which we may charge for;*
 - f) *'Booking' means any request, order, job, booking, project, commission or instruction by or on behalf of the Client for 3D Services;*
 - g) *'Scan' 'scanning' will mean the process of capturing the data points of the Service Location to create the 3D model;*
 - h) *'Service Location' will mean the property(s) notified to us in the booking.*

OUR SERVICE:

- 6) *We commit to using reasonable care and skill in the performance of our Service, which will comply with our quotation. We can make changes to the Service which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.*
- 7) *We will give you an estimated duration for the Service when you confirm your booking with us. We will take reasonable steps to meet your time requirements, providing you have given us clear communication. However, time will not be of the essence in the performance of our obligations.*
- 8) *We require your written/mailed acceptance of our quotation, which will constitute a Booking with us. After this, we will accept verbal instructions but accept no liability for any misunderstanding or error given in this form.*
- 9) *Unless otherwise agreed in advance, you accept our decisions on creativity, and those based on technical considerations, in the Service we provide. There is no right to reject on the basis of style or composition unless we have agreed a fee in advance entitling you to reject our Service.*
- 10) *Unless indicated otherwise, our prices are quoted exclusive of VAT. VAT, where applicable, will be added to the final invoice(s). The quotation will not necessarily include all expenses or fees which may be incurred.*
- 11) *We reserve the right to ask for a deposit or full payment up front before we provide our Service*
- 12) *You acknowledge and understand that there are limitations in the creation of 3D VR imagery:*
 - i) *The Service using Matterport technology is designed to create 3D VR Virtual Tours of indoor spaces only. Subject to weather conditions, we can capture 360 degree panoramas. These can be included as part of a Highlight Reel but do not have the full interactive/VR functionality of the Inside View.*

- ii) *In certain light conditions we may be able to capture exterior spaces but make no guarantee that these can be processed into your final 3D VR Virtual Tour. If we go ahead, we may charge extra for this Service. We'll discuss this with you in advance.*
 - iii) *Imagery captured in the 3D VR Virtual Tour cannot be altered in any post-production process (for example, 'photoshopping' elements in/out, adding/subtracting light; cropping). If you have any confidential, personal, or private items, or anything you don't want in the final 3D VR Virtual Tour, you are responsible for relocating them before the Scan.*
 - iv) *The camera takes a series of 360 degree images, and the technology relies on positional alignment. Moving, or moved, objects can cause alignment issues. To achieve the best results, the Service Location should be entirely free of people, pets and moving objects.*
 - v) *Bright sunlight and reflective surfaces can also cause alignment issues.*
 - vi) *We will make our best efforts to mitigate the challenges and/or limitations of the technology but accept no responsibility or liability for misalignment or other issues that appear in the final Virtual Tour.*
- 13) *The data we collect to create your 3D VR Virtual Tour is processed separately to the Scanning process, in a post-production phase. We will provide you with a URL and, where requested, an embed code for the 3D VR Virtual Tour, usually within 24-48 hours. We will provide 2D Schematic Floor Plans (if ordered) by email. We will provide the link with full viewing access on good faith that you will make prompt full payment of our invoice. Please refer to Clause 26 to 28.*
 - 14) *Unless otherwise advised, you acknowledge that all 3D Services (excluding 2D Schematic Floor Plans) are stored and hosted on proprietary cloud servers owned by a third party ('Matterport'), and accessible solely through the third party services (servers, databases, IP, technology) ('Matterport Platform').*
 - 15) *You acknowledge that the Matterport Platform is owned and maintained on our behalf by Matterport. We will make commercially reasonable efforts to ensure that your Service is operational. However, we give no warranty about your right or ability to access or use the Platform or 3D VR Virtual Tour created using the third party technology.*
 - 16) *We agree to maintain a contract with the third party to store and make accessible your hosted Service for the duration of the Term that we have agreed with you in writing. You will not have the right to access or view your Service following the expiry or termination of the Term.*
 - 17) *Where you display our 3D Services on your website, you are responsible for any development, operation, maintenance, and end user support relating to your own website.*
 - 18) *We make no warranty to archive, retain, store or host your 3D VR Virtual Tour beyond the date of the agreed hosting period, the date stipulated on our invoice, or a date we have agreed with you in writing. You can renew your hosting or service agreement with us when it falls due.*
 - 19) *During the Term, you can request that we change any of your hosted 3D VR Virtual Tours from to public or private or vice versa. We need your notification in writing (email) to process your request. Any hosted 3D Service designated as private will not be accessible or viewable by the public.*
 - 20) *We hope that you will be happy with our Service to you, but if you're not, please let us know without delay. If you haven't been directly in touch within five days of us providing your final Material, we will consider our Service to have been acceptable by you.*

YOUR OBLIGATIONS

- 21) *For us to provide our Service to you, you must obtain any permissions, consents, or otherwise that we need; prepare the Service Location in advance; give us uninterrupted access to all parts of the Service Location included in the Booking; and provide all relevant information, materials, and any other matters which we need. This includes, but is not limited to:*
 - i) *removing or hiding any private, confidential or unwanted items that you don't want to appear in the 3D VR Virtual Tour;*
 - ii) *removing people, pets and objects that move;*
 - iii) *placing furniture and/or decor in the desired position;*
 - iv) *ensuring the Service Location is clean, clear and tidy;*
 - v) *ensuring the cooperation of residents, tenants, and/or guests*
 - vi) *returning the property back to the original order after the Scanning has taken place*
- 22) *At our sole discretion, if we consider a Service Location has not been properly readied or organised to ensure a successful Scan, the date of the Scan must be rescheduled.*
- 23) *You are responsible for ensuring the Service Location complies with Health & Safety. We reserve the right to remove our personnel and/or equipment from a location if we believe it to be unsafe.*

- 24) *If you cannot, or you fail to, comply with the provisions of this section (Your Obligations) we can reschedule or terminate the Service. You will be liable for additional charges for our Service, and any costs we have incurred or that arise. We reserve the right to make no refund or credit to you for any lost scheduled production time/day(s). Furthermore, we are not liable for any delay or failure to provide the Service. We will not under any circumstances be responsible for loss, damage or costs arising from late, erroneous or non-delivery of the Service. In all cases, you will indemnify us against all expenses, loss, damages, claims and legal costs arising.*
- 25) *If you wish to postpone or change the agreed date(s) and/or time(s) of the Booking we will look to accommodate your new schedule. Subject to circumstances, we'll try to do this with no/minimal additional charge. However, you acknowledge that we do reserve the right to make a charge, and that you are liable for all costs and expenses that we have already incurred in relation to your Booking.*

PAYMENT TERMS

- 26) *You agree to pay our total fees for our Service, as set out in our invoice. We will issue you with a VAT invoice for the Service we have supplied or will supply. Our payment terms will be shown on the invoice. Payment of the invoice in full is by BACs unless we agree to a different method. You are liable for any bank charges your bank makes for the electronic transfer.*
- 27) *We reserve the right to suspend our provisions of Services to you such as, but not limited to hosting, active links to your Virtual Tours, support, for amounts overdue by 14 days or more. Where we have provided you with 2D schematic floor-plans, our agreement with you to use them, in any manner, is suspended until we have received full and final payment of our invoice.*
- 28) *If you don't make payment in accordance with the terms on the invoice, we may rescind this agreement and seek to recover our damages or may exercise our statutory right to interest under the Late Payment of Commercial Debts (Interest) Act 1998.*

CANCELLATION AND AMENDMENT

- 29) *We can withdraw, cancel or amend a quotation if you have not accepted it, or if the Service has not started, within a period of 14 days from the date of the quotation (unless the quotation has been withdrawn).*
- 30) *We will make all commercially reasonable efforts to ensure we provide our Service as agreed. However, we reserve all rights to terminate the provision of our Service to you at any time. In the event of our cancellation, we will refund to you any deposit that you have made. Reasons for cancellation or postponement may include, but are not limited to, staff illness, short notice medical emergencies, natural/human disasters/events.*
- 31) *You can cancel a confirmed Booking at any time. We require your notification in writing. We reserve the right to retain any deposit payment, and to make a charge, as follows:*
- i) We will make no charge for the cancellation of a Booking made more than 10 days in advance of the agreed Scan date;*
 - ii) for cancellation made within 4-10 days of the agreed Scan date: 25% of our quoted price;*
 - iii) for cancellations made within 1-3 days of the agreed Scan date: 50% of our quoted price;*
 - iv) for cancellation of a Booking made on the agreed day of the Scan: 100% of our quoted price.*
 - v) For any cancellation you make, you will be liable for any non-refundable costs (eg. travel costs) that we have incurred in relation to your Booking.*
- 32) *Once we have provided you with your 3D Service, you can cancel the provision of our storage and hosting services at any time. We require your notification in writing. Refer to the section 'Term and Termination'.*

LIABILITY AND INDEMNITY

- 33) *Our liability under these T's & C's, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this section.*
- 34) *In all cases, the total amount of our liability is limited to the total invoice value for our Service, less any costs we have incurred for our Service that we have already carried out, provided this has been within the agreed Booking.*
- 35) *We are not liable (whether caused by our affiliates, employees, agents or otherwise) in connection with the provision of our Service, or the performance of any of our other obligations under these T's & C's, or the quotation for:*
- i) any indirect, special or consequential loss, damage, costs or expenses, or;*
 - ii) any loss of profits, loss of anticipated profits, loss of business, loss of data, loss of reputation or goodwill, business interruption, or other third party claims, or;*

- iii) any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control, or;
 - iv) any losses caused directly or indirectly by any failure or your breach in relation to your obligations, or;
 - v) any losses arising directly or indirectly from the choice of Service and how it will meet your requirements or your use of the Service or any goods supplied in connection with the Service.
- 36) Whilst we take all reasonable care handling your work, we accept no liability if our Service is lost, damaged or stolen whilst in our possession, howsoever caused. Where we cannot recover the Service, we will decide whether to reproduce the content at no extra charge to you or to terminate the project with a refund of your deposit. In any circumstances, we cannot be held liable for any of your costs incurred in the original Booking.
- 37) You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) and caused by you or your agents or employees.

COPYRIGHT AND TITLE

- 38) You acknowledge that Jon Nash grants you a non-exclusive, non-transferable Licence to Use ('Licence'), during the Term, which allows you to:
- i) use and distribute URLs and embed codes linking to the 3D Services stored on the Matterport Platform;
 - ii) to use and distribute 2D Schematic Floor Plans (if ordered).
- 39) We own all copyright, and all associated intellectual property rights to all the Service, Work or Product we create and supply, whether it forms part of a finished project or not. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.
- 40) We grant you rights to use by way of a Licence and no assignment whatsoever of copyright will be implied. The License comes into effect once you have made full payment of our invoice. You may not use our Services beforehand unless agreed by us in writing.
- 41) We reserve the right to use any 3D VR Virtual Tour we create for any legal purpose, including our own advertising or promotional material for our Service, unless otherwise agreed with you in writing.
- 42) Our branding must be shown on all 3D Services which are published by you or on your behalf, unless we have otherwise agreed with you in writing. We assert our statutory right to be identified under Sections 77-79 of the Copyright Designs and Patents Act 1988.
- 43) License rights are limited to the Term agreed in writing. Your licence grants you permission to use the content only in the state that we provide it to you. You will not: a) disable or modify any hyperlinks contained in any 3D Services; b) alter, remove or destroy any attribution, proprietary markings (e.g., copyright and trademark markings); c) decompile, disassemble, decrypt, extract, reverse engineer or otherwise attempt to derive the source code of any software underlying the 3D Services; d) distribute, in conjunction with any 3D Services, any content that contains or promotes fraudulent, deceptive or illegal activities, pornography, excessive violence, "hate speech", malicious code or deceptive advertising; e) modify or create any derivative work based on the 3D Services (or any component thereof).
- 44) Licence rights granted are personal to you. You are not permitted to reassign, loan or transfer any 3D Services that we provide to you to third parties without our prior agreement. We reserve the right to refuse to supply or grant a reproduction licence to a third party should you request us to do so.
- 45) The Licence granted to you will automatically be revoked if you breach any of these T's & C's.

TERM AND TERMINATION

- 46) This Contract will take effect on your acceptance of our quotation and, unless earlier terminated in accordance with these T's & C's, will remain in effect until the expiry of the Term.
- 47) We can terminate the provision of the Service immediately to you if you:
- i) commit a material breach of your obligations under these T's & C's, or
 - ii) fail to pay any amount due to us on the date due for payment, or
 - iii) are, become, or, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor, or;
 - iv) enter into voluntary or compulsory liquidation

EFFECT OF CANCELLATION, TERMINATION OR EXPIRATION OF TERM

- 48) *Upon the cancellation, termination, or expiry of the Term of this Contract, for any reason, the Licence we have granted to you will immediately be terminated. We will delete your 3D VR Virtual Tour from the hosting Platform, and it will no longer be accessible or viewable. Refer to Clause 17.*
- 49) *We will make no refund for Services already provided. Where hosting is included as part of the Service, there is no entitlement to any refund should you ask us to cancel the provision of the hosting before the end of the agreed Term (Clause 30). Where your agreement with us is for a regular subscription, you are liable to continue making the scheduled payments for the duration of the agreed Term, or make settlement in full for the amount outstanding to the end of the agreed Term.*
- 50) *Ts & Cs relating to Copyright and Title, Liability and Indemnity, and revision to our T's & C's will survive beyond the termination of this Contract.*

CIRCUMSTANCES BEYOND A PARTY'S CONTROL

- 51) *Neither of us is liable to the other for any failure or delay in performing our obligations (other than a failure to pay fees when due) where such failure results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to, power failure, Internet Service Provider failure, failure by a supplier to provide services, industrial action, civil unrest, fire, natural disasters, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question. If the delay continues for a period of 60 days, either of us may terminate or cancel the Service to be carried out under these T's & C's without liability to the non-performing party and receive a refund of any unused fees prepaid by such terminating party, if any.*

MISCELLANEOUS

- 52) *Unless otherwise agreed, you shall keep confidential any methodologies and technology that we use to produce and supply the 3D VR Virtual Tour to you.*
- 53) *We can at any time, assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these T's & C's and can subcontract or delegate in any manner any of our obligations to any third party.*
- 54) *These T's & C's and Conditions and any accompanying documentation are governed by the laws of the England and Wales. Any dispute, controversy, proceedings or claim relating to these T's & C's including any non-contractual matters and obligations arising therefrom or associated therewith) will fall within the jurisdiction of the courts of England and Wales.*
- 55) *Jon Nash reserves the right to revise any of these T's & C's without prior notice to you. You should visit the Jon Nash web page www.jonnash.com for changes. If you disagree with any changes to these T's & C's, your sole remedy is to terminate your use of our Service (refer to Clause 47 to 49). Continued use of our Service after we have posted a change constitutes your acceptance of the change.*
- 56) *If any term, provision or condition of these T's & C's is held by a court of to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.*