

Kennetik Service Terms & Conditions

You ("you" or the "Client") are engaging Kennetik ("us", "we" or "Kennetik") as an independent contractor for creating and publishing content including but limited to copywriting, design, photography, video, and/or related services (the "Services"). In consideration of the mutual obligations specified in this

Services Agreement (the "Agreement"), the parties, intending to be legally bound hereby, agree to the provisions of this Agreement.

1. The Process, the Services and Payment

- (a) **Scope.** We render the Services on a project basis unless we otherwise agree in writing. The initial scope of the Services for your project will be set forth in our final estimate, through concept meetings, in written proposals or as modified by any changes agreed by you and us in writing before we issue our first invoice.
- (b) **Pricing, and First Payment.** We will determine a price for the Services based on the initial scope of the Services. We will specify this price in our first invoice to you. The amount of the first invoice will be up to 50% of the total initial price unless otherwise specified on the initial invoice. Payments can be made by Credit Card, PayPal or other method to which we agree. Your payment of the first invoice amount indicates your agreement to the amount of the total initial price, and we will begin work after you pay the first invoice.
- (c) **Change Management Process.** The Service shall be made available for acceptance at agreed stages. At each agreed stage, changes to the Service shall only be permitted to the extent that such changes are consistent with the brief. When edit services are included in our initial invoice, the price will include some rounds of revisions to the work we produce for you. The following provisions control what revisions will be included in our initial price, what revisions or other scope changes will be outside the scope of Services included in the initial price, and the procedures governing any out of scope Services.
 - (i) If your project includes a script, revisions to the script are limited to 2 rounds. Once a final script has been approved, and the voiceover has been recorded, you may request a single round of minor changes, including changes to the tone, emphasis or pronunciation. Major changes to the voiceover, like script edits and additions, are the standard rate and will be added to the final invoice (in the event that the video is already in a finished state, re-timing the video to match the voiceover will be billed at our standard rate per hour rate).
 - (ii) If your project includes animation, storyboard and style frame revisions are limited to 2 rounds.
 - (iii) Each completed video or photo edit includes 2 rounds of revisions. For animation, these included revisions must be related to the approved storyboard. Revisions or requests that are outside of the initial project description, such as scenes or ideas not included in the initial discussions or storyboard, will be considered out of scope.

- (iv) In general, except for the included rounds of revisions set out above, any revisions, additions, or alterations to the project modifying the initial scope of the Services will be considered out of scope Services and subject to Kennetik's standard rate. By way of example, such out of scope Services will include, but will not be limited to, changes in the extent of work, increases in the complexity of any elements of the project, and any changes made after approval has been given for a specific stage of design, documentation, or preparation. In addition, any Services requested by you faster than a previously established schedule, such as an accelerated timetable, may be deemed out of scope Services in our discretion.
 - (v) Kennetik will inform you if any of your changes or other requests would require out of scope Services and the additional fees associated with any such out of scope Services. You will be responsible for the additional fees if Kennetik proceeds with the out of scope Services.
 - (vi) Any additional costs or expenses incurred by Kennetik during a project due to Client delays or extensions will be added to your fees.
 - (vii) When an event is broadcast live over the internet, a viewer hours limit included in the estimate. There may be cost increases of up to \$50 per 100 viewer hours, if the number of viewers exceed the time limit.
 - (viii) Other than as stated in clause "(C)" above changes to the brief or otherwise that result in additional work being carried out will be chargeable at the relevant daily rate; this shall include the following:
 - Changes that result from inaccurate or misleading information having been supplied by you in preparation of the brief;
 - Changes that result from your failure to obtain consent from any third parties or employees necessary in the delivery of the Service;
 - Changes that result from a significant change to the brief;
 - Additions to the original brief in the form of extra variations or edits of the originally planned piece such as shorter 'highlights' edits or specific web versions that are not agreed at the outset.
- (d) **Scheduled Payments and Delivery.** In non-crafted video or photo service, final payment is due upon delivery of the raw footage. In crafted services, once you have approved the edited video or photos produced by the Services, we will issue a final invoice for the Services relating to the project. If there is a payment schedule specified on the invoice, than payments will be made on schedule so that service can continue on schedule. The final invoice will include the remaining percentage of the total initial price, subject to adjustment downwards for any agreed upon reduction in scope and subject to adjustment upwards for any agreed upon increase in scope. The final invoice will be due and payable upon receipt. Once you have paid the final invoice (and any other outstanding invoices), we will deliver the final video or photo file to you in .MOV or .MP4 format or jpg (or such other format as agreed in writing by us).

(e) Additional Payment Provisions. Kennetik reserves the right to:

- (i) charge interest on amounts more than 10 days past due at a rate of 3% per month or, if lower, the highest rate allowed by applicable law;
- (ii) issue the final invoice (or pro rata portion thereof) if Kennetik has requested Client input or feedback needed for the Services and more than four weeks have elapsed without the Client providing the requested input or feedback; and
- (iii) issue interim invoices, due and payable upon receipt, for up to 50% of any increase in fees for the Services resulting from changes in scope.
- (iv) If payment is overdue and/or you are in breach of your obligations set out in this agreement we reserve the right (without prejudice to any other right or remedy available to us) to stop or postpone delivery or performance under this agreement and we will not be liable for any loss you may suffer as a result of application of this clause. We shall have a general lien or right of retention on materials supplied by you to us until payment has been made. We reserve the right to appropriate any payment made by you and apply it in total or partial satisfaction of any debt due from you to us.
- (f) If payment is overdue and/or you are in breach of your obligations set out in this agreement we reserve the right (without prejudice to any other right or remedy available to us) to stop or postpone delivery or performance under this agreement and we will not be liable for any loss you may suffer as a result of application of this clause. We shall have a general lien or right of retention on materials supplied by you to us until payment has been made. We reserve the right to appropriate any payment made by you and apply it in total or partial satisfaction of any debt due from you to us.
- (g) No Hosting or Integration. The Client will be solely responsible for video hosting and website integration.

2. Cancellation, Safety and Insurance

(a) Dates for production are agreed in advance and confirmed by you. Where these dates are cancelled whether due to a request from you or due to an amendment by you that results in a cancellation the following charges will apply where the cancellation notice is given or is caused:

- (i) Within 7 days of shoot date – \$150
- (ii) Within 48 hours of shoot date – 50% of daily shoot rate
- (iii) Within 24 hours of shoot date – 100% of daily shoot rate

(b) Where the shoot shall take place at your premises or a location designated by you the responsibility for ensuring said location is safe and that adequate insurance is in place shall be vested in you.

3. Expenses

- (a) All reasonable expenses incurred by us in providing the Service shall be at your cost. Where possible expenses will be pre-arranged with you and/or set out in the quotation. In the absence of prior notification of expenses the following rates shall apply:
- (i) All mileage at 0.55 cents per mile
 - (ii) Overnight stay \$150 per person
 - (iii) Daily subsistence \$40

4. Intellectual Property & Copyrights

- (a) Kennetik assigns to the Client all right, title and interests to all of its copyrights in the video or photos produced by Kennetik pursuant to the Services, effective upon payment by the Client of the final invoice (and any other outstanding invoices) issued by Kennetik pursuant to Section 2 above. Kennetik makes no ownership claim with respect to any copyrighted materials, trademarks, trade secrets or other intellectual property supplied by the Client to Kennetik for purposes of the Services.
- (b) The Client grants Kennetik (and its successors, assigns and affiliates) a non-exclusive, limited license to use any videos or photos produced by Kennetik, or portion thereof (including screenshots and including the Client's name and any embedded trademarks or service marks), for demonstration, sample and marketing purposes, including without limitation the right to display such material on Kennetik's website, unless prohibited by the client and agreed upon in writing by both parties. Kennetik may also include client's name and trademark or service mark in a list of Kennetik clients for marketing and promotional purposes. Kennetik will not present any such material in a manner derogatory to the Client. This limited license is royalty free, worldwide, perpetual and non-revocable but is limited to the uses specified in this paragraph.
- (c) The Client represents, warrants, and covenants that any text, graphics, sound, video, photos, designs, trademarks, service marks, or other artwork (each, an "element") furnished to Kennetik for inclusion in a video or other project are owned by the Client or that the Client has all rights necessary for Kennetik to incorporate any such element in any videos or other product of the Services. The Client will hold harmless, protect, indemnify and defend Kennetik, its subcontractors, officers, directors, owners, employees, agents, representatives, and affiliates from any and all liability, damages, costs, or expenses (including attorney's fees and court costs), including any claim or suit, threatened or actual, arising from the use of such elements by Kennetik or the inclusion of such elements in any video or other product of the Services.
- (d) Subject to the rights granted to the Client or expressly retained by the Client pursuant to paragraph (a) above, Kennetik will retain all intellectual property rights, including copyrights, ideas, trademark rights, and service mark rights, in any materials created by Kennetik or its subcontractors in connection with the Services. For the avoidance of doubt, Kennetik has no obligation to deliver, and grants no rights in, any rejected designs, documentation, illustrations, raw video, photos and project files and audio/verbal scripts, including preliminary concepts, accepted or rejected elements, works in progress, and finished materials which have been created or furnished by Kennetik during the course of providing Services.

- (e) The Services do not normally include the collection or delivery of source files for individual components or elements included in the final video or photos produced by Kennetik for the Client. If the Client requests delivery of those files, Kennetik reserves the right to condition delivery on the Client's payment of Kennetik's fees and expenses on a time and materials basis, which may include charges from Kennetik's subcontractors. The Client's use of any individual components or elements (e.g., stock photos) may be subject to third party license restrictions. The Client acknowledges that its rights in any such individual components or elements will be subject to the third party license restrictions.

5. Information and Confidentiality

- (a) The Client will provide any and all information and decisions required for the successful outcome of the project and will designate to Kennetik in writing of any portion of the project which is confidential.
- (b) Kennetik agrees to treat such designated information with the same degree of confidentiality as Kennetik does with its own confidential information and, in any event, with no less than a reasonable degree of care. This obligation of confidentiality does not apply to
 - (i) information that is published or otherwise becomes available to the general public without breach of this Agreement;
 - (ii) information that has been furnished or made known by a third party that is not known by Kennetik to be subject to an obligation of confidentiality to the Client;
 - (iii) information that was in Kennetik's possession without confidentiality restrictions prior to the date of disclosure to Kennetik;
 - (iv) information developed by Kennetik independently of confidential information furnished to it; and
 - (v) general information of a nonproprietary nature. In addition, if Kennetik is required to disclose information in response to law, rule, court order, or other legal process, Kennetik may do so without breach of its obligations of confidentiality. In the event of such required disclosure, Kennetik will use reasonable efforts to notify the Client of the planned disclosure and will cooperate with the Client, at the Client's request and cost, in lawfully opposing any such required disclosure.
- (c) Any information shared between third parties, the client and Kennetik are subject to the terms of Kennetik's Non-Disclosure Agreement which will be furnished by Kennetik prior to sharing information or engaging with the client or third parties. A general copy of this agreement can be found at Kennetik.com/non-disclosure-agreement.pdf
- (d) Our enforcement of the above conditions is subject to our adherence to the Storage Policy as outlined below.

6. Storage Policy

- (a) All media produced by us on your behalf will be stored as follows:
 - (i) All footage will be captured in Hi-Definition (as standard) and stored on professional format digital media and transferred to our studio for uploading to high speed RAID array;
 - (ii) All footage on a RAID hard drive is retained at our studio on password protected

computer systems until completion of the post production process;

(iii) Following completion of a beta edit the footage is then copied to a secondary back up hard drive at our studio to protect against electronic drive failure. All original source tapes are then transferred to secure off site storage.

7. Limitation of Liability

- (a) We warrant that we will use all due skill and care in providing you with the Service. Other than as expressly provided for in these terms and conditions no warranty, guarantee or other term relating to the provision of the Service whether implied by statute, common law or otherwise is given, however where we supply goods to you as part of the Service we shall, where possible, assign to you the benefit of any warranty, guarantee or indemnity given to us by the persons supplying the goods to us.
- (b) Kennetik's aggregate liability on all claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability, or otherwise, for all losses or damages arising out of or relating to this Agreement or Services will in no case exceed the fees actually paid to Kennetik under this Agreement.
- (c) In no event, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise will Kennetik, its subcontractors, officers, directors, owners, employees, agents, representatives and affiliates be liable for special, incidental, exemplary, punitive, consequential, or indirect damages, including without limitation lost sales or profits. The foregoing limitations and disclaimers will apply irrespective of whether the possibility of such damages has been disclosed to Kennetik in advance or could have reasonably been foreseen by Kennetik.
- (d) You agree to indemnify and hold us harmless for all liabilities, loss, claims and expenses that may arise from any breach of these terms and conditions by you, including any third party liabilities incurred by us.
- (e) Any claim that you may have against us must be notified to us in writing within one month of the claim arising.

8. Assignment

- (a) We reserve the right to assign or sub-contract any or all of the rights and obligations under these terms and conditions without your further consent to such assignment or sub-contract.

9. Severance

- (a) If any provision of these terms and conditions (whether in part or in whole) is held by a Court or jurisdiction to be illegal, or unenforceable the parties shall agree to amend the relevant provision as shall be necessary to ensure its application and the remaining provisions of the Contract shall remain full force and effect.

10. Waiver

- (a) Any waiver by us of any breach of or any default under any provision of this agreement will not be deemed a waiver of any subsequent breach or default and will in no way affect the terms of this agreement.

11. Termination

- (a) This Agreement may be terminated by either party if the other party commits a material breach of the terms hereof and fails to remedy the breach within 14 days of receiving written notification from the terminating party specifying the breach and requiring its remedy. Kennetik may terminate this Agreement, effective upon 7 days' written notice to the Client, if Kennetik has requested Client input or feedback needed for the Services and more than three weeks have elapsed without the Client providing the requested input or feedback, unless the Client provides the requested input or feedback prior to the effective date of termination provided in the notice.
- (b) On termination of this Agreement, or a postponement of the Services requested by the Client and agreed to by Kennetik, for any reason, Kennetik may invoice the Client, and the Client will pay Kennetik, for all Services rendered and costs and expenses incurred to the date of termination or postponement. Any advance payment of fees will be credited against the amount due.

12. Notices

- (a) Any notice required to be given under this Agreement must be given in writing by email, with a hard copy of the notice delivered by personal delivery or sent by a major overnight delivery service, for delivery in either case no later than the close of the second business day following the email notice. Notices will be deemed given on the first business day after the email was sent, as determined in New York State. Notices sent to Kennetik must be sent to info@kennetik.com, with the subject line containing "Legal Notice", and with the hard copy sent to the address given on the "Contact Us" page at Kennetik.com (or successor page or site). Notices sent to the Client must be sent to the email address provided by the Client in this Agreement or to such other email address as the Client may from time to time designate by notice, and the hard copy may be sent to the address, if any, provided by the Client for notice purposes or, if the Client has not provided such an address, to any other physical address provided by the Client to Kennetik.

13. General

- (a) Fee quotations and proposals for Services are subject to amendment or withdrawal by Kennetik at any time prior to the Client's payment of the first invoice issued by Kennetik for the Services.

- (b) Kennetik will not be liable for any delay in performance or inability to perform due to force majeure, including without limitation any acts of God, acts or omissions of the Client, major equipment failures, loss of electrical power or internet connectivity, or any other act, omission, or occurrence beyond Kennetik's reasonable control. If Kennetik's performance is delayed by force majeure, the time for performance will be extended by the length of the delay.
- (c) The parties hereby agree that each provision herein will be treated as a separate and independent clause, and the unenforceability of any one clause will in no way impair the enforceability of any of the other clauses herein. Moreover, if one or more of the provisions contained in this Agreement is for any reason held to be excessively broad as to scope, activity, subject or otherwise unenforceable at law, such provision or provisions will be construed by the appropriate judicial body by limiting or reducing it or them, so as to be enforceable to the maximum extent compatible with applicable law.
- (d) This Agreement and all aspects of the relationship between the parties hereto will be construed and enforced in accordance with and governed by the internal laws of the State of Minnesota, United States of America, without regard to its conflict of laws provisions.
- (e) This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof. All other negotiations and agreements (written or oral) between the parties relating to the subject matter hereof are superseded by this Agreement, and there are no representations, warranties, understandings, or agreements other than those expressly set forth herein. The language of all parts of this Agreement will in all cases be construed as a whole in accordance with its fair meaning and not strictly for or against either party hereto.