**TEMPLATE AGREEMENT FOR USE WITH PHOTOGRAPHERS**

**COPYRIGHT AND MORAL RIGHT ASSIGMENT**

BETWEEN:

[Insert Brokerage Name], a real estate brokerage operating in the city of [City Name], in the Province of [Province Name] (hereinafter referred to as the “Brokerage”)

and

[Photographer Name], an independent contractor operating in the city of [City Name], in the Province of [Province Name] (hereinafter referred to as the “Photographer”)

**WHEREAS** the Brokerage wishes to retain the services of the Photographer to take images of properties that for the Brokerage;

**AND WHEREAS** the firm is managed by [Managing Broker] who is entering into this agreement on behalf of the Brokerage;

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL UNDERTAKINGS CONTAINED IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:**

1. PURPOSE

1. The Photographer agrees to take, create and deliver images to the Brokerage in accordance with the terms set out in Schedule “A”.
2. The parties agree that images include, but are not limited to, photographs, graphics, video recordings, virtual tours, and any other images taken or created by the Photographer pursuant to this Agreement, together with copies of such photographs or other images as saved in any medium, including any electronic files in which the photographs or other images are included, and any other computer code using any such photographs or other images, and any derivative works of such photographs or other images.

2. OWNERSHIP

1. The Photographer acknowledges and agrees that all images created pursuant to this Agreement constitute a “work” as defined in the Copyright Act and the Photographer is the first owner of those works and therefore the author.
2. The Photographer agrees to irrevocably assign and transfer to the Brokerage all right, title and interest, including all copyrights and other intellectual property rights, whether now existing or hereafter acquired, in and to all images created pursuant to this Agreement.
3. The Photographer agrees to waive all moral rights associated with any images created pursuant to this Agreement.
4. The Photographer agrees to cooperate, and take all action reasonably requested by the Brokerage, including executing and delivering to the Brokerage all documents reasonably requested by the Brokerage, in connection with the assignment of the Photographer’s copyright rights and other rights to the Brokerage, and waiver of moral rights, with respect to any images created pursuant to this Agreement.

3. REPRESENTATIONS AND WARRANTIES

1. The Photographer warrants that each image created pursuant to this Agreement is an original work of art created by or owned exclusively by the Photographer and that no other person or entity has any interest of any nature in or to any image or prior image.
2. The Photographer warrants that the Assignment to the Brokerage does not violate or infringe upon the rights, including any copyright rights, of any person or entity.

4. INDEMNIFICATION

The Photographer agrees to indemnify the Brokerage and its employees and agents from any and all claims, actions, causes of action, or liability of any kind, including all costs and legal fees, arising in any way from any claim that any image created pursuant to this Agreement infringes the right of any third party.

5. ASSIGNMENT

1. The Photographer shall not assign this Agreement or any of its rights hereunder, nor shall the Photographer sub-license any of its rights hereunder, without the prior written consent of the Brokerage and subject to such terms as the Brokerage may reasonably request, including without limitation that any prospective assignee or sublicensee enter into a new agreement with the Brokerage.
2. The Brokerage may assign this Agreement or its right hereunder upon written notice to the Photographer.
3. This Agreement shall be binding upon and enure to the benefit of the parties and their permitted successors and assignees.

6. PRIVACY

The parties shall observe the requirements of the Personal Information Protection and Electronic Documents Act and/or any successor legislation, any legislation of similar effect and in accordance with any other applicable laws in the Province of [Province Name] or such other province as its business may be conducted.

7. TERM AND TERMINATION

1. This Agreement shall remain in effect for a period of one (1) year unless terminated under this section.
2. The Brokerage may terminate this Agreement at any time by giving 30 days written notice to the Photographer.
3. Either party may terminate this Agreement immediately if the other party has breached any material provision of this Agreement.
4. Upon termination of this Agreement, the Photographer agrees to immediately deliver any images to the Brokerage.

8. NOTICES

Any notice given under this Agreement shall be in writing and shall be valid and sufficient if dispatched by registered mail (postage prepaid), delivered personally, emailed or faxed to the following addresses:

Brokerage:

Photographer:

9. SURVIVAL OF WARRANTIES AND REPRESENTATIONS

Sections 1-6, 7(d) and 9 shall survive the termination of this Agreement where the Agreement is terminated after the creation of any images pursuant to this Agreement.

10. WAIVER

The Brokerage’s failure to enforce any of the terms and conditions of this Agreement shall not be deemed a waiver of any right or privilege under this Agreement.

11. INTERPRETATION

 This Agreement shall be interpreted without regard to which party drafted this Agreement.

12. AMENDMENTS

No amendments to this Agreement will be valid unless they are in writing, signed by the parties.

13. SEVERABILITY

If any of the provisions of this agreement are held invalid or unenforceable, such a finding will not affect the validity of any other provisions of this Agreement, unless the invalidity or unenforceability would invalidate the remainder of this Agreement.

14. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations, representations and proposals, written or oral, relating to the subject matter hereof. The recitals and schedules form part of this agreement. This Agreement may be executed electronically, by fax or email, and in counterparts.

15. GOVERNING LAW

This Agreement shall be governed by the laws in the Province of [Province Name]. The courts in [City name], will have exclusive jurisdiction to hear and decide any disputes relating to this Agreement.

16. COUNTERPARTS

This Agreement may be executed in counterparts, each of which, when so executed, will be deemed to be an original and such counterparts together will constitute one and the same agreement.

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement and agree to be bound as of the date of the last executed signature below.

BROKERAGE

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PHOTOGRAPHER

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SCHEDULE A**

[Modify this Schedule as necessary to reflect the arrangement with the Photographer]

1. The Photographer shall take the following images for the Brokerage:

[insert number of images to be taken, description of images to be taken, address(es) where images are taken, the date when images are taken and format of images].

1. The Photographer shall deliver the images to the Brokerage no later than [insert date].
2. The Brokerage shall pay the Photographer $[insert amount] CAD within thirty (30) days of receipt of the images and a valid invoice from the Photographer.