

# AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services (the "Agreement"), is made and entered into this \_\_\_\_\_ day, the month of \_\_\_\_\_ Yr \_\_\_\_\_, (Effective Date) by and between \_\_\_\_\_ with its principal office at \_\_\_\_\_ (herein after referred to as the "Client"), and Dadz Featured Tours with its principal office at 802 Maple Ave Elmira, NY 14904 (herein after the "Company").

**WHEREAS**, Client finds that the Company is willing to perform certain work hereinafter described in accordance with the provisions of this Agreement; and **WHEREAS**, Client finds that the Company is qualified to perform the work, all relevant factors considered, and that such performance will be in furtherance of Client's business. **NOW, THEREFORE**, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

## **CLIENT/AGENT OBLIGATIONS.**

Client agrees to disclose to the company any and all pertinent information regarding their listings. This includes but is not limited to providing the company with a completed and signed "Home Owner Photographic Property Release" form.

**With regards to Virtual Tour Branding.** It is the clients responsibility to inform the company of any and all MLS branding restrictions and guidelines so that the company can provide the client with the proper Internet Data Exchange (IDX) or broker reciprocity version of their Virtual Tour. It is a simple matter of selecting 1 of 4 automatically generated links, in range of 1 being least restrictive and 4 being most restrictive compliant tour. The Company will not be liable for any fines imposed by an MLS to a listing agent for violations of the MLS branding regulations. Ignorance on the part of the client or lack of knowledge of the local MLS board branding policies will not be an acceptable excuse.

**It is understood that at the completion and signing** of the order form at the end of this agreement constitutes that the client has read and reviewed the pricing structure and payment terms and by signing is agreeing to be bound by them.

## **COMPANY OBLIGATIONS.**

The company will provide capture and processing of the photography as outlined by the client in the completed order form at the end of this document. Each completed Virtual Tour herein after referred to as the "product" shall be distributed to the agents and or Brokerage website and or both. Additionally a link to the same location shall be provided which client may use to link to from client, broker and/or sales agent web site, or other web sites. Hosting and Distribution Services for Virtual Tour Images which are provided shall continue for the term of 1 year from the publishing or until the expiration of the listing associated with such Virtual Tour Images, whichever is shorter.

Each Tour may include (1) Agent Contact information, email link directing any questions to agent's email address provided, (Brokerage) logo, "Map" button to Address with

custom driving directions available, and if home owner agrees to the releases of that information “Email” tour to anyone option, “Enlarge” button for larger format tours, “Download” button, the ability to store a flier created by client’s marketing department in pdf format on the tour for easy access and printing, stats on tour for traffic reporting to sellers, and a linkable advertisement space for whomever client may choose to work with to share tour costs.

## **TERM**

This Agreement will commence on the products publishing date and terminate 1yr from said date or until the expiration of the listing associated with such Virtual Tour Images, whichever is shorter. The Hosting and Distribution Services for Virtual Tour Images which are include in the products life span of the first year can be renewed for another term at whatever the currently published rate (for hosting services) is at the time of renewal.

## **SERVICES**

**Services to Client. The Company shall provide the following ("Services") to Client:**

- Acquire the images to create the finished product according to the client completed, signed, dated, and faxed order form found at the end of this agreement  
After tour has been shot, tour will be processed and posted within 3 business days.
- Dadz Featured Tours will charge \$50.00 for cancellations or rescheduling not made within 24 hours of the scheduled appointment.
- Coverage area will cover a 30 mile radius from Elmira, NY. Listings outside this area will incur a travel charge of .50 a mile for any miles over 60 miles round trip.
- All Tours may include (1)Agent Contact information, email link directing any questions to agent’s email address provided, (Brokerage) logo, “Map” button to Address with custom driving directions available, and if home owner agrees to the releases of that information “Email” tour to anyone option, “Enlarge” button for larger format tours, “Download” button, the ability to store a flier created by client’s marketing department in pdf format on the tour for easy access and printing, stats on tour for traffic reporting to sellers, and a linkable advertisement space for whomever client may choose to work with to share tour costs

### **Other Available Services**

Basic / Enhanced floor plan creation

Optional Service of Posting tour to Homestore.com, or Realtor.com Distribution Network \$ 25.00 per tour

Remote hosting of the finished product on clients server is billed at 3 times the published hosting value

1 (Free or complimentary) CD of completed tour to be used as marketing materials.

## **Payment for Services**

### **The Company will be paid as follows:**

Payment is expected upon delivery of product

Delivery of product is defined as publishing the clients approved finished product, to the World Wide Web and hosting that product either on the companies server or on the clients server as defined above in "Other Services Available"

Additionally all appropriate hypertext links will be made to the agreed upon websites and constitutes the completion of the publishing process. The client will receive a monthly statement of all tours completed, and paid.

## **LIMITATION ON GRANT OF RIGHTS**

Except as expressly provided herein, neither party receives any other right or license to the technology or intellectual property of the other party.

## **TERMINATION.**

(a) This Agreement may be terminated by Company in its sole discretion under any of the following conditions: if Client has availed itself of, or been subjected by any third party to, a proceeding in bankruptcy in which Client is a named debtor, an assignment by Client for the benefit of its creditors, the appointment of a receiver for Client, or any other proceeding involving insolvency or the protection of or from creditors and the same has not been discharged or terminated without any prejudice to Company's rights or interests under this Agreement within thirty (30) days. In the event Client breaches any other material term, condition or representation of this Agreement or materially fails to perform any of its material obligations or undertakings hereunder, and fails to remedy such default within thirty (30) days after being notified by Company of such breach or failure. Notwithstanding the foregoing, in the event Client fails to pay any amounts due hereunder within thirty (30) days of the due date, Company shall have the right to immediately terminate this Agreement. services as predetermined under "Service to Client" and fails to remedy such default within thirty (30) days after being notified by Company of such breach or failure.

## **NO WARRANTIES.**

COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AND IMPLIED WARRANTIES RESULTING FROM THE COURSE OF DEALING OR PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, COMPANY SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING (1) ANY BENEFIT CLIENT OR SALES AGENTS MAY OBTAIN FROM THE PRODUCTS OR SERVICES HEREUNDER; OR (2) THE OPERATION OR APPEARANCE OF THE VIRTUAL TOUR IMAGES ON THE HOMESTORE SITES IF ON WHICH SUCH VIRTUAL TOUR IMAGES ARE HOSTED. COMPANY DOES NOT GUARANTEE CONTINUOUS OR UNINTERRUPTED SERVICES OF THE VIRTUAL TOUR ON ANY HOSTING SITES TO WHICH IT HAS BEEN LINKED. IN THE EVENT OF INTERRUPTION OF THE SERVICES OF ANY SITE(S), COMPANY'S SOLE OBLIGATION SHALL BE TO CONTACT WEBMASTER OF EFFECTED SITE(S).

## **LIABILITY.**

IN NO EVENT SHALL COMPANY BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. COMPANY'S AGGREGATE LIABILITY ARISING UNDER, WITH RESPECT TO OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE TOTAL MONIES PAID BY CLIENT TO COMPANY, AS THE CASE MAY BE, UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH LIABILITY ARISES.

## **INDEMNITY**

Client shall indemnify, defend, and hold harmless Company and its respective suppliers, licensors and affiliates and the respective directors, consultants, owners, officers, employees, agents, photographers and sub contractors of the foregoing with respect to any and all claims, suits, liability, demands, damages, costs and expenses, (including, but not limited to reasonable attorneys' fees and litigation expenses), arising out of or as a result of (1) Client's breach of the representations, warranties, obligations, covenants or agreements in this Agreement; (2) any allegation that any Client Materials (a) in any way violate any local, state or federal law; (b) are libelous or defamatory; (c) violate the right of privacy of persons or other state or Federal rights; (d) constitute a trade secret; or (e) infringe any copyright, trademark, patent rights, or other intellectual property rights of a third party, (3) Client's or any Sales Agent's use of any service and/or product provided hereunder except to the extent that such claims are caused by Company's breach of this Agreement, or (4) any products and/or services provided by Company or its contractors or subcontractors.

## **MISCELLANEOUS.**

The parties to this Agreement are independent contractors and nothing herein shall be construed as creating an employment, agency, franchise, joint venture or partnership relationship between the parties. Except as expressly set forth herein, none of the parties hereto shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability, or to otherwise bind, the other parties. Client may not assign this Agreement without Dadz Featured Tours written consent. Any attempt to assign this Agreement other than as permitted above shall be null and void.

Except for Client's payment obligations, neither party shall be liable to the other party arising out of delays or failures to perform under this Agreement to the extent any such delays or failures result from any cause beyond the reasonable control of the party affected and which such party is unable to avoid or overcome by the exercise of reasonable diligence. Each party shall obtain the other's written consent prior to any publication, presentation, public announcement or press release concerning the relationship between the parties or the existence or terms and conditions of this Agreement. This Agreement shall be governed by the laws of New York, without giving effect to applicable conflict of law's provisions. With respect to any litigation arising out of or relating to this Agreement, each party agrees that it shall be filed in and heard by the state or federal courts with jurisdiction to hear such suits located in New York. This Agreement, including any exhibits and other attachments hereto, constitutes the entire understanding and agreement with respect to its subject matter, and supersedes any and all prior or contemporaneous representations, understandings and agreements whether oral or written between the parties relating to the subject matter of this Agreement, all of which are merged in this Agreement. In the event that any provision of this Agreement is found to be invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms, and the parties will work in good faith to amend such invalid or unenforceable provisions to make such provisions valid and enforceable and maintain the original benefit of the bargain for each party to the maximum extent possible. The section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement. All amendments or modifications of this Agreement shall be binding upon the parties despite any lack of consideration so long as such amendment or modifications are in writing and executed by the parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Execution and delivery of this Agreement may be evidenced by facsimile transmission. Any notices required or permitted to be given pursuant to this Agreement shall be in writing, sent via certified mail, return receipt requested, to the addresses set forth on the first page of this Agreement, or to such other address as may be amended or modified only in

writing to the other Party and shall be deemed to have been given when received.

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Printed \_\_\_\_\_

Printed \_\_\_\_\_

Dadz Featured Tours Representative

Title \_\_\_\_\_