

Terms of Service

Rights: All Photos and rights relating to them, including copyright and ownership rights in the media in which the Photos are stored, remain the sole and exclusive property of the Photographer. This license provides the Client with the limited right to reproduce, publicly display, and distribute the Photos for promotional or advertising purposes directly related to the sale or rental of the Property and commercially for marketing and self promotion of the agent only. Photos used for any purpose not directly related to the sale or rental of the Property or marketing and advertisement of the agent must be with the express permission of Photographer and the payment of additional fees, unless otherwise agreed to in writing. Rights are assigned to the Client immediately upon payment in full for the Photos and are non-transferable.

Photos may be uploaded to any MLS listing service solely for promotion of the Property during the pendency of this Agreement. However, regardless of any terms and conditions of the MLS, at no time does this Agreement provide Client with the right to transfer copyright, or any other exclusive rights as provided by the Copyright Act 17 U.S.C § 106. Photos may contain copyright management information (CMI) at the discretion of the Photographer in the form of either 1) a copyright notice © and/or 2) other copyright and ownership information embedded in the metadata or elsewhere, unless otherwise agreed to by the Parties. Removing and/or altering such information is prohibited and constitutes violation of the Digital Millennium Copyright Act (DMCA) and Client will be responsible to the Photographer for any penalties and awards available under the statute.

Re-shoots: If a property re-shoot is requested for any reason other than negligence, the cost will be negotiated prior to re-shoot. Trip fees for properties outside of our standard service area will be charged in full for any and all subsequent return trips. We offer a 100% Satisfaction Guarantee, if after one (1) re-shoot client is still dissatisfied with quality of the images all monies will be refunded within two (2) days, upon surrender of all images and marketing materials. Any assigned licenses and rights previously granted are null and void upon refund.

Weather: We will make every effort possible to produce photos and videos in all weather conditions. We check the weather forecast daily and if the weather is a concern we will attempt to make alternate arrangements or reschedule the shoot. If rescheduling is not acceptable and client insists on shooting in spite of weather forecasts, Photographer agrees to make every effort possible to complete the production at his discretion. However, if a re-shoot is necessary after weather was discussed additional fees will apply as outlined in the "Re-shoots" section of this agreement.

Access & Condition: Client is responsible for ensuring that Photographer has access to the property on the agreed upon date and time and that property is properly staged for photography. If access is not available within 15 minutes of scheduled start time a re-shoot fee of 50% of original invoice will be due immediately. Photographer will shoot the property in its current condition on the shoot date and will not move or stage any elements of the property due to liability restrictions. Final images will portray the property in its authentic condition with only light touch ups to adjust exposure and white balance. Any touch up requests that misrepresent the properties current condition will not be honored as they are a violation of Photographers code of ethics and The MLS terms and conditions.

Relationship of the Parties: The parties agree that Photographer is an independent contractor, and that neither Photographer, nor Photographer's employees or contract personnel are, or shall be deemed to be, employees of Client. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Photographer and the Photos or any other deliverables prepared by Photographer shall not be deemed a work for hire as defined under Copyright Law. All rights granted to Client are contractual in nature and are expressly defined by this Agreement.

Creation: The manner and method of creating any Photographs is solely at the discretion of Photographer and the Client has no right to control Photographer's manner and method of performance under this Agreement. Photographer will use his/her best efforts to: (a) ensure that the Photos conform to Client's specifications; and (b) submit all Photos to Client in publishable quality, on or before the applicable deadlines.

Delivery: Photographer may select delivery of photographs in JPEG, TIFF, PNG, or other standard format, at a resolution that Photographer determines will be suitable for the Photos as licensed. It is the Client's responsibility to verify that the Photos are suitable for reproduction and that if the Photos are not deemed suitable, to notify the Photographer with five (5) business days. Photographer's sole obligation will be to replace the Photos at a suitable resolution but in no event will Photographer be liable for poor reproduction quality, delays, or consequential damages.

Unless otherwise specifically provided, Photographer is not responsible to provide images 1) larger than 8"x10" at 300 dpi or 2) in a format higher than 8-bit or in RAW format. Photographer has no obligation to retain or archive any Photos delivered to Client.

Fees: All fees and expenses payable under this agreement are due upon acceptance of this agreement and no files will be delivered to client until full payment is received, unless otherwise stated. If full payment has not been received within thirty (30) days all rights are revoked at Photographer's discretion. In the event rights are revoked, all images in the possession of Client will be removed from all forms of media and permanently destroyed within one (1) day. Client shall provide Photographer with a written statement that all images have been removed and destroyed. If Client fails to pay all fees due for Services by the payment due date, Photographer reserves the right to take appropriate legal action, including without limitation pursuing civil, criminal, and injunctive redress.

Cancellation: If Client cancels this Agreement in writing, prior to 24 hours of the Property shoot, any deposits paid will be refunded to client within two (2) days. For Client cancellation with less than 24 hour notice in writing, Client is responsible for 100% of the fee and any expenses incurred.

No Exclusivity: This Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by Photographer, and Photographer shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by Photographer.

Transfer and Assignment: Client may not assign or transfer this agreement or any rights granted under it. No amendment or waiver of any terms is binding unless in writing and signed by the parties. However, the invoice may reflect, and Client is bound by authorizations that could not be confirmed in writing because of insufficient time or other practical considerations.

Indemnification: Client will indemnify and defend Photographer against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of the Photos or materials furnished by Client. It is the Client's responsibility to obtain the necessary model or property releases and ensure they are in full effect and in force.

General Law/Arbitration: This Agreement sets forth the entire understanding and agreement of the parties, and supersedes any and all prior agreements between the parties. This Agreement shall be governed and interpreted and enforced in accordance with the laws of the State of Virginia. Any claim or litigation arising out of this Agreement or its performance may be maintained only in courts physically located in The City of Manassas, and the parties hereby consent to the personal jurisdiction of such courts. In the event of any litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees incurred in the litigation. If parties are unable to resolve the dispute by negotiation, either party may start mediation and/or binding arbitration in a forum mutually agreed to by the parties.

Severability: If one or more of the provisions contained in the Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised only to the extent necessary to make them enforceable.

Waiver: No action of either party, other than express written waiver, may be construed to waive any provision of this Agreement and a single or partial exercise by either party of any such rights or remedies will not preclude further exercise of other rights or remedy.

PRIVACY POLICY

Last updated March 26, 2018

B. Payden Photography, LLC (“we” or “us” or “our”) respects the privacy of our users (“user” or “you”). This Privacy Policy explains how we collect, use, disclose, and safeguard your information when you visit our website <http://novarealestatephoto.com> including any other media form, media channel, mobile website, or mobile application related or connected thereto (collectively, the “Site”). Please read this Privacy Policy carefully. IF YOU DO NOT AGREE WITH THE TERMS OF THIS PRIVACY POLICY, PLEASE DO NOT ACCESS THE SITE.

We reserve the right to make changes to this Privacy Policy at any time and for any reason. We will alert you about any changes by updating the “Revised” date of this Privacy Policy. Any changes or modifications will be effective immediately upon posting the updated Privacy Policy on the Site, and you waive the right to receive specific notice of each such change or modification. You are encouraged to periodically review this Privacy Policy to stay informed of updates. You will be deemed to have been made aware of, will be subject to, and will be deemed to have accepted the changes in any revised Privacy Policy by your continued use of the Site after the date such revised Privacy Policy is posted.

COLLECTION OF YOUR INFORMATION

We may collect information about you in a variety of ways. The information we may collect on the Site includes:

Personal Data

Personally identifiable information, such as your name, shipping address, email address, and telephone number, and demographic information, such as your age, gender, hometown, and interests, that you voluntarily give to us when you register with the Site or when you choose to participate in various activities related to the Site, such as online chat and message boards. You are under no obligation to provide us with personal information of any kind, however your refusal to do so may prevent you from using certain features of the Site.

Financial Data

Financial information, such as data related to your payment method (e.g. valid credit card number, card brand, expiration date) that we may collect when you purchase, order, return, exchange, or request information about our services from the Site. We store only very limited, if any, financial information that we collect. Otherwise, all financial information is stored by our payment processor, Stripe, and you are encourage review their privacy policy and contact them directly for responses to your questions.

USE OF YOUR INFORMATION

Having accurate information about you permits us to provide you with a smooth, efficient, and customized experience. Specifically, we may use information collected about you via the Site to:

- Create and manage your account.
- Deliver targeted advertising, coupons, newsletters, and promotions, and other information regarding our website and mobile application to you.
- Email you regarding your account or order.
- Fulfill and manage purchases, orders, payments, and other transactions related to the Site.
- Offer new products, services, and/or recommendations to you.
- Perform other business activities as needed.
- Process payments and refunds.
- Request feedback and contact you about your use of the Site.
- Resolve disputes and troubleshoot problems.
- Respond to product and customer service requests.
- Send you a newsletter.
- Solicit support for the Site.

DISCLOSURE OF YOUR INFORMATION

We may share information we have collected about you in certain situations. Your information may be disclosed as follows:

By Law or to Protect Rights

If we believe the release of information about you is necessary to respond to legal process, to investigate or remedy potential violations of our policies, or to protect the rights, property, and safety of others, we may share your information as permitted or required by any applicable law, rule, or regulation. This includes exchanging information with other entities for fraud protection and credit risk reduction.

Other Third Parties

We may share your information with advertisers and investors for the purpose of conducting general business analysis. We may also share your information with such third parties for marketing purposes, as permitted by law.

Sale or Bankruptcy

If we reorganize or sell all or a portion of our assets, undergo a merger, or are acquired by another entity, we may transfer your information to the successor entity. If we go out of business or enter bankruptcy, your information would be an asset transferred or acquired by a third party. You acknowledge that such transfers may occur and that the transferee may decline honor commitments we made in this Privacy Policy.

We are not responsible for the actions of third parties with whom you share personal or sensitive data, and we have no authority to manage or control third-party solicitations. If you no longer wish to receive correspondence, emails or other communications from third parties, you are responsible for contacting the third party directly.

TRACKING TECHNOLOGIES

Cookies and Web Beacons

We may use cookies, web beacons, tracking pixels, and other tracking technologies on the Site to help customize the Site and improve your experience. For more information on how we use cookies, please refer to our Cookie Policy posted on the Site, which is incorporated into this Privacy Policy. By using the Site, you agree to be bound by our Cookie Policy.

Website Analytics

We may also partner with selected third-party vendors, such as Google Analytics, to allow tracking technologies and remarketing services on the Site through the use of first party cookies and third-party cookies, to, among other things, analyze and track users' use of the Site, determine the popularity of certain content and better understand online activity. By accessing the Site, you consent to the collection and use of your information by these third-party vendors. You are encouraged to review their privacy policy and contact them directly for responses to your questions. We do not transfer personal information to these third-party vendors. However, If you do not want any information to be collected and used by tracking technologies, you can visit the third-party vendor or [Network Advertising Initiative Opt-Out Tool](#) or [Digital Advertising Alliance Opt-Out Tool](#).

You should be aware that getting a new computer, installing a new browser, upgrading an existing browser, or erasing or otherwise altering your browser's cookies files may also clear certain opt-out cookies, plug-ins, or settings.

THIRD-PARTY WEBSITES

The Site may contain links to third-party websites and applications of interest, including advertisements and external services, that are not affiliated with us. Once you have used these links to leave the Site, any information you provide to these third parties is not covered by this Privacy Policy, and we cannot guarantee the safety and privacy of your information. Before visiting and providing any information to any third-party websites, you should inform yourself of the privacy policies and practices (if any) of the third party responsible for that website, and should take those steps necessary to, in your discretion, protect the privacy of your information. We are not responsible for the content or privacy and security practices and policies of any third parties, including other sites, services or applications that may be linked to or from the Site.

SECURITY OF YOUR INFORMATION

We use administrative, technical, and physical security measures to help protect your personal information. While we have taken reasonable steps to secure the personal information you provide to us, please be aware that despite our efforts, no security measures are perfect or impenetrable, and no method of data transmission can be guaranteed against any interception or other type of misuse. Any information disclosed online is vulnerable to

interception and misuse by unauthorized parties. Therefore, we cannot guarantee complete security if you provide personal information.

POLICY FOR CHILDREN

We do not knowingly solicit information from or market to children under the age of 13. If you become aware of any data we have collected from children under age 13, please contact us using the contact information provided below.

CONTROLS FOR DO-NOT-TRACK FEATURES

Most web browsers and some mobile operating systems include a Do-Not-Track (“DNT”) feature or setting you can activate to signal your privacy preference not to have data about your online browsing activities monitored and collected. No uniform technology standard for recognizing and implementing DNT signals has been finalized. As such, we do not currently respond to DNT browser signals or any other mechanism that automatically communicates your choice not to be tracked online. If a standard for online tracking is adopted that we must follow in the future, we will inform you about that practice in a revised version of this Privacy Policy.

OPTIONS REGARDING YOUR INFORMATION

Account Information

You may at any time review or change the information in your account or terminate your account by:

- Logging into user account settings and updating the user account.

Upon your request to terminate your account, we will deactivate or delete your account and information from our active databases. However, some information may be retained in our files to prevent fraud, troubleshoot problems, assist with any investigations, enforce our Terms of Use and/or comply with legal requirements.

Emails and Communications

If you no longer wish to receive correspondence, emails, or other communications from us, you may opt-out by:

- Contacting us using the contact information provided.

If you no longer wish to receive correspondence, emails, or other communications from third parties, you are responsible for contacting the third party directly.

CALIFORNIA PRIVACY RIGHTS

California Civil Code Section 1798.83, also known as the “Shine The Light” law, permits our users who are California residents to request and obtain from us, once a year and free of charge, information about categories of personal information (if any) we disclosed to third parties for direct marketing purposes and the names and addresses of all

third parties with which we shared personal information in the immediately preceding calendar year. If you are a California resident and would like to make such a request, please submit your request in writing to us using the contact information provided below.

If you are under 18 years of age, reside in California, and have a registered account with the Site, you have the right to request removal of unwanted data that you publicly post on the Site. To request removal of such data, please contact us using the contact information provided below, and include the email address associated with your account and a statement that you reside in California. We will make sure the data is not publicly displayed on the Site, but please be aware that the data may not be completely or comprehensively removed from our systems.

CONTACT US

If you have questions or comments about this Privacy Policy, please contact us at:

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