

# DIVERSITY PHOTOS ROYALTY-FREE LICENSE AGREEMENT

## Extended Content Usage Agreement – Unlimited Prints

Dear Diversity Photos Member:

The following is a legal agreement (the "Agreement") between you or the employer or other entity on whose behalf you are entering into this Agreement ("you") and Kaiyva, LLC d/b/a Diversity Photos ("Diversity Photos"). Please read this Agreement carefully before downloading any Diversity Photos images ("Image(s)") or footage ("Footage") (collectively, "Content"). By downloading any Content, you agree to be bound by this Agreement, the Diversity Photos' Privacy Policy and Diversity Photos' Terms of Use, all of which are incorporated herein and made a part hereof by this reference. Your failure to comply with the terms hereof could result in the immediate termination of your account.

Diversity Photos reserves the right to change this Agreement at any time, and you agree to be bound by such changes. If and when changes are made, notification may be provided to you. Please make sure that you read and understand all changes. If you do not agree to this Agreement, as same may be amended from time to time, do not download or use any Content. If the use you are contemplating is not permitted by this Agreement, please review our Extended Content Usage Agreement – For Resale, which offers a broader range of permitted uses.

## 1. GENERAL TERMS

All Content on the Diversity Photos website is protected by United States and international copyright laws and treaties. Diversity Photos and/or the various artists who provide Content to Diversity Photos ("Contributors") own all rights, including the copyrights in and to the Content. You acknowledge and agree that Diversity Photos and/or its Contributors retain all rights, title and interest in and to the Content (except for the rights granted pursuant to this Agreement), and that neither title nor any ownership interest in or to the Content is transferred to the you by virtue of this Agreement. This Agreement does not effectuate any sale of the Content. Except for the rights specifically sublicensed under this Agreement, you shall not have any right, title or interest in or to, and in any event shall have no ownership of, the Content, including any copyright and other intellectual property rights. Your rights to use any Content are subject to this Agreement and are conditioned upon your payment to Diversity Photos for your use of the applicable Content.

This Agreement grants you a multi-seat license. Licensee may store the Content on a server, image library or network configuration to be viewed by Licensee, subcontractors or its clients.

## **2. USAGE RIGHTS**

- 2.1. By this Agreement, Diversity Photos grants you a personal, non-exclusive, non-transferable (except as herein provided), royalty-free right, throughout the world, in perpetuity, to use and reproduce Content in the following ways, subject to the limitations set forth herein.
- 2.2. You shall have the right to transfer files containing the Content or permitted derivative works to employees, or have the Content reproduced by subcontractors, provided that such employees and subcontractors are acting only on your behalf, and provided that they agree to abide by the restrictions of this Agreement. In the normal course of workflow, you may also convey to a third party (such as a printer) temporary copies of the Content that are integral to the work product and without which the work product could not be completed. Third parties, employees and subcontractors shall have no further or additional rights to use the Content and may not access or extract it from any other file provided. You may create a digital library, network configuration or similar arrangement to allow the Content to be viewed by their employees, partners and clients.
- 2.3. You shall have the right to transfer files containing the Content to third-party clients on a per project basis.
- 2.4. In the event that any Content may become subject to a Claim for any reason, then Diversity Photos reserves the right to instruct you to cease all use, distribution and possession of such Content. You must promptly comply with such instructions at your own expense.
- 2.5. You may post and/or upload the Social-Media Enabled Content directly onto Social Media Websites and Applications as long as the applicable terms of use of the Social Media Websites and Applications do not include any provision which would claim to grant any exclusive rights or ownership to the Social Media Websites and Applications or to any other party in respect of such Content.

## **PERMITTED WEB / ELECTRONIC USES**

This Agreement grants you the right to:

- a. Incorporate Content on web sites (including Social Media Platforms, as such term is defined herein), provided that no Content is displayed at a resolution greater than the display resolution of the intended viewing device;
- b. Use Content in coordination with opt-in email marketing. However, Content cannot be used in connection with unsolicited email or linked to from unsolicited email;
- c. Incorporate Content into software (including mobile “apps”) as background images or splash screens, provided that the primary purpose of the software is not the display of Content and further provided that Content or any digital files containing the Content cannot be unincorporated from the software;
- d. Incorporate Content into film, video, multimedia presentations, or advertising for broadcast, public performance;
- e. Use Content in eBooks, including multi seat license electronic textbooks;

## **PERMITTED PRINT USES**

- f. Use Content as prints, posters, postcards (i.e. a hardcopy) and other reproductions for your own personal use and display, including display in commercial settings, provided such hardcopies are not resold or otherwise distributed;
- g. Incorporate Images into advertising materials, posters and tradeshow signage for use in promoting the sale of other products or services (as opposed to promoting the sale of the prints, posters, etc. containing the Images), provided that the Image is an integrated, supportive part of your project or product and not the definitive part of such prints and/or posters and/or other reproductions and further provided that no Image is used for Out-of-Home advertising;
- h. Use Images in magazines, newspapers, books, book covers and/or textbooks for editorial and/or advertising purposes;
- i. Use Images in the artwork for the packaging of any product;
- j. Incorporate Images on letterhead and business cards, pamphlets, brochures, and catalogs provided that Images are not used as a logo or trademark;
- k. Incorporate Content into set design and dressing for public performance.
- l. All other rights in the Content are expressly reserved by Diversity Photos for itself and its Contributors. If you wish to use Content in any manner not provided by this Extended Content Usage Agreement - Unlimited Prints, you may license Content under Diversity Photos' Extended Content Usage Agreement - For Resale, which provides a broader grant of rights.

### **3. RESTRICTIONS**

#### **YOU MAY NOT:**

- a. Use any Content other than as specified in the Usage Rights.
- b. Sublicense, sell, assign, convey or transfer any rights under this Agreement, except for permitted use.
- c. Use or display any Content on websites or in connection with any service designed to sell or induce sales of user-commissioned "print-on demand" products using or incorporating Image(s), including, by way of example only, postcards, mugs, t-shirts, posters, artwork and other items. For the purposes of this Agreement, the term "print on demand" means, a printing technology and business process in which copies of a product are not printed until an order for the product has been received.
- d. Include any Content in any electronic template or application, including those that are web based, where the purpose is to create multiple impressions of an electronic or printed product, including but not limited to website design, presentation templates, electronic greeting cards, business cards or any other electronic or printed matter.
- e. Use Content in such a manner that it infringes upon any third party's trademark or other intellectual property.
- f. Use, reproduce, distribute or display the Work (including, without limitation, by itself or in combination with any other work of authorship) in any manner that is libelous or slanderous or otherwise defamatory, obscene or indecent;
- g. USE ANY CONTENT IN A WAY THAT PLACES ANY PERSON DEPICTED IN THE CONTENT IN A WAY THAT A REASONABLE PERSON WOULD FIND OFFENSIVE - THIS INCLUDES, BUT IS NOT LIMITED TO THE USE OF CONTENT: A) IN PORNOGRAPHY, "ADULT VIDEOS" OR THE LIKE; B) IN ADS FOR TOBACCO PRODUCTS OR OTHER ADDICTIVE SUBSTANCES; C) IN ADS OR

PROMOTIONAL MATERIALS FOR ADULT ENTERTAINMENT CLUBS OR SIMILAR VENUES, OR FOR ESCORT, DATING OR SIMILAR SERVICES; D) IN CONNECTION WITH POLITICAL ENDORSEMENTS; E) IN ADVERTISEMENTS AND/OR PROMOTIONAL MATERIALS FOR PHARMACEUTICAL, HEALTHCARE, HERBAL OR MEDICAL PRODUCTS (INCLUDING, BUT NOT LIMITED TO DIETARY SUPPLEMENTS, DIGESTIVE AIDS, HERBAL SUPPLEMENTS, PERSONAL HYGIENE OR BIRTH CONTROL PRODUCTS), F) IF THE USE IMPLIES THAT THE DEPICTED PERSON SUFFERS FROM A PHYSICAL OR MENTAL INFIRMITY, AILMENT OR CONDITION OR ENGAGES IN ANY IMMORAL OR ILLEGAL ACTIVITY, UNLESS SUCH DEPICTION IS EXPRESSLY CONSISTENT WITH THE PORTRAYAL OF THE MODEL AS REPRESENTED IN SUCH CONTENT IN ITS ORIGINAL, UNALTERED FORM; OR G) IN ANY MANNER THAT IS DEFAMATORY, OR CONTAINS UNLAWFUL OR OFFENSIVE CONTENT.

- h. Except as expressly provided in the [Usage Rights](#), you may not produce or otherwise create for resale or distribution, printed reproductions of any Content on canvas, paper, or any other medium unless expressly permitted by this agreement.
- i. Use any Content on any third-party social media website or platform (a "Social Media Platform"), if such Social Media Platform claims to acquire rights contrary to this Agreement as a result of such use. In such event, you will promptly remove Content from the Social Media Platform upon Diversity Photos' request.
- j. Use Content in any manner that competes with Diversity Photos' business. This includes, by way of illustration only and not by way of limitation, displaying Content in any format (including thumbnails) for download on a website, offering Content for sale, incorporating Content into templates of any nature, including templates for websites, social networking profiles, documents, projects or otherwise making Content available for distribution and/or sale to third parties.
- k. Use Diversity Photos Content as the primary feature of any individual physical or digital product or any collection thereof which is offered for sale, trade or otherwise distributed in violation of the terms of this Agreement.
- l. Use any Content (in whole or in part) as a trademark, service mark, logo, or other indication of origin, or as part thereof, or to otherwise endorse or imply the endorsement of any goods and/or services.
- m. Use or display any Content in such a manner that gives the impression that the Content was created by you or a person other than the copyright holder of that Content. Additionally, you may not use or display any Content in such a manner that gives the impression that any person depicted in the Content is the author or creator of any product in which the Content is incorporated.
- n. Use automated programs, applets, bots or the like to access the Diversity Photos.com website or any content thereon for any purpose, including, by way of example only, downloading Content, indexing, scraping or caching any content on the website.
- o. Distribute the Content as a stand-alone image file, as a misrepresentation of ownership.

#### **4. Warranties and Disclaimer**

- a. Diversity Photos shall be under no obligation to refund the cost of a purchase. However, in the event that Diversity Photos determines that you are entitled to a refund of all or part of your purchase price,

such refund shall only be made to the credit card account originally used by you to make the subject purchase. If your payment was made by check, your refund will be made by check.

- b. Diversity Photos warrants and represents that it has the right and authority to enter into this Agreement and to grant the rights in the Content set forth herein, subject to the limitations and exclusions set forth herein.
- c. While Diversity Photos uses commercially reasonable efforts to ensure the accuracy of keywords and descriptions, Diversity Photos makes no warranties and/or representations regarding such keywords, or descriptions.
- d. The rights granted to you under this Agreement shall terminate immediately and without notice: (i) upon the institution of insolvency, receivership or bankruptcy proceedings or any other proceedings, by or against you; (ii) upon you making an assignment for the benefit of creditors; or (iii) upon the dissolution of any entity on whose behalf you entered into this Agreement, or at the moment such entity ceases to do business. Diversity Photos shall not consent to any assumption or assignment of the rights granted hereunder in the event of any of the preceding.
- e. Diversity Photos grants no rights and makes no representations or warranties with respect to the use of any names, trademarks, service mark, logotypes, copyrighted designs or works of art or architecture depicted in any Content. It is your responsibility to assure that all necessary rights, consents, or permissions that may be required for your use of any Content are obtained.
- f. Diversity Photos does not warrant that the Content, Diversity Photos websites, or other materials, will meet your requirements or that use will be uninterrupted or error free. The entire risk as to the quality, performance and use of the Content is solely with you.

## 5. Miscellaneous

- a. "Non-transferable" as used herein means that except as specifically provided in this Agreement, you may not sell, rent, loan, give, sublicense, or otherwise transfer to anyone, Content or the right to use Content. You may however, transfer Content to a third-party for the sole purpose of causing such third party to produce and/or manufacture your goods incorporating Content subject to the terms and conditions herein.
- b. The work you produce with Content must be used for yourself, your direct employer, client, or customer, who must be the end user of your work. You agree to take all commercially reasonable steps to prevent third parties from duplicating any Content. If you become aware of any unauthorized duplication of any Diversity Photos Content please notify us via email at [support@DiversityPhotos.com](mailto:support@DiversityPhotos.com).
- c. You agree to indemnify and hold Diversity Photos, its officers, employees, shareholders, directors, managers, members and suppliers, and those of its affiliates including parent companies and subsidiaries, harmless against any damages or liability of any kind arising from any use of Content other than the uses expressly permitted by this Agreement. You further agree to indemnify Diversity Photos for all costs and expenses that Diversity Photos incurs in the event that you breach any of the terms of this or any other agreement with Diversity Photos.
- d. You Warrant and Represent that:
  - i. All information, including personal information, you provide to Diversity Photos is accurate, complete, and current at the time you provide it to Diversity Photos. You agree to correct and update such information to ensure its accuracy and completeness at all times. Falsification of such

information, or failure to comply with this Agreement may result in the termination of your account with Diversity Photos.

- ii. You accept responsibility for any and all activities conducted through your Diversity Photos account. You agree to notify Diversity Photos immediately of any unauthorized use of your account, including the unauthorized use of your password or accounts, as well as of any other breach of security that may affect Diversity Photos.
  - iii. You will not in any way impersonate another person or act in a manner which may cause others to confuse you with another party.
  - iv. You will not engage in any behavior towards Diversity Photos, Diversity Photos employees, Diversity Photos Contributors, or in connection with any Content which Diversity Photos, in its discretion, deems vulgar or otherwise offensive.
  - v. If Diversity Photos terminates your account, you will not access Diversity Photos in any manner or for any reason without the prior express written permission of Diversity Photos.
- e. You must be at least 18 years of age to use the Diversity Photos.com website and accept this Agreement. Diversity Photos may require any registrant to provide sufficient proof of age.
- f. Credit Attributions and Copyright Notices
- i. You shall provide a link back to [www.DiversityPhotos.com](http://www.DiversityPhotos.com) (where applicable) -OR- provide a credit to the Diversity Photos' contributor and to Diversity Photos in connection with the use of any Content in an editorial context. Such credit shall be in substantially the following form: "Name of Artist/Diversity Photos" or "Diversity Photos".
  - ii. In the event that any Content is used in connection with a film, television broadcast, documentary or other audio-video or multimedia project, you shall use reasonable commercial efforts to accord the Diversity Photos' contributor and Diversity Photos a credit as provided above.
  - iii. Notwithstanding the foregoing, unless any other provider of stock media is credited, credit attributions are not required in connection with the use of Images in advertising.
  - iv. The unintentional omission of the aforesaid credit will not be a breach of the terms hereof provided that you cure such omission following email notice from Diversity Photos.
- g. In the event that you breach any of the terms of this or any other agreement with Diversity Photos, Diversity Photos shall have the right to terminate your account without further notice. Such termination shall be in addition to Diversity Photos' other rights at law and/or equity. Diversity Photos shall be under no obligation to refund any fees paid by you in the event that your account is terminated by reason of any such breach or breaches.
- h. You understand that you should seek counsel before using Content on or in connection with any goods or services or for any other commercial purposes.
- i. In no event shall Diversity Photos' total aggregate liability to you, or to any third party claiming through you, arising out of or in connection with your use of or inability to use the Diversity Photos website and/or Content contained thereon (whether in contract, tort or otherwise) exceed the monetary amount actually received by Diversity Photos from you for your use of the applicable Image(s). Neither Diversity Photos nor any of its officers, employees managers, members, shareholders, directors suppliers or those of its affiliates including parent companies and subsidiaries, shall be liable to you or to any other person or entity for any general, punitive, special, indirect, consequential or incidental damages, or lost profits or any other damages, costs or losses arising out of your use of the Image(s), Diversity Photos'

breach of this Agreement, or otherwise, unless expressly provided for herein, even if Diversity Photos has been advised of the possibility of such damages, costs or losses.

## 6. Governing Law

- a. Any legal action or proceeding concerning the validity, interpretation and enforcement of this agreement, matters arising out of or related to this agreement or its making, performance or breach, or related matters shall be brought exclusively in the courts of the State of Georgia in the County of DeKalb, or of the United States of America for the Northern District of Georgia, and all parties consent to the exclusive jurisdiction of those courts, waiving any objection to the propriety or convenience of such venues. The United Nations Convention on Contracts for the International Sale of Goods does not apply to or otherwise affect this agreement. The validity, interpretation and enforcement of this agreement, matters arising out of or related to its making, performance or breach, and related matters shall be governed by the internal laws of the State of Georgia (without reference to choice of law doctrine). You agree that service of process in any actions, controversies and disputes arising from or relating to this Agreement may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the other party however, nothing herein shall affect the right to effect service of process in any other manner permitted by law. This Agreement shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning of the language hereof. The invalidity or unenforceability of any part of this Agreement shall not affect the validity or enforceability of the balance hereof.
- b. In the event that you use fraudulent credit card information to open an account or otherwise engage in any criminal activity affecting Diversity Photos, Diversity Photos will promptly file a complaint with [www.ic3.gov](http://www.ic3.gov), the Internet Crime Complaint Center, a partnership between the Federal Bureau of Investigation (FBI) and the National White Collar Crime Center.

Updated September 29, 2020