



# **USAGE RIGHTS AND PHOTOGRAPHY CONTRACTS**

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## USAGE RIGHTS

“Usage rights” refers a set of mutually agreed upon parameters and stipulations/licensing agreement on how, where and for how long a particular piece of artwork (an image, a video, a logo, a piece of content) can be utilized in the marketplace.

### What is a copyright?

A copyright is a form of protection, provided by the laws of the United States (Title 17, U.S. Code) **to the authors of “original works of authorship,”** including literary, dramatic, musical, artistic, and certain other intellectual works.

### What works are protected?

“Original works of authorship” that are fixed in a tangible form of expression, including:

- Literary works
- Musical works
- Dramatic works
- Choreographic works
- Pictorial, visual, graphic works
- Sculptural works
- Motion pictures/audiovisual works
- Sound recordings
- Architectural works

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### Who can claim a copyright?

The copyright in the work of authorship immediately becomes the property of the author who created the work. **Only the author or those deriving their rights through the author can rightfully claim copyright.**

### How long do copyrights last?

As a general rule, copyright protection lasts for the lifetime of the original creator plus an additional 70 years.

### Why is this so important?

In order to freely copy, distribute, make derivative works from and/or prevent others from doing so, you must purchase the copyright or some form of usage-rights license from the original creator.

If you wish to register a copyright with the U.S. copyright office or sue infringers of a copyright, you will need ownership rights.

## COMMON USAGE RIGHTS TERMINOLOGY

Prevalent terms and definitions that are used when contracting photography and videography.

### Exclusivity

Refers to whether a piece can be licensed/sold to only one party or multiple parties. It can sometimes (but not always) denote ownership. Always clarify with the creator.

**NON-EXCLUSIVE:** Usage rights that are “not exclusive” to just one licensee/purchaser. The original creator may continue to license the piece concurrently to other parties.

**EXCLUSIVE:** The original creator has granted exclusive usage to the licensee/purchaser.

### Limited/One-time use

Licensing terms for a specific project, medium and/or a duration of time.

### First rights / serial rights

Usage rights won't be licensed/granted to another party until after the launch of the project it was originally assigned for (or another specified date).



## COMMON USAGE RIGHTS TERMINOLOGY

Prevalent terms and definitions that are used when contracting photography and videography.

### Multi-media

Refers to the myriad of media being used in the world today. Print, digital, editorial, marketing, advertising, social media, broadcast. Sometimes used interchangeably with “unlimited-use”

### Digital use

Broadly, this refers to the myriad of digital media being used in the world today. Basically, anything viewed on a screen/monitor. Web sites, social media (paid and organic), digital advertising (banner ads; static, animated).

### Ownership

Who possesses the ownership/copyright of a piece (not always the end-user or the licensee. **If ownership has not been specifically stipulated in an agreement/contract, the original creator retains ownership.**

### Photo-credit / attribution

a small line of copy denoting either the creator or the owner (depending on who owns the image). Not to be confused with “photo caption/description”

## WORK-FOR-HIRE

An exception/special circumstance in copyright protections based on either an employment relationship or a commissioned work that falls into a specific category.

### Work-for-hire – Employment

A work is considered “work-for-hire” if it has been prepared by an employee within the scope of their employment. In this instance, the employer automatically owns the copyright.

### Work-for-hire – Commissioned

A work specially commissioned from an independent contractor pursuant to a written agreement/contract and the work falls within one of nine statutorily defined categories:

- A contribution to a “collective work”
- A part of a motion picture or other audiovisual work
- A translation
- A supplementary work
- A compilation
- An instructional text
- A test
- Answer material for a test
- An atlas



## COMMON USAGE RIGHTS SCENARIOS

Three of the most common use cases and language when contracting photography and videography.

### ONE-TIME USE / LIMITED USE (NON-EXCLUSIVE)

**USAGE:** Only for one specific product (not to be used anywhere else).

**DURATION:** A very specified length of time.

**CREDIT/ATTRIBUTION:** Always credit the original creator (where/when possible).

**OWNERSHIP:** Original creator still retains ownership/copyright.

**COST:** \$

**EXAMPLE:** images used only for digital banner ads or images for a travel guide.



## COMMON USAGE RIGHTS SCENARIOS

Three of the most common use cases and language when contracting photography and videography.

### UNLIMITED / MULTI-MEDIA (NON-EXCLUSIVE)

**USAGE:** Can be used anywhere and in any medium (unlimited).

**DURATION:** A specified duration; typically 1-3 years. Longer than one specific project/campaign/product. Contract specific.

**CREDIT/ATTRIBUTION:** Always credit the original creator (where/when possible).

**OWNERSHIP:** Original creator still retains ownership/copyright.

**COST:** \$\$

**EXAMPLE:** Images that can be used in multiple mediums in various projects for a prolonged amount of time.



## COMMON USAGE RIGHTS SCENARIOS

Three of the most common use cases and language when contracting photography and videography.

### UNLIMITED / MULTI-MEDIA (EXCLUSIVE)

**USAGE:** Can be used anywhere and in any medium (unlimited). These are to be used only by the original licensee/purchaser.

**DURATION:** Dependent on contract.

**CREDIT/ATTRIBUTION:** Contract dependent. Typically, the licensee/purchaser.

**OWNERSHIP:** Contract dependent.

**COST:** \$\$\$

**EXAMPLE:** Images that can be used in multiple mediums in various projects for as long as you want.



## COMMON USAGE RIGHTS SCENARIOS

Three of the most common use cases and language when contracting photography and videography.

### UNLIMITED / MULTI-MEDIA (OWNERSHIP)

**USAGE:** Can be used anywhere and in any medium (unlimited). These are to be used only by the original licensee/purchaser.

**DURATION:** In perpetuity.

**CREDIT/ATTRIBUTION:** The licensee/purchaser.

**OWNERSHIP:** The licensee/purchaser.

**COST:** \$\$\$\$

**EXAMPLE:** Images that can be used in multiple mediums in various projects for as long as you want.

A person is riding a bicycle on a dirt trail through a forest. The scene is overlaid with a color gradient: orange on the left and teal on the right. The text "FINAL THOUGHTS AND QUESTIONS" is centered in yellow. Four white corner brackets are positioned around the text.

# **FINAL THOUGHTS AND QUESTIONS**