

## GETTY IMAGES PUBLICITY TERMS & CONDITIONS

Last Updated: September 2020

**1. What is this?** This is a license agreement between you and Getty Images that explains how you can use the Getty Images Publicity service, which service allows you to upload and distribute content related to or in connection with a particular event (“Publicity”). By logging in to Publicity, you accept the terms of this agreement. Subject to the Restricted Uses set out below, your right to use Publicity is:

- **Non-Exclusive**, meaning that you do not have exclusive rights to use Publicity. Getty Images can license Publicity to other customers.
- **Worldwide**, meaning Publicity can be used by you in any geographic territory.
- **Limited** meaning for your internal business purposes for the maximum storage capacity and duration set forth in the Commercial Terms.

Getty Images may use a third-party technology partner to provide Publicity and related services to you. All rights granted by you in this agreement to Getty Images shall also be granted to its technology partner.

Please make sure you read the Restricted Uses section below for exceptions.

**2. What is not covered by this Agreement?** This Agreement governs Publicity and nothing in this Agreement will limit or supersede any rights or obligations of the parties with respect to images, video footage, audio products, or other content and materials that you may have separately licensed from Getty Images under a separate license agreement.

### **3. Restricted Uses.**

- a. No Unlawful Use. You may not use Publicity in an unlawful manner.
- b. No Re-distribution. You may not “frame”, distribute, resell, or permit access to Publicity by any third party (other than users acting on your behalf).
- c. No Unauthorized Access. You may not interfere with Publicity, disrupt any other customer’s access to Publicity, attempt to gain unauthorized access to Publicity or attempt to access or retrieve content stored on Publicity by another customer.
- d. No Reverse Engineering. You may not reverse engineer, attempt to discover the underlying source code or structure of Publicity.
- e. No Scraping. You may not use any robot, spider, data scraping or extraction tool or similar mechanism with respect to Publicity.
- f. No Submission of Offensive or Infringing Content. You may not upload to Publicity any content that is false, misleading, defamatory, threatening, offensive or infringing of intellectual property rights, or that contains mass mailings or any form of spam.
- g. No Submission of Malware. You may not submit to Publicity any malware (such as a virus or Trojan horse) that is designed to delete, disable, deactivate, interfere with or otherwise harm Publicity or intended to provide unauthorized access or produce unauthorized modifications.

4. **Who, besides me, can use Publicity?** The rights granted to you are non-transferable and non-sublicensable, meaning that you cannot transfer or sublicense them to anyone else. Notwithstanding the foregoing, you may make your Publicity and your content stored on Publicity available to third-party end users, provided that they agree to the Publicity User Terms of Service. You are responsible for all authorizations of such end users, whether by means of your online access to the Publicity or by instructing Getty Images (in writing, email to suffice) to authorize access to specific end users. You acknowledge and agree that Getty Images has the right to deny access for any reason to any end user in its absolute discretion, including without limitation, where the end user is in breach or suspected breach of the Publicity User Terms of Service. In the event that you have any right, claim, or action against any end users arising out of their use of Publicity or any of your content, you will pursue such right, claim or action independently of and without recourse to Getty Images.
5. **User Accounts.** You will be responsible for tracking all activity for each of your user accounts, and you agree to: (1) maintain the security of all such passwords and usernames; (2) notify Getty Images immediately of any unauthorized use or other breach of security; and (3) accept all responsibility for activity that occurs under each such user account. Getty Images reserves the right to monitor your downloads and user activity to ensure compliance with the terms of this agreement. If Getty Images determines that you are in breach of this or any other term of this agreement, it, or its third-party technology partner, may suspend access to your account and seek further legal remedies. Each set of login credentials (i.e., email address and password) for Publicity may be used only by a single, individual user.
6. **Fees/Taxes.**
  - a. Fees. All fees will be due and payable within thirty (30) days of invoice. If Getty Images is providing additional services to you, and the fees aren't specified in the Commercial Terms, the additional fees for any additional services and any reasonable, out of pocket travel expenses will be agreed upon in writing (email to suffice) prior to Getty Images providing any such additional services and/or incurring any travel expenses.
  - b. Taxes. You agree to pay and be responsible for any and all sales taxes, use taxes, value added taxes, withholding taxes, and duties imposed by any jurisdiction as a result of the license granted to you to use Publicity and any related services provided to you.
7. **Intellectual property rights.**
  - a. **Who owns Publicity?** Publicity is owned by Getty Images or its third-party technology partner. All rights not expressly granted in this agreement are reserved by Getty Images.
  - b. **Can I use the Getty Images name or logo?** You may not use the Getty Images name, logos, or trademarks without prior written approval.
  - c. **Who owns the content we upload to Publicity?** You may upload content taken from the same event to your Publicity. As between you and Getty Images, you own all content you upload to Publicity ("Customer Content")--with, of course, the exception of any Getty Images' content you license from Getty Images, which is subject to the terms of the relevant license agreement. You grant Getty Images and its third-party technology partner all rights necessary to the Customer Content in order to provide Publicity to you and display content to any third- parties authorized by you. You are responsible for all distribution of Customer Content through Publicity by users that have access to your Publicity. In addition, you represent and warrant that you have all rights necessary to upload Customer Content

to Publicity.

- d. **What can Getty Images do with our Usage Data?** Getty Images may aggregate information regarding you and your users' use of Publicity with similar data from other customers for Getty Images' own internal use or distribution to third parties, provided that such aggregated information is "de-identified" so as not reveal either your identity or any user's identity.
- e. **Who owns any work product created by Getty Images?** If Getty Images provides any services on your behalf related to Getty Images, Getty Images will retain ownership of all work product created in connection with the services (except to the extent it contains any Customer Content or Confidential Information). During the term, Getty Images grants you a non-exclusive, worldwide, license to use the work product solely for your internal business purposes in connection with your use of Publicity.
- f. **Feedback.** If you provide any feedback or suggestions about Publicity, you agree that Getty Images may use such information without restriction or obligation of compensation.

## 8. Term

- a. **Term.** The term of your use of Publicity is set forth in the Commercial Terms.
- b. **Termination.** Either party may terminate this agreement immediately if the other party breaches any material provision of this agreement and fails to cure such breach within thirty (30) days after receiving the other party's written notice of breach.
- c. **Effect of Termination.** Upon expiration or termination, you must immediately: cease using Publicity; and, if requested, confirm to Getty Images in writing that you have complied with these requirements. As of the date of termination, you must pay Getty Images for any accrued, but unpaid for fees. You will not be entitled to any refund on fees paid, except if you terminate due to Getty Images' uncured breach. In such case, you will be entitled to a pro-rata refund of any prepaid, unused fees. Getty Images will retain Customer Content and usage data for thirty (30) days following termination of this agreement. During this thirty (30) day period, you may request the return of your Customer Content. Upon your request and subject to a mutually agreeable fee and timeline, Getty Images will return the Customer Content to you in the form uploaded by you (or other, mutually agreeable format) and deliver any metadata in a CVS file or other usable format. Thereafter, Getty Images has no obligation to retain, and may delete, Customer Content and usage data from Publicity at anytime.

## 9. Confidentiality

- a. **What type of information is considered Confidential Information?** The parties may have access to information of the other party that may be considered confidential information. "Confidential Information" means (i) the terms and pricing under this agreement; (ii) all passwords and usernames issued by Getty Images; (iii) all information clearly identified in writing by disclosing party as confidential; and (iv) information that the receiving party should reasonably understand by its nature to be confidential. Notwithstanding the foregoing, Confidential Information does not include any information that: (i) is or becomes known to the receiving party without breaching the receiving party's confidentiality obligations to the disclosing party; (ii) was independently developed by the receiving party without breaching the receiving party's confidentiality obligations to the disclosing party; or (iii) is received from a third party who obtained the information without any third party's breach of any obligation owed to the disclosing party.

- b. **How may we use Confidential Information?** Each party agrees to maintain the other party's Confidential Information in confidence and to protect it to the same extent that it protects its own Confidential Information. Each party will maintain the other party's confidential information during the term of this agreement, and for an additional two (2) years thereafter. The parties agree that unless required by law, they will not make the other party's confidential information available in any form to any third party for any purpose than for use under this agreement. For the sake of clarity, Getty Images may make your confidential information available to any of its third-party partners that perform services on Getty Images' behalf (e.g., providers that host your data). Such third parties will only be permitted to have access to your confidential information to the extent necessary to provide the services contemplated herein. These third parties are required to maintain the confidentiality of your confidential information and are prohibited from using it for any other purpose. Getty Images maintains contracts with these third parties requiring their treatment (access, use, and disclosure) of confidential information be consistent with (i) our obligations to you; and (ii) any applicable laws.

## 10. Indemnification/ Limitation of Liability

- a. Disclaimer. You understand that, as an internet-delivered software application, Publicity may experience periods of downtime, including but not limited to scheduled maintenance. Accordingly, Publicity is provided "as is" without representation, warranty or condition of any kind, either express or implied, including, but not limited to, implied representations, warranties or conditions of merchantability, or fitness for a particular purpose. Getty Images does not represent or warrant that the content will meet your requirements or that its use will be uninterrupted or error free.
- b. Indemnification of Getty Images by you. You agree to defend, indemnify and hold harmless Getty Images and its parent, subsidiaries and affiliates, and each of their respective officers, directors and employees from all damages, liabilities and expenses (including reasonable outside legal fees) arising out of or in connection with (i) your use of Publicity outside the scope of this agreement; and/or (ii) any breach or alleged breach by you (or anyone acting on your behalf) of any of the terms of this agreement.
- c. **Limitation of Liability. NEITHER GETTY IMAGES NOR ITS THIRD-PARTY TECHNOLOGY PARTNER WILL BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER SIMILAR DAMAGES, COSTS OR LOSSES ARISING OUT OF THIS AGREEMENT, EVEN IF GETTY IMAGES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS OR LOSSES. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITY.**

## 11. General Provisions

- a. Publicity. You agree that Getty Images may identify you as a customer of Publicity in a customer list or marketing communications.
- b. Assignment. This agreement is personal to you and is not assignable by you without Getty Images' prior written consent. Getty Images may assign this agreement, without notice or consent, to any corporate affiliate or to any successor in interest, provided that such entity agrees to be bound by these terms.
- c. Governing Law/Arbitration. This agreement will be governed by the laws of the State of New York, U.S.A., without reference to its laws relating to conflicts of law. Any disputes arising from or related to this agreement shall be finally settled by binding, confidential arbitration by a single

arbitrator selected using the rules and procedures for arbitrator selection under the Commercial Rules of the American Arbitration Association ("AAA") or of the International Centre for Dispute Resolution ("ICDR") in effect on the date of the commencement of arbitration (the applicable rules to be at your discretion) to be held in one of the following jurisdictions (whichever is closest to you): Seattle, Washington; New York, New York; Los Angeles, California; London, England; Paris, France; Frankfurt, Germany; Tokyo, Japan; or Singapore. The arbitration proceedings shall be conducted in English and all documentation shall be presented and filed in English. The decision of the arbitrator shall be final and binding on the parties, and judgment may be entered on the arbitration award and enforced by any court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not govern this agreement. Getty Images shall also have the right to commence and prosecute any legal or equitable action or proceeding before any court of competent jurisdiction to obtain injunctive or other relief against you in the event that, in the opinion of Getty Images, such action is necessary or desirable. The parties agree that, notwithstanding any otherwise applicable statute(s) of limitation, any arbitration proceeding shall be commenced within two years of the acts, events or occurrences giving rise to the claim.

- d. Severability. If one or more of the provisions in this agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions should not be affected. Such provisions should be revised only to the extent necessary to make them enforceable.
- e. Waiver. No action of either party, other than express written waiver, may be construed as a waiver of any provision of this agreement.
- f. Entire Agreement. No terms of conditions of this agreement may be added or deleted unless made in writing and accepted in writing by both parties, or issued electronically by Getty Images and accepted in writing by you. In the event of any inconsistency between the terms of this agreement and the terms contained on any purchase order sent by you, the terms of this agreement will apply.
- g. Notice. All notices required to be sent to Getty Images under this agreement should be sent via email to legal@gettyimages.com. All notices to you will be sent via email to the email set out in your account.
- h. Third Party Beneficiary. The parties acknowledge and agree that Brandfolder, Inc. is an express, intended third-party beneficiary of this Agreement, with regard to suspension and termination rights, solely in circumstances where you are in material breach of the agreement and such material breach creates a significant risk to the security Media Manager or Brandfolder, Inc.'s intellectual property rights.
- i. Force Majeure. Getty Images shall not be deemed in breach of this agreement or otherwise liable for any delay in performance or any failure to perform any obligations under this agreement (and the time for performance shall be extended accordingly) to the extent that the delay or failure is due to circumstances beyond our reasonable control.
- j. No Partnership. Nothing in this agreement shall be construed as creating any agency, partnership or any other form of joint partnership between you and Getty Images.
- k. Support. Phone support is available for Publicity from 9:00 a.m. to 6:00 p.m. Monday through Friday, excluding holidays, in the location of your billing time zone. The following table sets forth the appropriate phone number for support, by country.

Country	Publicity Support Phone Numbers
UK	+44 (0) 207 579 5757

Australia	+61 (0)2 9004 2244
France	0800 917 942
Germany	0800 101 4441
Italy	0800 784773
Spain	0900 971634
USA	1-888-373-1500

- I. Privacy. “Data Protection Legislation” means the General Data Protection Regulation and any other national privacy or data protection legislation that applies to the parties or their data processing activities from time to time Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- a. Where applicable, and to the extent that Getty Images processes Personal Data on your behalf under this agreement, the parties acknowledge that for the purposes of the Data Protection Legislation, you are the data controller “and Getty Images is the data processor (where Data Controller, Data Processor and Personal Data have the meanings as defined in the Data Protection Legislation). Getty Images operates Publicity for you to host and manage your Customer Content. The types of Personal Data involved are: (i) name, title, email address and phone number of you and your employees and such other information to the extent provided by you or your employees to Publicity; (ii) Publicity system logs (upload times etc.); and (iii) recognizable individuals as well as caption data relating to identified or identifiable individuals in Customer Content.
  - b. Without prejudice to the generality of clause a, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Getty Images for the duration and purposes of this agreement.
  - c. Without prejudice to the generality of clause a, Getty Images shall, in relation to any Personal Data processed in connection with the performance by Getty Images of its obligations under this agreement:
    - i. process that Personal Data only on your written instructions unless Getty Images is required by Applicable Laws to otherwise process that Personal Data;
    - ii. taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, ensure that it has in place appropriate technical and organizational measures, to protect against unauthorized or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and

- evaluating the effectiveness of the technical and organizational measures adopted by it);
- iii. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
  - iv. assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - v. notify you without undue delay on becoming aware of a Personal Data breach;
- d. at your written direction, delete or return Personal Data and copies thereof to you on termination of the agreement unless required by applicable law to store the Personal Data; and maintain complete and accurate records and information to demonstrate its compliance with this clause.
  - e. By providing us with your Personal Data, you acknowledge and agree that we may from time to time and only as necessary for processing activities, transfer your Personal Data to Getty Images' affiliates, agents or appointed representatives located internationally. Getty Images' has implemented appropriate safeguards for transfers of Personal Data originating from the European Economic Area (EEA) to countries either located outside of the EEA or not recognized by the European Commission as having an adequate level of data protection. The safeguards include implementing standard data protection clauses which have been approved by the European Commission and/or the Binding Corporate Rules where applicable.
  - f. Getty Images may appoint further data processors on its behalf (each a "Sub-Processor") provided that (i) Getty Images' engagement of a Sub-Processor is under a written agreement incorporating terms that provide equivalent protections to those set out in this section, and (ii) with your prior written consent (not to be unreasonably withheld or delayed). On execution of this Agreement you provide your general written consent to the sub-processing of your Personal Data by Getty Images affiliates – the list of contracting subsidiaries can be found here <https://www.gettyimages.co.uk/licensing-entities> and Technology Partner 'BrandFolder, Inc', who shall carry out the processing of your Personal Data in the same manner as Getty Images and in accordance with the terms of this Agreement. As between you and Getty Images, Getty Images shall remain fully liable for all acts or omissions of any Sub-Processor appointed by it pursuant to this agreement.