

Calgary Photos

Terms and Conditions.

Revised January 1st, 2015.

Terms and conditions may be revised without notice. For previous versions of the terms and conditions please contact your Calgary Photos representative. The terms and conditions that were current at the time of the issuance of your invoice will be used.

By paying your INVOICE, you, the Client, as described on the INVOICE, agrees to the following terms and conditions (the "Agreement") and is granted Standard License(s) as herein described for photography, virtual tours and or videography, brochures, websites and other media produced by Calgary Photos, (hereinafter referred to as "Content" as a whole and as "Items" individually) to be used as described below. All other rights in and to the Content, including, without limitation, all copyright and other intellectual property rights relating to the Content, are retained by Calgary Photos.

Standard License(s)

Each Item detailed in the Invoice will have different terms and conditions. Each Item will have a set terms and conditions, set of usage rights and set usage restrictions.

All License(s) are non transferrable and may be

Description of Item	Exclusivity of License	Term	Permitted Uses What the Item(s) can be used for.	Prohibited Uses What the Content cannot be used for.
Realtor Packages Including Daytime Realtor Package, Twilight Realtor Package, Reshoot Realtor Package, One Shot Realtor Package, and Realtor Virtual Tour Package	Non-Exclusive. This means that Calgary Photos may reuse or resell the photos. For instance, if the exterior or amenity spaces of a condominium building are shot for one client, we will provide those photos to other clients who have photos taken in the same building. This helps all of us in that it decreases the disruption of usage in common areas and increases the ability to get the best exterior photos.	One Year from the date of invoice. The Term may be extended if the property has not sold with in the one year period up to a maximum of Five (5) years.	The Item(s) may be used digitally for the marketing and listing on the MLS, WeList, Com-Free and other websites intended for the purpose of selling real estate. The Item(s) may also be used in print, including but not limited to listing brochures and advertisements intended for the marketing and sale of the property including magazines, newspapers, flyers and mail drops. The Item(s) may also be gifted for personal use to the owners of the property.	The Item(s) may not be used for any other commercial use such as but not limited to the advertising or marketing of the builder, developer, or any other contractor.
Realtor Stock Images	Non-Exclusive	99 year	The Item(s) may be used an unlimited amount of times across all mediums for the purposes of promoting the sale or rental of real estate.	The Item(s) may not be used for any other commercial use such as but not limited to the advertising or marketing of the local businesses or services. The Item(s) may not be used for any press or media usage.

Realtor Portrait Images	Exclusive use. The client has exclusive use of their portrait image, however Calgary Photos does reserve the right to use the portrait as part of their portfolio.	99 year	The Item(s) may be used an unlimited amount of times across all mediums.	
Builder Packages Including Builder Portfolio Packages, Builder Award Packages	Non-Exclusive	99 year	The Item(s) may be used an unlimited amount of times across all mediums.	
All Content described as Photography, Photoshop or Processing.	Non-Exclusive	99 year	The Item(s) may be used an unlimited amount of times across all mediums.	
All Content described as Video or YouTube Slideshow	Non-Exclusive	99 Year	The Item(s) may be used an unlimited amount of times across all mediums.	
All Content described as 3D Imaging or Matterport	Non-Exclusive	Term for this content will be the same as the term of the hosting package purchased. Derivative works may be used for a period of 1 year.	The Item(s) may be used an unlimited amount of times across all online mediums.	

Prohibited Uses

In Addition to the Prohibited Uses described above, The Client further may not:

1. use the Content in design template applications intended for resale, whether on-line or not, including, without limitation, website templates, Flash templates, business card templates, electronic greeting card templates, and brochure design templates;
2. use the Content in any posters (printed on paper, canvas or any other media) or other items for resale, license or other distribution for profit;
3. incorporate the Content in any product that results in a re-distribution or re-use of the Content (such as electronic greeting card web sites, web templates and the like) or is otherwise made available in a manner such that a person can extract or access or reproduce the Content as an electronic file;
4. use the Content in a fashion that is considered by Calgary Photos (acting reasonably) as or under applicable law is considered pornographic, obscene, immoral, infringing, defamatory or libelous in nature, or that would be reasonably likely to bring any person or property reflected in the Content into disrepute;
5. remove any notice of copyright, trade-mark or other proprietary right from any place where it is on or embedded in the Content;
6. sub-license, re-sell, rent, lend, assign, gift or otherwise transfer or distribute the Content or the rights granted under this Agreement;
7. install and use the Content in more than one location at a time or post a copy of the Content on a network server or web server for use by other users;
8. use or display the Content in an electronic format that enables it to be downloaded or distributed via mobile devices or shared in any peer-to-peer or similar file sharing arrangement, including torrent servers;
9. use the Content for editorial purposes without including the following credit adjacent to the Content or in audio/visual production credits: "©Calgary Photos – www.calgaryphotos.ca";

Property and Model Releases

The Client acknowledges that Calgary Photos may require model and/or property releases to be signed. In the event that Calgary Photos or The Client is unable to obtain the necessary release, The Client will hold Calgary Photos harmless for any loss or damages that may arise from such.

The Client acknowledges that for all Realtor Packages, that Calgary Photos is not required to obtain a property release from the owner of the property photographed and that the Client agrees to obtain

consent from the owner(s) and or tenants of the property photographed for all the permitted uses outlined within this agreement.

The Client acknowledges Calgary Photos may use The Content in its own online and print promotion, for example online on Calgary Photos' website www.calgaryphotos.ca, www.cityphotos.ca, and other affiliated websites, image hosting services such as www.flickr.com, www.500px.com, www.vimeo.com, www.instagram.com, www.pinterest.com and/or social media sites such as www.facebook.com, www.twitter.com and www.linkedin.com. Some Content such as virtual tours and photos will be posted online for the benefit of, or at the request of the Client, and it will be the responsibility of the Client to inform Calgary Photos in writing or by e-mail to info@calgaryphotos.ca if such posting of the Content requires removal from the web, upon which Calgary Photos will remove the Content from the web as requested by the Client in a reasonable timeframe.

Term of Agreement

The Client can terminate this Agreement by destroying the Content and any derivative works, along with any copies or archives of it or accompanying materials (if applicable), and ceasing to use the Content for any purpose provided that all monies owed to Calgary Photos have been paid in full. The Agreement also terminates without notice from Calgary Photos if at any time The Client fails to comply with any of its terms. Upon termination, The Client must immediately (i) cease using the Content and for any purpose; (ii) destroy or delete all copies and archives of the Content or accompanying materials; and (iii) if requested, confirm to Calgary Photos in writing that The Client has complied with these requirements. (b) Calgary Photos reserves the right to elect at a later date to revoke or amend the license granted by this Agreement and replace the Content with an alternative for any reason. Upon notice, sent to the address or contact information provided by The Client, of such replacement, the license for the replaced Content immediately terminates for any products that do not already exist, and this license automatically applies to the replacement Content. The Client agrees not to use the replaced Content, or any derivative works, for future products and to take all reasonable steps to discontinue use of the replaced Content, or any derivative works, in products that already exist. (c) Upon notice from Calgary Photos, or upon The Client's knowledge that any Content is subject to a threatened, potential or actual claim of infringement of another's right for which Calgary Photos may be liable, The Client must immediately and at The Client's own expense (i) stop using the Content; (ii) delete or remove the Content from The Client's premises, computer systems and storage (electronic or physical); and (iii) ensure that The Client's clients, printers or ISPs do likewise. Calgary Photos shall provide The Client with replacement Content (which shall be determined by Calgary Photos in its reasonable commercial judgment) free of charge, but subject to the other terms and conditions of this Agreement. All monies owing to Calgary Photos will be paid immediately in the event of termination. No monies will be refunded or returned to the Client in the event of termination.

Calgary Photos Representations and Warranties

OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 7(a), THE CONTENT IS PROVIDED "AS IS" WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

Indemnification and Liability

IN NO EVENT SHALL CALGARY PHOTOS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS OR AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THIS AGREEMENT, INCLUDING WITHOUT

LIMITATION THE CLIENT'S USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE CONTENT, OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO THE CLIENT HEREUNDER, EVEN IF CALGARY PHOTOS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE. NO ACTION, REGARDLESS OF FORM OR NATURE, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY OR ON BEHALF OF THE CLIENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION FIRST AROSE. (d) NOTWITHSTANDING ANY OTHER TERM HEREIN, CALGARY PHOTOS SHALL NOT BE LIABLE FOR ANY DAMAGES, COSTS OR LOSSES ARISING AS A RESULT OF MODIFICATIONS MADE TO THE CONTENT BY THE CLIENT OR THE CONTEXT IN WHICH THE CONTENT IS USED BY THE CLIENT. (e) NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF CALGARY PHOTOS UNDER THIS AGREEMENT AND ANY OTHER AGREEMENT UNDER WHICH THE CLIENT HAVE LICENSED THE SAME CONTENT, REGARDLESS OF THE FILE SIZE, OR THE USE OR EXPLOITATION OF ANY OR ALL OF THE CONTENT IN ANY MANNER WHATSOEVER AND THE OBLIGATION OF CALGARY PHOTOS UNDER SECTION 8(a) SHALL BE LIMITED TO AN AGGREGATE OF TEN THOUSAND (\$10,000) CANADIAN DOLLARS. FOR GREATER CLARITY, CALGARY PHOTOS'S LIABILITY TO THE CLIENT IN RESPECT OF THE CONTENT SHALL NOT EXCEED TEN THOUSAND (\$10,000) CANADIAN DOLLARS REGARDLESS OF THE NUMBER OF TIMES THAT THE CLIENT LICENSE THE SAME CONTENT FROM CALGARY PHOTOS. THE CLIENT AGREES TO INDEMNIFY, DEFEND AND HOLD CALGARY PHOTOS, ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS AND AGENTS (COLLECTIVELY, THE "CALGARY PHOTOS PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY, LOSSES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE LEGAL FEES ON A SOLICITOR AND CLIENT BASIS) INCURRED BY ANY CALGARY PHOTOS PARTY AS A RESULT OF OR IN CONNECTION WITH ANY BREACH OR ALLEGED BREACH BY THE CLIENT OR ANYONE ACTING ON THE CLIENT'S BEHALF OF ANY OF THE TERMS OF THIS AGREEMENT.

General Provisions

1. Calgary Photos' failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. 2. This Agreement is personal to The Client and is not assignable by The Client without Calgary Photos' prior written consent. Calgary Photos may assign this Agreement without The Client's consent to any other party so long as such party agrees to be bound by its terms. 3. If all or part of any provision of this Agreement is wholly or partially unenforceable, the parties or, in the event the parties are unable to agree, a court of competent jurisdiction, shall put in place of such whole or part provision an enforceable provision or provisions, that as nearly as possible reflects the terms of the unenforceable whole or part provision. 4. The Client agree to pay and be responsible for any and all sales taxes, use taxes, value added taxes and duties imposed by any jurisdiction as a result of the license granted to The Client, or of The Client's use of the Content, pursuant to this Agreement. 5. This Agreement will be governed under the laws of the Province of Alberta and the federal laws of Canada applicable therein (without reference to conflicts of laws principles).