Lizenzbestimmungen

EULA (End User License Agreement) of IMAGESELECT

Preamble

The following EULA (referred to in the following as “conditions”) constitutes a legally binding contract between you (referred to in the following as “USER”) and IMAGESELECT digitale Bildagentur (referred to in the following as “IMAGESELECT”). These conditions apply to all to Royalty Free Images purchased online and/or on a VCD (virtual CD), hereafter called “images”.

Your agreement with these conditions is confirmed through the download of IMAGESELECT´s images or the opening of the packaging of a CD. Should you not accept these conditions, you are not permitted to use the images and to return any CD ROM package, unopened and unused.

Differing terms and conditions of the USER, i.e. the licence holder apply only in the event that written agreement is provided by IMAGESELECT. Any licence holder’s general conditions of business and delivery on the order form, confirmation of order or other documentation are herewith expressly negated.

§ 1 Grant of rights

§ 1.1 IMAGESELECT grants to USER a non-transferable, non-exclusive license to use the images, in consideration of the obligations, warranties and undertakings of USER in this agreement, and subject to and conditional upon their full and timely performance and observance. USER may additionally change an image content or form, with the exceptions that follow hereinafter.

§ 1.2 The licensing becomes effective with the acceptance of these conditions and payment of the license fee. The natural or legal entity whose name and address is provided on the order receives, on fulfilment of the above mentioned

requirements, the non-exclusive and non-transferrable right to use the images, subject to the limitations detailed below.

§ 1.3 Only user rights regarding the photographic copyright are granted for the respective image/s. Any approval or authorisation to the use of portrayed persons, names, brand names or trademarks, buildings, decoration and artistic designs are not included. This applies especially for commercial uses. The USER is responsible for procurement of the necessary permission or authorisation associated with the planned use from the respective competent person or authority.

§ 1.4 Any distortion of the images through derivative drawing, photographing, photocomposing or the use of electronic equipment is not permitted. Exceptions to this provision require an individual written agreement. Distortion of the context and adulteration of the image or text, uses that may result in the degradation of the portrayed persons and the use in circumstances that are illegal, pornographic, misleading and/or obscene are not permitted.

§ 1.5 It is not permitted to sell or transfer the images or replication rights to a third party. Duplication, reproduction and enlargement by the USER for archiving purposes and the transfer of such to third parties are also not permitted. Exceptions require written consent of F1 ONLINE.

§ 1.6 Without the expressed and written approval of IMAGESELECT, the USER is not permitted:

- to license, transfer and/or resell the rights granted to third parties or to integrate images in an electronic template which is intended for use by third parties in electronic media or print, for example, design templates for websites, presentation templates, electronic greetings cards or business cards;

- to embed licence material in a logo, brand image or any other trademark;

- to distribute or make images available in a format suitable for download or to enable a distribution via mobile phone devices;

- to store images on a server, in an image library, network configuration or similar environments, to enable staff members or customers a preview inasmuch as more than ten (10) persons have access to them, even that access is at different times. For sharing on larger networks, an upgrade license is required. Up to 100 seats add 150 % and unlimited seats add 200 %.

- to sell, license or distribute any products produced using the images in a form which enables end customers of the USER access to or the selection of images as individual files.

§ 1.7 USER shall not, without IMAGESELECT's prior written consent, use the images in commercial products where the images make up a significant part of the re-sale value of the product (i.e., postcards, posters, calendars, etc.).

§ 2 Copyright

All images are protected by copyright. Delivered or electronically transmitted images remain the property of IMAGESELECT and/or its licensors/image providers and are made available exclusively for the acquisition of user rights according to copyright law.

§ 3 Warranty, Liability

§ 3.1 IMAGESELECT warrants for a period of 60 days from delivery that the images are free from defects in material and workmanship. The USER is obliged to check the delivered or electronically transmitted images without delay after receipt and prior to any use. In the case of justified complaint, the USER shall have the right to a replacement delivery. The USER can only declare his withdrawal from the agreement and assert refund of the licence fee in case of failed subsequent performance.

§ 3.2 IMAGESELECT shall assume no further warranty, either expressly nor through conclusive action, and shall rule out all warranty for economic use, quality and the suitability of the licence material for certain purposes of use or the compatibility with computers and other technical equipment. Otherwise, IMAGESELECT shall only be liable for damage which has been caused by intent or gross negligence. Liability for gross negligence is also excluded in relation to Merchants (Section 1 of the German Trade Act, HGB).

§ 3.3 The USER holds IMAGESELECT and its licensors and affiliates harmless against all demands, claims, costs and expenses including reasonable lawyers' and court costs which may result from the violation of the provisions of this agreement by the USER, use or modification of images contrary to this agreement or the

connection or combination of images with other material contrary to agreement.

In case of unauthorised use, disfiguration or passing on of the delivered or electronically transmitted images, unauthorised granting of rights to third parties or the unauthorised production of duplicates, reproductions and/or enlargements for the archive purposes of the USER or the passing on of the same to third parties, the USER agrees, irrespective of the assertion of further claims for damages by F1 ONLINE, to pay lump-sum damages amounting to five times the customary license fee. The USER is free to prove lower damages.

§ 4 Termination

This agreement will automatically terminate if:

§ 4.1 USER fails to pay any amount due under this agreement within 10 working days of the due date.

§ 4.2 USER commits a material breach of the terms of this agreement and fails to remedy it within 30 days of being given written notice requiring it to do so.

§ 4.3 USER becomes bankrupt or insolvent or takes the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors, or if a receiver is appointed for all or a substantial portion of either party’s assets.

§ 5 Payment

Terms of payment for invoice are 10 days net. In the case of delayed payment, a reminder charge will be debited.

§ 6. Governing law, Miscellaneous

§ 6.1 This agreement, including deliveries made abroad, is governed by the law of the Federal Republic of Germany excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

§ 6.2 The place of jurisdiction and the place of performance is, inasmuch as statutorily permissible, Munich. Irrespective of this, F1 ONLINE also has the right

to initiate all necessary, legal steps or proceedings in front of a statutory competent foreign court if such proceedings are necessary or desirable in IMAGESELECT's estimation.

§ 6.3 If one or more of these provisions should be ineffective or unenforceable, the validity of the remaining provisions is not affected. An ineffective provision shall be replaced in good faith by a permissible or effective provision which most closely approaches the will of the parties or the economically intended success.